

3-1-17 Contracts with association.

- (1)
 - (a) The bylaws may require members to execute contracts with the association in which the members agree to patronize the facilities created by the association, and to sell all or a specified part of their products to or through it, or to buy all or a specified part of their supplies from or through the association or any facilities created by it.
 - (b) If the members contract to sell through the association, the fact that for certain purposes the relation between the association and its members may be one of agency does not prevent the passage from the member to the association of absolute and exclusive title to the products which are the subject matter of the contract.
 - (c) Such title shall pass to the association upon delivery of the product, or at any other time specified in the contract.
 - (d) If the period of the contract exceeds three years, the bylaws and the contracts executed thereunder shall specify a reasonable period, not less than 10 days in each year, after the third year, during which the member, by giving to the association such reasonable notice as the association may prescribe, may withdraw from the association; provided, that if the bylaws or contracts executed hereunder so specify, a member may not withdraw from the association while indebted thereto.
 - (e) In the absence of such a withdrawal provision, a member may withdraw at any time after three years.
- (2) The contract may fix, as liquidated damages, which may not be regarded as penalties, specific sums to be paid by the members to the association upon the breach of any provision of the contract regarding the use of any facilities of the association or the sale, delivery, handling, or withholding of products; and may further provide that the member who breaks his contract shall pay all costs, including premiums for bonds, and reasonable attorney's fees, to be fixed by the court, in case the association prevails in any action upon the contract.
- (3)
 - (a) A court of competent jurisdiction may grant an injunction to prevent the breach or further breach of the contract by a member and may decree specific performance thereof.
 - (b) Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and a bond in such form and amount as may be approved by the court, the court may grant a temporary restraining order or preliminary injunction against the member.
- (4) No remedy, either legal or equitable, herein provided for, shall be exclusive, but the association may avail itself of any and all such remedies, at the same or different times, in any action or proceeding.
- (5) In any action upon such marketing contracts, it shall be conclusively presumed that a landowner or landlord or lessor is able to control the delivery of products produced on his land by tenants or others, whose tenancy or possession or work on such land or the terms of whose tenancy or possession or labor thereon were created or changed after execution by the landowner or landlord or lessor of such a marketing contract; and in such actions, the foregoing remedies for nondelivery or breach shall lie and be enforceable against such landowner, landlord, or lessor.
- (6)
 - (a) The association may file contracts to sell agricultural products to or through the association in the office of the county recorder of the county in which the products are produced.

- (b) If the association has uniform contracts with more than one member in any county, it may, in lieu of filing the original contracts, file the affidavit of its president, vice president or secretary, containing or having attached thereto:
 - (i) a true copy of the uniform contract entered into with its members producing such product in that county; and
 - (ii) the names of the members who have executed such contract and a description of the land on which the product is produced, if such description is contained in the contract.
- (c) The association may file from time to time thereafter affidavits containing revised or supplementary lists of the members producing such product in that county without setting forth therein a copy of the uniform contract but referring to the filed or recorded copy thereof.
- (d) All affidavits filed under this section shall state in substance that they are filed pursuant to the provisions of this section.
- (e) The county recorder shall file such affidavits and make endorsements thereon and record and make entries thereof in the same manner as is required by law in the case of chattel mortgages, and he shall compile and make available for public inspection a convenient index containing the names of all signers of such contracts, and collect for his services hereunder the same fees as for chattel mortgages.
- (f) The filing of any such contract, or such affidavit, shall constitute constructive notice of the contents thereof, and of the association's title or right to the product embraced in such contract, to all subsequent purchasers, encumbrancers, creditors, and to all persons dealing with the members with reference to such product.
- (g) No title, right, or lien of any kind shall be acquired to or on the product thereafter except through the association or with its consent, or subject to its rights; and the association may recover the possession of such property from any and all subsequent purchasers, encumbrancers, and creditors, and those claiming under them, in whose possession the same may be found, by any appropriate action for the recovery of personal property, and it may have relief by injunction and for damages.

Amended by Chapter 378, 2010 General Session