

## Part 1 General Provisions

### 16-16-101 Title.

This chapter is known as the "Uniform Limited Cooperative Association Act."

Enacted by Chapter 363, 2008 General Session

### 16-16-102 Definitions.

In this chapter:

- (1) "Articles of organization" means the articles of organization of a limited cooperative association required by Section 16-16-302. The term includes the articles as amended or restated.
- (2) "Board of directors" means the board of directors of a limited cooperative association.
- (3) "Bylaws" means the bylaws of a limited cooperative association. The term includes the bylaws as amended or restated.
- (4) "Certificate of authority" means a certificate issued by the division for a foreign cooperative to transact business in this state.
- (5) "Contribution," except as used in Subsection 16-16-1008(3), means a benefit that a person provides to a limited cooperative association to become or remain a member or in the person's capacity as a member.
- (6) "Cooperative" means a limited cooperative association or an entity organized under any cooperative law of any jurisdiction.
- (7) "Designated office" means the office that a limited cooperative association or a foreign cooperative is required to designate and maintain under Subsection 16-16-117(1)(a).
- (8) "Director" means a director of a limited cooperative association.
- (9) "Distribution," except as used in Subsection 16-16-1007(5), means a transfer of money or other property from a limited cooperative association to a member because of the member's financial rights or to a transferee of a member's financial rights.
- (10) "Division" means the Division of Corporations and Commercial Code.
- (11) "Entity" means a person other than an individual.
- (12) "Financial rights" means the right to participate in allocations and distributions as provided in Part 10, Contributions, Allocations, and Distributions, and Part 12, Dissolution, but does not include rights or obligations under a marketing contract governed by Part 7, Marketing Contracts.
- (13) "Foreign cooperative" means an entity organized in a jurisdiction other than this state under a law similar to this chapter.
- (14) "Governance rights" means the right to participate in governance of a limited cooperative association.
- (15) "Investor member" means a member that has made a contribution to a limited cooperative association and:
  - (a) is not required by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest; or
  - (b) is not permitted by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest.
- (16) "Limited cooperative association" means an association organized under this chapter.

- (17) "Member" means a person that is admitted as a patron member or investor member, or both, in a limited cooperative association. The term does not include a person that has dissociated as a member.
- (18) "Member's interest" means the interest of a patron member or investor member under Section 16-16-601.
- (19) "Members meeting" means an annual members meeting or special meeting of members.
- (20) "Organic law" means the statute providing for the creation of an entity or principally governing its internal affairs.
- (21) "Organic rules" means the articles of organization and bylaws of a limited cooperative association.
- (22) "Organizer" means an individual who signs the initial articles of organization.
- (23) "Patron member" means a member that has made a contribution to a limited cooperative association and:
  - (a) is required by the organic rules to conduct patronage with the association in the member's capacity as a patron member in order to receive the member's interest; or
  - (b) is permitted by the organic rules to conduct patronage with the association in the member's capacity as a patron member in order to receive the member's interest.
- (24) "Patronage" means business transactions between a limited cooperative association and a person which entitle the person to receive financial rights based on the value or quantity of business done between the association and the person.
- (25) "Person" means an individual, corporation, business trust, cooperative, estate, trust, partnership, limited partnership, limited liability company, limited cooperative association, joint venture, association, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (26) "Principal office" means the principal executive office of a limited cooperative association or foreign cooperative, whether or not in this state.
- (27) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (28) "Required information" means the information a limited cooperative association is required to maintain under Section 16-16-114.
- (29) "Sign" means, with present intent to authenticate or adopt a record:
  - (a) to execute or adopt a tangible symbol; or
  - (b) to attach to or logically associate with the record an electronic symbol, sound, or process.
- (30) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (31) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.
- (32) "Voting group" means any combination of one or more voting members in one or more districts or classes that under the organic rules or this chapter are entitled to vote and can be counted together collectively on a matter at a members meeting.
- (33) "Voting member" means a member that, under the organic law or organic rules, has a right to vote on matters subject to vote by members under the organic law or organic rules.
- (34) "Voting power" means the total current power of members to vote on a particular matter for which a vote may or is to be taken.

Enacted by Chapter 363, 2008 General Session

**16-16-103 Limited cooperative association subject to amendment or repeal of chapter.**

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

Enacted by Chapter 363, 2008 General Session

**16-16-104 Nature of limited cooperative association.**

- (1) A limited cooperative association organized under this chapter is an autonomous, unincorporated association of persons united to meet their mutual interests through a jointly owned enterprise primarily controlled by those persons, which permits combining:
  - (a) ownership, financing, and receipt of benefits by the members for whose interests the association is formed; and
  - (b) separate investments in the association by members who may receive returns on their investments and a share of control.
- (2) The fact that a limited cooperative association does not have one or more of the characteristics described in Subsection (1) does not alone prevent the association from being formed under and governed by this chapter nor does it alone provide a basis for an action against the association.

Enacted by Chapter 363, 2008 General Session

**16-16-105 Purpose and duration of limited cooperative association.**

- (1) A limited cooperative association is an entity distinct from its members.
- (2) A limited cooperative association may be organized for any lawful purpose, whether or not for profit, except for the operation of a financial institution as defined in Section 7-1-103.
- (3) Unless the articles of organization state a term for a limited cooperative association's existence, the association has perpetual duration.

Enacted by Chapter 363, 2008 General Session

**16-16-106 Powers.**

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

Enacted by Chapter 363, 2008 General Session

**16-16-107 Governing law.**

The law of this state governs:

- (1) the internal affairs of a limited cooperative association; and
- (2) the liability of a member as member and a director as director for the debts, obligations, or other liabilities of a limited cooperative association.

Enacted by Chapter 363, 2008 General Session

**16-16-108 Supplemental principles of law.**

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

Enacted by Chapter 363, 2008 General Session

**16-16-109 Requirements of other laws.**

- (1) This chapter does not alter or amend any law that governs the licensing and regulation of an individual or entity in carrying on a specific business or profession even if that law permits the business or profession to be conducted by a limited cooperative association, a foreign cooperative, or its members.
- (2) A limited cooperative association may not conduct an activity that, under law of this state other than this chapter, may be conducted only by an entity that meets specific requirements for the internal affairs of that entity unless the organic rules of the association conform to those requirements.

Enacted by Chapter 363, 2008 General Session

**16-16-110 Relation to restraint of trade and antitrust laws.**

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

Enacted by Chapter 363, 2008 General Session

**16-16-111 Name.**

- (1) Use of the term "cooperative" or its abbreviation under this chapter is not a violation of the provisions restricting the use of the term under any other law of this state.
- (2)
  - (a) Notwithstanding Section 48-2e-108, as appropriate pursuant to Section 48-2e-1205, the name of a limited cooperative association shall contain:
    - (i) the words "limited cooperative association" or "limited cooperative"; or
    - (ii) the abbreviation "L.C.A." or "LCA".
  - (b) "Cooperative" may be abbreviated as "Co-op" or "Coop".
  - (c) "Association" may be abbreviated as "Assoc." or "Assn."
  - (d) "Limited" may be abbreviated as "Ltd."
  - (e)
    - (i) Use of the term "cooperative" or its abbreviation as permitted by this chapter is not a violation of the provisions restricting the use of the term under any other law of this state.
    - (ii) A limited cooperative association or a member may enforce the restrictions on the use of the term "cooperative" under this chapter and any other law of this state.
    - (iii) A limited cooperative association or a member may enforce the restrictions on the use of the term "cooperative" under any other law of this state.
- (3) Except as otherwise provided in Subsection (4), a limited cooperative association may use only a name that is available. A name is available if it is distinguishable in the records of the division from:

- (a) the name of any entity organized or authorized to transact business in this state;
  - (b) a name reserved under Section 16-16-112; and
  - (c) an alternative name approved for a foreign cooperative authorized to transact business in this state.
- (4) A limited cooperative association may apply to the division for authorization to use a name that is not available. The division shall authorize use of the name if:
- (a) the person with ownership rights to use the name consents in a record to the use and applies in a form satisfactory to the division to change the name used or reserved to a name that is distinguishable upon the records of the division from the name applied for; or
  - (b) the applicant delivers to the division a certified copy of the final judgment of a court establishing the applicant's right to use the name in this state.

Amended by Chapter 281, 2018 General Session

**16-16-112 Reservation of name.**

- (1) A person may reserve the exclusive use of the name of a limited cooperative association, including a fictitious name for a foreign cooperative whose name is not available under Section 16-16-111, by delivering an application to the division for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the division finds that the name applied for is available under Section 16-16-111, the division shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days.
- (2) A person that has reserved a name for a limited cooperative association may transfer the reservation to another person by delivering to the division a signed notice of the transfer which states the name, street address, and, if different, the mailing address of the transferee. If the person is an organizer of the association and the name of the association is the same as the reserved name, the delivery of articles of organization for filing by the division is a transfer by the person to the association.

Amended by Chapter 378, 2010 General Session

**16-16-113 Effect of organic rules.**

- (1) The relations between a limited cooperative association and its members are consensual. Unless required, limited, or prohibited by this chapter, the organic rules may provide for any matter concerning the relations among the members of the association and between the members and the association, the activities of the association, and the conduct of its activities.
- (2) The matters referred to in Subsections (2)(a) through (i) may be varied only in the articles of organization. The articles may:
  - (a) state a term of existence for the association under Subsection 16-16-105(3);
  - (b) limit or eliminate the acceptance of new or additional members by the initial board of directors under Subsection 16-16-303(2);
  - (c) vary the limitations on the obligations and liability of members for association obligations under Section 16-16-504;
  - (d) require a notice of an annual members meeting to state a purpose of the meeting under Subsection 16-16-508(2);
  - (e) vary the board of directors meeting quorum under Subsection 16-16-815(1);
  - (f) vary the matters the board of directors may consider in making a decision under Section 16-16-820;
  - (g) specify causes of dissolution under Subsection 16-16-1202(1);

- (h) delegate amendment of the bylaws to the board of directors pursuant to Subsection 16-16-405(6);
  - (i) provide for member approval of asset dispositions under Section 16-16-1501; and
  - (j) provide for any matters that may be contained in the organic rules, including those under Subsection (3).
- (3) The matters referred to in Subsections (3)(a) through (y) may be varied only in the organic rules. The organic rules may:
- (a) require more information to be maintained under Section 16-16-114 or provided to members under Subsection 16-16-505(11);
  - (b) provide restrictions on transactions between a member and an association under Section 16-16-115;
  - (c) provide for the percentage and manner of voting on amendments to the organic rules by district, class, or voting group under Subsection 16-16-404(1);
  - (d) provide for the percentage vote required to amend the bylaws concerning the admission of new members under Subsection 16-16-405(5)(e);
  - (e) provide for terms and conditions to become a member under Section 16-16-502;
  - (f) restrict the manner of conducting members meetings under Subsections 16-16-506(3) and 16-16-507(5);
  - (g) designate the presiding officer of members meetings under Subsections 16-16-506(5) and 16-16-507(7);
  - (h) require a statement of purposes in the annual meeting notice under Subsection 16-16-508(2);
  - (i) increase quorum requirements for members meetings under Section 16-16-510 and board of directors meetings under Section 16-16-815;
  - (j) allocate voting power among members, including patron members and investor members, and provide for the manner of member voting and action as permitted by Sections 16-16-511 through 16-16-517;
  - (k) authorize investor members and expand or restrict the transferability of members' interests to the extent provided in Sections 16-16-602 through 16-16-604;
  - (l) provide for enforcement of a marketing contract under Subsection 16-16-704(1);
  - (m) provide for qualification, election, terms, removal, filling vacancies, and member approval for compensation of directors in accordance with Sections 16-16-803 through 16-16-805, 16-16-807, 16-16-809, and 16-16-810;
  - (n) restrict the manner of conducting board meetings and taking action without a meeting under Sections 16-16-811 and 16-16-812;
  - (o) provide for frequency, location, notice and waivers of notice for board meetings under Sections 16-16-813 and 16-16-814;
  - (p) increase the percentage of votes necessary for board action under Subsection 16-16-816(2);
  - (q) provide for the creation of committees of the board of directors and matters related to the committees in accordance with Section 16-16-817;
  - (r) provide for officers and their appointment, designation, and authority under Section 16-16-822;
  - (s) provide for forms and values of contributions under Section 16-16-1002;
  - (t) provide for remedies for failure to make a contribution under Subsection 16-16-1003(2);
  - (u) provide for the allocation of profits and losses of the association, distributions, and the redemption or repurchase of distributed property other than money in accordance with Sections 16-16-1004 through 16-16-1007;
  - (v) specify when a member's dissociation is wrongful and the liability incurred by the dissociating member for damage to the association under Subsections 16-16-1101(2) and (3);

- (w) provide the personal representative, or other legal representative of, a deceased member or a member adjudged incompetent with additional rights under Section 16-16-1103;
- (x) increase the percentage of votes required for board of director approval of:
  - (i) a resolution to dissolve under Subsection 16-16-1205(1)(a);
  - (ii) a proposed amendment to the organic rules under Subsection 16-16-402(1)(a);
  - (iii) a plan of conversion under Subsection 16-16-1603(1);
  - (iv) a plan of merger under Subsection 16-16-1607(1); and
  - (v) a proposed disposition of assets under Subsection 16-16-1503(1); and
- (y) vary the percentage of votes required for members' approval of:
  - (i) a resolution to dissolve under Section 16-16-1205;
  - (ii) an amendment to the organic rules under Section 16-16-405;
  - (iii) a plan of conversion under Section 16-16-1603;
  - (iv) a plan of merger under Section 16-16-1608; and
  - (v) a disposition of assets under Section 16-16-1504.
- (4) The organic rules shall address members' contributions pursuant to Section 16-16-1001.

Amended by Chapter 189, 2014 General Session

**16-16-114 Required information.**

- (1) Subject to Subsection (2), a limited cooperative association shall maintain in a record available at its principal office:
  - (a) a list containing the name, last known street address and, if different, mailing address, and term of office of each director and officer;
  - (b) the initial articles of organization and all amendments to and restatements of the articles, together with a signed copy of any power of attorney under which any article, amendment, or restatement has been signed;
  - (c) the initial bylaws and all amendments to and restatements of the bylaws;
  - (d) all filed articles of merger and statements of conversion;
  - (e) all financial statements of the association for the six most recent years;
  - (f) the six most recent annual reports delivered by the association to the division;
  - (g) the minutes of members meetings for the six most recent years;
  - (h) evidence of all actions taken by members without a meeting for the six most recent years;
  - (i) a list containing:
    - (i) the name, in alphabetical order, and last known street address and, if different, mailing address of each patron member and each investor member; and
    - (ii) if the association has districts or classes of members, information from which each current member in a district or class may be identified;
  - (j) the federal income tax returns, any state and local income tax returns, and any tax reports of the association for the six most recent years;
  - (k) accounting records maintained by the association in the ordinary course of its operations for the six most recent years;
  - (l) the minutes of directors meetings for the six most recent years;
  - (m) evidence of all actions taken by directors without a meeting for the six most recent years;
  - (n) the amount of money contributed and agreed to be contributed by each member;
  - (o) a description and statement of the agreed value of contributions other than money made and agreed to be made by each member;
  - (p) the times at which, or events on the happening of which, any additional contribution is to be made by each member;

- (q) for each member, a description and statement of the member's interest or information from which the description and statement can be derived; and
  - (r) all communications concerning the association made in a record to all members, or to all members in a district or class, for the six most recent years.
- (2) If a limited cooperative association has existed for less than the period for which records are required to be maintained under Subsection (1), the period records shall be kept is the period of the association's existence.
- (3) The organic rules may require that more information be maintained.

Amended by Chapter 378, 2010 General Session

**16-16-115 Business transactions of member with limited cooperative association.**

Subject to Sections 16-16-818 and 16-16-819 and except as otherwise provided in the organic rules or a specific contract relating to a transaction, a member may lend money to and transact other business with a limited cooperative association in the same manner as a person that is not a member.

Enacted by Chapter 363, 2008 General Session

**16-16-116 Dual capacity.**

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

Enacted by Chapter 363, 2008 General Session

**16-16-117 Designated office and agent for service of process.**

- (1) A limited cooperative association, or a foreign cooperative that has a certificate of authority under Section 16-16-1404, shall designate and continuously maintain in this state:
- (a) an office, as its designated office, which need not be a place of the association's or foreign cooperative's activity in this state; and
  - (b) an agent for service of process at the designated office.
- (2) An agent for service of process of a limited cooperative association or foreign cooperative shall be an individual who is a resident of this state or an entity that is authorized to do business in this state.

Amended by Chapter 378, 2010 General Session

**16-16-118 Change of designated office or agent for service of process.**

- (1) Except as otherwise provided in Subsection 16-16-207(5), to change its designated office, its agent for service of process, or the street address or, if different, mailing address of its principal office, a limited cooperative association shall deliver to the division for filing a statement of change containing:
- (a) the name of the limited cooperative association;
  - (b) the street address and, if different, mailing address of its designated office;
  - (c) if the designated office is to be changed, the street address and, if different, mailing address of the new designated office;



- (d) the name of its agent for service of process; and
  - (e) if the agent for service of process is to be changed, the name of the new agent.
- (2) Except as otherwise provided in Subsection 16-16-207(5), to change its agent for service of process, the address of its designated office, or the street address or, if different, mailing address of its principal office, a foreign cooperative shall deliver to the division for filing a statement of change containing:
- (a) the name of the foreign cooperative;
  - (b) the name, street address and, if different, mailing address of its designated office;
  - (c) if the current agent for service of process or an address of the designated office is to be changed, the new information;
  - (d) the street address and, if different, mailing address of its principal office; and
  - (e) if the street address or, if different, the mailing address of its principal office is to be changed, the street address and, if different, the mailing address of the new principal office.
- (3) Except as otherwise provided in Section 16-16-204, a statement of change is effective when filed by the division.

Amended by Chapter 378, 2010 General Session

**16-16-119 Resignation of agent for service of process.**

- (1) To resign as an agent for service of process of a limited cooperative association or foreign cooperative, the agent shall deliver to the division for filing a statement of resignation containing the name of the agent and the name of the association or foreign cooperative.
- (2) After receiving a statement of resignation under Subsection (1), the division shall file it and mail or otherwise provide or deliver a copy to the limited cooperative association or foreign cooperative at its principal office.
- (3) An agency for service of process of a limited cooperative association or foreign cooperative terminates on the earlier of:
  - (a) the 31st day after the division files a statement of resignation under Subsection (2); or
  - (b) when a record designating a new agent for service of process is delivered to the division for filing on behalf of the association or foreign cooperative and becomes effective.

Amended by Chapter 378, 2010 General Session

**16-16-120 Service of process.**

- (1) An agent for service of process appointed by a limited cooperative association or foreign cooperative is an agent of the association or foreign cooperative for service of process, notice, or a demand required or permitted by law to be served upon the association or foreign cooperative.
- (2) If a limited cooperative association or foreign cooperative does not appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the address of the designated office on file with the division, the division is an agent of the association or foreign cooperative upon which process, notice, or a demand may be served.
- (3) Service of process, notice, or a demand on the division as agent of a limited cooperative association or foreign cooperative may be made by delivering to the division two copies of the process, notice, or demand. The division shall forward one copy by registered or certified mail, return receipt requested, to the association or foreign cooperative at its principal office.
- (4) Service is effected under Subsection (3) on the earliest of:

- (a) the date the limited cooperative association or foreign cooperative receives the process, notice, or demand;
  - (b) the date shown on the return receipt, if signed on behalf of the association or foreign cooperative; or
  - (c) five days after the process, notice, or demand is deposited by the division for delivery by the United States Postal Service, if mailed postage prepaid to the address of the principal office on file with the division.
- (5) The division shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.
- (6) This section does not affect the right to serve process, notice, or a demand in any other manner provided by law.

Enacted by Chapter 363, 2008 General Session