

## **Part 14** **Foreign Cooperatives**

### **16-16-1401 Governing law.**

- (1) The law of the state or other jurisdiction under which a foreign cooperative is organized governs relations among the members of the foreign cooperative and between the members and the foreign cooperative.
- (2) A foreign cooperative may not be denied a certificate of authority because of any difference between the law of the jurisdiction under which the foreign cooperative is organized and the law of this state.
- (3) A certificate of authority does not authorize a foreign cooperative to engage in any activity or exercise any power that a limited cooperative association may not engage in or exercise in this state.

Enacted by Chapter 363, 2008 General Session

### **16-16-1402 Application for certificate of authority.**

- (1) A foreign cooperative may apply for a certificate of authority by delivering an application to the division for filing. The application shall state:
  - (a) the name of the foreign cooperative and, if the name does not comply with Section 16-16-111, an alternative name adopted pursuant to Section 16-16-1405;
  - (b) the name of the state or other jurisdiction under whose law the foreign cooperative is organized;
  - (c) the street address and, if different, mailing address of the principal office and, if the law of the jurisdiction under which the foreign cooperative is organized requires the foreign cooperative to maintain another office in that jurisdiction, the street address and, if different, mailing address of the required office;
  - (d) the street address and, if different, mailing address of the foreign cooperative's designated office in this state, and the name of the foreign cooperative's agent for service of process at the designated office; and
  - (e) the name, street address and, if different, mailing address of each of the foreign cooperative's current directors and officers.
- (2) A foreign cooperative shall deliver with a completed application under Subsection (1) a certificate of existence or a similar record signed by the division or other official having custody of the foreign cooperative's publicly filed records in the state or other jurisdiction under whose law the foreign cooperative is organized.

Amended by Chapter 149, 2018 General Session

### **16-16-1403 Activities not constituting transacting business.**

- (1) Activities of a foreign cooperative which do not constitute transacting business in this state under this part include:
  - (a) maintaining, defending, and settling an action or proceeding;
  - (b) holding meetings of the foreign cooperative's members or directors or carrying on any other activity concerning the foreign cooperative's internal affairs;
  - (c) maintaining accounts in financial institutions;

- (d) maintaining offices or agencies for the transfer, exchange, and registration of the foreign cooperative's own securities or maintaining trustees or depositories with respect to those securities;
- (e) selling through independent contractors;
- (f) soliciting or obtaining orders, whether by mail or electronic means, through employees, agents, or otherwise, if the orders require acceptance outside this state before they become contracts;
- (g) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;
- (h) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;
- (i) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions; and
- (j) transacting business in interstate commerce.

(2) For purposes of this part, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under Subsection (1), constitutes transacting business in this state.

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

Enacted by Chapter 363, 2008 General Session

**16-16-1404 Issuance of certificate of authority.**

Unless the division determines that an application for a certificate of authority does not comply with the filing requirements of this chapter, the division, upon payment by the foreign cooperative of all filing fees, shall file the application, issue a certificate of authority, and send a copy of the filed certificate, together with a receipt for the fees, to the foreign cooperative or its representative.

Enacted by Chapter 363, 2008 General Session

**16-16-1405 Noncomplying name of foreign cooperative.**

(1) A foreign cooperative whose name does not comply with Section 16-16-111 may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternative name that complies with Section 16-16-111. A foreign cooperative that adopts an alternative name under this Subsection (1) and then obtains a certificate of authority with that name need not also comply with Section 42-2-5. After obtaining a certificate of authority with an alternative name, a foreign cooperative's business in this state shall be transacted under that name unless the foreign cooperative is authorized under Section 42-2-5 to transact business in this state under another name.

(2) If a foreign cooperative authorized to transact business in this state changes its name to one that does not comply with Section 16-16-111, it may not thereafter transact business in this state until it complies with Subsection (1) and obtains an amended certificate of authority.

Amended by Chapter 378, 2010 General Session

**16-16-1406 Revocation of certificate of authority.**

- (1) A certificate of authority may be revoked by the division in the manner provided in Subsection (2) if the foreign cooperative does not:
  - (a) pay, not later than 60 days after the due date, any fee, tax, or penalty due to the division under this chapter or any other law of this state;
  - (b) deliver, not later than 60 days after the due date, its annual report;
  - (c) appoint and maintain an agent for service of process; or
  - (d) deliver for filing a statement of change not later than 30 days after a change has occurred in the name of the agent or the address of the foreign cooperative's designated office.
- (2) To revoke a certificate of authority, the division shall file a notice of revocation and send a copy to the foreign cooperative's registered agent for service of process in this state or, if the foreign cooperative does not appoint and maintain an agent for service of process in this state, to the foreign cooperative's principal office. The notice shall state:
  - (a) the revocation's effective date, which shall be at least 60 days after the date the division sends the copy; and
  - (b) the foreign cooperative's noncompliance that is the reason for the revocation.
- (3) The authority of a foreign cooperative to transact business in this state ceases on the effective date of the notice of revocation unless before that date the foreign cooperative cures each failure to comply stated in the notice. If the foreign cooperative cures the failures, the division shall so indicate on the filed notice.

Amended by Chapter 378, 2010 General Session

**16-16-1407 Cancellation of certificate of authority -- Effect of failure to have certificate.**

- (1) To cancel its certificate of authority, a foreign cooperative shall deliver to the division for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under Section 16-16-203.
- (2) A foreign cooperative transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of authority.
- (3) The failure of a foreign cooperative to have a certificate of authority does not impair the validity of a contract or act of the foreign cooperative or prevent the foreign cooperative from defending an action or proceeding in this state.
- (4) A member of a foreign cooperative is not liable for the obligations of the foreign cooperative solely by reason of the foreign cooperative's having transacted business in this state without a certificate of authority.
- (5) If a foreign cooperative transacts business in this state without a certificate of authority or cancels its certificate, it appoints the division as its agent for service of process for an action arising out of the transaction of business in this state.

Amended by Chapter 378, 2010 General Session

**16-16-1408 Action by attorney general.**

The attorney general may maintain an action to restrain a foreign cooperative from transacting business in this state in violation of this part.

Enacted by Chapter 363, 2008 General Session