

Part 4
Amendment of Organic Rules of Limited Cooperative Association

16-16-401 Authority to amend organic rules.

- (1) A limited cooperative association may amend its organic rules under this part for any lawful purpose. In addition, the initial board of directors may amend the bylaws of an association under Section 16-16-304.
- (2) Unless the organic rules otherwise provide, a member does not have a vested property right resulting from any provision in the organic rules, including a provision relating to the management, control, capital structure, distribution, entitlement, purpose, or duration of the limited cooperative association.

Enacted by Chapter 363, 2008 General Session

16-16-402 Notice and action on amendment of organic rules.

- (1) Except as provided in Subsections 16-16-401(1) and 16-16-405(6), the organic rules of a limited cooperative association may be amended only at a members meeting. An amendment may be proposed by either:
 - (a) a majority of the board of directors, or a greater percentage if required by the organic rules; or
 - (b) one or more petitions signed by at least 10% of the patron members or at least 10% of the investor members.
- (2) The board of directors shall call a members meeting to consider an amendment proposed pursuant to Subsection (1). The meeting shall be held not later than 90 days following the proposal of the amendment by the board or receipt of a petition. The board shall mail or otherwise transmit or deliver in a record to each member:
 - (a) the proposed amendment, or a summary of the proposed amendment and a statement of the manner in which a copy of the amendment in a record may be reasonably obtained by a member;
 - (b) a recommendation that the members approve the amendment, or if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis for that determination;
 - (c) a statement of any condition of the board's submission of the amendment to the members; and
 - (d) notice of the meeting at which the proposed amendment will be considered, which shall be given in the same manner as notice for a special meeting of members.

Amended by Chapter 378, 2010 General Session

16-16-403 Change to amendment of organic rules at meeting.

- (1) A substantive change to a proposed amendment of the organic rules may not be made at the members meeting at which a vote on the amendment occurs.
- (2) A nonsubstantive change to a proposed amendment of the organic rules may be made at the members meeting at which the vote on the amendment occurs and need not be separately voted upon by the board of directors.
- (3) A vote to adopt a nonsubstantive change to a proposed amendment to the organic rules shall be by the same percentage of votes required to pass a proposed amendment.

Amended by Chapter 378, 2010 General Session

16-16-404 Voting by district, class, or voting group.

- (1) This section applies if the organic rules provide for voting by district or class, or if there is one or more identifiable voting groups that a proposed amendment to the organic rules would affect differently from other members with respect to matters identified in Subsections 16-16-405(5) (a) through (e). Approval of the amendment requires the same percentage of votes of the members of that district, class, or voting group required in Sections 16-16-405 and 16-16-514.
- (2) If a proposed amendment to the organic rules would affect members in two or more districts or classes entitled to vote separately under Subsection (1) in the same or a substantially similar way, the districts or classes affected shall vote as a single voting group unless the organic rules otherwise provide for separate voting.

Amended by Chapter 378, 2010 General Session

16-16-405 Approval of amendment.

- (1) Subject to Section 16-16-404 and Subsections (3) and (4), an amendment to the articles of organization shall be approved by:
 - (a) at least two-thirds of the voting power of members present at a members meeting called under Section 16-16-402; and
 - (b) if the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.
- (2) Subject to Section 16-16-404 and Subsections (3), (4), (5), and (6), an amendment to the bylaws shall be approved by:
 - (a) at least a majority vote of the voting power of all members present at a members meeting called under Section 16-16-402, unless the organic rules require a greater percentage; and
 - (b) if a limited cooperative association has investor members, a majority of the votes cast by patron members, unless the organic rules require a larger affirmative vote by patron members.
- (3) The organic rules may require that the percentage of votes under Subsection (1)(a) or (2)(a) be:
 - (a) a different percentage that is not less than a majority of members voting at the meeting;
 - (b) measured against the voting power of all members; or
 - (c) a combination of Subsections (3)(a) and (b).
- (4) Consent in a record by a member shall be delivered to a limited cooperative association before delivery of an amendment to the articles of organization or restated articles of organization for filing pursuant to Section 16-16-407, if as a result of the amendment the member will have:
 - (a) personal liability for an obligation of the association; or
 - (b) an obligation or liability for an additional contribution.
- (5) The vote required to amend bylaws shall satisfy the requirements of Subsection (1) if the proposed amendment modifies:
 - (a) the equity capital structure of the limited cooperative association, including the rights of the association's members to share in profits or distributions, or the relative rights, preferences, and restrictions granted to or imposed upon one or more districts, classes, or voting groups of similarly situated members;
 - (b) the transferability of a member's interest;
 - (c) the manner or method of allocation of profits or losses among members;
 - (d) the quorum for a meeting and the rights of voting and governance; or

- (e) unless otherwise provided in the organic rules, the terms for admission of new members.
- (6) Except for the matters described in Subsection (5), the articles of organization may delegate amendment of all or a part of the bylaws to the board of directors without requiring member approval.
- (7) If the articles of organization delegate amendment of bylaws to the board of directors, the board shall provide a description of any amendment of the bylaws made by the board to the members in a record not later than 30 days after the amendment, but the description may be provided at the next annual members meeting if the meeting is held within the 30-day period.

Amended by Chapter 378, 2010 General Session

16-16-406 Restated articles of organization.

A limited cooperative association, by the affirmative vote of a majority of the board of directors taken at a meeting for which the purpose is stated in the notice of the meeting, may adopt restated articles of organization that contain the original articles as previously amended. Restated articles may contain amendments if the restated articles are adopted in the same manner and with the same vote as required for amendments to the articles under Subsection 16-16-405(1). Upon filing, restated articles supersede the existing articles and all amendments.

Enacted by Chapter 363, 2008 General Session

16-16-407 Amendment or restatement of articles of organization -- Filing.

- (1) To amend its articles of organization, a limited cooperative association shall deliver to the division for filing an amendment of the articles, or restated articles of organization or articles of conversion or merger pursuant to Part 16, Conversion and Merger, which contain one or more amendments of the articles of organization, stating:
 - (a) the name of the association;
 - (b) the date of filing of the association's initial articles; and
 - (c) the changes the amendment makes to the articles as most recently amended or restated.
- (2) Before the beginning of the initial meeting of the board of directors, an organizer who knows that information in the filed articles of organization was inaccurate when the articles were filed or has become inaccurate due to changed circumstances shall promptly:
 - (a) cause the articles to be amended; or
 - (b) if appropriate, deliver an amendment to the division for filing pursuant to Section 16-16-203.
- (3) If restated articles of organization are adopted, the restated articles may be delivered to the division for filing in the same manner as an amendment.
- (4) Upon filing, an amendment of the articles of organization or other record containing an amendment of the articles which has been properly adopted by the members is effective as provided in Subsection 16-16-203(3).

Amended by Chapter 378, 2010 General Session