

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1544

4  
5 By: Representatives Harrelson, Williams  
6 By: Senator Luker

## For An Act To Be Entitled

7  
8  
9  
10 AN ACT TO ENACT THE UNIFORM LIMITED COOPERATIVE  
11 ASSOCIATION ACT (2007); AND FOR OTHER PURPOSES.

### Subtitle

12  
13  
14 TO ENACT THE UNIFORM LIMITED COOPERATIVE  
15 ASSOCIATION ACT (2007).

16  
17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19  
20 SECTION 1. Arkansas Code Title 4 is amended to add an additional  
21 chapter to read as follows:

22 CHAPTER 36 -- UNIFORM LIMITED COOPERATIVE ASSOCIATION ACT (2007)

#### SUBCHAPTER 1 – GENERAL PROVISIONS

23  
24 4-36-101. Short title.

25 This chapter may be cited as the Uniform Limited Cooperative  
26 Association Act (2007).

27  
28 4-36-102. Definitions.

29 In this chapter:

30 (1) “Articles of organization” means the articles of  
31 organization of a limited cooperative association required by § 4-36-302.  
32 The term includes the articles as amended or restated.

33 (2) “Board of directors” means the board of directors of a  
34 limited cooperative association.

35 (3) “Bylaws” means the bylaws of a limited cooperative  
36 association. The term includes the bylaws as amended or restated.



1           (4) “Certificate of authority” means a certificate issued by the  
2 Secretary of State for a foreign cooperative to transact business in this  
3 state.

4           (5) “Contribution”, except as used in § 4-36-1008(c), means a  
5 benefit that a person provides to a limited cooperative association to become  
6 or remain a member or in the person’s capacity as a member.

7           (6) “Cooperative” means a limited cooperative association or an  
8 entity organized under any cooperative law of any jurisdiction.

9           (7) “Designated office” means the office that a limited  
10 cooperative association or a foreign cooperative is required to designate and  
11 maintain under § 4-36-117(a)(1).

12           (8) “Director” means a director of a limited cooperative  
13 association.

14           (9) “Distribution,” except as used in § 4-36-1007(e), means a  
15 transfer of money or other property from a limited cooperative association to  
16 a member because of the member’s financial rights or to a transferee of a  
17 member’s financial rights.

18           (10) “Entity” means a person other than an individual.

19           (11) “Financial rights” means the right to participate in  
20 allocations and distributions as provided in § 4-36-1001 et seq. and § 4-36-  
21 1201 et seq. but does not include rights or obligations under a marketing  
22 contract governed by § 4-36-701 et seq.

23           (12) “Foreign cooperative” means an entity organized in a  
24 jurisdiction other than this state under a law similar to this chapter.

25           (13) “Governance rights” means the right to participate in  
26 governance of a limited cooperative association.

27           (14) “Investor member” means a member that has made a  
28 contribution to a limited cooperative association and

29           (A) is not required by the organic rules to conduct  
30 patronage with the association in the member’s capacity as an investor member  
31 in order to receive the member’s interest; or

32           (B) is not permitted by the organic rules to conduct  
33 patronage with the association in the member’s capacity as an investor member  
34 in order to receive the member’s interest.

35           (15) “Limited cooperative association” means an association  
36 organized under this chapter.

1           (16) "Member" means a person that is admitted as a patron member  
 2 or investor member, or both, in a limited cooperative association. The term  
 3 does not include a person that has dissociated as a member.

4           (17) "Member's interest" means the interest of a patron member  
 5 or investor member under § 4-36-601.

6           (18) "Members meeting" means an annual members meeting or  
 7 special meeting of members.

8           (19) "Organic law" means the statute providing for the creation  
 9 of an entity or principally governing its internal affairs.

10          (20) "Organic rules" means the articles of organization and  
 11 bylaws of a limited cooperative association.

12          (21) "Organizer" means an individual who signs the initial  
 13 articles of organization.

14          (22) "Patron member" means a member that has made a contribution  
 15 to a limited cooperative association and:

16           (A) is required by the organic rules to conduct patronage  
 17 with the association in the member's capacity as a patron member in order to  
 18 receive the member's interest; or

19           (B) is permitted by the organic rules to conduct patronage  
 20 with the association in the member's capacity as a patron member in order to  
 21 receive the member's interest.

22          (23) "Patronage" means business transactions between a limited  
 23 cooperative association and a person which entitle the person to receive  
 24 financial rights based on the value or quantity of business done between the  
 25 association and the person.

26          (24) "Person" means an individual, corporation, business trust,  
 27 cooperative, estate, trust, partnership, limited partnership, limited  
 28 liability company, limited cooperative association, joint venture,  
 29 association, public corporation, government or governmental subdivision,  
 30 agency, or instrumentality, or any other legal or commercial entity.

31          (25) "Principal office" means the principal executive office of  
 32 a limited cooperative association or foreign cooperative, whether or not in  
 33 this state.

34          (26) "Record", used as a noun, means information that is  
 35 inscribed on a tangible medium or that is stored in an electronic or other  
 36 medium and is retrievable in perceivable form.

1           (27) “Required information” means the information a limited  
 2 cooperative association is required to maintain under § 4-36-114.

3           (28) “Sign” means, with present intent to authenticate or adopt  
 4 a record:

5                   (A) to execute or adopt a tangible symbol; or

6                   (B) to attach to or logically associate with the record an  
 7 electronic symbol, sound, or process.

8           (29) “State” means a state of the United States, the District of  
 9 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or  
 10 insular possession subject to the jurisdiction of the United States.

11           (30) “Transfer” includes an assignment, conveyance, deed, bill  
 12 of sale, lease, mortgage, security interest, encumbrance, gift, and transfer  
 13 by operation of law.

14           (31) “Voting group” means any combination of one or more voting  
 15 members in one or more districts or classes that under the organic rules or  
 16 this chapter are entitled to vote and can be counted together collectively on  
 17 a matter at a members meeting.

18           (32) “Voting member” means a member that, under the organic law  
 19 or organic rules, has a right to vote on matters subject to vote by members  
 20 under the organic law or organic rules.

21           (33) “Voting power” means the total current power of members to  
 22 vote on a particular matter for which a vote may or is to be taken.

23  
 24           4-36-103. Limited cooperative association subject to amendment or  
 25 repeal of chapter.

26           A limited cooperative association governed by this chapter is subject  
 27 to any amendment or repeal of this chapter.

28  
 29           4-36-104. Nature of limited cooperative association.

30           (a) A limited cooperative association organized under this chapter is  
 31 an autonomous, unincorporated association of persons united to meet their  
 32 mutual interests through a jointly owned enterprise primarily controlled by  
 33 those persons, which permits combining:

34                   (1) ownership, financing, and receipt of benefits by the members  
 35 for whose interests the association is formed; and

36                   (2) separate investments in the association by members who may

1 receive returns on their investments and a share of control.

2 (b) The fact that a limited cooperative association does not have one  
 3 or more of the characteristics described in subsection (a) does not alone  
 4 prevent the association from being formed under and governed by this chapter  
 5 nor does it alone provide a basis for an action against the association.

6  
 7 4-36-105. Purpose and duration of limited cooperative association.

8 (a) A limited cooperative association is an entity distinct from its  
 9 members.

10 (b) A limited cooperative association may be organized for any lawful  
 11 purpose, whether or not for profit.

12 (c) Unless the articles of organization state a term for a limited  
 13 cooperative association's existence, the association has perpetual duration.

14  
 15 4-36-106. Powers.

16 A limited cooperative association may sue and be sued in its own name  
 17 and do all things necessary or convenient to carry on its activities. An  
 18 association may maintain an action against a member for harm caused to the  
 19 association by the member's violation of a duty to the association or of the  
 20 organic law or organic rules.

21  
 22 4-36-107. Governing law.

23 The law of this state governs:

24 (1) the internal affairs of a limited cooperative association;  
 25 and

26 (2) the liability of a member as member and a director as  
 27 director for the debts, obligations, or other liabilities of a limited  
 28 cooperative association.

29  
 30 4-36-108. Supplemental principles of law.

31 Unless displaced by particular provisions of this chapter, the  
 32 principles of law and equity supplement this chapter.

33  
 34 4-36-109. Requirements of other laws.

35 (a) This chapter does not alter or amend any law that governs the  
 36 licensing and regulation of an individual or entity in carrying on a specific

1 business or profession even if that law permits the business or profession to  
 2 be conducted by a limited cooperative association, a foreign cooperative, or  
 3 its members.

4 (b) A limited cooperative association may not conduct an activity  
 5 that, under law of this state other than this chapter, may be conducted only  
 6 by an entity that meets specific requirements for the internal affairs of  
 7 that entity unless the organic rules of the association conform to those  
 8 requirements.

9  
 10 4-36-110. Relation to restraint of trade and antitrust laws.

11 To the extent a limited cooperative association or activities conducted  
 12 by the association in this state meet the material requirements for other  
 13 cooperatives entitled to an exemption from or immunity under any provision of  
 14 a restraint of trade or antitrust law of this state, the association and its  
 15 activities are entitled to the exemption or immunity. This section does not  
 16 create any new exemption or immunity for an association or affect any  
 17 exemption or immunity provided to a cooperative organized under any other  
 18 law.

19  
 20 4-36-111. Name.

21 (a) Use of the term "cooperative" or its abbreviation under this  
 22 chapter is not a violation of a provision restricting the use of the term to  
 23 a cooperative under another law of this state.

24 (b) The name of a limited cooperative association must contain the  
 25 words "limited cooperative association" or "limited cooperative" or the  
 26 abbreviation "L.C.A." or "LCA". "Limited" may be abbreviated as "Ltd."  
 27 "Cooperative" may be abbreviated as "Co-op" or "Coop". "Association" may be  
 28 abbreviated as "Assoc." or "Assn.". A limited cooperative association or a  
 29 member may enforce the restrictions on the use of the term "cooperative"  
 30 under this chapter and under a provision restricting the use of the term to a  
 31 cooperative under another law of this state.

32 (c) Except as otherwise provided in subsection (d), a limited  
 33 cooperative association may use only a name that is available. A name is  
 34 available if it is distinguishable in the records of the Secretary of State  
 35 from:

36 (1) the name of any entity organized or authorized to transact

1 business in this state;

2 (2) a name reserved under § 4-36-112; and

3 (3) an alternative name approved for a foreign cooperative  
 4 authorized to transact business in this state.

5 (d) A limited cooperative association may apply to the Secretary of  
 6 State for authorization to use a name that is not available. The Secretary  
 7 of State shall authorize use of the name if:

8 (1) the person with ownership rights to use the name consents in  
 9 a record to the use and applies in a form satisfactory to the Secretary of  
 10 State to change the name used or reserved to a name that is distinguishable  
 11 upon the records of the Secretary of State from the name applied for; or

12 (2) the applicant delivers to the Secretary of State a certified  
 13 copy of the final judgment of a court establishing the applicant's right to  
 14 use the name in this state.

15  
 16 4-36-112. Reservation of name.

17 (a) A person may reserve the exclusive use of the name of a limited  
 18 cooperative association, including a fictitious name for a foreign  
 19 cooperative whose name is not available under § 4-36-111, by delivering an  
 20 application to the Secretary of State for filing. The application must set  
 21 forth the name and address of the applicant and the name proposed to be  
 22 reserved. If the Secretary of State finds that the name applied for is  
 23 available under § 4-36-111, the Secretary of State shall reserve the name for  
 24 the applicant's exclusive use for a nonrenewable period of 120 days.

25 (b) A person that has reserved a name for a limited cooperative  
 26 association may transfer the reservation to another person by delivering to  
 27 the Secretary of State a signed notice of the transfer which states the name,  
 28 street address, and, if different, the mailing address of the transferee. If  
 29 the person is an organizer of the association and the name of the association  
 30 is the same as the reserved name, the delivery of articles of organization  
 31 for filing by the Secretary of State is a transfer by the person to the  
 32 association.

33  
 34 4-36-113. Effect of organic rules.

35 (a) The relations between a limited cooperative association and its  
 36 members are consensual. Unless required, limited, or prohibited by this

1 chapter, the organic rules may provide for any matter concerning the  
 2 relations among the members of the association and between the members and  
 3 the association, the activities of the association, and the conduct of its  
 4 activities.

5 (b) The matters referred to in paragraphs (1) through (12) may be  
 6 varied only in the articles of organization. The articles may:

7 (1) state a term of existence for the association under § 4-36-  
 8 105(c);

9 (2) limit or eliminate the acceptance of new or additional  
 10 members by the initial board of directors under § 4-36-303(b);

11 (3) vary the limitations on the obligations and liability of  
 12 members for association obligations under § 4-36-504;

13 (4) require a notice of an annual members meeting to state a  
 14 purpose of the meeting under § 4-36-508(b);

15 (5) vary the board of directors meeting quorum under § 4-36-  
 16 815(a);

17 (6) vary the matters the board of directors may consider in  
 18 making a decision under § 4-36-820;

19 (7) specify causes of dissolution under § 4-36-1202(1);

20 (8) delegate amendment of the bylaws to the board of directors  
 21 pursuant to § 4-36-405(f);

22 (9) provide for member approval of asset dispositions under § 4-  
 23 36-1501;

24 (10) subject to § 4-36-820, provide for the elimination or  
 25 limitation of liability of a director to the association or its members for  
 26 money damages pursuant to § 4-36-818;

27 (11) provide for permitting or making obligatory indemnification  
 28 under § 4-36-901(a); and

29 (12) provide for any matters that may be contained in the  
 30 organic rules, including those under subsection (c).

31 (c) The matters referred to in paragraphs (1) through (25) may be  
 32 varied only in the organic rules. The organic rules may:

33 (1) require more information to be maintained under § 4-36-114  
 34 or provided to members under § 4-36-505(k);

35 (2) provide restrictions on transactions between a member and an  
 36 association under § 4-36-115;



- 1           (3) provide for the percentage and manner of voting on
- 2 amendments to the organic rules by district, class, or voting group under §
- 3 4-36-404(a);
- 4           (4) provide for the percentage vote required to amend the bylaws
- 5 concerning the admission of new members under § 4-36-405(e)(5);
- 6           (5) provide for terms and conditions to become a member under §
- 7 4-36-502;
- 8           (6) restrict the manner of conducting members meetings under §§
- 9 4-36-506(c) and 4-36-507(e);
- 10          (7) designate the presiding officer of members meetings under §§
- 11 4-36-506(e) and 4-36-507(g);
- 12          (8) require a statement of purposes in the annual meeting notice
- 13 under § 4-36-508(b);
- 14          (9) increase quorum requirements for members meetings under § 4-
- 15 36-510 and board of directors meetings under § 4-36-815;
- 16          (10) allocate voting power among members, including patron
- 17 members and investor members, and provide for the manner of member voting and
- 18 action as permitted by §§ 4-36-511 – 4-36-517;
- 19          (11) authorize investor members and expand or restrict the
- 20 transferability of members’ interests to the extent provided in §§ 4-36-602 –
- 21 4-36-604;
- 22          (12) provide for enforcement of a marketing contract under § 4-
- 23 36-704(a);
- 24          (13) provide for qualification, election, terms, removal,
- 25 filling vacancies, and member approval for compensation of directors in
- 26 accordance with §§ 4-36-803 – 4-36-805, 4-36-807, 4-36-809, and 4-36-810;
- 27          (14) restrict the manner of conducting board meetings and taking
- 28 action without a meeting under §§ 4-36-811 and 4-36-812;
- 29          (15) provide for frequency, location, notice and waivers of
- 30 notice for board meetings under §§ 4-36-813 and 4-36-814;
- 31          (16) increase the percentage of votes necessary for board action
- 32 under § 4-36-816(b);
- 33          (17) provide for the creation of committees of the board of
- 34 directors and matters related to the committees in accordance with § 4-36-
- 35 817;
- 36          (18) provide for officers and their appointment, designation,

1 and authority under § 4-36-822;

2 (19) provide for forms and values of contributions under § 4-36-  
 3 1002;

4 (20) provide for remedies for failure to make a contribution  
 5 under § 4-36-1003(b);

6 (21) provide for the allocation of profits and losses of the  
 7 association, distributions, and the redemption or repurchase of distributed  
 8 property other than money in accordance with §§ 4-36-1004 – 4-36-1007;

9 (22) specify when a member’s dissociation is wrongful and the  
 10 liability incurred by the dissociating member for damage to the association  
 11 under § 4-36-1101(b) and (c);

12 (23) provide the personal representative, or other legal  
 13 representative of, a deceased member or a member adjudged incompetent with  
 14 additional rights under § 4-36-1103;

15 (24) increase the percentage of votes required for board of  
 16 director approval of:

17 (A) a resolution to dissolve under § 4-36-1205(a)(1);

18 (B) a proposed amendment to the organic rules under § 4-  
 19 36-402(a)(1);

20 (C) a plan of conversion under § 4-36-1603(a);

21 (D) a plan of merger under § 4-36-1607(a); and

22 (E) a proposed disposition of assets under § 4-36-1503(1);

23 and

24 (25) vary the percentage of votes required for members approval  
 25 of:

26 (A) a resolution to dissolve under § 4-36-1205;

27 (B) an amendment to the organic rules under § 4-36-405;

28 (C) a plan of conversion under § 4-36-1603;

29 (D) a plan of merger under § 4-36-1608; and

30 (E) a disposition of assets under § 4-36-1504.

31 (d) The organic rules must address members’ contributions pursuant to  
 32 § 4-36-1001.

33  
 34 4-36-114. Required information.

35 (a) Subject to subsection (b), a limited cooperative association shall  
 36 maintain in a record available at its principal office:

1           (1) a list containing the name, last known street address and,  
2 if different, mailing address, and term of office of each director and  
3 officer;

4           (2) the initial articles of organization and all amendments to  
5 and restatements of the articles, together with a signed copy of any power of  
6 attorney under which any article, amendment, or restatement has been signed;

7           (3) the initial bylaws and all amendments to and restatements of  
8 the bylaws;

9           (4) all filed articles of merger and statements of conversion;

10          (5) all financial statements of the association for the six most  
11 recent years;

12          (6) the six most recent annual reports delivered by the  
13 association to the Secretary of State;

14          (7) the minutes of members meetings for the six most recent  
15 years;

16          (8) evidence of all actions taken by members without a meeting  
17 for the six most recent years;

18          (9) a list containing:

19                (A) the name, in alphabetical order, and last known street  
20 address and, if different, mailing address of each patron member and each  
21 investor member; and

22                (B) if the association has districts or classes of  
23 members, information from which each current member in a district or class  
24 may be identified;

25          (10) the federal income tax returns, any state and local income  
26 tax returns, and any tax reports of the association for the six most recent  
27 years;

28          (11) accounting records maintained by the association in the  
29 ordinary course of its operations for the six most recent years;

30          (12) the minutes of directors meetings for the six most recent  
31 years;

32          (13) evidence of all actions taken by directors without a  
33 meeting for the six most recent years;

34          (14) the amount of money contributed and agreed to be  
35 contributed by each member;

36          (15) a description and statement of the agreed value of

1 contributions other than money made and agreed to be made by each member;

2 (16) the times at which, or events on the happening of which,  
 3 any additional contribution is to be made by each member;

4 (17) for each member, a description and statement of the  
 5 member's interest or information from which the description and statement can  
 6 be derived; and

7 (18) all communications concerning the association made in a  
 8 record to all members, or to all members in a district or class, for the six  
 9 most recent years.

10 (b) If a limited cooperative association has existed for less than the  
 11 period for which records must be maintained under subsection (a), the period  
 12 records must be kept is the period of the association's existence.

13 (c) The organic rules may require that more information be maintained.

14  
 15 4-36-115. Business transactions of member with limited cooperative  
 16 association.

17 Subject to §§ 4-36-818 and 4-36-819 and except as otherwise provided in  
 18 the organic rules or a specific contract relating to a transaction, a member  
 19 may lend money to and transact other business with a limited cooperative  
 20 association in the same manner as a person that is not a member.

21  
 22 4-36-116. Dual capacity.

23 A person may have a patron member's interest and an investor member's  
 24 interest. When such person acts as a patron member, the person is subject to  
 25 this chapter and the organic rules governing patron members. When such  
 26 person acts as an investor member, the person is subject to this chapter and  
 27 the organic rules governing investor members.

28  
 29 4-36-117. Designated office and agent for service of process.

30 (a) A limited cooperative association, or a foreign cooperative that  
 31 has a certificate of authority under § 4-36-1404, shall designate and  
 32 continuously maintain in this state:

33 (1) an office, as its designated office, which need not be a  
 34 place of the association's or foreign cooperative's activity in this state;  
 35 and

36 (2) an agent for service of process at the designated office.

1       (b) An agent for service of process of a limited cooperative  
2 association or foreign cooperative must be an individual who is a resident of  
3 this state or an entity that is authorized to do business in this state.

4  
5       4-36-118. Change of designated office or agent for service of process.

6       (a) Except as otherwise provided in § 4-36-207(e), to change its  
7 designated office, its agent for service of process, or the street address  
8 or, if different, mailing address of its principal office, a limited  
9 cooperative association must deliver to the Secretary of State for filing a  
10 statement of change containing:

11           (1) the name of the limited cooperative association;

12           (2) the street address and, if different, mailing address of its  
13 designated office;

14           (3) if the designated office is to be changed, the street  
15 address and, if different, mailing address of the new designated office;

16           (4) the name of its agent for service of process; and

17           (5) if the agent for service of process is to be changed, the  
18 name of the new agent.

19       (b) Except as otherwise provided in § 4-36-207(e), to change its agent  
20 for service of process, the address of its designated office, or the street  
21 address or, if different, mailing address of its principal office, a foreign  
22 cooperative shall deliver to the Secretary of State for filing a statement of  
23 change containing:

24           (1) the name of the foreign cooperative;

25           (2) the name, street address and, if different, mailing address  
26 of its designated office;

27           (3) if the current agent for service of process or an address of  
28 the designated office is to be changed, the new information;

29           (4) the street address and, if different, mailing address of its  
30 principal office; and

31           (5) if the street address or, if different, the mailing address  
32 of its principal office is to be changed, the street address and, if  
33 different, the mailing address of the new principal office.

34       (c) Except as otherwise provided in § 4-36-204, a statement of change  
35 is effective when filed by the Secretary of State.

36

1 4-36-119. Resignation of agent for service of process.

2 (a) To resign as an agent for service of process of a limited  
3 cooperative association or foreign cooperative, the agent must deliver to the  
4 Secretary of State for filing a statement of resignation containing the name  
5 of the agent and the name of the association or foreign cooperative.

6 (b) After receiving a statement of resignation under subsection (a),  
7 the Secretary of State shall file it and mail or otherwise provide or deliver  
8 a copy to the limited cooperative association or foreign cooperative at its  
9 principal office.

10 (c) An agency for service of process of a limited cooperative  
11 association or foreign cooperative terminates on the earlier of:

12 (1) the 31st day after the Secretary of State files a statement  
13 of resignation under subsection (b); or

14 (2) when a record designating a new agent for service of process  
15 is delivered to the Secretary of State for filing on behalf of the  
16 association or foreign cooperative and becomes effective.

17  
18 4-36-120. Service of process.

19 (a) An agent for service of process appointed by a limited cooperative  
20 association or foreign cooperative is an agent of the association or foreign  
21 cooperative for service of process, notice, or a demand required or permitted  
22 by law to be served upon the association or foreign cooperative.

23 (b) If a limited cooperative association or foreign cooperative does  
24 not appoint or maintain an agent for service of process in this state or the  
25 agent for service of process cannot with reasonable diligence be found at the  
26 address of the designated office on file with the Secretary of State, the  
27 Secretary of State is an agent of the association or foreign cooperative upon  
28 which process, notice, or a demand may be served.

29 (c) Service of process, notice, or a demand on the Secretary of State  
30 as agent of a limited cooperative association or foreign cooperative may be  
31 made by delivering to the Secretary of State two copies of the process,  
32 notice, or demand. The Secretary of State shall forward one copy by  
33 registered or certified mail, return receipt requested, to the association or  
34 foreign cooperative at its principal office.

35 (d) Service is effected under subsection (c) on the earliest of:

36 (1) the date the limited cooperative association or foreign

1 cooperative receives the process, notice, or demand;

2 (2) the date shown on the return receipt, if signed on behalf of  
 3 the association or foreign cooperative; or

4 (3) five days after the process, notice, or demand is deposited  
 5 by the Secretary of State for delivery by the United States Postal Service,  
 6 if postage prepaid to the address of the principal office on file with the  
 7 Secretary of State.

8 (e) The Secretary of State shall keep a record of each process,  
 9 notice, and demand served pursuant to this section and record the time of,  
 10 and the action taken regarding, the service.

11 (f) This section does not affect the right to serve process, notice,  
 12 or a demand in any other manner provided by law.

13  
 14 SUBCHAPTER 2 – FILING AND ANNUAL REPORTS

15 4-36-201. Signing of records delivered for filing to Secretary of  
 16 State.

17 (a) A record delivered to the Secretary of State for filing pursuant  
 18 to this chapter must be signed as follows:

19 (1) The initial articles of organization must be signed by at  
 20 least one organizer.

21 (2) A statement of cancellation under § 4-36-302(d) must be  
 22 signed by at least one organizer.

23 (3) Except as otherwise provided in paragraph (4), a record  
 24 signed on behalf of an existing limited cooperative association must be  
 25 signed by an officer.

26 (4) A record filed on behalf of a dissolved association must be  
 27 signed by a person winding up activities under § 4-36-1206 or a person  
 28 appointed under § 4-36-1206 to wind up those activities.

29 (5) Any other record must be signed by the person on whose  
 30 behalf the record is delivered to the Secretary of State.

31 (b) Any record to be signed under this chapter may be signed by an  
 32 authorized agent.

33  
 34 4-36-202. Signing and filing of records pursuant to judicial order.

35 (a) If a person required by this chapter to sign or deliver a record  
 36 to the Secretary of State for filing does not do so, the circuit court, upon

1 petition of an aggrieved person, may order:

2 (1) the person to sign the record and deliver it to the  
 3 Secretary of State for filing; or

4 (2) delivery of the unsigned record to the Secretary of State  
 5 for filing.

6 (b) An aggrieved person under subsection (a), other than the limited  
 7 cooperative association or foreign cooperative to which the record pertains,  
 8 shall make the association or foreign cooperative a party to the action  
 9 brought to obtain the order.

10 (c) An unsigned record filed pursuant to this section is effective.

11  
 12 4-36-203. Delivery to and filing of records by Secretary of State -  
 13 Effective time and date.

14 (a) A record authorized or required by this chapter to be delivered to  
 15 the Secretary of State for filing must be captioned to describe the record's  
 16 purpose, be in a medium and format permitted by the Secretary of State, and  
 17 be delivered to the Secretary of State. If the filing fees have been paid,  
 18 and unless the Secretary of State determines that the record does not comply  
 19 with the filing requirements of this chapter, the Secretary of State shall  
 20 file the record.

21 (b) The Secretary of State, upon request and payment of the required  
 22 fee, shall furnish a certified copy of any record filed by the Secretary of  
 23 State under this chapter to the person making the request.

24 (c) Except as otherwise provided in §§ 4-36-118 and 4-36-204, a record  
 25 delivered to the Secretary of State for filing under this chapter may specify  
 26 an effective time and a delayed effective date that may include an effective  
 27 time on that date. Except as otherwise provided in §§ 4-36-118 and 4-36-204,  
 28 a record filed by the Secretary of State under this chapter is effective:

29 (1) if the record does not specify an effective time and does  
 30 not specify a delayed effective date, on the date and at the time the record  
 31 is filed as evidenced by the Secretary of State's endorsement of the date and  
 32 time on the record;

33 (2) if the record specifies an effective time but not a delayed  
 34 effective date, on the date the record is filed at the time specified in the  
 35 record;

36 (3) if the record specifies a delayed effective date but not an



1 effective time, at 12:01 a.m. on the earlier of:

2 (A) the specified date; or

3 (B) the 90th day after the record is filed; or

4 (4) if the record specifies an effective time and a delayed  
 5 effective date, at the specified time on the earlier of:

6 (A) the specified date; or

7 (B) the 90th day after the record is filed.

8  
 9 4-36-204. Correcting filed record.

10 (a) A limited cooperative association or foreign cooperative may  
 11 deliver to the Secretary of State for filing a statement of correction to  
 12 correct a record previously delivered by the association or foreign  
 13 cooperative to the Secretary of State and filed by the Secretary of State if,  
 14 at the time of filing, the record contained inaccurate information or was  
 15 defectively signed.

16 (b) A statement of correction may not state a delayed effective date  
 17 and must:

18 (1) describe the record to be corrected, including its filing  
 19 date, or have attached a copy of the record as filed;

20 (2) specify the inaccurate information and the reason it is  
 21 inaccurate or the manner in which the signing was defective; and

22 (3) correct the inaccurate information or defective signature.

23 (c) When filed by the Secretary of State, a statement of correction is  
 24 effective:

25 (1) when filed as to persons relying on the inaccurate  
 26 information or defective signature before its correction and adversely  
 27 affected by the correction; and

28 (2) as to all other persons, retroactively as of the effective  
 29 date and time of the record the statement corrects.

30  
 31 4-36-205. Liability for inaccurate information in filed record.

32 If a record delivered to the Secretary of State for filing under this  
 33 chapter and filed by the Secretary of State contains inaccurate information,  
 34 a person that suffers a loss by reliance on the information may recover  
 35 damages for the loss from a person that signed the record or caused another  
 36 to sign it on the person's behalf and knew at the time the record was signed

1 that the information was inaccurate.

2  
3 4-36-206. Certificate of good standing or authorization.

4 (a) The Secretary of State, upon request and payment of the required  
5 fee, shall furnish any person that requests it a certificate of good standing  
6 for a limited cooperative association if the records filed in the office of  
7 the Secretary of State show that the Secretary of State has filed the  
8 association's articles of organization, that the association is in good  
9 standing, and that the Secretary of State has not filed a statement of  
10 termination.

11 (b) The Secretary of State, upon request and payment of the required  
12 fee, shall furnish to any person that requests it a certificate of authority  
13 for a foreign cooperative if the records filed in the office of the Secretary  
14 of State show that the Secretary of State has filed the foreign cooperative's  
15 certificate of authority, has not revoked nor has reason to revoke the  
16 certificate of authority, and has not filed a notice of cancellation.

17 (c) Subject to any exceptions stated in the certificate, a certificate  
18 of good standing or authority issued by the Secretary of State establishes  
19 conclusively that the limited cooperative association or foreign cooperative  
20 is in good standing or is authorized to transact business in this state.

21  
22 4-36-207. Annual report for Secretary of State.

23 (a) A limited cooperative association or foreign cooperative  
24 authorized to transact business in this state shall deliver to the Secretary  
25 of State for filing an annual report that states:

26 (1) the name of the association or foreign cooperative;

27 (2) the street address and, if different, mailing address of the  
28 association's or foreign cooperative's designated office and the name of its  
29 agent for service of process at the designated office;

30 (3) the street address and, if different, mailing address of the  
31 association's or foreign cooperative's principal office; and

32 (4) in the case of a foreign cooperative, the state or other  
33 jurisdiction under whose law the foreign cooperative is formed and any  
34 alternative name adopted under § 4-36-1405.

35 (b) Information in an annual report must be current as of the date the  
36 report is delivered to the Secretary of State.

1       (c) The first annual report must be delivered to the Secretary of  
2 State between January 1 and April 1 of the year following the calendar year  
3 in which the limited cooperative association is formed or the foreign  
4 cooperative is authorized to transact business in this state. An annual  
5 report must be delivered to the Secretary of State between January 1 and  
6 April 1 of each subsequent calendar year.

7       (d) If an annual report does not contain the information required by  
8 subsection (a), the Secretary of State shall promptly notify the reporting  
9 limited cooperative association or foreign cooperative and return the report  
10 for correction. If the report is corrected to contain the information  
11 required by subsection (a) and delivered to the Secretary of State not later  
12 than 30 days after the date of the notice from the Secretary of State, it is  
13 timely delivered.

14       (e) If a filed annual report contains an address of the designated  
15 office, name of the agent for service of process, or address of the principal  
16 office which differs from the information shown in the records of the  
17 Secretary of State immediately before the filing, the differing information  
18 in the annual report is considered a statement of change.

19       (f) If a limited cooperative association fails to deliver an annual  
20 report under this section, the Secretary of State may proceed under § 4-36-  
21 1211 to dissolve the association administratively.

22       (g) If a foreign cooperative fails to deliver an annual report under  
23 this section, the Secretary of State may revoke the certificate of authority  
24 of the cooperative.

25  
26       4-36-208. Filing fees.

27       (a) The Secretary of State shall collect the following fees when the  
28 documents described in this subsection are delivered to him or her for  
29 filing:

<u>DOCUMENT</u>	<u>FEE</u>
<u>(1) Articles of organization.....</u>	<u>\$ 50.00</u>
<u>(2) Application for use of indistinguishable name.....</u>	<u>No fee</u>
<u>(3) Application for reserved name.....</u>	<u>\$ 25.00</u>
<u>(4) Notice of transfer of reserved name.....</u>	<u>\$ 25.00</u>
<u>(5) Statement of change of registered agent or registered agent</u> <u>address.....</u>	<u>No fee</u>

- 1 (6) Statement of resignation of registered agent.....No fee
- 2 (7) Amendment of articles of organization..... \$ 50.00
- 3 (8) Restatement of articles of organization with amendment of articles
- 4 ..... \$ 100.00
- 5 (9) Articles of merger or conversion..... \$ 100.00
- 6 (10) Articles of dissolution or termination..... \$ 50.00
- 7 (11) Articles of revocation of dissolution..... \$ 150.00
- 8 (12) Certificate of administrative dissolution..... No fee
- 9 (13) Application for reinstatement following administrative
- 10 dissolution..... \$ 50.00
- 11 (14) Certificate of reinstatement..... No fee
- 12 (15) Certificate of judicial dissolution..... No fee
- 13 (16) Application for certificate of authority..... \$ 300.00
- 14 (17) Application for amended certificate of authority..... \$ 300.00
- 15 (18) Application for certificate of withdrawal..... \$ 300.00
- 16 (19) Certificate of revocation of authority to transact business
- 17 ..... No fee
- 18 (20) Articles of correction..... \$ 30.00
- 19 (21) Application for certificate of good standing or
- 20 authorization..... \$ 15.00
- 21 (22) Any other document required or permitted to be filed by this
- 22 chapter..... \$ 25.00

23 (b)(1) The Secretary of State shall collect a fee of twenty-five  
 24 dollars (\$25.00) each time process is served on him or her under this  
 25 chapter.

26 (2) The party to a proceeding causing service of process is  
 27 entitled to recover the process fee as costs if the party prevails in the  
 28 proceeding.

29 (c) The Secretary of State shall collect the following fees for  
 30 copying and certifying the copy of any filed document relating to a domestic  
 31 or foreign limited cooperative association:

32 (1) Fifty cents (50¢) per page for copying; and

33 (2) Five dollars (\$5.00) for the certificate.

34 (d) Except as provided in subsection (e) of this section, the  
 35 Secretary of State shall collect the following fees when the documents  
 36 described in this subsection are delivered by electronic means:

<u>DOCUMENT</u>	<u>FEE</u>	<u>PROCESSING FEE</u>
<u>(1) Articles of organization.....</u>	<u>\$ 40.00</u>	<u>..... \$ 5.00</u>
<u>(2) Application for reservation of name.....</u>	<u>\$ 18.50</u>	<u>..... \$ 4.00</u>
<u>(3) Certificate of amendment.....</u>	<u>\$ 40.00</u>	<u>..... \$ 5.00</u>
<u>(4) Notice of transfer of reserved name.....</u>	<u>\$ 18.50</u>	<u>..... \$ 4.00</u>
<u>(5) Notice of change of registered office or agent or both...</u>	<u>No fee</u>	
<u>(6) Application for certificate of authority..</u>	<u>\$ 258.00</u>	<u>.....\$ 12.00</u>

(e) For any document not listed in subsection (d) of this section, the cost for electronic filing is:

(1) Four dollars (\$4.00) for the processing fee when the filing fee is fifty dollars (\$50.00) or less than fifty dollars (\$50);

(2) Five dollars (\$5.00) for the processing fee when the filing fee exceeds fifty dollars (\$50.00) but is less than one hundred dollars (\$100);

(3) Ten dollars (\$10.00) for the processing fee when the filing fee exceeds or is equal to one hundred dollars (\$100) but is less than three hundred dollars (\$300); and

(4) Twelve dollars (\$12.00) for the processing fee when the filing fee is three hundred dollars (\$300) or more.

SUBCHAPTER 3 – FORMATION AND INITIAL ARTICLES OF ORGANIZATION OF LIMITED COOPERATIVE ASSOCIATION

4-36-301. Organizers.

A limited cooperative association must be organized by one or more organizers.

4-36-302. Formation of limited cooperative association – Articles of organization.

(a) To form a limited cooperative association, an organizer of the association must deliver articles of organization to the Secretary of State for filing. The articles must state:

(1) the name of the association;

(2) the purposes for which the association is formed;

(3) the street address and, if different, mailing address of the association’s initial designated office and the name of the association’s initial agent for service of process at the designated office;

1           (4) the street address and, if different, mailing address of the  
 2 initial principal office;

3           (5) the name and street address and, if different, mailing  
 4 address of each organizer; and

5           (6) the term for which the association is to exist if other than  
 6 perpetual.

7           (b) Subject to § 4-36-113(a), articles of organization may contain any  
 8 other provisions in addition to those required by subsection (a).

9           (c) A limited cooperative association is formed after articles of  
 10 organization that substantially comply with subsection (a) are delivered to  
 11 the Secretary of State, are filed, and become effective under § 4-36-203(c).

12           (d) If articles of organization filed by the Secretary of State state  
 13 a delayed effective date, a limited cooperative association is not formed if,  
 14 before the articles take effect, an organizer signs and delivers to the  
 15 Secretary of State for filing a statement of cancellation.

16  
 17           4-36-303. Organization of limited cooperative association.

18           (a) After a limited cooperative association is formed:

19           (1) if initial directors are named in the articles of  
 20 organization, the initial directors shall hold an organizational meeting to  
 21 adopt initial bylaws and carry on any other business necessary or proper to  
 22 complete the organization of the association; or

23           (2) if initial directors are not named in the articles of  
 24 organization, the organizers shall designate the initial directors and call a  
 25 meeting of the initial directors to adopt initial bylaws and carry on any  
 26 other business necessary or proper to complete the organization of the  
 27 association.

28           (b) Unless the articles of organization otherwise provide, the initial  
 29 directors may cause the limited cooperative association to accept members,  
 30 including those necessary for the association to begin business.

31           (c) Initial directors need not be members.

32           (d) An initial director serves until a successor is elected and  
 33 qualified at a members meeting or the director is removed, resigns, is  
 34 adjudged incompetent, or dies.

35  
 36           4-36-304. Bylaws.

1       (a) Bylaws must be in a record and, if not stated in the articles of  
 2 organization, must include:

3               (1) a statement of the capital structure of the limited  
 4 cooperative association, including:

5                       (A) the classes or other types of members' interests and  
 6 relative rights, preferences, and restrictions granted to or imposed upon  
 7 each class or other type of member's interest; and

8                       (B) the rights to share in profits or distributions of the  
 9 association;

10               (2) a statement of the method for admission of members;

11               (3) a statement designating voting and other governance rights,  
 12 including which members have voting power and any restriction on voting  
 13 power;

14               (4) a statement that a member's interest is transferable if it  
 15 is to be transferable and a statement of the conditions upon which it may be  
 16 transferred;

17               (5) a statement concerning the manner in which profits and  
 18 losses are allocated and distributions are made among patron members and, if  
 19 investor members are authorized, the manner in which profits and losses are  
 20 allocated and how distributions are made among investor members and between  
 21 patron members and investor members;

22               (6) a statement concerning:

23                       (A) whether persons that are not members but conduct  
 24 business with the association may be permitted to share in allocations of  
 25 profits and losses and receive distributions; and

26                       (B) the manner in which profits and losses are allocated  
 27 and distributions are made with respect to those persons; and

28               (7) a statement of the number and terms of directors or the  
 29 method by which the number and terms are determined.

30       (b) Subject to § 4-36-113(c) and the articles of organization, bylaws  
 31 may contain any other provision for managing and regulating the affairs of  
 32 the association.

33       (c) In addition to amendments permitted under § 4-36-401 et seq., the  
 34 initial board of directors may amend the bylaws by a majority vote of the  
 35 directors at any time before the admission of members.

36

1 SUBCHAPTER 4 – AMENDMENT OF ORGANIC RULES OF LIMITED COOPERATIVE ASSOCIATION

2 4-36-401. Authority to amend organic rules.

3 (a) A limited cooperative association may amend its organic rules  
 4 under this subchapter for any lawful purpose. In addition, the initial board  
 5 of directors may amend the bylaws of an association under § 4-36-304.

6 (b) Unless the organic rules otherwise provide, a member does not have  
 7 a vested property right resulting from any provision in the organic rules,  
 8 including a provision relating to the management, control, capital structure,  
 9 distribution, entitlement, purpose, or duration of the limited cooperative  
 10 association.

11  
 12 4-36-402. Notice and action on amendment of organic rules.

13 (a) Except as provided in §§ 4-36-401(a) and 4-36-405(f), the organic  
 14 rules of a limited cooperative association may be amended only at a members  
 15 meeting. An amendment may be proposed by either:

16 (1) a majority of the board of directors, or a greater  
 17 percentage if required by the organic rules; or

18 (2) one or more petitions signed by at least 10 percent of the  
 19 patron members or at least 10 percent of the investor members.

20 (b) The board of directors shall call a members meeting to consider an  
 21 amendment proposed pursuant to subsection (a). The meeting must be held not  
 22 later than 90 days following the proposal of the amendment by the board or  
 23 receipt of a petition. The board must mail or otherwise transmit or deliver  
 24 in a record to each member:

25 (1) the proposed amendment, or a summary of the proposed  
 26 amendment and a statement of the manner in which a copy of the amendment in a  
 27 record may be reasonably obtained by a member;

28 (2) a recommendation that the members approve the amendment, or  
 29 if the board determines that because of conflict of interest or other special  
 30 circumstances it should not make a favorable recommendation, the basis for  
 31 that determination;

32 (3) a statement of any condition of the board’s submission of  
 33 the amendment to the members; and

34 (4) notice of the meeting at which the proposed amendment will  
 35 be considered, which must be given in the same manner as notice for a special  
 36 meeting of members.



1  
2 4-36-403. Method of voting on amendment of organic rules.

3 (a) A substantive change to a proposed amendment of the organic rules  
4 may not be made at the members meeting at which a vote on the amendment  
5 occurs.

6 (b) A nonsubstantive change to a proposed amendment of the organic  
7 rules may be made at the members meeting at which the vote on the amendment  
8 occurs and need not be separately voted upon by the board of directors.

9 (c) A vote to adopt a nonsubstantive change to a proposed amendment to  
10 the organic rules must be by the same percentage of votes required to pass a  
11 proposed amendment.

12  
13 4-36-404. Voting by district, class, or voting group.

14 (a) This section applies if the organic rules provide for voting by  
15 district or class, or if there is one or more identifiable voting groups that  
16 a proposed amendment to the organic rules would affect differently from other  
17 members with respect to matters identified in § 4-36-405(e)(1)-(5). Approval  
18 of the amendment requires the same percentage of votes of the members of that  
19 district, class, or voting group required in §§ 4-36-405 and 4-36-514.

20 (b) If a proposed amendment to the organic rules would affect members  
21 in two or more districts or classes entitled to vote separately under  
22 subsection (a) in the same or a substantially similar way, the districts or  
23 classes affected must vote as a single voting group unless the organic rules  
24 otherwise provide for separate voting.

25  
26 4-36-405. Approval of amendment.

27 (a) Subject to § 4-36-404 and subsections (c) and (d), an amendment to  
28 the articles of organization must be approved by:

29 (1) at least two-thirds of the voting power of members present  
30 at a members meeting called under § 4-36-402; and

31 (2) if the limited cooperative association has investor members,  
32 at least a majority of the votes cast by patron members, unless the organic  
33 rules require a greater percentage vote by patron members.

34 (b) Subject to § 4-36-404 and subsections (c), (d), (e) and (f), an  
35 amendment to the bylaws must be approved by:

36 (1) at least a majority vote of the voting power of all members

1 present at a members meeting called under § 4-36-402, unless the organic  
2 rules require a greater percentage; and

3 (2) if a limited cooperative association has investor members, a  
4 majority of the votes cast by patron members, unless the organic rules  
5 require a larger affirmative vote by patron members.

6 (c) The organic rules may require that the percentage of votes under  
7 subsection (a)(1) or (b)(1) be:

8 (1) a different percentage that is not less than a majority of  
9 members voting at the meeting;

10 (2) measured against the voting power of all members; or

11 (3) a combination of paragraphs (1) and (2).

12 (d) Consent in a record by a member must be delivered to a limited  
13 cooperative association before delivery of an amendment to the articles of  
14 organization or restated articles of organization for filing pursuant to § 4-  
15 36-407, if as a result of the amendment the member will have:

16 (1) personal liability for an obligation of the association; or

17 (2) an obligation or liability for an additional contribution.

18 (e) The vote required to amend bylaws must satisfy the requirements of  
19 subsection (a) if the proposed amendment modifies:

20 (1) the equity capital structure of the limited cooperative  
21 association, including the rights of the association's members to share in  
22 profits or distributions, or the relative rights, preferences, and  
23 restrictions granted to or imposed upon one or more districts, classes, or  
24 voting groups of similarly situated members;

25 (2) the transferability of a member's interest;

26 (3) the manner or method of allocation of profits or losses  
27 among members;

28 (4) the quorum for a meeting and the rights of voting and  
29 governance; or

30 (5) unless otherwise provided in the organic rules, the terms  
31 for admission of new members.

32 (f) Except for the matters described in subsection (e), the articles  
33 of organization may delegate amendment of all or a part of the bylaws to the  
34 board of directors without requiring member approval.

35 (g) If the articles of organization delegate amendment of bylaws to  
36 the board of directors, the board shall provide a description of any

1 amendment of the bylaws made by the board to the members in a record not  
2 later than 30 days after the amendment, but the description may be provided  
3 at the next annual members meeting if the meeting is held within the 30-day  
4 period.

5  
6 4-36-406. Restated articles of organization.

7 A limited cooperative association, by the affirmative vote of a  
8 majority of the board of directors taken at a meeting for which the purpose  
9 is stated in the notice of the meeting, may adopt restated articles of  
10 organization that contain the original articles as previously amended.  
11 Restated articles may contain amendments if the restated articles are adopted  
12 in the same manner and with the same vote as required for amendments to the  
13 articles under § 4-36-405(a). Upon filing, restated articles supersede the  
14 existing articles and all amendments.

15  
16 4-36-407. Amendment or restatement of articles of organization -  
17 Filing.

18 (a) To amend its articles of organization, a limited cooperative  
19 association must deliver to the Secretary of State for filing an amendment of  
20 the articles, or restated articles of organization or articles of conversion  
21 or merger pursuant to § 4-36-1601 et seq., which contain one or more  
22 amendments of the articles of organization, stating:

23 (1) the name of the association;

24 (2) the date of filing of the association's initial articles;

25 and

26 (3) the changes the amendment makes to the articles as most  
27 recently amended or restated.

28 (b) Before the beginning of the initial meeting of the board of  
29 directors, an organizer who knows that information in the filed articles of  
30 organization was inaccurate when the articles were filed or has become  
31 inaccurate due to changed circumstances shall promptly:

32 (1) cause the articles to be amended; or

33 (2) if appropriate, deliver an amendment to the Secretary of  
34 State for filing pursuant to § 4-36-203.

35 (c) If restated articles of organization are adopted, the restated  
36 articles may be delivered to the Secretary of State for filing in the same

1 manner as an amendment.

2 (d) Upon filing, an amendment of the articles of organization or other  
 3 record containing an amendment of the articles which has been properly  
 4 adopted by the members is effective as provided in § 4-36-203(c).

6 SUBCHAPTER 5 – MEMBERS

7 4-36-501. Members.

8 To begin business, a limited cooperative association must have at least  
 9 two patron members unless the sole member is a cooperative.

11 4-36-502. Becoming a member.

12 A person becomes a member:

13 (1) as provided in the organic rules;

14 (2) as the result of a merger or conversion under § 4-36-1601 et  
 15 seq.; or

16 (3) with the consent of all the members.

18 4-36-503. No power as member to bind association.

19 A member, solely by reason of being a member, may not act for or bind  
 20 the limited cooperative association.

22 4-36-504. No liability as member for association’s obligations.

23 Unless the articles of organization otherwise provide, a debt,  
 24 obligation, or other liability of a limited cooperative association is solely  
 25 that of the association and is not the debt, obligation, or liability of a  
 26 member solely by reason of being a member.

28 4-36-505. Right of member and former member to information.

29 (a) Not later than 10 business days after receipt of a demand made in  
 30 a record, a limited cooperative association shall permit a member to obtain,  
 31 inspect, and copy in the association’s principal office required information  
 32 listed in § 4-36-114(a)(1)-(8) during regular business hours. A member need  
 33 not have any particular purpose for seeking the information. The association  
 34 is not required to provide the same information listed in § 4-36-114(a)(2)-  
 35 (8) to the same member more than once during a six-month period.

36 (b) On demand made in a record received by the limited cooperative

1 association, a member may obtain, inspect, and copy in the association's  
2 principal office required information listed in § 4-36-114(a)(9), (10), (12),  
3 (13), (16) and (18) during regular business hours, if:

4 (1) the member seeks the information in good faith and for a  
5 proper purpose reasonably related to the member's interest;

6 (2) the demand includes a description with reasonable  
7 particularity of the information sought and the purpose for seeking the  
8 information;

9 (3) the information sought is directly connected to the member's  
10 purpose; and

11 (4) the demand is reasonable.

12 (c) Not later than 10 business days after receipt of a demand pursuant  
13 to subsection (b), a limited cooperative association shall provide, in a  
14 record, the following information to the member that made the demand:

15 (1) if the association agrees to provide the demanded  
16 information:

17 (A) what information the association will provide in  
18 response to the demand; and

19 (B) a reasonable time and place at which the association  
20 will provide the information; or

21 (2) if the association declines to provide some or all of the  
22 demanded information, the association's reasons for declining.

23 (d) A person dissociated as a member may obtain, inspect, and copy  
24 information available to a member under subsection (a) or (b) by delivering a  
25 demand in a record to the limited cooperative association in the same manner  
26 and subject to the same conditions applicable to a member under subsection  
27 (b) if:

28 (1) the information pertains to the period during which the  
29 person was a member in the association; and

30 (2) the person seeks the information in good faith.

31 (e) A limited cooperative association shall respond to a demand made  
32 pursuant to subsection (d) in the manner provided in subsection (c).

33 (f) Not later than 10 business days after receipt by a limited  
34 cooperative association of a demand made by a member in a record, but not  
35 more often than once in a six-month period, the association shall deliver to  
36 the member a record stating the information with respect to the member

1 required by § 4-36-114(a)(17).

2 (g) A limited cooperative association may impose reasonable  
3 restrictions, including nondisclosure restrictions, on the use of information  
4 obtained under this section. In a dispute concerning the reasonableness of a  
5 restriction under this subsection, the association has the burden of proving  
6 reasonableness.

7 (h) A limited cooperative association may charge a person that makes a  
8 demand under this section reasonable costs of copying, limited to the costs  
9 of labor and material.

10 (i) A person that may obtain information under this section may obtain  
11 the information through an attorney or other agent. A restriction imposed on  
12 the person under subsection (g) or by the organic rules applies to the  
13 attorney or other agent.

14 (j) The rights stated in this section do not extend to a person as  
15 transferee.

16 (k) The organic rules may require a limited cooperative association to  
17 provide more information than required by this section and may establish  
18 conditions and procedures for providing the information.

19  
20 4-36-506. Annual meeting of members.

21 (a) Members shall meet annually at a time provided in the organic  
22 rules or set by the board of directors not inconsistent with the organic  
23 rules.

24 (b) An annual members meeting may be held inside or outside this state  
25 at the place stated in the organic rules or selected by the board of  
26 directors not inconsistent with the organic rules.

27 (c) Unless the organic rules otherwise provide, members may attend or  
28 conduct an annual members meeting through any means of communication if all  
29 members attending the meeting can communicate with each other during the  
30 meeting.

31 (d) The board of directors shall report, or cause to be reported, at  
32 the association's annual members meeting the association's business and  
33 financial condition as of the close of the most recent fiscal year.

34 (e) Unless the organic rules otherwise provide, the board of directors  
35 shall designate the presiding officer of the association's annual members  
36 meeting.

1       (f) Failure to hold an annual members meeting does not affect the  
2 validity of any action by the limited cooperative association.

3  
4       4-36-507. Special meeting of members.

5       (a) A special meeting of members may be called only:

6           (1) as provided in the organic rules;

7           (2) by a majority vote of the board of directors on a proposal  
8 stating the purpose of the meeting;

9           (3) by demand in a record signed by members holding at least 20  
10 percent of the voting power of the persons in any district or class entitled  
11 to vote on the matter that is the purpose of the meeting stated in the  
12 demand; or

13           (4) by demand in a record signed by members holding at least 10  
14 percent of the total voting power of all the persons entitled to vote on the  
15 matter that is the purpose of the meeting stated in the demand.

16       (b) A demand under subsection (a)(3) or (4) must be submitted to the  
17 officer of the limited cooperative association charged with keeping its  
18 records.

19       (c) Any voting member may withdraw its demand under subsection (a)(3)  
20 or (4) before receipt by the limited cooperative association of demands  
21 sufficient to require a special meeting of members.

22       (d) A special meeting of members may be held inside or outside this  
23 state at the place stated in the organic rules or selected by the board of  
24 directors not inconsistent with the organic rules.

25       (e) Unless the organic rules otherwise provide, members may attend or  
26 conduct a special meeting of members through the use of any means of  
27 communication if all members attending the meeting can communicate with each  
28 other during the meeting.

29       (f) Only business within the purpose or purposes stated in the notice  
30 of a special meeting of members may be conducted at the meeting.

31       (g) Unless the organic rules otherwise provide, the presiding officer  
32 of a special meeting of members shall be designated by the board of  
33 directors.

34  
35       4-36-508. Notice of members meeting.

36       (a) A limited cooperative association shall notify each member of the

1 time, date, and place of a members meeting at least 15 and not more than 60  
2 days before the meeting.

3 (b) Unless the articles of organization otherwise provide, notice of  
4 an annual members meeting need not include any purpose of the meeting.

5 (c) Notice of a special meeting of members must include each purpose  
6 of the meeting as contained in the demand under § 4-36-507(a)(3) or (4) or as  
7 voted upon by the board of directors under § 4-36-507(a)(2).

8 (d) Notice of a members meeting must be given in a record unless oral  
9 notice is reasonable under the circumstances.

10  
11 4-36-509. Waiver of members meeting notice.

12 (a) A member may waive notice of a members meeting before, during, or  
13 after the meeting.

14 (b) A member's participation in a members meeting is a waiver of  
15 notice of that meeting unless the member objects to the meeting at the  
16 beginning of the meeting or promptly upon the member's arrival at the meeting  
17 and does not thereafter vote for or assent to action taken at the meeting.

18  
19 4-36-510. Quorum of members.

20 Unless the organic rules otherwise require a greater number of members  
21 or percentage of the voting power, the voting member or members present at a  
22 members meeting constitute a quorum.

23  
24 4-36-511. Voting by patron members.

25 Except as provided by § 4-36-512(a), each patron member has one vote.  
26 The organic rules may allocate voting power among patron members as provided  
27 in § 4-36-512(a).

28  
29 4-36-512. Determination of voting power of patron member.

30 (a) The organic rules may allocate voting power among patron members  
31 on the basis of one or a combination of the following:

32 (1) one member, one vote;

33 (2) use or patronage;

34 (3) equity; or

35 (4) if a patron member is a cooperative, the number of its  
36 patron members.



1       (b) The organic rules may provide for the allocation of patron member  
 2 voting power by districts or class, or any combination thereof.

3  
 4       4-36-513. Voting by investor members.

5       If the organic rules provide for investor members, each investor member  
 6 has one vote, unless the organic rules otherwise provide. The organic rules  
 7 may provide for the allocation of investor member voting power by class,  
 8 classes, or any combination of classes.

9  
 10       4-36-514. Voting requirements for members.

11       If a limited cooperative association has both patron and investor  
 12 members, the following rules apply:

13               (1) the total voting power of all patron members may not be less  
 14 than a majority of the entire voting power entitled to vote.

15               (2) action on any matter is approved only upon the affirmative  
 16 vote of at least a majority of:

17                       (A) all members voting at the meeting unless more than a  
 18 majority is required by § 4-36-401 et seq., § 4-36-1201 et seq., § 4-36-1501  
 19 et seq., and § 4-36-1601 et seq. or the organic rules; and

20                       (B) votes cast by patron members unless the organic rules  
 21 require a larger affirmative vote by patron members.

22               (3) The organic rules may provide for the percentage of the  
 23 affirmative votes that must be cast by investor members to approve the  
 24 matter.

25  
 26       4-36-515. Manner of voting.

27       (a) Unless the organic rules otherwise provide, voting by a proxy at a  
 28 members meeting is prohibited. This subsection does not prohibit delegate  
 29 voting based on district or class.

30       (b) If voting by a proxy is permitted, a patron member may appoint  
 31 only another patron member as a proxy and, if investor members are permitted,  
 32 an investor member may appoint only another investor member as a proxy.

33       (c) The organic rules may provide for the manner of and provisions  
 34 governing the appointment of a proxy.

35       (d) The organic rules may provide for voting on any question by ballot  
 36 delivered by mail or voting by other means on questions that are subject to

1 vote by members.

3 4-36-516. Action without a meeting.

4 (a) Unless the organic rules require that action be taken only at a  
5 members meeting, any action that may be taken by the members may be taken  
6 without a meeting if each member entitled to vote on the action consents in a  
7 record to the action.

8 (b) Consent under subsection (a) may be withdrawn by a member in a  
9 record at any time before the limited cooperative association receives a  
10 consent from each member entitled to vote.

11 (c) Consent to any action may specify the effective date or time of  
12 the action.

14 4-36-517. Districts and delegates – Classes of members.

15 (a) The organic rules may provide for the formation of geographic  
16 districts of patron members and:

17 (1) for the conduct of patron member meetings by districts and  
18 the election of directors at the meetings; or

19 (2) that districts may elect district delegates to represent and  
20 vote for the district at members meetings.

21 (b) A delegate elected under subsection (a)(2) has one vote unless  
22 voting power is otherwise allocated by the organic rules.

23 (c) The organic rules may provide for the establishment of classes of  
24 members, for the preferences, rights, and limitations of the classes, and:

25 (1) for the conduct of members meetings by classes and the  
26 election of directors at the meetings; or

27 (2) that classes may elect class delegates to represent and vote  
28 for the class in members meetings.

29 (d) A delegate elected under subsection (c)(2) has one vote unless  
30 voting power is otherwise allocated by the organic rules.

33 SUBCHAPTER 6 – MEMBER’S INTEREST IN LIMITED COOPERATIVE ASSOCIATION

34 4-36-601. Member’s interest.

35 A member’s interest:

36 (1) is personal property;

1           (2) consists of:

2                   (A) governance rights;

3                   (B) financial rights; and

4                   (C) the right or obligation, if any, to do business with  
 5 the limited cooperative association; and

6                   (3) may be in certificated or uncertificated form.

7  
 8           4-36-602. Patron and investor members' interests.

9           (a) Unless the organic rules establish investor members' interests, a  
 10 member's interest is a patron member's interest.

11           (b) Unless the organic rules otherwise provide, if a limited  
 12 cooperative association has investor members, while a person is a member of  
 13 the association, the person:

14                   (1) if admitted as a patron member, remains a patron member;

15                   (2) if admitted as an investor member, remains an investor  
 16 member; and

17                   (3) if admitted as a patron member and investor member remains a  
 18 patron and investor member if not dissociated in one of the capacities.

19  
 20           4-36-603. Transferability of member's interest.

21           (a) The provisions of this chapter relating to the transferability of  
 22 a member's interest are subject to the Uniform Commercial Code, § 4-1-101 et  
 23 seq.

24           (b) Unless the organic rules otherwise provide, a member's interest  
 25 other than financial rights is not transferable.

26           (c) Unless a transfer is restricted or prohibited by the organic  
 27 rules, a member may transfer its financial rights in the limited cooperative  
 28 association.

29           (d) The terms of any restriction on transferability of financial  
 30 rights must be:

31                   (1) set forth in the organic rules and the member records of the  
 32 association; and

33                   (2) conspicuously noted on any certificates evidencing a  
 34 member's interest.

35           (e) A transferee of a member's financial rights, to the extent the  
 36 rights are transferred, has the right to share in the allocation of profits

1 or losses and to receive the distributions to the member transferring the  
2 interest to the same extent as the transferring member.

3 (f) A transferee of a member's financial rights does not become a  
4 member upon transfer of the rights unless the transferee is admitted as a  
5 member by the limited cooperative association.

6 (g) A limited cooperative association need not give effect to a  
7 transfer under this section until the association has notice of the transfer.

8 (h) A transfer of a member's financial rights in violation of a  
9 restriction on transfer contained in the organic rules is ineffective as to a  
10 person having notice of the restriction at the time of transfer.

11  
12 4-36-604. Security interest and set-off.

13 (a) A member or transferee may create an enforceable security interest  
14 in its financial rights in a limited cooperative association.

15 (b) Unless the organic rules otherwise provide, a member may not  
16 create an enforceable security interest in the member's governance rights in  
17 a limited cooperative association.

18 (c) The organic rules may provide that a limited cooperative  
19 association has a security interest in the financial rights of a member to  
20 secure payment of any indebtedness or other obligation of the member to the  
21 association. A security interest provided for in the organic rules is  
22 enforceable under, and governed by, Article 9 of the Uniform Commercial Code,  
23 § 4-9-101 et seq.

24 (d) Unless the organic rules otherwise provide, a member may not  
25 compel the limited cooperative association to offset financial rights against  
26 any indebtedness or obligation owed to the association.

27  
28 4-36-605. Charging orders for judgment creditor of member or  
29 transferee.

30 (a) On application by a judgment creditor of a member or transferee, a  
31 court may enter a charging order against the financial rights of the judgment  
32 debtor for the unsatisfied amount of the judgment. A charging order issued  
33 under this subsection constitutes a lien on the judgment debtor's financial  
34 rights and requires the limited cooperative association to pay over to the  
35 creditor or receiver, to the extent necessary to satisfy the judgment, any  
36 distribution that would otherwise be paid to the judgment debtor.

1           (b) To the extent necessary to effectuate the collection of  
2 distributions pursuant to a charging order under subsection (a), the court  
3 may:

4                 (1) appoint a receiver of the share of the distributions due or  
5 to become due to the judgment debtor under the judgment debtor's financial  
6 rights, with the power to make all inquiries the judgment debtor might have  
7 made; and

8                 (2) make all other orders that the circumstances of the case may  
9 require to give effect to the charging order.

10           (c) Upon a showing that distributions under a charging order will not  
11 pay the judgment debt within a reasonable time, the court may foreclose the  
12 lien and order the sale of the financial rights. The purchaser at the  
13 foreclosure sale obtains only the financial rights that are subject to the  
14 charging order, does not thereby become a member, and is subject to § 4-36-  
15 603.

16           (d) At any time before a sale pursuant to a foreclosure, a member or  
17 transferee whose financial rights are subject to a charging order under  
18 subsection (a) may extinguish the charging order by satisfying the judgment  
19 and filing a certified copy of the satisfaction with the court that issued  
20 the charging order.

21           (e) At any time before sale pursuant to a foreclosure, the limited  
22 cooperative association or one or more members whose financial rights are not  
23 subject to the charging order may pay to the judgment creditor the full  
24 amount due under the judgment and succeed to the rights of the judgment  
25 creditor, including the charging order. Unless the organic rules otherwise  
26 provide, the association may act under this subsection only with the consent  
27 of all members whose financial rights are not subject to the charging order.

28           (f) This chapter does not deprive any member or transferee of the  
29 benefit of any exemption laws applicable to the member's or transferee's  
30 financial rights.

31           (g) This section provides the exclusive remedy by which a judgment  
32 creditor of a member or transferee may satisfy the judgment from the member's  
33 or transferee's financial rights.

34  
35                           SUBCHAPTER 7 – MARKETING CONTRACTS

36           4-36-701. Authority.

1       In this subchapter, "marketing contract" means a contract between a  
2 limited cooperative association and another person, that need not be a patron  
3 member:

4           (1) requiring the other person to sell, or deliver for sale or  
5 marketing on the person's behalf, a specified part of the person's products,  
6 commodities, or goods exclusively to or through the association or any  
7 facilities furnished by the association; or

8           (2) authorizing the association to act for the person in any  
9 manner with respect to the products, commodities, or goods.

10  
11       4-36-702. Marketing contracts.

12       (a) If a marketing contract provides for the sale of products,  
13 commodities, or goods to a limited cooperative association, the sale  
14 transfers title to the association upon delivery or at any other specific  
15 time expressly provided by the contract.

16       (b) A marketing contract may:

17           (1) authorize a limited cooperative association to create an  
18 enforceable security interest in the products, commodities, or goods  
19 delivered; and

20           (2) allow the association to sell the products, commodities, or  
21 goods delivered and pay the sales price on a pooled or other basis after  
22 deducting selling costs, processing costs, overhead, expenses, and other  
23 charges.

24       (c) Some or all of the provisions of a marketing contract between a  
25 patron member and a limited cooperative association may be contained in the  
26 organic rules.

27  
28       4-36-703. Duration of marketing contract.

29       The initial duration of a marketing contract may not exceed 10 years,  
30 but the contract may be self-renewing for additional periods not exceeding  
31 five years each. Unless the contract provides for another manner or time for  
32 termination, either party may terminate the contract by giving notice in a  
33 record at least 90 days before the end of the current term.

34  
35       4-36-704. Remedies for breach of contract.

36       (a) Damages to be paid to a limited cooperative association for breach

1 or anticipatory repudiation of a marketing contract may be liquidated, but  
 2 only at an amount or under a formula that is reasonable in light of the  
 3 actual or anticipated harm caused by the breach or repudiation. A provision  
 4 that so provides is not a penalty.

5 (b) Upon a breach of a marketing contract, whether by anticipatory  
 6 repudiation or otherwise, a limited cooperative association may seek:

- 7 (1) an injunction to prevent further breach; and
- 8 (2) specific performance.

9 (c) The remedies in this section are in addition to any other remedies  
 10 available to an association under law other than this chapter.

11  
 12 SUBCHAPTER 8 – DIRECTORS AND OFFICERS

13 4-36-801. Board of directors.

14 (a) A limited cooperative association must have a board of directors  
 15 of at least three individuals, unless the association has fewer than three  
 16 members. If the association has fewer than three members, the number of  
 17 directors may not be fewer than the number of members.

18 (b) The affairs of a limited cooperative association must be managed  
 19 by, or under the direction of, the board of directors. The board may adopt  
 20 policies and procedures that do not conflict with the organic rules or this  
 21 chapter.

22 (c) An individual is not an agent for a limited cooperative  
 23 association solely by being a director.

24  
 25 4-36-802. No liability as director for limited cooperative  
 26 association's obligations.

27 A debt, obligation, or other liability of a limited cooperative  
 28 association is solely that of the association and is not a debt, obligation,  
 29 or liability of a director solely by reason of being a director. An  
 30 individual is not personally liable, directly or indirectly, for an  
 31 obligation of an association solely by reason of being a director.

32  
 33 4-36-803. Qualifications of directors.

34 (a) Unless the organic rules otherwise provide, and subject to  
 35 subsection (c), each director of a limited cooperative association must be an  
 36 individual who is a member of the association or an individual who is

1 designated by a member that is not an individual for purposes of qualifying  
2 and serving as a director. Initial directors need not be members.

3 (b) Unless the organic rules otherwise provide, a director may be an  
4 officer or employee of the limited cooperative association.

5 (c) If the organic rules provide for nonmember directors, the number  
6 of nonmember directors may not exceed:

7 (1) one, if there are two through four directors;

8 (2) two, if there are five through eight directors; or

9 (3) one-third of the total number of directors if there are at  
10 least nine directors.

11 (d) The organic rules may provide qualifications for directors in  
12 addition to those in this section.

13  
14 4-36-804. Election of directors and composition of board.

15 (a) Unless the organic rules require a greater number:

16 (1) the number of directors that must be patron members may not  
17 be fewer than:

18 (A) one, if there are two or three directors;

19 (B) two, if there are four or five directors;

20 (C) three, if there are six through eight directors; or

21 (D) one-third of the directors if there are at least nine  
22 directors; and

23 (2) a majority of the board of directors must be elected  
24 exclusively by patron members.

25 (b) Unless the organic rules otherwise provide, if a limited  
26 cooperative association has investor members, the directors who are not  
27 elected exclusively by patron members are elected by the investor members.

28 (c) Subject to subsection (a), the organic rules may provide for the  
29 election of all or a specified number of directors by one or more districts  
30 or classes of members.

31 (d) Subject to subsection (a), the organic rules may provide for the  
32 nomination or election of directors by districts or classes, directly or by  
33 district delegates.

34 (e) If a class of members consists of a single member, the organic  
35 rules may provide for the member to appoint a director or directors.

36 (f) Unless the organic rules otherwise provide, cumulative voting for



1 directors is prohibited.

2 (g) Except as otherwise provided by the organic rules, subsection (e),  
3 or §§ 4-36-303, 4-36-516, 4-36-517, and 4-36-809, member directors must be  
4 elected at an annual members meeting.

5  
6 4-36-805. Term of director.

7 (a) Unless the organic rules otherwise provide, and subject to  
8 subsections (c) and (d) and § 4-36-303(c), the term of a director expires at  
9 the annual members meeting following the director's election or appointment.  
10 The term of a director may not exceed three years.

11 (b) Unless the organic rules otherwise provide, a director may be  
12 reelected.

13 (c) Except as otherwise provided in subsection (d), a director  
14 continues to serve until a successor director is elected or appointed and  
15 qualifies or the director is removed, resigns, is adjudged incompetent, or  
16 dies.

17 (d) Unless the organic rules otherwise provide, a director does not  
18 serve the remainder of the director's term if the director ceases to qualify  
19 to be a director.

20  
21 4-36-806. Resignation of director.

22 A director may resign at any time by giving notice in a record to the  
23 limited cooperative association. Unless the notice states a later effective  
24 date, a resignation is effective when the notice is received by the  
25 association.

26  
27 4-36-807. Removal of director.

28 Unless the organic rules otherwise provide, the following rules apply:

29 (1) Members may remove a director with or without cause.

30 (2) A member or members holding at least 10 percent of the total  
31 voting power entitled to be voted in the election of a director may demand  
32 removal of the director by one or more signed petitions submitted to the  
33 officer of the limited cooperative association charged with keeping its  
34 records.

35 (3) Upon receipt of a petition for removal of a director, an  
36 officer of the association or the board of directors shall:

1 (A) call a special meeting of members to be held not later  
 2 than 90 days after receipt of the petition by the association; and

3 (B) mail or otherwise transmit or deliver in a record to  
 4 the members entitled to vote on the removal, and to the director to be  
 5 removed, notice of the meeting which complies with § 4-36-508.

6 (4) A director is removed if the votes in favor of removal are  
 7 equal to or greater than the votes required to elect the director.

8  
 9 4-36-808. Suspension of director by board.

10 (a) A board of directors may suspend a director if, considering the  
 11 director's course of conduct and the inadequacy of other available remedies,  
 12 immediate suspension is necessary for the best interests of the association  
 13 and the director is engaging, or has engaged, in:

14 (1) fraudulent conduct with respect to the association or its  
 15 members;

16 (2) gross abuse of the position of director;

17 (3) intentional or reckless infliction of harm on the  
 18 association; or

19 (4) any other behavior, act, or omission as provided by the  
 20 organic rules.

21 (b) A suspension under subsection (a) is effective for 30 days unless  
 22 the board of directors calls and gives notice of a special meeting of members  
 23 for removal of the director before the end of the 30-day period in which case  
 24 the suspension is effective until adjournment of the meeting or the director  
 25 is removed.

26  
 27 4-36-809. Vacancy on board.

28 (a) Unless the organic rules otherwise provide, a vacancy on the board  
 29 of directors must be filled:

30 (1) within a reasonable time by majority vote of the remaining  
 31 directors until the next annual members meeting or a special meeting of  
 32 members called to fill the vacancy; and

33 (2) for the unexpired term by members at the next annual members  
 34 meeting or a special meeting of members called to fill the vacancy.

35 (b) Unless the organic rules otherwise provide, if a vacating director  
 36 was elected or appointed by a class of members or a district:

1           (1) the new director must be of that class or district; and  
 2           (2) the selection of the director for the unexpired term must be  
 3 conducted in the same manner as would the selection for that position without  
 4 a vacancy.

5           (c) If a member appointed a vacating director, the organic rules may  
 6 provide for that member to appoint a director to fill the vacancy.

7  
 8           4-36-810. Remuneration of directors.

9           Unless the organic rules otherwise provide, the board of directors may  
 10 set the remuneration of directors and of nondirector committee members  
 11 appointed under § 4-36-817(a).

12  
 13           4-36-811. Meetings.

14           (a) A board of directors shall meet at least annually and may hold  
 15 meetings inside or outside this state.

16           (b) Unless the organic rules otherwise provide, a board of directors  
 17 may permit directors to attend or conduct board meetings through the use of  
 18 any means of communication, if all directors attending the meeting can  
 19 communicate with each other during the meeting.

20  
 21           4-36-812. Action without meeting.

22           (a) Unless prohibited by the organic rules, any action that may be  
 23 taken by a board of directors may be taken without a meeting if each director  
 24 consents in a record to the action.

25           (b) Consent under subsection (a) may be withdrawn by a director in a  
 26 record at any time before the limited cooperative association receives  
 27 consent from all directors.

28           (c) A record of consent for any action under subsection (a) may  
 29 specify the effective date or time of the action.

30  
 31           4-36-813. Meetings and notice.

32           (a) Unless the organic rules otherwise provide, a board of directors  
 33 may establish a time, date, and place for regular board meetings, and notice  
 34 of the time, date, place, or purpose of those meetings is not required.

35           (b) Unless the organic rules otherwise provide, notice of the time,  
 36 date, and place of a special meeting of a board of directors must be given to

1 all directors at least three days before the meeting, the notice must contain  
2 a statement of the purpose of the meeting, and the meeting is limited to the  
3 matters contained in the statement.

4  
5 4-36-814. Waiver of notice of meeting.

6 (a) Unless the organic rules otherwise provide, a director may waive  
7 any required notice of a meeting of the board of directors in a record  
8 before, during, or after the meeting.

9 (b) Unless the organic rules otherwise provide, a director's  
10 participation in a meeting is a waiver of notice of that meeting unless:

11 (1) the director objects to the meeting at the beginning of the  
12 meeting or promptly upon the director's arrival at the meeting and does not  
13 thereafter vote in favor of or otherwise assent to the action taken at the  
14 meeting; or

15 (2) the director promptly objects upon the introduction of any  
16 matter for which notice under § 4-36-813 has not been given and does not  
17 thereafter vote in favor of or otherwise assent to the action taken on the  
18 matter.

19  
20 4-36-815. Quorum.

21 (a) Unless the articles of organization provide for a greater number,  
22 a majority of the total number of directors specified by the organic rules  
23 constitutes a quorum for a meeting of the directors.

24 (b) If a quorum of the board of directors is present at the beginning  
25 of a meeting, any action taken by the directors present is valid even if  
26 withdrawal of directors originally present results in the number of directors  
27 being fewer than the number required for a quorum.

28 (c) A director present at a meeting but objecting to notice under § 4-  
29 36-814(b)(1) or (2) does not count toward a quorum.

30  
31 4-36-816. Voting.

32 (a) Each director shall have one vote for purposes of decisions made  
33 by the board of directors.

34 (b) Unless the organic rules otherwise provide, the affirmative vote  
35 of a majority of directors present at a meeting is required for action by the  
36 board of directors.

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4-36-817. Committees.

(a) Unless the organic rules otherwise provide, a board of directors may create one or more committees and appoint one or more individuals to serve on a committee.

(b) Unless the organic rules otherwise provide, an individual appointed to serve on a committee of a limited cooperative association need not be a director or member.

(c) An individual who is not a director and is serving on a committee has the same rights, duties, and obligations as a director serving on the committee.

(d) Unless the organic rules otherwise provide each committee of a limited cooperative association may exercise the powers delegated to it by the board of directors, but a committee may not:

- (1) approve allocations or distributions except according to a formula or method prescribed by the board of directors;
- (2) approve or propose to members action requiring approval of members; or
- (3) fill vacancies on the board of directors or any of its committees.

4-36-818. Standards of conduct and liability.

Except as otherwise provided in § 4-36-820:

(1) the discharge of the duties of a director or member of a committee of the board of directors is governed by the law applicable to directors of entities organized under the Arkansas Business Corporation Act (1987), § 4-27-101 et seq.; and

(2) the liability of a director or member of a committee of the board of directors is governed by the law applicable to directors of entities organized under the Arkansas Business Corporation Act (1987), § 4-27-101 et seq.

4-36-819. Conflict of interest.

(a) The law applicable to conflicts of interest between a director of an entity organized under the Arkansas Business Corporation Act (1987), § 4-27-101 et seq., governs conflicts of interest between a limited cooperative

1 association and a director or member of a committee of the board of  
2 directors.

3 (b) A director does not have a conflict of interest under this chapter  
4 or the organic rules solely because the director's conduct relating to the  
5 duties of the director may further the director's own interest.

6  
7 4-36-820. Other considerations of directors.

8 Unless the articles of organization otherwise provide, in considering  
9 the best interests of a limited cooperative association, a director of the  
10 association in discharging the duties of director, in conjunction with  
11 considering the long and short term interest of the association and its  
12 patron members, may consider:

13 (1) the interest of employees, customers, and suppliers of the  
14 association;

15 (2) the interest of the community in which the association  
16 operates; and

17 (3) other cooperative principles and values that may be applied  
18 in the context of the decision.

19  
20 4-36-821. Right of director or committee member to information.

21 A director or a member of a committee appointed under § 4-36-817 may  
22 obtain, inspect, and copy all information regarding the state of activities  
23 and financial condition of the limited cooperative association and other  
24 information regarding the activities of the association if the information is  
25 reasonably related to the performance of the director's duties as director or  
26 the committee member's duties as a member of the committee. Information  
27 obtained in accordance with this section may not be used in any manner that  
28 would violate any duty of or to the association.

29  
30 4-36-822. Appointment and authority of officers.

31 (a) A limited cooperative association has the officers:

32 (1) provided in the organic rules; or

33 (2) established by the board of directors in a manner not  
34 inconsistent with the organic rules.

35 (b) The organic rules may designate or, if the rules do not designate,  
36 the board of directors shall designate, one of the association's officers for

1 preparing all records required by § 4-36-114 and for the authentication of  
 2 records.

3 (c) Unless the organic rules otherwise provide, the board of directors  
 4 shall appoint the officers of the limited cooperative association.

5 (d) Officers of a limited cooperative association shall perform the  
 6 duties the organic rules prescribe or as authorized by the board of directors  
 7 not in a manner inconsistent with the organic rules.

8 (e) The election or appointment of an officer of a limited cooperative  
 9 association does not of itself create a contract between the association and  
 10 the officer.

11 (f) Unless the organic rules otherwise provide, an individual may  
 12 simultaneously hold more than one office in a limited cooperative  
 13 association.

14  
 15 4-36-823. Resignation and removal of officers.

16 (a) The board of directors may remove an officer at any time with or  
 17 without cause.

18 (b) An officer of a limited cooperative association may resign at any  
 19 time by giving notice in a record to the association. Unless the notice  
 20 specifies a later time, the resignation is effective when the notice is  
 21 given.

22  
 23 SUBCHAPTER 9 – INDEMNIFICATION

24 4-36-901. Indemnification.

25 (a) Indemnification of an individual who has incurred liability or is  
 26 a party, or is threatened to be made a party, to litigation because of the  
 27 performance of a duty to, or activity on behalf of, a limited cooperative  
 28 association is governed by the Arkansas Business Corporation Act (1987), § 4-  
 29 27-101 et seq.

30 (b) A limited cooperative association may purchase and maintain  
 31 insurance on behalf of any individual against liability asserted against or  
 32 incurred by the individual to the same extent and subject to the same  
 33 conditions as provided by the Arkansas Business Corporation Act (1987), § 4-  
 34 27-101 et seq.

35  
 36 SUBCHAPTER 10 – CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS

1           4-36-1001. Members' contributions.

2           The organic rules must establish the amount, manner, or method of  
3 determining any contribution requirements for members or must authorize the  
4 board of directors to establish the amount, manner, or other method of  
5 determining any contribution requirements for members.

6  
7           4-36-1002. Contribution and valuation.

8           (a) Unless the organic rules otherwise provide, the contributions of a  
9 member to a limited cooperative association may consist of tangible or  
10 intangible property or other benefit to the association, including money,  
11 labor or other services performed or to be performed, promissory notes, other  
12 agreements to contribute money or property, and contracts to be performed.

13           (b) The receipt and acceptance of contributions and the valuation of  
14 contributions must be reflected in a limited cooperative association's  
15 records.

16           (c) Unless the organic rules otherwise provide, the board of directors  
17 shall determine the value of a member's contributions received or to be  
18 received and the determination by the board of directors of valuation is  
19 conclusive for purposes of determining whether the member's contribution  
20 obligation has been met.

21  
22           4-36-1003. Contribution agreements.

23           (a) Except as otherwise provided in the agreement, the following rules  
24 apply to an agreement made by a person before formation of a limited  
25 cooperative association to make a contribution to the association:

26                 (1) The agreement is irrevocable for six months after the  
27 agreement is signed by the person unless all parties to the agreement consent  
28 to the revocation.

29                 (2) If a person does not make a required contribution:

30                         (A) the person is obligated, at the option of the  
31 association, once formed, to contribute money equal to the value of that part  
32 of the contribution that has not been made, and the obligation may be  
33 enforced as a debt to the association; or

34                         (B) the association, once formed, may rescind the  
35 agreement if the debt remains unpaid more than 20 days after the association  
36 demands payment from the person, and upon rescission the person has no



1 further rights or obligations with respect to the association.

2 (b) Unless the organic rules or an agreement to make a contribution to  
3 a limited cooperative association otherwise provide, if a person does not  
4 make a required contribution to an association, the person or the person's  
5 estate is obligated, at the option of the association, to contribute money  
6 equal to the value of the part of the contribution which has not been made.

7  
8 4-36-1004. Allocations of profits and losses.

9 (a) The organic rules may provide for allocating profits of a limited  
10 cooperative association among members, among persons that are not members but  
11 conduct business with the association, to an unallocated account, or to any  
12 combination thereof. Unless the organic rules otherwise provide, losses of  
13 the association must be allocated in the same proportion as profits.

14 (b) Unless the organic rules otherwise provide, all profits and losses  
15 of a limited cooperative association must be allocated to patron members.

16 (c) If a limited cooperative association has investor members, the  
17 organic rules may not reduce the allocation to patron members to less than 50  
18 percent of profits. For purposes of this subsection, the following rules  
19 apply:

20 (1) amounts paid or due on contracts for the delivery to the  
21 association by patron members of products, goods, or services are not  
22 considered amounts allocated to patron members.

23 (2) amounts paid, due, or allocated to investor members as a  
24 stated fixed return on equity are not considered amounts allocated to  
25 investor members.

26 (d) Unless prohibited by the organic rules, in determining the profits  
27 for allocation under subsections (a), (b), and (c), the board of directors  
28 may first deduct and set aside a part of the profits to create or accumulate:

29 (1) an unallocated capital reserve; and

30 (2) reasonable unallocated reserves for specific purposes,  
31 including expansion and replacement of capital assets; education, training,  
32 cooperative development; creation and distribution of information concerning  
33 principles of cooperation; and community responsibility.

34 (e) Subject to subsections (b) and (f) and the organic rules, the  
35 board of directors shall allocate the amount remaining after any deduction or  
36 setting aside of profits for unallocated reserves under subsection (d):

1           (1) to patron members in the ratio of each member's patronage to  
 2 the total patronage of all patron members during the period for which  
 3 allocations are to be made; and

4           (2) to investor members, if any, in the ratio of each investor  
 5 member's contributions to the total contributions of all investor members.

6           (f) For purposes of allocation of profits and losses or specific items  
 7 of profits or losses of a limited cooperative association to members, the  
 8 organic rules may establish allocation units or methods based on separate  
 9 classes of members or, for patron members, on class, function, division,  
 10 district, department, allocation units, pooling arrangements, members'  
 11 contributions, or other equitable methods.

12  
 13           4-36-1005. Distributions.

14           (a) Unless the organic rules otherwise provide and subject to § 4-36-  
 15 1007, the board of directors may authorize, and the limited cooperative  
 16 association may make, distributions to members.

17           (b) Unless the organic rules otherwise provide, distributions to  
 18 members may be made in any form, including money, capital credits, allocated  
 19 patronage equities, revolving fund certificates, and the limited cooperative  
 20 association's own or other securities.

21  
 22           4-36-1006. Redemption or repurchase.

23           Property distributed to a member by a limited cooperative association,  
 24 other than money, may be redeemed or repurchased as provided in the organic  
 25 rules but a redemption or repurchase may not be made without authorization by  
 26 the board of directors. The board may withhold authorization for any reason  
 27 in its sole discretion. A redemption or repurchase is treated as a  
 28 distribution for purposes of § 4-36-1007.

29  
 30           4-36-1007. Limitations on distributions.

31           (a) A limited cooperative association may not make a distribution if,  
 32 after the distribution:

33           (1) the association would not be able to pay its debts as they  
 34 become due in the ordinary course of the association's activities; or

35           (2) the association's assets would be less than the sum of its  
 36 total liabilities.

1       (b) A limited cooperative association may base a determination that a  
2 distribution is not prohibited under subsection (a) on financial statements  
3 prepared on the basis of accounting practices and principles that are  
4 reasonable in the circumstances or on a fair valuation or other method that  
5 is reasonable in the circumstances.

6       (c) Except as otherwise provided in subsection (d), the effect of a  
7 distribution allowed under subsection (b) is measured:

8           (1) in the case of distribution by purchase, redemption, or  
9 other acquisition of financial rights in the limited cooperative association,  
10 as of the date money or other property is transferred or debt is incurred by  
11 the association; and

12           (2) in all other cases, as of the date:

13                   (A) the distribution is authorized, if the payment occurs  
14 not later than 120 days after that date; or

15                   (B) the payment is made, if payment occurs more than 120  
16 days after the distribution is authorized.

17       (d) If indebtedness is issued as a distribution, each payment of  
18 principal or interest on the indebtedness is treated as a distribution, the  
19 effect of which is measured on the date the payment is made.

20       (e) For purposes of this section, "distribution" does not include  
21 reasonable amounts paid to a member in the ordinary course of business as  
22 payment or compensation for commodities, goods, past or present services, or  
23 reasonable payments made in the ordinary course of business under a bona fide  
24 retirement or other benefits program.

25  
26       4-36-1008. Liability for improper distributions – Limitation of  
27 action.

28       (a) A director who consents to a distribution that violates § 4-36-  
29 1007 is personally liable to the limited cooperative association for the  
30 amount of the distribution which exceeds the amount that could have been  
31 distributed without the violation if it is established that in consenting to  
32 the distribution the director failed to comply with § 4-36-818 or § 4-36-819.

33       (b) A member or transferee of financial rights which received a  
34 distribution knowing that the distribution was made in violation of § 4-36-  
35 1007 is personally liable to the limited cooperative association to the  
36 extent the distribution exceeded the amount that could have been properly

1 paid.

2 (c) A director against whom an action is commenced under subsection  
 3 (a) may:

4 (1) implead in the action any other director who is liable under  
 5 subsection (a) and compel contribution from the person; and

6 (2) implead in the action any person that is liable under  
 7 subsection (b) and compel contribution from the person in the amount the  
 8 person received as described in subsection (b).

9 (d) An action under this section is barred if it is commenced later  
 10 than two years after the distribution.

11  
 12 4-36-1009. Relation to state securities law.

13 Patron members' interest in a limited cooperative association has the  
 14 same exemption as provided for substantially similar interests in  
 15 cooperatives under the Arkansas Securities Act, § 23-42-101 et seq.

16  
 17 4-36-1010. [Reserved.]

18  
 19 SUBCHAPTER 11 – DISSOCIATION

20 4-36-1101. Member's dissociation.

21 (a) A person has the power to dissociate as a member at any time,  
 22 rightfully or wrongfully, by express will.

23 (b) Unless the organic rules otherwise provide, a member's  
 24 dissociation from a limited cooperative association is wrongful only if the  
 25 dissociation:

26 (1) breaches an express provision of the organic rules; or

27 (2) occurs before the termination of the limited cooperative  
 28 association and:

29 (A) the person is expelled as a member under subsection  
 30 (d)(3) or (4); or

31 (B) in the case of a person that is not an individual,  
 32 trust other than a business trust, or estate, the person is expelled or  
 33 otherwise dissociated as a member because it dissolved or terminated in bad  
 34 faith.

35 (c) Unless the organic rules otherwise provide, a person that  
 36 wrongfully dissociates as a member is liable to the limited cooperative

1 association for damages caused by the dissociation. The liability is in  
2 addition to any other debt, obligation, or liability of the person to the  
3 association.

4 (d) A member is dissociated from the limited cooperative association  
5 as a member when:

6 (1) the association receives notice in a record of the member's  
7 express will to dissociate as a member, or if the member specifies in the  
8 notice an effective date later than the date the association received notice,  
9 on that later date;

10 (2) an event stated in the organic rules as causing the member's  
11 dissociation as a member occurs;

12 (3) the member is expelled as a member under the organic rules;

13 (4) the member is expelled as a member by the board of directors

14 because:

15 (A) it is unlawful to carry on the association's  
16 activities with the member as a member;

17 (B) there has been a transfer of all the member's  
18 financial rights in the association, other than:

19 (i) a creation or perfection of a security interest;  
20 or

21 (ii) a charging order in effect under § 4-36-605  
22 which has not been foreclosed;

23 (C) the member is a limited liability company,  
24 association, or partnership, which has been dissolved, and its business is  
25 being wound up; or

26 (D) the member is a corporation or cooperative and:

27 (i) the member filed a certificate of dissolution or  
28 the equivalent, or the jurisdiction of formation revoked the association's  
29 charter or right to conduct business;

30 (ii) the association sends a notice to the member  
31 that it will be expelled as a member for a reason described in clause (i);  
32 and

33 (iii) not later than 90 days after the notice was  
34 sent under clause (ii), the member did not revoke its certificate of  
35 dissolution or the equivalent, or the jurisdiction of formation did not  
36 reinstate the association's charter or right to conduct business; or

1                   (E) the member is an individual and is adjudged  
 2 incompetent;

3                   (5) in the case of a member who is an individual, the individual  
 4 dies;

5                   (6) in the case of a member that is a trust or is acting as a  
 6 member by virtue of being a trustee of a trust, all the trust's financial  
 7 rights in the association are distributed;

8                   (7) in the case of a member that is an estate, the estate's  
 9 entire financial interest in the association is distributed;

10                   (8) in the case of a member that is not an individual,  
 11 partnership, limited liability company, cooperative, corporation, trust, or  
 12 estate, the member is terminated; or

13                   (9) the association's participation in a merger if, under the  
 14 plan of merger as approved under § 4-36-1601 et seq., the member ceases to be  
 15 a member.

16  
 17                   4-36-1102. Effect of dissociation as member.

18                   (a) Upon a member's dissociation:

19                   (1) subject to § 4-36-1103, the person has no further rights as  
 20 a member; and

21                   (2) subject to § 4-36-1103 and § 4-36-1601 et seq., any  
 22 financial rights owned by the person in the person's capacity as a member  
 23 immediately before dissociation are owned by the person as a transferee.

24                   (b) A person's dissociation as a member does not of itself discharge  
 25 the person from any debt, obligation, or liability to the limited cooperative  
 26 association which the person incurred under the organic rules, by contract,  
 27 or by other means while a member.

28  
 29                   4-36-1103. Power of estate of member.

30                   Unless the organic rules provide for greater rights, if a member is  
 31 dissociated because of death, dies or is expelled by reason of being adjudged  
 32 incompetent, the member's personal representative or other legal  
 33 representative may exercise the rights of a transferee of the member's  
 34 financial rights and, for purposes of settling the estate of a deceased  
 35 member, may exercise the informational rights of a current member to obtain  
 36 information under § 4-36-505.

1  
2 SUBCHAPTER 12 – DISSOLUTION

3 4-36-1201. Dissolution and winding up.

4 A limited cooperative association is dissolved only as provided in this  
5 subchapter and upon dissolution winds up in accordance with this subchapter.

6  
7 4-36-1202. Nonjudicial dissolution.

8 Except as otherwise provided in §§ 4-36-1203 and 4-36-1211, a limited  
9 cooperative association is dissolved and its activities must be wound up:

10 (1) upon the occurrence of an event or at a time specified in  
11 the articles of organization;

12 (2) upon the action of the association’s organizers, board of  
13 directors, or members under § 4-36-1204 or § 4-36-1205; or

14 (3) 90 days after the dissociation of a member, which results in  
15 the association having one patron member and no other members, unless the  
16 association:

17 (A) has a sole member that is a cooperative; or

18 (B) not later than the end of the 90-day period, admits at  
19 least one member in accordance with the organic rules and has at least two  
20 members, at least one of which is a patron member.

21  
22 4-36-1203. Judicial dissolution.

23 The circuit court may dissolve a limited cooperative association or  
24 order any action that under the circumstances is appropriate and equitable:

25 (1) in a proceeding initiated by the Attorney General, if:

26 (A) the association obtained its articles of organization  
27 through fraud; or

28 (B) the association has continued to exceed or abuse the  
29 authority conferred upon it by law; or

30 (2) in a proceeding initiated by a member, if:

31 (A) the directors are deadlocked in the management of the  
32 association’s affairs, the members are unable to break the deadlock, and  
33 irreparable injury to the association is occurring or is threatened because  
34 of the deadlock;

35 (B) the directors or those in control of the association  
36 have acted, are acting, or will act in a manner that is illegal, oppressive,

1 or fraudulent;

2 (C) the members are deadlocked in voting power and have  
 3 failed to elect successors to directors whose terms have expired for two  
 4 consecutive periods during which annual members meetings were held or were to  
 5 be held; or

6 (D) the assets of the association are being misapplied or  
 7 wasted.

8  
 9 4-36-1204. Voluntary dissolution before commencement of activity.

10 A majority of the organizers or initial directors of a  
 11 limited cooperative association that has not yet begun business activity or  
 12 the conduct of its affairs may dissolve the association.

13  
 14 4-36-1205. Voluntary dissolution by the board and members.

15 (a) Except as otherwise provided in § 4-36-1204, for a limited  
 16 cooperative association to voluntarily dissolve:

17 (1) a resolution to dissolve must be approved by a majority vote  
 18 of the board of directors unless a greater percentage is required by the  
 19 organic rules;

20 (2) the board of directors must call a members meeting to  
 21 consider the resolution, to be held not later than 90 days after adoption of  
 22 the resolution; and

23 (3) the board of directors must mail or otherwise transmit or  
 24 deliver to each member in a record that complies with § 4-36-508:

25 (A) the resolution required by paragraph (1);

26 (B) a recommendation that the members vote in favor of the  
 27 resolution or, if the board determines that because of conflict of interest  
 28 or other special circumstances it should not make a favorable recommendation,  
 29 the basis of that determination; and

30 (C) notice of the members meeting, which must be given in  
 31 the same manner as notice of a special meeting of members.

32 (b) Subject to subsection (c), a resolution to dissolve must be  
 33 approved by:

34 (1) at least two-thirds of the voting power of members present  
 35 at a members meeting called under subsection (a)(2); and

36 (2) if the limited cooperative association has investor members,



1 at least a majority of the votes cast by patron members, unless the organic  
2 rules require a greater percentage.

3 (c) The organic rules may require that the percentage of votes under  
4 subsection (b)(1) is:

5 (1) a different percentage that is not less than a majority of  
6 members voting at the meeting; or

7 (2) measured against the voting power of all members; or

8 (3) a combination of paragraphs (1) and (2).

9  
10 4-36-1206. Winding up.

11 (a) A limited cooperative association continues after dissolution only  
12 for purposes of winding up its activities.

13 (b) In winding up a limited cooperative association's activities, the  
14 board of directors shall cause the association to:

15 (1) discharge its liabilities, settle and close its activities,  
16 and marshal and distribute its assets;

17 (2) preserve the association or its property as a going concern  
18 for no more than a reasonable time;

19 (3) prosecute and defend actions and proceedings;

20 (4) transfer association property; and

21 (5) perform other necessary acts.

22 (c) After dissolution and upon application of a limited cooperative  
23 association, a member, or a holder of financial rights, the circuit court may  
24 order judicial supervision of the winding up of the association, including  
25 the appointment of a person to wind up the association's activities, if:

26 (1) after a reasonable time, the association has not wound up  
27 its activities; or

28 (2) the applicant establishes other good cause.

29 (d) If a person is appointed pursuant to subsection (c) to wind up the  
30 activities of a limited cooperative association, the association shall  
31 promptly deliver to the Secretary of State for filing an amendment to the  
32 articles of organization to reflect the appointment.

33  
34 4-36-1207. Distribution of assets in winding up limited cooperative  
35 association.

36 (a) In winding up a limited cooperative association's business, the

1 association shall apply its assets to discharge its obligations to creditors,  
 2 including members that are creditors. The association shall apply any  
 3 remaining assets to pay in money the net amount distributable to members in  
 4 accordance with their right to distributions under subsection (b).

5 (b) Unless the organic rules otherwise provide, in this subsection  
 6 “financial interests” means the amounts recorded in the names of members in  
 7 the records of a limited cooperative association at the time a distribution  
 8 is made, including amounts paid to become a member, amounts allocated but not  
 9 distributed to members, and amounts of distributions authorized but not yet  
 10 paid to members. Unless the organic rules otherwise provide, each member is  
 11 entitled to a distribution from the association of any remaining assets in  
 12 the proportion of the member’s financial interests to the total financial  
 13 interests of the members after all other obligations are satisfied.

14  
 15 4-36-1208. Known claims against dissolved limited cooperative  
 16 association.

17 (a) Subject to subsection (d), a dissolved limited cooperative  
 18 association may dispose of the known claims against it by following the  
 19 procedure in subsections (b) and (c).

20 (b) A dissolved limited cooperative association may notify its known  
 21 claimants of the dissolution in a record. The notice must:

22 (1) specify that a claim be in a record;

23 (2) specify the information required to be included in the  
 24 claim;

25 (3) provide an address to which the claim must be sent;

26 (4) state the deadline for receipt of the claim, which may not  
 27 be less than 120 days after the date the notice is received by the claimant;  
 28 and

29 (5) state that the claim will be barred if not received by the  
 30 deadline.

31 (c) A claim against a dissolved limited cooperative association is  
 32 barred if the requirements of subsection (b) are met, and:

33 (1) the association is not notified of the claimant’s claim, in  
 34 a record, by the deadline specified in the notice under subsection (b)(4);

35 (2) in the case of a claim that is timely received but rejected  
 36 by the association, the claimant does not commence an action to enforce the

1 claim against the association within 90 days after receipt of the notice of  
 2 the rejection; or

3 (3) if a claim is timely received but is neither accepted nor  
 4 rejected by the association within 120 days after the deadline for receipt of  
 5 claims, the claimant does not commence an action to enforce the claim against  
 6 the association:

7 (A) after the 120-day period; and

8 (B) within 90 days after the 120-day period.

9 (d) This section does not apply to a claim based on an event occurring  
 10 after the date of dissolution or a liability that is contingent on that date.

11  
 12 4-36-1209. Other claims against dissolved limited cooperative  
 13 association.

14 (a) A dissolved limited cooperative association may publish notice of  
 15 its dissolution and request persons having claims against the association to  
 16 present them in accordance with the notice.

17 (b) A notice under subsection (a) must:

18 (1) be published at least once in a newspaper of general  
 19 circulation in the county in which the dissolved limited cooperative  
 20 association's principal office is located or, if the association does not  
 21 have a principal office in this state, in the county in which the  
 22 association's designated office is or was last located;

23 (2) describe the information required to be contained in a claim  
 24 and provide an address to which the claim is to be sent; and

25 (3) state that a claim against the association is barred unless  
 26 an action to enforce the claim is commenced not later than three years after  
 27 publication of the notice.

28 (c) If a dissolved limited cooperative association publishes a notice  
 29 in accordance with subsection (b), the claim of each of the following  
 30 claimants is barred unless the claimant commences an action to enforce the  
 31 claim not later than three years after the first publication date of the  
 32 notice:

33 (1) a claimant that is entitled to but did not receive notice in  
 34 a record under § 4-36-1208; and

35 (2) a claimant whose claim is contingent or based on an event  
 36 occurring after the effective date of dissolution.

1           (d) A claim not barred under this section may be enforced:

2                   (1) against a dissolved limited cooperative association, to the  
3 extent of its undistributed assets; or

4                   (2) if the association's assets have been distributed in  
5 connection with winding up the association's activities against a member or  
6 holder of financial rights to the extent of that person's proportionate share  
7 of the claim or the association's assets distributed to the person in  
8 connection with the winding up, whichever is less. The person's total  
9 liability for all claims under this subdivision (d)(2) shall not exceed the  
10 total amount of assets distributed to the person as part of the winding up of  
11 the association.

12  
13           4-36-1210. Court proceeding.

14           (a) Upon application by a dissolved limited cooperative association  
15 that has published a notice under § 4-36-1209, the circuit court in the  
16 county where the association's principal office is located or, if the  
17 association does not have a principal office in this state where its  
18 designated office in this state is located, may determine the amount and form  
19 of security to be provided for payment of claims against the association that  
20 are contingent, have not been made known to the association, or are based on  
21 an event occurring after the effective date of dissolution but that, based on  
22 the facts known to the association, are reasonably anticipated to arise after  
23 the effective date of dissolution.

24           (b) Not later than 10 days after filing an application under  
25 subsection (a), a dissolved limited cooperative association shall give notice  
26 of the proceeding to each known claimant holding a contingent claim.

27           (c) The court may appoint a representative in a proceeding brought  
28 under this section to represent all claimants whose identities are unknown.  
29 The dissolved limited cooperative association shall pay reasonable fees and  
30 expenses of the representative, including all reasonable attorney's and  
31 expert witness fees.

32           (d) Provision by the dissolved limited cooperative association for  
33 security in the amount and the form ordered by the court satisfies the  
34 association's obligations with respect to claims that are contingent, have  
35 not been made known to the association, or are based on an event occurring  
36 after the effective date of dissolution, and the claims may not be enforced

1 against a member that received a distribution.

2  
3 4-36-1211. Administrative dissolution.

4 (a) The Secretary of State may dissolve a limited cooperative  
5 association administratively if the association does not:

6 (1) pay, not later than 60 days after the due date, any fee,  
7 tax, or penalty due to the Secretary of State under this chapter or other  
8 law; or

9 (2) deliver not later than 60 days after the due date its annual  
10 report to the Secretary of State.

11 (b) If the Secretary of State determines that a ground exists for  
12 dissolving a limited cooperative association administratively, the Secretary  
13 of State shall file a record of the determination and serve the association  
14 with a copy of the record.

15 (c) If, not later than 60 days after service of a copy of the  
16 Secretary of State's determination under subsection (b), the association does  
17 not correct each ground for dissolution or demonstrate to the satisfaction of  
18 the Secretary of State that each uncorrected ground determined by the  
19 Secretary of State does not exist, the Secretary of State shall dissolve the  
20 association administratively by preparing and filing a declaration of  
21 dissolution which states the grounds for dissolution. The Secretary of State  
22 shall serve the association with a copy of the declaration.

23 (d) A limited cooperative association that has been dissolved  
24 administratively continues its existence only for purposes of winding up its  
25 activities.

26 (e) The administrative dissolution of a limited cooperative  
27 association does not terminate the authority of its agent for service of  
28 process.

29  
30 4-36-1212. Reinstatement following administrative dissolution.

31 (a) A limited cooperative association that has been dissolved  
32 administratively may apply to the Secretary of State for reinstatement not  
33 later than two years after the effective date of dissolution. The  
34 application must be delivered to the Secretary of State for filing and state:

35 (1) the name of the association and the effective date of its  
36 administrative dissolution;

1           (2) that the grounds for dissolution either did not exist or  
 2 have been eliminated; and

3           (3) that the association’s name satisfies the requirements of §  
 4 4-36-111.

5           (b) If the Secretary of State determines that an application contains  
 6 the information required by subsection (a) and that the information is  
 7 correct, the Secretary of State shall:

8                   (1) prepare a declaration of reinstatement;

9                   (2) file the original of the declaration; and

10                   (3) serve a copy of the declaration on the association.

11           (c) When reinstatement under this section becomes effective, it  
 12 relates back to and takes effect as of the effective date of the  
 13 administrative dissolution, and the limited cooperative association may  
 14 resume or continue its activities as if the administrative dissolution had  
 15 not occurred.

16  
 17           4-36-1213. Denial of reinstatement – Appeal.

18           (a) If the Secretary of State denies a limited cooperative  
 19 association’s application for reinstatement following administrative  
 20 dissolution, the Secretary of State shall prepare and file a notice that  
 21 explains the reason for denial and serve the association with a copy of the  
 22 notice.

23           (b) Not later than 30 days after service of a notice of denial of  
 24 reinstatement by the Secretary of State, a limited cooperative association  
 25 may appeal the denial under the Arkansas Administrative Procedure Act, § 25-  
 26 15-201 et seq.

27  
 28           4-36-1214. Statement of dissolution.

29           (a) A limited cooperative association that has dissolved or is about  
 30 to dissolve may deliver to the Secretary of State for filing a statement of  
 31 dissolution that states:

32                   (1) the name of the association;

33                   (2) the date the association dissolved or will dissolve; and

34                   (3) any other information the association considers relevant.

35           (b) A person has notice of a limited cooperative association’s  
 36 dissolution on the later of:

- 1           (1) 90 days after a statement of dissolution is filed; or
- 2           (2) the effective date stated in the statement of dissolution.

3

4           4-36-1215. Statement of termination.

5           (a) A dissolved limited cooperative association that has completed  
 6 winding up may deliver to the Secretary of State for filing a statement of  
 7 termination that states:

- 8           (1) the name of the association;
- 9           (2) the date of filing of its initial articles of organization;

10 and

- 11           (3) that the association is terminated.

12           (b) The filing of a statement of termination does not itself terminate  
 13 the limited cooperative association.

14

15                           SUBCHAPTER 13 – [RESERVED.]

16

17                           SUBCHAPTER 14 – FOREIGN COOPERATIVES

18           4-36-1401. Governing law.

19           (a) The law of the state or other jurisdiction under which a foreign  
 20 cooperative is organized governs relations among the members of the foreign  
 21 cooperative and between the members and the foreign cooperative.

22           (b) A foreign cooperative may not be denied a certificate of authority  
 23 because of any difference between the law of the jurisdiction under which the  
 24 foreign cooperative is organized and the law of this state.

25           (c) A certificate of authority does not authorize a foreign  
 26 cooperative to engage in any activity or exercise any power that a limited  
 27 cooperative association may not engage in or exercise in this state.

28

29           4-36-1402. Application for certificate of authority.

30           (a) A foreign cooperative may apply for a certificate of authority by  
 31 delivering an application to the Secretary of State for filing. The  
 32 application must state:

33           (1) the name of the foreign cooperative and, if the name does  
 34 not comply with § 4-36-111, an alternative name adopted pursuant to § 4-36-  
 35 1405;

36           (2) the name of the state or other jurisdiction under whose law

1 the foreign cooperative is organized;

2 (3) the street address and, if different, mailing address of the  
 3 principal office and, if the law of the jurisdiction under which the foreign  
 4 cooperative is organized requires the foreign cooperative to maintain another  
 5 office in that jurisdiction, the street address and, if different, mailing  
 6 address of the required office;

7 (4) the street address and, if different, mailing address of the  
 8 foreign cooperative's designated office in this state, and the name of the  
 9 foreign cooperative's agent for service of process at the designated office;  
 10 and

11 (5) the name, street address and, if different, mailing address  
 12 of each of the foreign cooperative's current directors and officers.

13 (b) A foreign cooperative shall deliver with a completed application  
 14 under subsection (a) a certificate of existence, or a similar record signed  
 15 by the Secretary of State or other official having custody of the foreign  
 16 cooperative's publicly filed records in the state or other jurisdiction under  
 17 whose law the foreign cooperative is organized.

18  
 19 4-36-1403. Activities not constituting transacting business.

20 (a) Activities of a foreign cooperative which do not constitute  
 21 transacting business in this state under this subchapter include:

22 (1) maintaining, defending, and settling an action or  
 23 proceeding;

24 (2) holding meetings of the foreign cooperative's members or  
 25 directors or carrying on any other activity concerning the foreign  
 26 cooperative's internal affairs;

27 (3) maintaining accounts in financial institutions;

28 (4) maintaining offices or agencies for the transfer, exchange,  
 29 and registration of the foreign cooperative's own securities or maintaining  
 30 trustees or depositories with respect to those securities;

31 (5) selling through independent contractors;

32 (6) soliciting or obtaining orders, whether by mail or  
 33 electronic means, through employees, agents, or otherwise, if the orders  
 34 require acceptance outside this state before they become contracts;

35 (7) creating or acquiring indebtedness, mortgages, or security  
 36 interests in real or personal property;



1           (8) securing or collecting debts or enforcing mortgages or other  
2 security interests in property securing the debts, and holding, protecting,  
3 and maintaining property so acquired;

4           (9) conducting an isolated transaction that is completed within  
5 30 days and is not one in the course of similar transactions; and

6           (10) transacting business in interstate commerce.

7           (b) For purposes of this subchapter, the ownership in this state of  
8 income-producing real property or tangible personal property, other than  
9 property excluded under subsection (a), constitutes transacting business in  
10 this state.

11           (c) This section does not apply in determining the contacts or  
12 activities that may subject a foreign cooperative to service of process,  
13 taxation, or regulation under law of this state other than this chapter.

14  
15           4-36-1404. Issuance of certificate of authority.

16           Unless the Secretary of State determines that an application for a  
17 certificate of authority does not comply with the filing requirements of this  
18 chapter, the Secretary of State, upon payment by the foreign cooperative of  
19 all filing fees, shall file the application, issue a certificate of  
20 authority, and send a copy of the filed certificate, together with a receipt  
21 for the fees, to the foreign cooperative or its representative.

22  
23           4-36-1405. Noncomplying name of foreign cooperative.

24           (a) A foreign cooperative whose name does not comply with § 4-36-111  
25 may not obtain a certificate of authority until it adopts, for the purpose of  
26 transacting business in this state, an alternative name that complies with §  
27 4-36-111. A foreign cooperative that adopts an alternative name under this  
28 subsection and then obtains a certificate of authority with that name need  
29 not also comply with any other fictitious or assumed name statute of this  
30 state. After obtaining a certificate of authority with an alternative name,  
31 a foreign cooperative's business in this state must be transacted under that  
32 name unless the foreign cooperative is authorized to transact business in  
33 this state under another name.

34           (b) If a foreign cooperative authorized to transact business in this  
35 state changes its name to one that does not comply with § 4-36-111, it may  
36 not thereafter transact business in this state until it complies with

1 subsection (a) and obtains an amended certificate of authority.

2  
3 4-36-1406. Revocation of certificate of authority.

4 (a) A certificate of authority may be revoked by the Secretary of  
5 State in the manner provided in subsection (b) if the foreign cooperative  
6 does not:

7 (1) pay, not later than 60 days after the due date, any fee,  
8 tax, or penalty due to the Secretary of State under this chapter or another  
9 law of this state other than this chapter;

10 (2) deliver, not later than 60 days after the due date, its  
11 annual report;

12 (3) appoint and maintain an agent for service of process; or

13 (4) deliver for filing a statement of change not later than 30  
14 days after a change has occurred in the name of the agent or the address of  
15 the foreign cooperative's designated office.

16 (b) To revoke a certificate of authority, the Secretary of State must  
17 file a notice of revocation and send a copy to the foreign cooperative's  
18 registered agent for service of process in this state or, if the foreign  
19 cooperative does not appoint and maintain an agent for service of process in  
20 this state, to the foreign cooperative's principal office. The notice must  
21 state:

22 (1) the revocation's effective date, which must be at least 60  
23 days after the date the Secretary of State sends the copy; and

24 (2) the foreign cooperative's noncompliance that is the reason  
25 for the revocation.

26 (c) The authority of a foreign cooperative to transact business in  
27 this state ceases on the effective date of the notice of revocation unless  
28 before that date the foreign cooperative cures each failure to comply stated  
29 in the notice. If the foreign cooperative cures the failures, the Secretary  
30 of State shall so indicate on the filed notice.

31  
32 4-36-1407. Cancellation of certificate of authority – Effect of  
33 failure to have certificate.

34 (a) To cancel its certificate of authority, a foreign cooperative must  
35 deliver to the Secretary of State for filing a notice of cancellation. The  
36 certificate is canceled when the notice becomes effective under § 4-36-203.

1       (b) A foreign cooperative transacting business in this state may not  
 2 maintain an action or proceeding in this state unless it has a certificate of  
 3 authority.

4       (c) The failure of a foreign cooperative to have a certificate of  
 5 authority does not impair the validity of a contract or act of the foreign  
 6 cooperative or prevent the foreign cooperative from defending an action or  
 7 proceeding in this state.

8       (d) A member of a foreign cooperative is not liable for the  
 9 obligations of the foreign cooperative solely by reason of the foreign  
 10 cooperative's having transacted business in this state without a certificate  
 11 of authority.

12       (e) If a foreign cooperative transacts business in this state without  
 13 a certificate of authority or cancels its certificate, it appoints the  
 14 Secretary of State as its agent for service of process for an action arising  
 15 out of the transaction of business in this state.

16  
 17       4-36-1408. Action by Attorney General.

18       The Attorney General may maintain an action to restrain a foreign  
 19 cooperative from transacting business in this state in violation of this  
 20 subchapter.

21  
 22                       SUBCHAPTER 15 – DISPOSITION OF ASSETS

23       4-36-1501. Disposition of assets not requiring member approval.

24       Unless the articles of organization otherwise provide, member approval  
 25 under § 4-36-1502 is not required for a limited cooperative association to:

26       (1) sell, lease, exchange, license, or otherwise dispose of all or any  
 27 part of the assets of the association in the usual and regular course of  
 28 business; or

29       (2) mortgage, pledge, dedicate to the repayment of indebtedness, or  
 30 encumber in any way all or any part of the assets of the association whether  
 31 or not in the usual and regular course of business.

32  
 33       4-36-1502. Member approval of other disposition of assets.

34       A sale, lease, exchange, license, or other disposition of assets of a  
 35 limited cooperative association, other than a disposition described in § 4-  
 36 36-1501, requires approval of the association's members under §§ 4-36-1503

1 and 4-36-1504 if the disposition leaves the association without significant  
 2 continuing business activity.

3  
 4 4-36-1503. Notice and action on disposition of assets.

5 For a limited cooperative association to dispose of assets under § 4-  
 6 36-1502:

7 (1) a majority of the board of directors, or a greater  
 8 percentage if required by the organic rules, must approve the proposed  
 9 disposition; and

10 (2) the board of directors must call a members meeting to  
 11 consider the proposed disposition, hold the meeting not later than 90 days  
 12 after approval of the proposed disposition by the board, and mail or  
 13 otherwise transmit or deliver in a record to each member:

14 (A) the terms of the proposed disposition;

15 (B) a recommendation that the members approve the  
 16 disposition, or if the board determines that because of conflict of interest  
 17 or other special circumstances it should not make a favorable recommendation,  
 18 the basis for that determination;

19 (C) a statement of any condition of the board's submission  
 20 of the proposed disposition to the members; and

21 (D) notice of the meeting at which the proposed  
 22 disposition will be considered, which must be given in the same manner as  
 23 notice of a special meeting of members.

24  
 25 4-36-1504. Disposition of assets.

26 (a) Subject to subsection (b), a disposition of assets under § 4-36-  
 27 1502 must be approved by:

28 (1) at least two-thirds of the voting power of members present  
 29 at a members meeting called under § 4-36-1503(2); and

30 (2) if the limited cooperative association has investor members,  
 31 at least a majority of the votes cast by patron members, unless the organic  
 32 rules require a greater percentage vote by patron members.

33 (b) The organic rules may require that the percentage of votes under  
 34 subsection (a)(1) is:

35 (1) a different percentage that is not less than a majority of  
 36 members voting at the meeting;

1           (2) measured against the voting power of all members; or

2           (3) a combination of paragraphs (1) and (2).

3           (c) Subject to any contractual obligations, after a disposition of  
 4 assets is approved and at any time before the consummation of the  
 5 disposition, a limited cooperative association may approve an amendment to  
 6 the contract for disposition or the resolution authorizing the disposition or  
 7 approve abandonment of the disposition:

8           (1) as provided in the contract or the resolution; and

9           (2) except as prohibited by the resolution, with the same  
 10 affirmative vote of the board of directors and of the members as was required  
 11 to approve the disposition.

12           (d) The voting requirements for districts, classes, or voting groups  
 13 under § 4-36-404 apply to approval of a disposition of assets under this  
 14 subchapter.

15  
 16                                   SUBCHAPTER 16 – CONVERSION AND MERGER

17           4-36-1601. Definitions.

18           In this subchapter:

19           (1) “Constituent entity” means an entity that is a party to a  
 20 merger.

21           (2) “Constituent limited cooperative association” means a  
 22 limited cooperative association that is a party to a merger.

23           (3) “Converted entity” means the organization into which a  
 24 converting entity converts pursuant to §§ 4-36-1602 – 4-36-1605.

25           (4) “Converting entity” means an entity that converts into  
 26 another entity pursuant to §§ 4-36-1602 – 4-36-1605.

27           (5) “Converting limited cooperative association” means a  
 28 converting entity that is a limited cooperative association.

29           (6) “Organizational documents” means articles of incorporation,  
 30 bylaws, articles of organization, operating agreements, partnership  
 31 agreements, or other documents serving a similar function in the creation and  
 32 governance of an entity.

33           (7) “Personal liability” means personal liability for a debt,  
 34 liability, or other obligation of an entity imposed, by operation of law or  
 35 otherwise, on a person that co-owns or has an interest in the entity:

36           (A) by the entity’s organic law solely because of the

1 person co-owning or having an interest in the entity; or

2 (B) by the entity's organizational documents under a  
 3 provision of the entity's organic law authorizing those documents to make one  
 4 or more specified persons liable for all or specified parts of the entity's  
 5 debts, liabilities, and other obligations solely because the person co-owns  
 6 or has an interest in the entity.

7 (8) "Surviving entity" means an entity into which one or more  
 8 other entities are merged, whether the entity existed before the merger or is  
 9 created by the merger.

10  
 11 4-36-1602. Conversion.

12 (a) An entity that is not a limited cooperative association may  
 13 convert to a limited cooperative association and a limited cooperative  
 14 association may convert to an entity that is not a limited cooperative  
 15 association pursuant to this section, §§ 4-36-1603 – 4-36-1605, and a plan of  
 16 conversion, if:

17 (1) the other entity's organic law authorizes the conversion;

18 (2) the conversion is not prohibited by the law of the  
 19 jurisdiction that enacted the other entity's organic law; and

20 (3) the other entity complies with its organic law in effecting  
 21 the conversion.

22 (b) A plan of conversion must be in a record and must include:

23 (1) the name and form of the entity before conversion;

24 (2) the name and form of the entity after conversion;

25 (3) the terms and conditions of the conversion, including the  
 26 manner and basis for converting interests in the converting entity into any  
 27 combination of money, interests in the converted entity, and other  
 28 consideration; and

29 (4) the organizational documents of the proposed converted  
 30 entity.

31  
 32 4-36-1603. Action on plan of conversion by converting limited  
 33 cooperative association.

34 (a) For a limited cooperative association to convert to another  
 35 entity, a plan of conversion must be approved by a majority of the board of  
 36 directors, or a greater percentage if required by the organic rules, and the

1 board of directors must call a members meeting to consider the plan of  
 2 conversion, hold the meeting not later than 90 days after approval of the  
 3 plan by the board, and mail or otherwise transmit or deliver in a record to  
 4 each member:

5 (1) the plan, or a summary of the plan and a statement of the  
 6 manner in which a copy of the plan in a record may be reasonably obtained by  
 7 a member;

8 (2) a recommendation that the members approve the plan of  
 9 conversion, or if the board determines that because of a conflict of interest  
 10 or other circumstances it should not make a favorable recommendation, the  
 11 basis for that determination;

12 (3) a statement of any condition of the board's submission of  
 13 the plan of conversion to the members; and

14 (4) notice of the meeting at which the plan of conversion will  
 15 be considered, which must be given in the same manner as notice of a special  
 16 meeting of members.

17 (b) Subject to subsections (c) and (d), a plan of conversion must be  
 18 approved by:

19 (1) at least two-thirds of the voting power of members present  
 20 at a members meeting called under subsection (a); and

21 (2) if the limited cooperative association has investor members,  
 22 at least a majority of the votes cast by patron members, unless the organic  
 23 rules require a greater percentage vote by patron members.

24 (c) The organic rules may require that the percentage of votes under  
 25 subsection (b)(1) is:

26 (1) a different percentage that is not less than a majority of  
 27 members voting at the meeting;

28 (2) measured against the voting power of all members; or

29 (3) a combination of paragraphs (1) and (2).

30 (d) The vote required to approve a plan of conversion may not be less  
 31 than the vote required for the members of the limited cooperative association  
 32 to amend the articles of organization.

33 (e) Consent in a record to a plan of conversion by a member must be  
 34 delivered to the limited cooperative association before delivery of articles  
 35 of conversion for filing if as a result of the conversion the member will  
 36 have:

- 1           (1) personal liability for an obligation of the association; or
- 2           (2) an obligation or liability for an additional contribution.

3           (f) Subject to subsection (e) and any contractual rights, after a  
 4 conversion is approved and at any time before the effective date of the  
 5 conversion, a converting limited cooperative association may amend a plan of  
 6 conversion or abandon the planned conversion:

7           (1) as provided in the plan; and

8           (2) except as prohibited by the plan, by the same affirmative  
 9 vote of the board of directors and of the members as was required to approve  
 10 the plan.

11          (g) The voting requirements for districts, classes, or voting groups  
 12 under § 4-36-404 apply to approval of a conversion under this subchapter.

13  
 14          4-36-1604. Filings required for conversion – Effective date.

15          (a) After a plan of conversion is approved:

16           (1) a converting limited cooperative association shall deliver  
 17 to the Secretary of State for filing articles of conversion, which must  
 18 include:

19           (A) a statement that the limited cooperative association  
 20 has been converted into another entity;

21           (B) the name and form of the converted entity and the  
 22 jurisdiction of its governing statute;

23           (C) the date the conversion is effective under the  
 24 governing statute of the converted entity;

25           (D) a statement that the conversion was approved as  
 26 required by this chapter;

27           (E) a statement that the conversion was approved as  
 28 required by the governing statute of the converted entity; and

29           (F) if the converted entity is an entity organized in a  
 30 jurisdiction other than this state and is not authorized to transact business  
 31 in this state, the street address and, if different, mailing address of an  
 32 office which the Secretary of State may use for purposes of § 4-36-120; and

33           (2) if the converting entity is not a converting limited  
 34 cooperative association, the converting entity shall deliver to the Secretary  
 35 of State for filing articles of organization, which must include, in addition  
 36 to the information required by § 4-36-302:



1                   (A) a statement that the association was converted from  
2 another entity;

3                   (B) the name and form of the converting entity and the  
4 jurisdiction of its governing statute; and

5                   (C) a statement that the conversion was approved in a  
6 manner that complied with the converting entity's governing statute.

7           (b) A conversion becomes effective:

8                   (1) if the converted entity is a limited cooperative  
9 association, when the articles of conversion take effect pursuant to § 4-36-  
10 203(c); or

11                   (2) if the converted entity is not a limited cooperative  
12 association, as provided by the governing statute of the converted entity.

13  
14           4-36-1605. Effect of conversion.

15           (a) An entity that has been converted pursuant to this subchapter is  
16 for all purposes the same entity that existed before the conversion and is  
17 not a new entity but, after conversion, is organized under the organic law of  
18 the converted entity and is subject to that law and other law as it applies  
19 to the converted entity.

20           (b) When a conversion takes effect under this subchapter:

21                   (1) all property owned by the converting entity remains vested  
22 in the converted entity;

23                   (2) all debts, liabilities, and other obligations of the  
24 converting entity continue as obligations of the converted entity;

25                   (3) an action or proceeding pending by or against the converting  
26 entity may be continued as if the conversion had not occurred;

27                   (4) except as prohibited by other law, all the rights,  
28 privileges, immunities, powers, and purposes of the converting entity remain  
29 vested in the converted entity;

30                   (5) except as otherwise provided in the plan of conversion, the  
31 terms and conditions of the plan of conversion take effect; and

32                   (6) except as otherwise provided in the plan of conversion, the  
33 conversion does not dissolve a converting limited cooperative association for  
34 purposes of § 4-36-1201 et seq.

35           (c) A converted entity that is an entity organized under the laws of a  
36 jurisdiction other than this state consents to the jurisdiction of the courts

1 of this state to enforce any obligation owed by the converting limited  
2 cooperative association if, before the conversion, the converting limited  
3 cooperative association was subject to suit in this state on the obligation.  
4 A converted entity that is an entity organized under the laws of a  
5 jurisdiction other than this state and not authorized to transact business in  
6 this state appoints the Secretary of State as its agent for service of  
7 process for purposes of enforcing an obligation under this subsection.  
8 Service on the Secretary of State under this subsection is made in the same  
9 manner and with the same consequences as under § 4-36-120(c) and (d).

10  
11 4-36-1606. Merger.

12 (a) One or more limited cooperative associations may merge with one or  
13 more other entities pursuant to this subchapter and a plan of merger if:

14 (1) the governing statute of each of the other entities  
15 authorizes the merger;

16 (2) the merger is not prohibited by the law of a jurisdiction  
17 that enacted any of those governing statutes; and

18 (3) each of the other entities complies with its governing  
19 statute in effecting the merger.

20 (b) A plan of merger must be in a record and must include:

21 (1) the name and form of each constituent entity;

22 (2) the name and form of the surviving entity and, if the  
23 surviving entity is to be created by the merger, a statement to that effect;

24 (3) the terms and conditions of the merger, including the manner  
25 and basis for converting the interests in each constituent entity into any  
26 combination of money, interests in the surviving entity, and other  
27 consideration;

28 (4) if the surviving entity is to be created by the merger, the  
29 surviving entity's organizational documents;

30 (5) if the surviving entity is not to be created by the merger,  
31 any amendments to be made by the merger to the surviving entity's  
32 organizational documents; and

33 (6) if a member of a constituent limited cooperative association  
34 will have personal liability with respect to a surviving entity, the identity  
35 of the member by descriptive class or other reasonable manner.

36

1       4-36-1607. Notice and action on plan of merger by constituent limited  
2 cooperative association.

3       (a) For a limited cooperative association to merge with another  
4 entity, a plan of merger must be approved by a majority vote of the board of  
5 directors or a greater percentage if required by the association's organic  
6 rules.

7       (b) The board of directors shall call a members meeting to consider a  
8 plan of merger approved by the board, hold the meeting not later than 90 days  
9 after approval of the plan by the board, and mail or otherwise transmit or  
10 deliver in a record to each member:

11           (1) the plan of merger, or a summary of the plan and a statement  
12 of the manner in which a copy of the plan in a record may be reasonably  
13 obtained by a member;

14           (2) a recommendation that the members approve the plan of  
15 merger, or if the board determines that because of conflict of interest or  
16 other special circumstances it should not make a favorable recommendation,  
17 the basis for that determination;

18           (3) a statement of any condition of the board's submission of  
19 the plan of merger to the members; and

20           (4) notice of the meeting at which the plan of merger will be  
21 considered, which must be given in the same manner as notice of a special  
22 meeting of members.

23  
24       4-36-1608. Approval or abandonment of merger by members.

25       (a) Subject to subsections (b) and (c), a plan of merger must be  
26 approved by:

27           (1) at least two-thirds of the voting power of members present  
28 at a members meeting called under § 4-36-1607(b); and

29           (2) if the limited cooperative association has investor members,  
30 at least a majority of the votes cast by patron members, unless the organic  
31 rules require a greater percentage vote by patron members.

32       (b) The organic rules may provide that the percentage of votes under  
33 subsection (a)(1) is:

34           (1) a different percentage that is not less than a majority of  
35 members voting at the meeting;

36           (2) measured against the voting power of all members; or

1           (3) a combination of paragraphs (1) and (2).

2           (c) The vote required to approve a plan of merger may not be less than  
3 the vote required for the members of the limited cooperative association to  
4 amend the articles of organization.

5           (d) Consent in a record to a plan of merger by a member must be  
6 delivered to the limited cooperative association before delivery of articles  
7 of merger for filing pursuant to § 4-36-1609 if as a result of the merger the  
8 member will have:

9                   (1) personal liability for an obligation of the association; or

10                   (2) an obligation or liability for an additional contribution.

11           (e) Subject to subsection (d) and any contractual rights, after a  
12 merger is approved, and at any time before the effective date of the merger,  
13 a limited cooperative association that is a party to the merger may approve  
14 an amendment to the plan of merger or approve abandonment of the planned  
15 merger:

16                   (1) as provided in the plan; and

17                   (2) except as prohibited by the plan, with the same affirmative  
18 vote of the board of directors and of the members as was required to approve  
19 the plan.

20           (f) The voting requirements for districts, classes, or voting groups  
21 under § 4-36-404 apply to approval of a merger under this subchapter.

22  
23           4-36-1609. Filings required for merger – Effective date.

24           (a) After each constituent entity has approved a merger, articles of  
25 merger must be signed on behalf of each constituent entity by an authorized  
26 representative.

27           (b) The articles of merger must include:

28                   (1) the name and form of each constituent entity and the  
29 jurisdiction of its governing statute;

30                   (2) the name and form of the surviving entity, the jurisdiction  
31 of its governing statute, and, if the surviving entity is created by the  
32 merger, a statement to that effect;

33                   (3) the date the merger is effective under the governing statute  
34 of the surviving entity;

35                   (4) if the surviving entity is to be created by the merger and:

36                           (A) will be a limited cooperative association, the limited

1 cooperative association's articles of organization; or

2 (B) will be an entity other than a limited cooperative  
 3 association, the organizational document that creates the entity;

4 (5) if the surviving entity is not created by the merger, any  
 5 amendments provided for in the plan of merger to the organizational document  
 6 that created the entity;

7 (6) a statement as to each constituent entity that the merger  
 8 was approved as required by the entity's governing statute;

9 (7) if the surviving entity is a foreign organization not  
 10 authorized to transact business in this state, the street address and, if  
 11 different, mailing address of an office which the Secretary of State may use  
 12 for the purposes of § 4-36-120; and

13 (8) any additional information required by the governing statute  
 14 of any constituent entity.

15 (c) Each limited cooperative association that is a party to a merger  
 16 shall deliver the articles of merger to the Secretary of State for filing.

17 (d) A merger becomes effective under this subchapter:

18 (1) if the surviving entity is a limited cooperative  
 19 association, upon the later of:

20 (A) compliance with subsection (c); or

21 (B) subject to § 4-36-203(c), as specified in the articles  
 22 of merger; or

23 (2) if the surviving entity is not a limited cooperative  
 24 association, as provided by the governing statute of the surviving entity.

25  
 26 4-36-1610. Effect of merger.

27 (a) When a merger becomes effective:

28 (1) the surviving entity continues or comes into existence;

29 (2) each constituent entity that merges into the surviving  
 30 entity ceases to exist as a separate entity;

31 (3) all property owned by each constituent entity that ceases to  
 32 exist vests in the surviving entity;

33 (4) all debts, liabilities, and other obligations of each  
 34 constituent entity that ceases to exist continue as obligations of the  
 35 surviving entity;

36 (5) an action or proceeding pending by or against any

1 constituent entity that ceases to exist may be continued as if the merger had  
2 not occurred;

3 (6) except as prohibited by law other than this chapter, all  
4 rights, privileges, immunities, powers, and purposes of each constituent  
5 entity that ceases to exist vest in the surviving entity;

6 (7) except as otherwise provided in the plan of merger, the  
7 terms and conditions of the plan take effect;

8 (8) except as otherwise provided in the plan of merger, if a  
9 merging limited cooperative association ceases to exist, the merger does not  
10 dissolve the association for purposes of § 4-36-1201 et seq.;

11 (9) if the surviving entity is created by the merger and:

12 (A) is a limited cooperative association, the articles of  
13 organization become effective; or

14 (B) is an entity other than a limited cooperative  
15 association, the organizational document that creates the entity becomes  
16 effective; and

17 (10) if the surviving entity is not created by the merger, any  
18 amendments made by the articles of merger for the organizational documents of  
19 the surviving entity become effective.

20 (b) A surviving entity that is an entity organized under the laws of a  
21 jurisdiction other than this state consents to the jurisdiction of the courts  
22 of this state to enforce any obligation owed by the constituent entity if,  
23 before the merger, the constituent entity was subject to suit in this state  
24 on the obligation. A surviving entity that is an entity organized under the  
25 laws of a jurisdiction other than this state and not authorized to transact  
26 business in this state appoints the Secretary of State as its agent for  
27 service of process for purposes of enforcing an obligation under this  
28 subsection. Service on the Secretary of State under this subsection is made  
29 in the same manner and with the same consequences as in § 4-36-120(c) and  
30 (d).

31  
32 4-36-1611. Consolidation.

33 (a) Constituent entities that are limited cooperative associations or  
34 foreign cooperatives may agree to call a merger a consolidation under this  
35 subchapter.

36 (b) All provisions governing mergers or using the term merger in this

1 chapter apply equally to mergers that the constituent entities choose to call  
 2 consolidations under subsection (a).

3  
 4 4-36-1612. Subchapter not exclusive.

5 This subchapter does not prohibit a limited cooperative association  
 6 from being converted or merged under law other than this chapter.

7  
 8 SUBCHAPTER 17 – MISCELLANEOUS PROVISIONS

9 4-36-1701. Uniformity of application and construction.

10 In applying and construing this uniform act, consideration must be  
 11 given to the need to promote uniformity of the law with respect to its  
 12 subject matter among states that enact it.

13  
 14 4-36-1702. Relation to Electronic Signatures in Global and National  
 15 Commerce Act.

16 This chapter modifies, limits, or supersedes the federal Electronic  
 17 Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but  
 18 does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. §  
 19 7001(c) or authorize electronic delivery of any of the notices described in §  
 20 103(b) of that act, 15 U.S.C. § 7003(b).

21  
 22 4-36-1703. Savings clause.

23 This chapter does not affect an action or proceeding commenced, or  
 24 right accrued, before the effective date of this chapter.

25  
 26 4-36-1704. [Reserved.]

27  
 28 SECTION 2. Arkansas Code § 4-27-101 is amended to read as follows:

29 4-27-101. Short title.

30 This chapter shall be known and may be cited as the “Arkansas Business  
 31 Corporation Act (1987).”