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1 **SECTION 59.** 180.0103 (8) of the statutes is amended to read:

2 180.0103 (8) “Entity” includes a domestic corporation; a foreign corporation;
3 a limited liability company; a nonstock corporation; a stock or nonstock cooperative
4 association; an unincorporated cooperative association; a profit or nonprofit
5 unincorporated association; a business trust; an estate; a partnership; a trust; 2 or
6 more persons having a joint or common economic interest; a state or an agency,
7 commission, department, authority, bureau or other instrumentality of a state; a
8 governmental subdivision; the United States; and a foreign government.

9 **SECTION 60.** 180.0401 (2) (a) 7. of the statutes is amended to read:

10 180.0401 (2) (a) 7. The name of a cooperative association or an unincorporated
11 cooperative association incorporated or authorized to transact business in this state.

12 **SECTION 61.** 180.0401 (3) (a) of the statutes is amended to read:

13 180.0401 (3) (a) The other corporation or the foreign corporation, limited
14 liability company, nonstock corporation, limited partnership, limited liability
15 partnership ~~or~~, cooperative association, or unincorporated cooperative association
16 consents to the use in writing and submits an undertaking in a form satisfactory to
17 the department to change its name to a name that is distinguishable upon the records
18 of the department from the name of the applicant.

19 **SECTION 62.** 180.1506 (2) (a) 7. of the statutes is amended to read:

20 180.1506 (2) (a) 7. The name of a cooperative association or an unincorporated
21 cooperative association incorporated or authorized to transact business in this state.

22 **SECTION 63.** 180.1506 (3) (a) of the statutes is amended to read:

23 180.1506 (3) (a) The other foreign corporation or the domestic corporation,
24 limited liability company, nonstock corporation, limited partnership, limited
25 liability partnership ~~or~~, cooperative association, or unincorporated cooperative

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1 association consents to the use in writing and submits an undertaking in a form
2 satisfactory to the department to change its name to a name that is distinguishable
3 upon the records of the department from the name of the applicant.

4 **SECTION 64.** 181.0401 (2) (a) 3. of the statutes is amended to read:

5 181.0401 (2) (a) 3. A name reserved or registered under this chapter or ch. 178,
6 179, 180, 183 ~~or~~, 185, or 193.

7 **SECTION 65.** 181.0401 (2) (a) 7. of the statutes is amended to read:

8 181.0401 (2) (a) 7. The name of a cooperative association or an unincorporated
9 cooperative association incorporated or authorized to transact business in this state.

10 **SECTION 66.** 181.0401 (3) (a) of the statutes is amended to read:

11 181.0401 (3) (a) The other corporation or the foreign corporation, limited
12 liability company, stock corporation, limited partnership, limited liability
13 partnership ~~or~~, cooperative association, or unincorporated cooperative association
14 consents to the use in writing and submits an undertaking in a form satisfactory to
15 the department to change its name to a name that is distinguishable upon the records
16 of the department from the name of the applicant.

17 **SECTION 67.** 181.1150 of the statutes is amended to read:

18 **181.1150 Conversion of cooperative.** A cooperative or an unincorporated
19 cooperative association organized without capital stock may elect to convert itself to
20 a corporation by adopting and filing restated articles of incorporation or organization
21 in the manner required under ch. 185 or 193. The restated articles of incorporation
22 or organization shall conform to the requirements of s. 181.0202 and shall contain
23 a statement that the cooperative or unincorporated cooperative association elects to
24 convert itself to a corporation subject to this chapter. The election to become a

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1 corporation subject to this chapter is effective upon the filing of the restated articles
2 of incorporation or organization.

3 **SECTION 68.** 181.1506 (2) (a) 3. of the statutes is amended to read:

4 181.1506 (2) (a) 3. A name reserved or registered under this chapter or ch. 178,
5 179, 180, 183 ~~or~~, 185, or 193.

6 **SECTION 69.** 181.1506 (2) (a) 7. of the statutes is amended to read:

7 181.1506 (2) (a) 7. The name of a cooperative association or an unincorporated
8 cooperative association incorporated or authorized to transact business in this state.

9 **SECTION 70.** 181.1506 (3) (a) of the statutes is amended to read:

10 181.1506 (3) (a) The other foreign corporation or the domestic corporation,
11 limited liability company, nonstock corporation, limited partnership, limited
12 liability partnership ~~or~~, cooperative association, or unincorporated cooperative
13 association consents to the use in writing and submits an undertaking in a form
14 satisfactory to the department to change its name to a name that is distinguishable
15 upon the records of the department from the name of the applicant.

16 **SECTION 71.** 182.01 (3) (intro.) of the statutes is amended to read:

17 182.01 (3) NAME OF DRAFTER ON DOCUMENTS. (intro.) No articles of
18 incorporation, articles of organization, articles of amendment, articles of merger,
19 consolidation or share exchange, articles of dissolution, restated articles of
20 incorporation, certificate of abandonment, or statement or articles of revocation of
21 voluntary dissolution, provided for pursuant to ch. 180, 181, 183, 185 ~~or~~, 187, or 193;
22 no registration statement, amendment of a registration statement, or written notice
23 of withdrawal under s. 178.40; and no certificate of limited partnership, certificate
24 of amendment, restated certificate of limited partnership or certificate of
25 cancellation, provided for pursuant to ch. 179, shall be filed by the department unless

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1 the name of the individual who, or the governmental agency which, drafted such
2 document is printed, typewritten, stamped or written thereon in a legible manner.
3 A document complies with this subsection if it contains a statement in the following
4 form: “This document was drafted by... (Name)”. This subsection shall not apply to
5 a document executed prior to December 1, 1967, or to:

6 **SECTION 72.** 182.017 (1) of the statutes is amended to read:

7 182.017 (1) RIGHT-OF-WAY FOR. Any domestic corporation organized to furnish
8 telegraph or telecommunications service or transmit heat, power or electric current
9 to the public or for public purposes, an independent system operator, as defined in
10 s. 196.485 (1) (d), an independent transmission owner, as defined in s. 196.485 (1)
11 (dm), or a cooperative association organized under ch. 185 or 193 to furnish telegraph
12 or telecommunications service or a cooperative organized under ch. 185 to transmit
13 heat, power or electric current to its members, may, subject to ss. 30.44 (3m), 30.45,
14 86.16 and 196.491 (3) (d) 3m. and to reasonable regulations made by any city, village
15 or town through which its transmission lines or systems may pass, construct and
16 maintain such lines or systems with all necessary appurtenances in, across or
17 beneath any public highway or bridge or any stream or body of water, or upon any
18 lands of any owner consenting thereto, and for such purpose may acquire lands or
19 the necessary easements; and may connect and operate its lines or system with other
20 lines or systems devoted to like business, within or without this state, and charge
21 reasonable rates for the transmission and delivery of messages or the furnishing of
22 heat, power or electric light.

23 **SECTION 73.** 182.025 (1) of the statutes is amended to read:

24 182.025 (1) Any domestic corporation formed to furnish water, heat, light,
25 power, telegraph or telecommunications service or signals by electricity may, subject

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1 to the provisions of ch. 201 and by an affirmative vote of at least two-thirds of its
2 outstanding shares entitled to vote thereon, or any cooperative ~~association~~ organized
3 under ch. 185 to furnish water, heat, light, or power, ~~telegraph or~~
4 ~~telecommunications service~~ or any cooperative organized under ch. 185 or 193 to
5 furnish telegraph or telecommunication service to its stockholders or members only
6 may, by a vote of a majority of a quorum of its stockholders or members present at
7 any regular or special meeting held upon due notice as to the purpose of the meeting
8 or when authorized by the written consent of the holders of a majority of its capital
9 stock outstanding and entitled to vote or of a majority of its members, mortgage or
10 trust deed any or all of the property, rights and privileges and franchises that it may
11 then own or thereafter acquire, to secure the payment of its bonds or notes to a fixed
12 amount or in amounts to be from time to time determined by the board of directors,
13 and may, in and by such mortgage or deed of trust, provide for the disposal of any of
14 its property and the substitution of other property in its place. Every such mortgage
15 or deed of trust may be recorded in the office of the register of deeds of the county in
16 which such corporation is located at the time of such recording, and such record shall
17 have the same effect as if the instrument were filed in the proper office as a chattel
18 mortgage or financing statement, and so remain until satisfied or discharged
19 without any further affidavit, continuation statement or proceeding whatever. For
20 this purpose the location of such corporation shall be deemed to be: as to a
21 corporation or a cooperative association not at the time subject to either s. 180.0501
22 ~~or~~, 185.08, or 193.115 (1), the location designated in its articles as then in effect; as
23 to a corporation subject to s. 180.0501, the location of its registered office; and as to
24 a cooperative association subject to s. 185.08 or 193.115 (1), the location of its
25 principal office or registered agent as designated thereunder.

SUBCHAPTER I

GENERAL PROVISIONS

1
2
3 **193.001 Citation.** This chapter may be cited as the “Wisconsin Cooperative
4 Associations Act.”

5 **193.005 Definitions.** Unless the context requires otherwise, in this chapter:

6 **(2)** “Address” means mailing address and, in the case of a registered address,
7 means the mailing address and the actual office location, which may not be a post
8 office box.

9 **(2m)** “Affiliate,” when used in reference to any person, means another person
10 who controls, is controlled by, or is under common control with the person.

11 **(3)** “Alternative Ballot” means a method of voting, prescribed by the board in
12 advance of the vote, that permits a vote to be cast electronically, telephonically, via
13 the Internet, or by any similar means which reasonably allows members the
14 opportunity to vote.

15 **(3m)** “Allocation unit” means a separate business unit of a cooperative.

16 **(4)** “Articles” means the articles of organization of a cooperative.

17 **(5)** “Association” means an organization conducting business on a cooperative
18 plan under the laws of any state.

19 **(6)** “Board” means the board of directors of a cooperative.

20 **(7)** “Business entity” means a cooperative, corporation, limited liability
21 company, association, firm, or partnership operated for profit and organized under
22 a law other than a law of this state.

23 **(9)** “Cooperative” means an association organized under this chapter
24 conducting business on a cooperative plan as provided under this chapter.

25 **(9m)** “Department” means the department of financial institutions.

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1 (10) “Domestic business entity” means a business entity organized under the
2 laws of this state.

3 (11m) “Electronic” means relating to technology having electrical, digital,
4 magnetic, wireless, optical, electromagnetic, or similar capabilities.

5 (11p) “Electronic signature” means an electronic sound, symbol, or process,
6 attached to or logically associated with a writing and executed or adopted by a person
7 with intent to authenticate the writing.

8 (12) “File with the department” means to deliver to the department a document
9 meeting the applicable requirements of this chapter, signed and accompanied by any
10 required filing fee.

11 (13) “Foreign business entity” means a business entity that is organized under
12 the laws of another state or the United States.

13 (14) “Foreign cooperative” means a foreign business entity organized to
14 conduct business on a cooperative plan consistent with this chapter or ch. 185.

15 (15) “Member” means a person reflected on the books of the cooperative as the
16 owner of governance rights of a membership interest of the cooperative. The term
17 includes patron and nonpatron members.

18 (16) “Membership interest” means a member’s interest in a cooperative,
19 consisting of a member’s financial rights, a member’s right to assign financial rights,
20 a member’s governance rights, and a member’s right to assign governance rights.
21 The term includes patron membership interests and nonpatron membership
22 interests.

23 (17) “Members’ meeting” means a regular or special members’ meeting.

24 (18) “Nonpatron member” means a member who holds a nonpatron
25 membership interest.

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1 (19) "Nonpatron membership interest" means a membership interest that does
2 not require the holder to conduct patronage business for or with the cooperative to
3 receive financial rights or distributions.

4 (20) "Patron" means a person or entity who conducts patronage with the
5 cooperative.

6 (21) "Patronage" means transactions or services done for or with a cooperative
7 as defined by the cooperative.

8 (22) "Patron member" means a member holding a patron membership interest.

9 (23) "Patron membership interest" means a membership interest requiring the
10 holder to conduct patronage for or with the cooperative, as specified by the
11 cooperative, to receive financial rights or distributions.

12 (24) "Sign" means to execute or adopt a manual, facsimile, conformed, or
13 electronic signature or any symbol with intent to authenticate a writing and, with
14 respect to a document required under this chapter to be filed with the department,
15 with authority to do so under this chapter and under the articles, bylaws, or a
16 resolution approved by the directors or members.

17 (25) "Writing" means information that is inscribed on a tangible medium or
18 that is stored in an electronic or other intangible medium and is retrievable in
19 perceivable form.

20 **193.105 Use of term "cooperative" restricted.** (1) USE OF TERM
21 "COOPERATIVE" RESTRICTED. A business entity may not use the term "cooperative" as
22 part of its business name or title or represent itself as a cooperative, in this state,
23 unless the business entity is a cooperative or foreign cooperative or is organized
24 under ch. 185.

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1 (2) PENALTY FOR MISUSE OF TERM “COOPERATIVE.” A business entity that violates
2 sub. (1) may be fined not more than \$250. Each day of improper use constitutes a
3 separate offense.

4 **193.111 Filing fees and other requirements.** (1) Except as provided under
5 sub. (2), the department shall charge and collect for:

6 (a) Filing articles for a new cooperative, \$25, if the new cooperative is organized
7 with no capital stock. If the new cooperative is organized with capital stock, the
8 department may charge \$1.25 for each \$1,000 of capital stock, or \$25, whichever is
9 greater.

10 (b) Filing an amendment to or restatement of the articles or articles of
11 consolidation or division, \$25, except that no fee may be collected for any of the
12 following:

13 1. An amendment showing only a change of address resulting from the action
14 of a governmental agency if there is no corresponding change in physical location and
15 if 2 copies of the notice of the action are submitted to the department.

16 2. An amendment or statement filed to reflect only a change in the name of a
17 registered agent.

18 (c) Filing articles of merger, \$30.

19 (d) Filing articles or decree of dissolution, \$5.

20 (e) Receiving service of any process, notice, or demand, authorized to be served
21 on the department by this chapter, an amount equal to the fee established under s.
22 182.01 (4) (c).

23 (g) Filing a report of names and addresses of officers or directors, \$3.

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1 (h) Processing in an expeditious manner a document required or permitted to
2 be filed or recorded under this chapter, an amount equal to the fee established under
3 s. 182.01 (4) (d), in addition to the fee required by other provisions of this chapter.

4 (2) The department, by rule, may specify a larger fee for filing documents
5 described in sub. (1) in paper format.

6 (3) No document may be filed or recorded until all fees for the document have
7 been paid.

8 (4) The department shall endorse on any document filed with the department
9 the word "filed" or a similar word determined by the department and the month, day,
10 and year of filing, record the document in the office of the department, and return
11 the document to the person or entity who delivered it for filing.

12 **193.115 Registered office and agent. (1) REGISTERED OFFICE AND AGENT**
13 **REQUIRED.** A cooperative shall establish and continuously maintain in this state all
14 of the following:

15 (a) A registered office which may be, but need not be, the same as the
16 cooperative's place of business.

17 (b) A registered agent, which agent may be an individual resident of this state
18 whose business office is identical to the registered office, a domestic business entity,
19 or a foreign business entity authorized to transact business in this state, having an
20 office identical to the registered office.

21 (2) **DESIGNATION OF INITIAL OFFICE AND AGENT.** The organizers of a cooperative
22 shall designate the cooperative's initial registered office and agent by filing with the
23 department, along with the original articles of organization under s. 193.215 (1), a
24 statement setting forth all of the following:

25 (a) The name of the cooperative.

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1 (b) The address of its registered office.

2 (c) The name of its registered agent.

3 (d) That the address of its registered office and the address of the business office
4 of its registered agent are identical.

5 **(2m) CHANGE OF OFFICE AND AGENT.** Except as provided in sub. (5), a cooperative
6 may change its registered office or agent by filing with the department a statement
7 setting forth all of the following:

8 (a) The name of the cooperative.

9 (b) The address of its then registered office.

10 (c) If the address of its registered office is to be changed, the address to which
11 the registered office is to be changed.

12 (d) The name of its then registered agent.

13 (e) If its registered agent is to be changed, the name of its successor registered
14 agent.

15 (f) That the address of its registered office and the address of the business office
16 of its registered agent, as changed, will be identical.

17 (g) That any change was authorized by affirmative vote of a majority of the
18 board.

19 **(3) DUTIES OF DEPARTMENT; EFFECTIVE DATE OF CHANGE.** Upon receipt of a
20 statement delivered under sub. (2) or (2m), the department shall examine the
21 statement to ensure that it conforms to the applicable requirements of this section.
22 If the department finds that the statement conforms to the applicable requirements
23 of this section, the department shall file the statement. Any change designated in
24 a statement delivered under sub. (2m) takes effect upon filing of the statement by the
25 department.

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1 (4) RESIGNATION OF AGENT. Any registered agent of a cooperative may resign
2 as agent by filing with the department a written notice of resignation, together with
3 one exact or conformed copy. The department shall mail a copy of the notice to the
4 cooperative at its principal mailing address as determined by the department. The
5 resignation takes effect on the first day of the 2nd month beginning after receipt of
6 the notice by the department.

7 (5) CHANGE OF ADDRESS OR NAME OF AGENT. If the address or name of a
8 registered agent changes, the agent shall change the address of the registered office
9 or the name of the registered agent, as applicable, of the cooperative that appointed
10 the agent by filing with the department the statement required under sub. (2m),
11 except that the statement need only be signed by the registered agent, need not
12 satisfy sub. (2m) (e) or (g), and shall state that a copy of the statement has been
13 mailed to the cooperative or to the legal representative of the cooperative.

14 **193.121 Legal recognition of electronic records and signatures.** For the
15 purpose of satisfying 15 USC 7002 (a) (2) (B) as that statute relates to this chapter,
16 this state acknowledges the existence of the Electronic Signatures in Global and
17 National Commerce Act, 15 USC 7001 to 7031.

SUBCHAPTER II**ORGANIZATION**

20 **193.201 Organizational purpose.** Except as provided in s. 193.203, a
21 cooperative may be formed and organized on a cooperative plan for patrons as
22 provided under this chapter for any of the following purposes:

23 (1) To market, process, or otherwise change the form or marketability of
24 products, including crops, livestock, and other agricultural products; to manufacture
25 products; to accomplish other purposes that are necessary or convenient to facilitate

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1 the production or marketing of products by patron members and others; and to
2 accomplish other purposes that are related to the business of the cooperative.

3 (2) To provide products, supplies, and services to its members.

4 (3) To accomplish any other lawful purpose.

5 **193.203 Exceptions.** No cooperative may be organized under this chapter for
6 the purpose of furnishing natural gas, heat, light, power, or water to its members.

7 **193.205 Organizers. (1) QUALIFICATION.** A cooperative may be organized by
8 one or more organizers who shall be individuals over the age of 18, who may act for
9 themselves as individuals or as the agents of other entities. The organizers forming
10 the cooperative need not be members of the cooperative.

11 (2) **ROLE OF ORGANIZERS.** If the cooperative's initial board is not named in the
12 articles, the organizers may elect the initial board or may act as directors with all of
13 the powers, rights, duties, and liabilities of directors, until the board is elected or
14 until a contribution is accepted, whichever occurs first.

15 (3) **MEETING OR WRITTEN ACTION.** After the articles are filed, the organizers or
16 the board named in the articles, as applicable, shall hold an organizational meeting
17 at the call of a majority of the organizers or of the board, as applicable, or take written
18 action for the purposes of transacting business and taking actions appropriate to
19 complete the organization of the cooperative. If a meeting is held under this
20 subsection, the person or persons calling the meeting shall give at least 3 days prior
21 notice of the meeting to each organizer or director, as applicable, stating the date,
22 time, and place of the meeting. An organizer or director may waive notice of an
23 organizational meeting in the same manner that a director may waive notice of
24 meetings of the board.

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1 **193.211 Cooperative name.** (1) **DISTINGUISHABLE NAME.** The name of a
2 cooperative shall distinguish the cooperative upon the records of the department
3 from the name of all business entities authorized to do business in this state and all
4 names the right to which are, at the time of organization, reserved or provided for
5 by law.

6 (2) **RESERVATION; CONTEST OF NAME.** A cooperative's name is reserved for use by
7 the cooperative during the cooperative's existence, except that a person doing
8 business in this state may contest the cooperative's use of the name as provided by
9 law.

10 **193.215 Articles of organization and notice of mailing address.** (1)
11 **FILING REQUIRED.** The organizers of a cooperative shall file with the department the
12 cooperative's original articles as specified under sub. (2), together with the statement
13 required under s. 193.115 (2) and a statement listing the current mailing address of
14 the cooperative.

15 (2) **CONTENT OF ARTICLES.** (a) The articles shall state all of the following:

- 16 1. The name of the cooperative.
- 17 2. The purpose of the cooperative.
- 18 3. The name and address of each organizer.
- 19 4. The duration of the cooperative, if the duration is not to be perpetual.

20 (b) The articles may contain any other lawful provision.

21 (3) **EFFECT OF PROPER FILING.** Upon compliance with sub. (1), all of the following
22 apply:

23 (a) It is presumed that all conditions precedent to organizing the cooperative
24 that are required to be performed by the organizers have been satisfied.

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1 (b) The cooperative is chartered by this state as a separate legal entity with
2 perpetual duration or any other duration stated in the articles under sub. (2) (a) 4.

3 (c) The department shall issue a certificate of organization to the cooperative.

4 (4) CHANGE OF MAILING ADDRESS. If the mailing address of the cooperative
5 changes, the cooperative shall file with the department a statement notifying the
6 department of the change of address.

7 **193.221 Amendment of articles. (1) PROCEDURE.** (a) Except as provided
8 under sub. (3), the articles of a cooperative may be amended as follows:

9 1. The board by majority vote may adopt a resolution stating the text of the
10 proposed amendment. The text of the proposed amendment and, if approved by the
11 board, an attached mail or alternative ballot, shall be mailed or otherwise
12 distributed with any regular or special meeting notice to each member. The notice
13 shall designate the time and place of the meeting at which the proposed amendment
14 will be considered and voted on.

15 2. If a quorum of the members is registered as being present or represented by
16 alternative vote at the meeting specified in the notice under subd. 1., the proposed
17 amendment may be adopted by the following means, as applicable:

18 a. By a majority of the votes cast.

19 b. For a cooperative with articles or bylaws requiring more than majority
20 approval or other conditions for approval, by a sufficient vote as required under the
21 articles or bylaws or by satisfying the other conditions for approval.

22 (b) The articles may be amended as restated articles using the procedure under
23 par. (a). If restated articles are adopted, the restated articles supercede all prior
24 articles and amendments to the articles.

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1 (c) After an amendment or restated articles are adopted under par. (a) or (b),
2 the chair, vice-chair, records officer, or assistant records officer of the cooperative
3 shall sign the amendment or restated articles and promptly file a copy with the
4 department.

5 **(2) CERTIFICATE.** (a) If an amendment or restated articles are adopted under
6 sub. (1), the board shall prepare a certificate containing all of the following:

7 1. A statement listing the date of the meeting at which the board adopted the
8 resolution concerning the proposed amendment under sub. (1) (a) 1. or the restated
9 articles and the vote of the board.

10 2. A copy of the notice provided to members under sub. (1) (a) 1.

11 3. A listing of the quorum registered at the meeting under sub. (1) (a) 2.

12 4. A listing of the votes cast adopting the amendment or the restated articles
13 at the meeting under sub. (1) (a) 2.

14 (b) The chair, vice-chair, records officer, or financial officer of the cooperative
15 shall sign the certificate and file the certificate with the records of the cooperative.

16 **(3) AMENDMENT BY DIRECTORS.** A majority of directors may, by resolution, amend
17 the articles if the cooperative does not have any members with voting rights. The
18 board shall promptly file an amendment under this subsection with the department.

19 **(4) EFFECTIVE DATE OF AMENDMENT.** An amendment or restated articles adopted
20 under sub. (1) or an amendment adopted under sub. (3) is effective on the date
21 specified in the resolution adopted under sub. (1) (a) 1. or (3), as applicable, or, if no
22 such date is specified, upon the filing of the amendment or restated articles with the
23 department.

24 **193.225 Conversion to cooperative. (1) AUTHORITY AND NOTICE.** A business
25 entity other than an cooperative may become a cooperative by following the

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1 applicable procedure under sub. (2) or (3). A business entity shall provide its
2 members with a disclosure statement listing the rights and obligations of the
3 members and the capital structure of the proposed cooperative before making a
4 conversion under this section.

5 (2) PROCEDURE FOR ENTITIES ORGANIZED IN THIS STATE. A business entity
6 organized under the laws of this state, other than a cooperative, that elects to make
7 a conversion as provided under sub. (1) shall amend its organizational documents in
8 the manner provided under the laws that govern the business entity. The business
9 entity shall file with the department amended articles of organization that comply
10 with s. 193.215. Upon the filing of the amended articles of organization, the business
11 entity is converted to a cooperative and is governed by the applicable provisions of
12 this chapter.

13 (3) PROCEDURE FOR ENTITIES ORGANIZED IN OTHER STATES. A business entity
14 organized under the laws of another state that elects to make a conversion as
15 provided under sub. (1) shall amend its organizational documents in the manner
16 provided under the other state's laws that govern the business entity. The business
17 entity shall file with the department amended articles of organization that comply
18 with s. 193.215. Upon the filing of the amended articles of organization, the business
19 entity is converted to a cooperative and is governed by the applicable provisions of
20 this chapter.

21 (4) CONVERSION OF COOPERATIVES ORGANIZED UNDER CHAPTER 185. A cooperative
22 that is organized under ch. 185 may not convert to a cooperative organized under this
23 chapter regardless of whether the conversion is accomplished directly within
24 Wisconsin or indirectly through or with any out-of-state entity.

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1 **193.231 Curative filing.** If the department determines that a cooperative has
2 made an erroneous filing under this chapter, the department may revoke and
3 expunge the erroneous filing and authorize a curative document to be filed. The
4 department shall charge the cooperative a filing fee of \$500 for any such revocation,
5 expungement, and subsequent curative filing.

6 **193.241 Bylaws. (1) REQUIRED.** A cooperative shall have bylaws governing
7 the cooperative's business affairs and structure, the qualifications, classification,
8 rights, and obligations of members, and the classifications, allocations, and
9 distributions of membership interests which are not otherwise provided in the
10 articles or by this chapter.

11 **(2) CONTENTS.** The bylaws may contain any provision relating to the
12 management or regulation of the affairs of the cooperative that is not inconsistent
13 with applicable law or the articles and, if not stated in the articles, the bylaws shall
14 include all of the following:

15 (a) A description of the capital structure of the cooperative, including a
16 statement of the classes and relative rights, preferences, and restrictions granted to
17 or imposed upon each class of member interests, the rights to share in profits or
18 distributions of the cooperative, and the authority to issue member interests and, if
19 applicable, a statement that the board may establish a class or series of member
20 interests, set forth the designation of the class or series, and fix the relative rights
21 and preferences of the class or series.

22 (b) A provision designating voting and governance rights, including which
23 membership interests have voting power and any limitations or restrictions on the
24 voting power, which shall be in accordance with the provisions of this chapter.

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1 (c) A statement that patron membership interests with voting power are
2 restricted to one vote for each member regardless of the amount of patron
3 membership interests held in the affairs of the cooperative or a statement describing
4 the allocation of voting power as prescribed in this chapter.

5 (d) A statement that membership interests held by a member are transferable
6 only with the approval of the board or a statement otherwise describing the manner
7 in which membership interests may be transferred consistent with this chapter.

8 (e) If nonpatron membership interests are authorized, a statement as to how
9 profits and losses will be allocated and cash will be distributed between patron
10 membership interests collectively and nonpatron membership interests collectively,
11 a statement that net income allocated to patron membership interests as determined
12 by the board in excess of dividends and additions to reserves shall be distributed on
13 the basis of patronage, and a statement that the records of the cooperative shall
14 include the interests of patron membership interests and, if authorized, nonpatron
15 membership interests in any classes of interests and in the reserves.

16 (f) A statement of the number of directors; the qualifications, manner of
17 election, powers, and duties of directors; and the manner in which any compensation
18 of directors is determined. Provisions included in the bylaws under this paragraph
19 shall be consistent with subch. IV.

20 (g) A statement of the qualifications of members and any limitations on their
21 number.

22 (h) A description of the methods of admission, withdrawal, suspension, and
23 expulsion of members.

24 (i) A general description of members' governance rights and financial rights,
25 assignability of governance and financial rights, and other rights, privileges, and

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1 obligations of members and their membership interests, which may be further
2 described in member control agreements.

3 (j) Any provisions required by the articles to be in the bylaws.

4 **(3) ADOPTION AND AMENDMENT; NOTICE.** (a) Bylaws shall be adopted prior to any
5 distributions to members, but if the articles provide that rights of contributors to a
6 class of membership interest will be determined in the bylaws, then the bylaws shall
7 be adopted prior to the acceptance of any contributions to that class.

8 (b) Subject to subs. (4), (5), and (6), the bylaws may be adopted or amended by
9 the board or, if all of the following apply, the members may adopt or amend bylaws
10 at a regular or special members' meeting:

11 1. The notice of the meeting contains a statement that the bylaws or
12 amendments will be voted upon, a statement summarizing the proposed bylaws or
13 amendments, and either copies of the bylaws or amendments or a statement that
14 copies of the bylaws or amendments are available from the cooperative upon request.

15 2. A quorum of the members is registered as being present or represented by
16 alternative vote at the meeting.

17 3. The bylaws or amendments are approved by the following means, as
18 applicable:

19 a. By a majority of the votes cast.

20 b. For a cooperative with articles or bylaws requiring more than majority
21 approval or other conditions for approval, by a sufficient vote as required under the
22 articles or bylaws or by satisfying the other conditions for approval.

23 (c) The members may amend the bylaws even though the bylaws may also be
24 amended by the board. The board may amend the bylaws even though the bylaws
25 may also be amended by the members.

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1 (d) The board shall distribute to the members any amendment to the bylaws
2 adopted by the board no later than the 10th day after adoption and the notice of the
3 next regular members' meeting occurring after adoption shall contain a notice and
4 summary of, or a copy of, the amendment.

5 (4) **LIMITATION ON BOARD'S AMENDMENT AUTHORITY.** The board may not amend the
6 bylaws if any of the following apply:

7 (a) This chapter, the articles, or the bylaws reserve the power exclusively to the
8 members.

9 (b) The articles or bylaws expressly prohibit the board from doing so.

10 (c) The amendment would fix a greater quorum or voting requirement for
11 members or voting groups of members or would amend a provision adopted by
12 amendment under sub. (5).

13 (5) **AMENDMENT TO CHANGE QUORUM OR VOTING REQUIREMENTS FOR MEMBERS.** The
14 members may amend the bylaws to specify a greater quorum requirement for
15 members, or voting groups of members, or a greater number of votes or members
16 participating required for approval than is otherwise required by this chapter. An
17 amendment to the bylaws to add, change, or delete such a quorum or voting
18 requirement shall meet the same quorum requirement and be adopted by the same
19 vote and voting groups required to take action under the quorum and voting
20 requirements then in effect or proposed to be adopted, whichever are more stringent.

21 (6) **AMENDMENT TO CHANGE QUORUM OR VOTING REQUIREMENTS FOR DIRECTORS.** (a)
22 A bylaw that specifies a greater quorum requirement for the board or a greater
23 number of votes or directors participating required for approval than is otherwise
24 required by this chapter may be amended as follows:

25 1. If the bylaw was originally adopted by the members, only by the members.

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1 2. If the bylaw was originally adopted by the board, by the members or by the
2 board.

3 (b) A bylaw, or amendment to the bylaws, adopted by the members that
4 specifies a greater quorum or voting requirement for the board as described in par.

5 (a) may provide that it may be subsequently amended only by a specified vote of
6 either the members or the board, but if the bylaw or amendment so provides, the
7 bylaw or amendment shall be originally adopted by the specified vote of the members
8 proposed in the bylaw or amendment.

9 (c) Action by the board under par. (a) 2. shall meet the same quorum
10 requirement and be adopted by the same vote required to take action under the
11 quorum and voting requirement then in effect or proposed to be adopted, whichever
12 is more stringent.

13 **(7) EMERGENCY BYLAWS.** (a) Unless otherwise provided in the articles or bylaws,
14 the board may adopt emergency bylaws which take effect only during an emergency
15 as defined in par. (d). The emergency bylaws, which are subject to amendment or
16 repeal by the members, may include all provisions necessary for managing the
17 cooperative during an emergency, including any of the following:

18 1. Procedures for calling a meeting of the board.

19 2. Quorum requirements for the meeting.

20 3. Designation of additional or substitute directors.

21 (b) All provisions of the regular bylaws consistent with the emergency bylaws
22 remain in effect during any emergency.

23 (c) Action taken in good faith in accordance with the emergency bylaws:

24 1. Binds the cooperative.

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1 2. May not be the basis for imposition of liability on any director, officer,
2 employee, or agent of the cooperative on the ground that the action was not
3 authorized cooperative action.

4 (d) An emergency exists for the purposes of this section if a quorum of the
5 directors cannot readily be obtained because of a catastrophic event.

6 **193.245 Cooperative records.** (1) A cooperative shall keep as permanent
7 records minutes of all meetings of its members and of the board, a record of all actions
8 taken by the members or the board without a meeting by a written unanimous
9 consent in lieu of a meeting, and a record of all waivers of notices of meetings of the
10 members and of the board.

11 (2) A cooperative shall maintain appropriate accounting records.

12 (3) A cooperative shall keep a copy of each of the following records at its
13 principal office:

14 (a) Its articles, bylaws, and other governing instruments.

15 (c) A record of the names and addresses of its members, in a form that allows
16 preparation of a list of members that is alphabetical and that shows each member's
17 address.

18 (d) The minutes of members' meetings and records of all actions taken by
19 members without a meeting by unanimous written consent in lieu of a meeting, for
20 the past 3 years.

21 (e) All written communications within the past 3 years to members as a group
22 or to any class of members as a group.

23 (f) A list of the names and business addresses of its current directors and
24 officers.

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1 (g) All financial statements prepared for periods ending during the last fiscal
2 year.

3 (4) A cooperative shall maintain its records in written form or in another form
4 capable of conversion into written form within a reasonable time.

5 (5) Except as otherwise provided under this section, the board may determine
6 what records are appropriate for the purposes of the cooperative, the length of time
7 records are to be retained, and, subject to s. 193.501 (4), policies relating to the
8 confidentiality, disclosure, inspection and copying of the records of the cooperative.
9 This subsection does not permit the board to withhold documents that are otherwise
10 required to be disclosed by law.

SUBCHAPTER III

COOPERATIVE POWERS

13 **193.301 Cooperative powers. (1) GENERALLY.** In addition to other powers,
14 a cooperative may perform every act necessary or proper to the conduct of the
15 cooperative's business or the accomplishment of the purposes of the cooperative. A
16 cooperative has all rights, powers, and privileges granted to entities organized under
17 ch. 185, except those that are inconsistent with an express provision of this chapter.

18 (2) DEALING IN PRODUCTS. A cooperative may buy, sell, or deal in its own
19 products or the products of any other person and may negotiate the sales price of any
20 product the cooperative sells.

21 (3) CONTRACTS WITH MEMBERS. A cooperative may enter into or become a party
22 to a contract for the cooperative or for the cooperative's individual members or
23 patrons or between the cooperative and its members.

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1 (4) ACTS CONCERNING REAL AND PERSONAL PROPERTY. (a) A cooperative may
2 acquire and hold, lease, mortgage, encumber, sell, exchange and convey real and
3 personal property as the business of the cooperative may require.

4 (b) A cooperative may act as trustee or in any fiduciary capacity for any purpose
5 not inconsistent with the purposes of the cooperative, subject to any applicable
6 requirements of s. 223.105.

7 (6) DEBT INSTRUMENTS, BORROWING, SECURITY, AND INVESTING. A cooperative may
8 do any of the following:

9 (a) Issue bonds, debentures, or other evidence of indebtedness.

10 (b) Borrow money to finance the business of the cooperative.

11 (c) Secure any of its obligations by mortgage of, creation of a security interest
12 in, or other encumbrance or assignment of all or any of its property, franchises, or
13 income.

14 (d) Form special purpose business entities to secure assets of the cooperative.

15 (e) Invest its funds.

16 (f) Acquire, hold, and dispose of evidences of indebtedness of any business
17 entity.

18 (7) ADVANCES TO PATRONS. A cooperative may make advances to the
19 cooperative's members or patrons on products delivered by the members or patrons
20 to the cooperative.

21 (8) DONATIONS. A cooperative may accept donations of money and donations of
22 real or personal property from its members.

23 (9) LENDING TO AND BORROWING FROM MEMBERS. A cooperative may loan money
24 to its members with security that it considers sufficient, whether or not any property

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1 taken as security is of the kind dealt in by the cooperative, and may borrow money
2 from its members.

3 (10) PENSIONS AND BENEFITS. (a) A cooperative may pay pensions, retirement
4 benefits, and compensation for past services to or for the benefit of the cooperative.

5 (b) A cooperative may establish and carry out employee benefit plans and
6 provisions for the benefit of any or all of its and its affiliates, officers, managers,
7 directors, governors, employees, and agents. In the case of an affiliate that is a
8 cooperative, a cooperative may establish and carry out provisions for the benefit of
9 the affiliate's members who provide services to the cooperative, and the families,
10 dependents, and beneficiaries of any of them. A cooperative may indemnify a
11 fiduciary of any employee benefit plan or provisions established under this
12 paragraph and purchase insurance for or on behalf of such a fiduciary.

13 (11) INSURANCE. A cooperative may purchase for its benefit life insurance and
14 other insurance with respect to the services of any of its members, managers,
15 directors, employees, and agents, and may purchase insurance on the life of a
16 member for the purpose of facilitating the cooperative's acquisition of any of the
17 member's membership interests in the cooperative at the death of the member.

18 (12) OWNERSHIP INTERESTS IN OTHER ENTITIES. (a) A cooperative may acquire,
19 hold, or dispose of ownership interests in another business entity and, if a
20 cooperative acquires ownership interests under this paragraph, assume all rights,
21 interests, privileges, responsibilities, and obligations arising out of the ownership
22 interests. A cooperative that holds an ownership interest in another business entity
23 may, by direction of the board, elect or appoint an individual to represent the
24 cooperative at a meeting of the business entity. The representative may represent

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1 the cooperative at such a meeting and may cast any vote the cooperative is entitled
2 to cast at the meeting.

3 (b) A cooperative may organize business entities.

4 (c) A cooperative may acquire ownership interests in or organize an entity to
5 which any of the following apply:

6 1. The entity is organized as a federation of associations.

7 2. The entity is organized for the purpose of forming a district, state, or national
8 marketing, sales, or service agency.

9 3. The entity is organized for the purpose of acquiring marketing facilities at
10 terminal or other markets in this state or other states.

11 (14) FORFEITURE. (a) Notwithstanding ch. 177, a cooperative may effect the
12 forfeiture to the cooperative of unclaimed allocations, distributions, or credits under
13 this chapter or under s. 185.45 (2) (b) and (c), (3) (a) and (b), and (4) (b), unclaimed
14 stock issued by the cooperative, and unclaimed deposits held by the cooperative, if
15 all of the following conditions are met:

16 1. No earlier than 3 years and no later than 5 years after the allocation,
17 distribution, or credit is first made available to its owner, the board declares that the
18 allocation, distribution, or credit will be forfeited to the cooperative unless claimed
19 by a date determined by the board, which date shall be a business day at least 60 days
20 after the date of mailing under subd. 2.

21 2. The cooperative mails a written notice of the declaration under subd. 1. to
22 the owner of the allocation, distribution, or credit at the owner's last-known address,
23 as reflected in the records of the cooperative.

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1 3. The cooperative publishes the notice under subd. 2. as a class 1 notice under
2 ch. 985, on or before the date on which the notice is mailed, in a newspaper published
3 in a municipality having territory within the service area of the cooperative.

4 4. The allocation, distribution, or credit remains unclaimed after the date
5 determined by the board under subd. 1.

6 (b) A cooperative that effects a forfeiture under par. (a) shall use any forfeited
7 moneys within one year after the date on which the funds are forfeited for providing
8 scholarships or educational loans to students or for charitable purposes, as
9 determined by the board.

10 (c) Property forfeited under this subsection is not subject to ch. 177.

11 **193.305 Emergency powers. (1)** In anticipation of or during an emergency,
12 as defined in sub. (4), the board may do any of the following:

13 (a) Modify lines of succession to accommodate the incapacity of any director,
14 officer, employee, or agent.

15 (b) Relocate the principal office, designate alternative principal offices or
16 regional offices, or authorize the officers to do so.

17 **(2)** All of the following apply during an emergency, as defined in sub. (4), unless
18 emergency bylaws under s. 193.241 (7) provide otherwise:

19 (a) Notice of a meeting of the board need be given only to those directors whom
20 it is practicable to reach and may be given in any practicable manner.

21 (b) One or more officers of the cooperative present at a meeting of the board may
22 be deemed to be directors for the meeting, in order of rank and within the same rank
23 in order of seniority, as necessary to achieve a quorum.

24 **(3)** Action taken in good faith during an emergency under this section to further
25 the ordinary business affairs of the cooperative:

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1 (a) Binds the cooperative.

2 (b) May not be the basis for the imposition of liability on any director, officer,
3 employee, or agent of the cooperative on the ground that the action was not
4 authorized cooperative action.

5 (4) An emergency exists for purposes of this section if a quorum of the directors
6 cannot readily be obtained because of a catastrophic event.

7 **193.311 Agricultural product and commodity marketing contracts. (1)**

8 AUTHORITY. A cooperative and its patron member or patron may enter into a
9 marketing contract, requiring the patron member or patron to sell a specified portion
10 of the patron member's or patron's agricultural product or specified commodity
11 produced from a specified area exclusively to or through the cooperative or a facility
12 established by the cooperative.

13 (2) TITLE TO PRODUCTS. If an agricultural product or commodity is sold to a
14 cooperative under a contract under sub. (1), the sale transfers title to the product or
15 commodity absolutely, subject to any valid lien or security interest in the product or
16 commodity, to the cooperative on delivery of the product or commodity or at another
17 time specified in the contract. A contract under sub. (1) may allow a cooperative to
18 sell agricultural products or commodities with or without taking title to the products
19 or commodities, and pay the sales price to the applicable patron member or patron,
20 after deducting amounts specified in the contract.

21 (3) TERM OF CONTRACT. The term of a contract under sub. (1) may not exceed 10
22 years, except that a contract may be renewed for periods not exceeding 5 years each,
23 subject to the right of either party to immediately terminate the contract by giving
24 written notice of the termination to the other party.

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1 (4) LIQUIDATED DAMAGES FOR BREACH OF CONTRACT. A contract under sub. (1) may
2 require the patron member or patron to pay an amount to the cooperative as
3 liquidated damages for the patron member's or patron's breach of any provision of
4 the contract regarding the sale, delivery, or withholding of a product or commodity.
5 The amount of liquidated damages shall be specified by including the specified
6 amount in the contract.

7 (5) INJUNCTION AGAINST BREACH OF CONTRACT. If a patron member or patron
8 breaches or threatens to breach a contract under sub. (1), the cooperative may
9 commence an action for specific performance and injunctive relief under ch. 813.

10 (6) CRIMINAL PENALTY FOR CONTRACT INTERFERENCE AND FALSE REPORTS. (a) No
11 person may knowingly induce or attempt to induce a patron member or patron of a
12 cooperative to breach a contract under sub. (1).

13 (b) No person may maliciously and knowingly publish false reports about the
14 finances or management of a cooperative.

15 (c) Any person who violates par. (a) or (b) may be fined not more than \$1,000
16 or imprisoned for not more than 6 months, or both.

17 (7) CIVIL LIABILITY FOR CONTRACT INTERFERENCE AND FALSE REPORTS. In addition
18 to the penalty provided in sub. (6) (c), any person who violates sub. (6) (a) or (b) may
19 be liable to the cooperative for damages caused by the violation.

20 **193.315 Indemnification and insurance against securities law claims.**
21 Section 185.042 applies to a cooperative to the same extent as if the cooperative was
22 organized under ch. 185.

SUBCHAPTER IV

DIRECTORS AND OFFICERS

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1 **193.401 Board governs cooperative.** A cooperative shall be governed by its
2 board which shall take all action for and on behalf of the cooperative except those
3 actions reserved or granted to members. No director or group of directors may act
4 for or on behalf of the cooperative unless authorized by the board or this chapter. A
5 director may advocate interests of members or member groups to the board, but the
6 fiduciary duty of each director is to represent the best interests of the cooperative and
7 all members collectively.

8 **193.405 Number of directors.** The board shall have at least 5 directors,
9 except that the board of a cooperative with 50 or fewer members may have as few as
10 3 directors.

11 **193.411 Election of directors. (1) INITIAL BOARD.** The initial board shall be
12 established as provided under s. 193.205 (2) and, except as provided in s. 193.205 (2),
13 shall serve until directors are elected by members. The initial board shall appoint
14 directors to fill any vacancies on the initial board, until the directors are elected by
15 the members.

16 **(2) GENERALLY. (a)** Directors shall be elected or appointed for the term, at the
17 time, and in the manner provided in this section and the articles and bylaws.

18 **(b)** If nonpatron members or nonpatron membership interest are granted
19 voting rights, a majority of the directors shall be members and a majority of the
20 directors shall be elected exclusively by patron members, unless otherwise provided
21 in the articles or bylaws. The patron members may also elect an outside director who
22 is an expert in financial matters but who has no financial interest in the cooperative.
23 Unless the articles or bylaws provide otherwise, the outside director may not vote.

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1 (d) A director holds office for the term for which the director was elected and
2 until a successor is elected and has qualified, unless the director is removed or a
3 vacancy in the office of the director occurs.

4 (g) Directors may be divided into, designated, and elected by class or other
5 distinction as provided in the articles or bylaws.

6 **(3) ELECTION AT REGULAR MEETING.** Except as provided under sub. (1) or (4) or
7 s. 193.415 (4) or 193.421, all directors shall be elected at the regular members'
8 meeting.

9 **(4) DISTRICT OR LOCAL UNIT ELECTION OF DIRECTORS.** For a cooperative with
10 districts or other units, directors may be elected by members on a district or unit
11 basis if the articles or bylaws so provide. Directors elected on a district or unit basis
12 may be nominated or elected at district member meetings if the articles or bylaws so
13 provide. Directors who are nominated at district meetings shall be elected at the
14 regular members' meeting by vote of the entire membership, unless the articles or
15 bylaws provide that such directors are to be elected at a district member meeting or
16 the regular members' meeting by vote of the members of the district.

17 **(4m) CUMULATIVE VOTING.** Unless the articles or bylaws so provide, directors
18 may not be elected through the use of any system of voting that permits a voter to
19 allocate multiple votes among eligible candidates.

20 **(5) BALLOTS.** All of the following apply to voting under this section:

21 (a) A member may vote only by casting a ballot as provided under s. 193.545

22 (3).

23 (b) The ballot shall be in a form prescribed by the board.

24 (c) To cast a ballot by mail, a member shall mark the ballot for the candidate
25 chosen, seal the ballot in a plain envelope bearing the member's name and the words

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1 “BALLOT ENCLOSED,” or similar words, and enclose that envelope in another
2 envelope addressed to the cooperative. To cast an alternative ballot, a member shall
3 follow the procedure prescribed by the board.

4 (d) If the ballot of the member is received by the cooperative on or before the
5 date of the election, or as otherwise prescribed for alternative ballots, and if all other
6 applicable requirements are satisfied the cooperative shall accept and count the
7 ballot as the vote of the absent member.

8 (6) BUSINESS ENTITY MEMBERS MAY NOMINATE PERSONS FOR DIRECTOR. Any member
9 that is not an individual may nominate one or more individuals as candidates for
10 election as a director of the cooperative, unless the cooperative’s articles or bylaws
11 provide otherwise.

12 (9) COMPENSATION. Subject to any limitation in the articles or bylaws, the board
13 may fix the compensation of the directors, except that any outside director elected
14 under sub. (2) (b) may not receive any compensation other than authorized per diem
15 reimbursements.

16 **193.415 Removal of directors.** All of the following apply, unless the articles
17 or bylaws provide otherwise:

18 (2) REMOVAL OF TEMPORARY DIRECTORS BY BOARD. A director who was appointed
19 by the board to fill a vacancy may be removed by the board at any time, with or
20 without cause, if all of the following apply:

21 (a) The members have not elected directors in the interval between the time
22 of the appointment to fill the vacancy and the time of the removal.

23 (b) A majority of the remaining directors present affirmatively vote to remove
24 the director.

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1 **(3) REMOVAL OF DIRECTORS BY MEMBERS.** A director may be removed at any time,
2 with or without cause, by the affirmative vote of the holders of a majority of the voting
3 power of membership interests entitled to vote at an election of directors, except that
4 a director who was elected solely by the patron members or the holders of a class or
5 series of membership interests, as provided in the articles or bylaws, may be removed
6 only by the affirmative vote of the holders of a majority of the voting power of the
7 patron members or of all membership interests of the class or series entitled to vote
8 at an election of that director, respectively.

9 **(4) ELECTION OF REPLACEMENT DIRECTORS.** Notwithstanding s. 193.421, a
10 replacement director may be elected to serve out the remaining term of the removed
11 director at a meeting at which the director was removed.

12 **193.417 Resignation of directors.** A director may resign by giving notice to
13 the board or the chairperson of the board. The resignation is effective without
14 acceptance upon receipt by the board or the chairperson of the board, unless the
15 notice specifies a later effective date.

16 **193.421 Filling vacancies. (1) PATRON DIRECTORS.** If a vacancy occurs in the
17 office of a director who was elected solely by the patron members, as provided in the
18 articles or bylaws, or a new office of director is created for such a director, the board,
19 in consultation with the other directors elected solely by the patron members, as
20 provided in the articles or bylaws, shall appoint a patron member of the cooperative
21 to temporarily fill the vacancy until a successor is elected at the next regular or
22 special members' meeting. An appointment under this subsection shall be by
23 majority vote of the remaining directors, regardless of whether there is a quorum
24 present. If there are no other directors elected solely by the patron members, as

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1 provided in the articles or bylaws, at the time of the vacancy, the office shall remain
2 vacant and a special patron members' meeting shall be called to elect a successor.

3 (2) NONPATRON DIRECTORS. Unless otherwise provided in the articles or bylaws,
4 if a vacancy occurs in the office of any director other than a director described in sub.
5 (1) or if a new office of director is created other than a new office described in sub. (1),
6 the board shall appoint a director to temporarily fill the vacancy by majority vote of
7 the remaining directors, regardless of whether there is a quorum present. A
8 successor shall be elected at the next regular or special members' meeting.

9 (3) TERM OF SUCCESSOR. Any successor elected under this section is elected for
10 the remainder of the unexpired term of the director whose vacancy the successor was
11 elected to fill.

12 **193.423 Allocation of voting authority among directors.** (1) The voting
13 authority of the directors may be allocated according to allocation units or equity
14 classifications of the cooperative if any of the following conditions is satisfied:

15 (a) The directors elected by patron members have collectively at least 51
16 percent of the voting authority of the board on general matters of the cooperative.

17 (b) The directors elected by patron members do not have, collectively, minority
18 voting authority on the board on general matters of the cooperative.

19 (2) The patron board directors' vote shall be voted collectively as determined
20 by a majority vote of the patron directors. A tie in the number of patron board director
21 votes shall be construed as a vote against the matter.

22 **193.425 Board meetings.** (1) TIME AND PLACE. Meetings of the board may be
23 held from time to time as provided in the articles or bylaws at any location that the
24 board selects or by any means described in sub. (2).

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1 **(2) VIRTUAL MEETINGS AND ATTENDANCE.** Meetings of the board may be held by
2 any means of communication through which the directors may simultaneously hear
3 each other during the meeting. A director may participate in a meeting of the board
4 at which other directors are physically present by any means of communication
5 through which the director, all other directors so participating, and all directors
6 physically present may simultaneously hear each other during the meeting. The
7 number of directors physically present at a meeting, if any, shall be added to the
8 number of directors otherwise participating in the meeting under this subsection to
9 determine whether a quorum is present under s. 193.431, except that any director
10 who objects at the beginning of the meeting to the transaction of business because
11 the meeting is not lawfully called or convened and who fails to participate in the
12 meeting after the objection may not be considered as present at the meeting for
13 purposes of determining whether a quorum is present.

14 **(3) CALLING MEETINGS AND NOTICE.** Unless the articles or bylaws provide for a
15 different time period and except as provided in s. 193.205 (3) and subs. (4) and (5),
16 a director may call a board meeting by giving at least 10 days' notice. The notice shall
17 state the date, time, and place of the meeting, except that, if the meeting is held under
18 sub. (2) and if no physical presence of directors at the meeting is intended, the notice
19 shall so state. If required under this chapter, the articles, or the bylaws, the notice
20 shall state the purpose of the meeting.

21 **(4) PREVIOUSLY SCHEDULED OR ADJOURNED MEETINGS.** If the day, time, and place
22 of a board meeting are provided in the articles or bylaws, or announced at a previous
23 board meeting, no notice of the meeting is required. Notice that an adjourned
24 meeting will be reconvened need not be given other than by announcement at the
25 meeting at which adjournment is taken.

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1 **(5) WAIVER OF NOTICE AND OBJECTION.** A director may waive notice of a board
2 meeting. A waiver is effective whether given before, at, or after the meeting, and
3 whether given in writing, orally, or by attendance. Attendance by a director at a
4 board meeting is a waiver of notice of that meeting, unless the director objects at the
5 beginning of the meeting to the transaction of business because the meeting is not
6 lawfully called or convened and does not participate in the meeting after the
7 objection.

8 **(6) VOTING BY ABSENT DIRECTORS.** If the articles or bylaws so provide, a director
9 may give advance written consent or opposition to a proposal to be acted on at a board
10 meeting. If the director is not present at the meeting, consent or opposition to a
11 proposal does not constitute presence for purposes of determining the existence of a
12 quorum. If the proposal to be acted on at the meeting is substantially the same or
13 has substantially the same effect as the proposal to which the director has consented
14 or opposed, the consent or opposition shall be counted as the vote of a director present
15 at the meeting in favor of or against the proposal and shall be entered in the minutes
16 or other record of action at the meeting.

17 **193.431 Quorum; presence of objecting director.** Unless otherwise
18 provided in the articles or bylaws, a majority of the directors currently holding office
19 is a quorum for the transaction of business. Any director who objects at the beginning
20 of a board meeting to the transaction of business because the meeting is not lawfully
21 called or convened and who fails to participate in the meeting after the objection may
22 not be considered as present at the meeting for purposes of determining whether a
23 quorum is present. In the absence of a quorum, a majority of the directors present
24 may adjourn a meeting from time to time until a quorum is present. If a quorum is
25 present when a meeting is properly convened, the directors present may continue to

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1 transact business until adjournment, even though the withdrawal of a number of
2 directors originally present leaves less than a quorum.

3 **193.435 Actions of the board. (1) GENERALLY.** Unless this chapter or the
4 articles or bylaws provide otherwise and except as provided in sub. (2), the board
5 shall take action by the affirmative vote of the greater of the following:

6 (a) A majority of directors present at a meeting at the time the action is taken.

7 (b) A majority of the minimum number of directors that would constitute a
8 quorum for the transaction of business at the meeting.

9 **(2) EXCEPTION FOR OBJECTING DIRECTOR.** Any director who objects at the
10 beginning of a board meeting to the transaction of business because the meeting is
11 not lawfully called or convened and who fails to participate in the meeting after the
12 objection may not be considered as present at the meeting for purposes of sub. (1).

13 **193.441 Actions without a meeting. (1) GENERALLY.** (a) Unless the articles
14 or bylaws provide otherwise, any action required or permitted by this chapter to be
15 authorized at a board meeting may be authorized without a meeting if that action
16 is authorized by all directors and is evidenced by one or more written statements,
17 signed by each director, describing and consenting to the action. Such an action has
18 the same effect as an action authorized by unanimous vote at a meeting at which all
19 directors are present and may be described as such in any document.

20 (b) The articles or bylaws may allow the board to take any other action on behalf
21 of the cooperative, other than an action requiring member approval, without a board
22 meeting, if the action is authorized by the number of directors that would be required
23 to approve the action at a board meeting at which all directors were present and if
24 the action is evidenced by one or more written statements, signed by each
25 authorizing director, describing and consenting to the action. Such an action has the

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1 same effect as an action authorized by vote of the number of authorizing directors
2 at a meeting at which all directors are present and may be described as such in any
3 document.

4 (2) **EFFECTIVE DATE.** Any action authorized under sub. (1) is effective when the
5 last director necessary for authorization signs the statement evidencing his or her
6 consent, unless the statement specifies a different effective date.

7 (3) **NOTICE AND LIABILITY.** When an action is taken under sub. (1) (b) with the
8 authorization of less than all directors, the authorizing directors shall ensure that
9 all other directors are notified immediately of the action and its effective date.
10 Failure to provide the notice does not invalidate the action. A director who does not
11 authorize an action taken under sub. (1) (b) may not be held liable as a result of the
12 action.

13 (4) **RECORDS.** A cooperative shall retain all statements signed by its directors
14 under sub. (1).

15 **193.443 Board authority concerning certain cooperative property. (1)**
16 **SALE IN USUAL AND REGULAR COURSE OF BUSINESS.** The board may sell, lease, transfer,
17 or otherwise dispose of all or substantially all of the cooperative's property in the
18 usual and regular course of the cooperative's business.

19 (2) **OTHER SALES.** The board may sell, lease, transfer, or otherwise dispose of
20 all or substantially all of the cooperative's property not in the usual and regular
21 course of the cooperative's business if all of the following apply:

22 (a) The cooperative's accountant has given the board an opinion that the
23 cooperative cannot continue as an ongoing business and is under financial duress.

24 (b) The board has given notice to the members of the impending or potential
25 disposition prior to the disposition.

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1 (c) The board has determined that failure to proceed with the disposition would
2 be adverse to the interests of the members and the cooperative.

3 (3) SECURITY INTERESTS. The board may grant a security interest in all or
4 substantially all of the cooperative's property whether or not in the usual and regular
5 course of the cooperative's business.

6 (4) TRANSFER TO CERTAIN AFFILIATES. The board may transfer any or all of the
7 cooperative's property to a business entity all the ownership interests of which are
8 owned by the cooperative.

9 (5) ASSET SECURITIZATION. For purposes of debt financing, the board may
10 transfer any or all of the cooperative's property to a special purpose entity owned or
11 controlled by the cooperative for an asset securitization.

12 **193.445 Audit committee.** The board shall establish an audit committee,
13 consisting of members who will ensure an independent review of the cooperative's
14 finances, to review the financial information and accounting reports of the
15 cooperative. The board shall present audited financial statements to the members
16 unless all of the following apply:

17 (1) The articles or bylaws permit financial statements that are not audited.

18 (2) The financial statements clearly state that they are not audited and a
19 statement is included in the financial statement describing the difference between
20 the financial statements and audited financial statements that are prepared
21 according to generally accepted accounting processes.

22 **193.451 Committees.** (1) GENERALLY; SPECIAL LITIGATION COMMITTEE. The
23 board, by resolution, may establish committees having the authority of the board in
24 the management of the business of the cooperative to the extent described in the
25 resolution. The board, by resolution, may establish a special litigation committee of

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1 specified duration under this subsection, consisting of one or more independent
2 directors or other independent persons, to consider the legal rights of and remedies
3 available to the cooperative and whether those rights should be enforced and those
4 remedies should be pursued. Any committee established under this subsection,
5 other than a special litigation committee, is subject at all times to the direction and
6 control of the board. The board may amend a resolution establishing a special
7 litigation committee.

8 (2) MEMBERSHIP. A committee established under sub. (1) shall consist of one or
9 more individuals. Unless the articles or bylaws provide otherwise, committee
10 members need not be directors.

11 (3) COMMITTEE PROCEDURE. The procedures for a board meeting apply to a
12 meeting of a committee established under sub. (1) and to committee members to the
13 same extent as those procedures apply to a board meeting and directors.

14 (4) MINUTES. The chairperson of a committee established under sub. (1) shall
15 ensure that minutes, if any, of committee meetings are provided, upon request, to
16 members of the committee and to any director.

17 (5) STANDARD OF CONDUCT FOR DIRECTORS. Establishment of, delegation of
18 authority to, and action by a committee under sub. (1) does not alone constitute
19 compliance by a director with s. 193.455 (1).

20 (6) DUTIES OF COMMITTEE MEMBERS; LIMITATION OF LIABILITY. Sections 193.455,
21 193.461, and 193.465 apply to members of committees established under sub. (1) to
22 the same extent as those sections apply to directors.

23 **193.455 Conduct and liability of directors. (1) STANDARD AND LIABILITY.**

24 (a) A director shall discharge the duties of the office of director in good faith, in a
25 manner the director reasonably believes to be in the best interests of the cooperative,

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1 and with the care an ordinarily prudent person in a like position would exercise
2 under similar circumstances. A director who so performs his or her duties may not
3 be held liable by reason of being or having been a director.

4 (b) In discharging his or her duties to the cooperative and in determining what
5 he or she believes to be in the best interests of the cooperative, a director may
6 consider any of the following:

7 1. The effects of the action on employees, suppliers, creditors, and customers
8 of the cooperative.

9 2. The effects of the action on communities in which the cooperative operates.

10 3. The effects of the action on members and stockholders.

11 4. The economy of this state.

12 5. The long-term and short-term interests of the cooperative and its patron
13 members, including the possibility that these interests may be best served by the
14 continued independence of the cooperative.

15 6. Any other factors the director considers pertinent.

16 **(2) RELIANCE.** (a) A director may rely on information, opinions, reports, or
17 statements, including financial statements and other financial data, if prepared or
18 presented by any of the following:

19 1. One or more officers or employees of the cooperative whom the director
20 reasonably believes to be reliable and competent in the matters presented.

21 2. Counsel, public accountants, or other persons as to matters that the director
22 reasonably believes are within the person's professional or expert competence.

23 3. A committee established under s. 193.445 or 193.451 (1) on which the
24 director does not serve, as to matters within its designated authority, if the director
25 reasonably believes the committee to merit confidence.

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1 (b) Paragraph (a) does not apply to a director who has knowledge concerning
2 the matter in question that makes the director's reliance under par. (a) unwarranted.

3 (3) PRESUMPTION OF ASSENT. A director who is present at a meeting of the board
4 when an action is approved by the board is presumed to have assented to the action
5 approved, unless the director is prohibited by a conflict of interest from voting on the
6 action or does any of the following:

7 (a) Objects at the beginning of the meeting to the transaction of business
8 because the meeting is not lawfully called or convened and fails to participate in the
9 meeting after the objection.

10 (b) Votes against the action at the meeting.

11 **193.461 Director conflicts of interest. (1) CONFLICT VOIDING CERTAIN**
12 **CONTRACTS AND TRANSACTIONS.** A contract or transaction between a cooperative and
13 a director, as determined under sub. (2) (b) 1., or between a cooperative and a
14 business entity of which at least one of the cooperative's directors is a governor,
15 director, manager, officer, or legal representative, as determined under sub. (2) (b)
16 2., or in which at least one of the cooperative's directors has a material financial
17 interest, as determined under sub. (2) (a), is void unless any of the following apply:

18 (a) The contract or transaction was fair and reasonable as to the cooperative
19 at the time it was authorized or ratified by the cooperative; the material facts as to
20 the contract or transaction and as to the director's interest are disclosed or known
21 to the members before the contract or transaction is authorized or ratified by the
22 cooperative; and the material facts as to the contract or transaction and as to the
23 director's interest are fully disclosed or known to the board or a committee
24 established under s. 193.445 or 193.451 (1), and the board or committee in good faith
25 authorizes or ratifies the contract or transaction. The interested director may not

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1 be counted in determining the presence of a quorum at a meeting where the contract
2 or transaction may be authorized or ratified and may not vote on the authorization
3 or ratification. The person asserting the validity of the contract or transaction has
4 the burden of establishing that the contract or transaction was fair and reasonable
5 as to the cooperative at the time it was authorized or ratified by the cooperative.

6 (b) The contract or transaction is a distribution, or is a contract or transaction
7 that is made available to all members or patron members as part of the cooperative's
8 business.

9 (c) The contract or transaction results from a resolution fixing the
10 compensation of a director or of another officer, employee, or agent of the cooperative.

11 **(2) MATERIAL FINANCIAL INTEREST; TRANSACTIONS INVOLVING THIRD PARTIES.** (a) For
12 purposes of sub. (1), a director has a material financial interest in each organization
13 in which that director, that director's spouse, parent, child, or sibling, the spouse of
14 that director's child or sibling, or the sibling of that director's spouse has a material
15 financial interest.

16 (b) 1. For purposes of sub. (1), a contract or transaction between a cooperative
17 and a director or that director's spouse, parent, child, or sibling, the spouse of that
18 director's child or sibling, or the sibling of that director's spouse, is considered to be
19 a transaction between the cooperative and the director.

20 2. For purposes of sub. (1), a contract or transaction between a cooperative and
21 a business entity of which a director or that director's spouse, parent, child, or
22 sibling, the spouse of that director's child or sibling, or the sibling of that director's
23 spouse, is a governor, director, manager, officer, or legal representative is considered
24 to be a transaction between the cooperative and a business entity of which the
25 director is a governor, director, manager, officer, or legal representative.

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1 **193.465 Limitation of director’s liability in articles or bylaws.** The
2 articles or bylaws may eliminate or limit a director’s personal liability to the
3 cooperative or its members for monetary damages for violating s. 193.455 (1) (a),
4 except that neither the articles nor the bylaws may eliminate or limit the liability of
5 a director for any of the following:

6 (1) A breach of the director’s duty of loyalty to the cooperative or its members.

7 (2) An act or omission not in good faith or that involves intentional misconduct
8 or a knowing violation of law.

9 (3) A transaction from which the director derived an improper personal benefit.

10 (4) An act or omission occurring before the date on which the provision in the
11 articles or bylaws eliminating or limiting liability becomes effective.

12 (5) A knowing violation of ch. 408, subject to s. 193.605, or illegal distributions
13 of cooperative assets.

14 **193.471 Indemnification. (1) DEFINITIONS.** In this section:

15 (a) “Official capacity” means any of the following:

16 1. A person’s capacity as an officer, employee, or agent of a cooperative or
17 predecessor cooperative.

18 2. A person’s capacity as a member of a committee of a cooperative under s.
19 193.445 or 193.451 (1) or of a committee of a predecessor cooperative.

20 3. With respect to a director, chief executive officer, member, or employee of a
21 cooperative who, at the request of the cooperative, serves as a governor, director,
22 manager, officer, member, partner, trustee, employee, or agent of another
23 organization or employee benefit plan, that person’s capacity as a governor, director,
24 manager, officer, member, partner, trustee, employee, or agent, as applicable, of the
25 other organization or employee benefit plan.

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1 4. With respect to a person who was a director, chief executive officer, member,
2 or employee of a predecessor cooperative and who, at the request of the predecessor
3 cooperative, served as a governor, director, manager, officer, member, partner,
4 trustee, employee, or agent of another organization or employee benefit plan, that
5 person's capacity as a governor, director, manager, officer, member, partner, trustee,
6 employee, or agent, as applicable, of the other organization or employee benefit plan.

7 (b) "Potential litigant" means a person made or threatened to be made a party
8 to a proceeding by reason of the person's former or present official capacity.

9 (c) "Predecessor cooperative" means a domestic or foreign cooperative that was
10 the predecessor of a cooperative in a merger or other transaction in which the
11 predecessor's existence ceased upon consummation of the transaction.

12 (d) "Proceeding" means a threatened, pending, or completed civil, criminal,
13 administrative, arbitration, or investigative proceeding, including a proceeding by
14 or in the right of the cooperative.

15 (e) "Special legal counsel" means counsel who has not represented any of the
16 following:

17 1. The cooperative or an affiliate.

18 2. The director, manager, member of a committee under s. 193.445 or 193.451
19 (1), or employee whose indemnification is in issue.

20 **(2) INDEMNIFICATION.** (a) Subject to sub. (4), a cooperative shall indemnify a
21 potential litigant against judgments, penalties, and fines applicable to a proceeding,
22 against excise taxes assessed against the person with respect to an employee benefit
23 plan, and against settlements and reasonable expenses, including attorney fees and
24 disbursements, incurred by the potential litigant in connection with the proceeding,

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1 if, with respect to the acts or omissions of the potential litigant complained of in the
2 proceeding, all of the following apply:

3 1. The potential litigant has not been indemnified against the same amounts
4 by another person.

5 2. The potential litigant acted in good faith.

6 3. The potential litigant did not receive an improper personal benefit or commit
7 an act for which liability cannot be eliminated or limited under s. 193.465 (2).

8 4. In the case of a criminal proceeding, the potential litigant had no reasonable
9 cause to believe the acts or omissions were unlawful.

10 5. In the case of acts or omissions committed in an official capacity, as defined
11 in sub. (1) (a) 1. or 2., the potential litigant reasonably believed that the acts or
12 omissions were in the best interests of the cooperative or predecessor cooperative, as
13 applicable, and, in the case of acts or omissions committed in an official capacity, as
14 defined in sub. (1) (c) 3. or 4., the potential litigant reasonably believed that the
15 conduct was not opposed to the best interests of the cooperative or predecessor
16 cooperative, as applicable. If the acts or omissions relate to conduct as a director,
17 officer, trustee, employee, or agent of an employee benefit plan, the conduct is not
18 considered to be opposed to the best interests of the cooperative or predecessor
19 cooperative if the potential litigant reasonably believed that the conduct was in the
20 best interests of the participants or beneficiaries of the employee benefit plan.

21 (b) The termination of a proceeding by judgment, order, settlement, or
22 conviction or upon a plea of no contest or its equivalent does not, of itself, establish
23 that the potential litigant did not meet the applicable criteria under par. (a).

24 (3) **ADVANCES.** Subject to sub. (4), a potential litigant is entitled, upon written
25 request to the cooperative, to payment or reimbursement by the cooperative of

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1 reasonable expenses, including attorney fees and disbursements, incurred by the
2 potential litigant in advance of the final disposition of the proceeding if the potential
3 litigant delivers to the cooperative a written statement that the potential litigant
4 believes in good faith that the applicable criteria for indemnification under sub. (2)
5 (a) have been satisfied and a written undertaking by the potential litigant to repay
6 all amounts so paid or reimbursed by the cooperative if a court determines under sub.
7 (6) (c) that the potential litigant is ineligible for indemnification. The written
8 undertaking is an unlimited general obligation of the potential litigant but need not
9 be secured, and the cooperative shall accept the written undertaking without
10 reference to the potential litigant's financial ability to make the repayment.

11 **(4) PROHIBITION, CONDITIONS, AND LIMITATIONS ON INDEMNIFICATION OR ADVANCES.**

12 The articles or bylaws may prohibit indemnification or advances of expenses
13 otherwise required by subs. (2) and (3). The articles or bylaws may impose
14 limitations on indemnification or advances of expenses or conditions on
15 indemnification or advances of expenses in addition to the conditions contained in
16 subs. (2) and (3), if the limitations or conditions apply equally to all persons or to all
17 persons within a given class. A prohibition, limitation, or condition contained in the
18 articles or bylaws under this subsection does not apply to any person seeking
19 indemnification or advancement of expenses under sub. (2) or (3) with respect to any
20 acts or omissions of the person committed before the effective date of the provision
21 in the articles or the date of adoption of the provision in the bylaws, as applicable,
22 establishing the prohibition, limitation, or condition.

23 **(5) REIMBURSEMENT TO WITNESSES.** This section does not require, or limit the
24 ability of, a cooperative to reimburse expenses, including attorney fees and

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1 disbursements, incurred by a person in connection with an appearance as a witness
2 in a proceeding at a time when the person is not a potential litigant.

3 (6) DETERMINATION OF ELIGIBILITY. (a) Except as otherwise provided in this
4 subsection, all determinations whether indemnification of a person is required under
5 sub. (2) and whether payment or reimbursement of expenses is required under sub.
6 (3) shall be made as follows:

7 1. By the board, except as otherwise provided in this paragraph. The directors
8 who are, at the time, parties to the proceeding may not vote on the question of a
9 determination under this subdivision and may not be counted in determining the
10 presence of a quorum at a meeting at which such a question is voted upon.

11 2. If a quorum under subd. 1. cannot be obtained because of the number of
12 directors that are parties to the proceeding and except as otherwise provided in this
13 paragraph, by a majority of a committee under s. 193.451 (1) that consists of 2 or more
14 directors not at the time parties to the proceeding and that is duly designated to act
15 in the matter by a majority of all directors, including those who are parties.

16 3. If a determination is not made under subd. 1. or 2. and except as otherwise
17 provided in this paragraph, by special legal counsel, selected either by the board or
18 a committee under s. 193.451 (1). If selected by the board, the vote and determination
19 of the presence of a quorum shall be made as described in subd. 1. If selected by a
20 committee, the committee shall be designated to act and shall vote in the manner
21 described in subd. 2.

22 4. Except as otherwise provided under this paragraph, if a determination is not
23 made under subd. 1. or 2. and if a quorum of the board cannot be obtained and a
24 committee cannot be established as required under subd. 3., by special legal counsel,

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1 selected by a majority of all directors, including directors who are parties to the
2 proceeding.

3 5. If a determination is not made under subds. 1. to 4., by the affirmative vote
4 of the members. The membership interests held by parties to the proceeding may
5 not be counted in determining the presence of a quorum at a meeting at which the
6 question of a determination under this subdivision is voted upon and parties holding
7 such membership interests may not vote on the determination.

8 (b) Except as provided in par. (c), with respect to a person who is not, and was
9 not at the time of the acts or omissions complained of in the proceedings, a director,
10 chief executive officer, or person possessing, directly or indirectly, the power to direct
11 or cause the direction of the management or policies of the cooperative, the
12 determination whether indemnification of the person is required under sub. (2) and
13 whether the payment or reimbursement of expenses is required under sub. (3) shall
14 be made by an annually appointed committee under s. 193.451 (1), having at least
15 one member who is a director. Any such committee shall report at least annually to
16 the board concerning its actions.

17 (c) Within 60 days after the termination of the applicable proceeding or the
18 receipt of a written request for indemnification by the cooperative, whichever occurs
19 earlier, a person seeking indemnification under sub. (2) or payment or
20 reimbursement of expenses under sub. (3) may petition the circuit court for a
21 determination of the person's eligibility for indemnification, payment, or
22 reimbursement, if a determination is made under par. (a) or (b) that the person is
23 ineligible, or if no determination is made under par. (a) or (b). The court shall order
24 the cooperative to indemnify the person if indemnification is required under sub. (2)
25 and, if applicable, shall order the cooperative to pay or reimburse the person's

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1 expenses if the payment or reimbursement is required under sub. (3). In addition,
2 if the person is a director or officer of the cooperative, the court shall order the
3 cooperative to indemnify the person if, in view of all the relevant circumstances, the
4 person is fairly and reasonably entitled to indemnification, regardless of whether
5 indemnification is required under sub. (2). In a proceeding under this paragraph, the
6 person seeking indemnification, payment, or reimbursement has the burden of
7 establishing that indemnification is required or that the person is entitled to
8 payment or reimbursement of expenses.

9 **(7m) EXPENSES OF OBTAINING COURT-ORDERED INDEMNIFICATION.** If the court, in
10 a proceeding under sub. (6) (c), determines that the cooperative unreasonably
11 refused a director's or officer's request for indemnification under sub. (2), the court
12 shall order the cooperative to pay the officer's or director's reasonable expenses
13 incurred to obtain the court-ordered indemnification.

14 **(9) INSURANCE.** A cooperative may purchase and maintain insurance on behalf
15 of a person in that person's official capacity against any liability asserted against and
16 incurred by the person in or arising from that capacity, whether or not the
17 cooperative would be required to indemnify the person against the liability under
18 sub. (2).

19 **(10) DISCLOSURE.** A cooperative that indemnifies or advances expenses to a
20 person under sub. (2) or (3) shall report to the members in writing the amount of the
21 indemnification or advance and to whom and on whose behalf it was paid not later
22 than the date of the first members' meeting occurring after the payment.

23 **(11) INDEMNIFICATION OF OTHER PERSONS.** This section does not limit the power
24 of a cooperative to indemnify persons who do not act in an official capacity.