

ASSEMBLY BILL 327**SECTION 89**

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.

ASSEMBLY BILL 327**SECTION 89**

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,

ASSEMBLY BILL 327**SECTION 89**

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

ASSEMBLY BILL 327

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

ASSEMBLY BILL 327**SECTION 89**

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,

ASSEMBLY BILL 327

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 subs. 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

ASSEMBLY BILL 327**SECTION 89**

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.

ASSEMBLY BILL 327**SECTION 89**

1 **193.475 Officers.** (1) REQUIRED OFFICERS. (a) The board shall elect a
2 chairperson and one or more vice-chairpersons.

3 (b) Except as provided in sub. (3), the board shall elect or appoint a records
4 officer and a financial officer.

5 (2) CHIEF EXECUTIVE AND ADDITIONAL OFFICERS. The board may employ a chief
6 executive officer to manage the day-to-day affairs and business of the cooperative.
7 The board may elect additional officers as the articles or bylaws authorize or require.

8 (3) RECORDS OFFICER AND FINANCIAL OFFICER MAY BE COMBINED. The offices of
9 records officer and financial officer may be combined.

10 (4) OFFICERS THAT SHALL BE DIRECTORS AND MEMBERS. The chairperson and first
11 vice-chairperson shall each be a director and member. The financial officer, records
12 officer, and additional officers need not be directors or members.

13 **193.478 Director Education.** A director shall annually attend a course in at
14 least 2 of the following topics offered by a recognized provider of cooperative director
15 education:

16 (1) Duties and responsibilities of a cooperative director.

17 (2) Board and management relations.

18 (3) The board's role in defining and developing cooperative policies.

19 (4) Understanding cooperative governance and structure.

20 (5) Understanding financial statements, key financial ratios, and control tools.

21 (6) Cooperative finance and equity redemption.

22 (7) Cooperative strategic planning.

23 (8) Cooperative membership communication and education.

24 (9) Selecting and evaluating principal cooperative management.

25 (10) Board evaluation.

1 (11) Analyzing and understanding the current cooperative business
2 environment.

3 SUBCHAPTER V

4 MEMBERS

5 **193.501 Members. (1) REQUIREMENT.** A cooperative shall have at least one
6 patron member, except that if any patron member is a natural person, a cooperative
7 shall have at least 5 patron members who are natural persons and who are adults.
8 A cooperative may have nonpatron members if the patron members by majority vote
9 approve an article, bylaw provision, or amendment provision authorizing nonpatron
10 members.

11 (2) GROUPING OF MEMBERS. (a) A cooperative may group members in districts
12 or units, or on another basis, to the extent authorized in the articles or bylaws. The
13 articles or bylaws may authorize the board to determine the grouping of members.

14 (b) The board may take all steps necessary to implement the use of groupings
15 established under par. (a), including setting the time and place and prescribing the
16 rules of conduct for holding meetings by group to elect delegates to members'
17 meetings.

18 (3) MEMBER VIOLATIONS. (a) A member who knowingly, intentionally, or
19 repeatedly violates a provision of the articles or bylaws, or a member control
20 agreement or marketing contract with the cooperative, may be required by the board
21 to surrender the member's membership interest in the cooperative or any of the
22 following portions of the member's membership interest:

- 23 1. Governance rights and right to assign governance rights.
- 24 2. Financial rights and right to assign financial rights.

ASSEMBLY BILL 327

1 (b) 1. Except as provided in subd. 2., if the board requires a member to
2 surrender the member's membership interest or the rights described in par. (a) 2.,
3 the cooperative shall refund to the member the lesser of the book value or market
4 value of the membership interest or rights, as applicable, payable in not more than
5 7 years from the date of surrender.

6 2. If the board requires a patron member to surrender the patron member's
7 rights described in par. (a) 2., the board may transfer all of those rights to a class of
8 financial rights held by members who are not patron members, or to a certificate of
9 interest that carries liquidation rights on par with membership interests and that
10 must be redeemed within 7 years after the transfer as provided in the certificate.

11 (c) The board may reissue or retire and cancel any membership interests
12 required to be surrendered under par. (a).

13 **(4) INSPECTION OF COOPERATIVE RECORDS BY MEMBER.** (a) Except as otherwise
14 provided in this paragraph and pars. (d) and (e), a member may inspect and copy any
15 of the records described in s. 193.245 if the member meets the requirements of par.
16 (b). A member's agent or attorney has the same inspection and copying rights under
17 this paragraph as the member. No member may inspect or copy any records of the
18 cooperative relating to the amount of equity capital in the cooperative held by any
19 person or any accounts receivable or other amounts due the cooperative from any
20 person, or any personnel records or employment records relating to any employee of
21 the cooperative, unless the member is a director or officer acting pursuant to
22 authority of the board. Except as provided under par. (e), records shall be inspected
23 and copied under this paragraph during regular business hours at a reasonable
24 location specified by the cooperative.

ASSEMBLY BILL 327**SECTION 89**

1 (b) A member may inspect and copy records under par. (a) if all of the following
2 apply:

3 1. The member has been a member for at least one year immediately preceding
4 the demand to inspect or copy or holds at least 5 percent of all of the outstanding
5 equity interests in the cooperative as of the date the demand is made.

6 2. The member gives the cooperative a written demand to inspect or copy at
7 least 5 business days before the date on which the member wishes to inspect or copy
8 the records.

9 3. The written demand describes with reasonable particularity the purpose for
10 which the demand is made and the records the member desires to inspect or copy.

11 4. The demand is made in good faith and for a proper cooperative business
12 purpose.

13 5. The records are directly connected with the described purpose.

14 (d) This section does not affect any of the following:

15 1. The right of a member to inspect records to the same extent as any other
16 litigant if the member is in litigation with the cooperative.

17 2. The power of a court to compel the production of the cooperative's records for
18 examination.

19 (e) If records to be inspected or copied under par. (a) are in active use or storage
20 and, therefore, not available at the time otherwise provided under par. (a) for
21 inspection or copying, the cooperative shall so notify the member and establish a date
22 and time for the inspection or copying that is within 3 business days of the date
23 otherwise provided under par. (a) for inspection or copying.

24 (f) The right to copy records under par. (a) includes, if reasonable, the right to
25 receive copies from the cooperative. The cooperative may impose a reasonable charge

ASSEMBLY BILL 327

1 for copies of any records provided to the member. The charge may not exceed the
2 estimated cost of production and reproduction of the records. Any copies made by the
3 member shall be made at the member's expense.

4 (g) If a cooperative refuses to allow a person to inspect or copy records that the
5 person is entitled to inspect or copy under par. (a) within any time period prescribed
6 under par. (e) or, if none, within a reasonable time, the person may petition the circuit
7 court for the county where the cooperative's principal office is located or, if it has no
8 principal office in this state, for the county in which the cooperative's registered office
9 is located, for an order compelling the cooperative to permit the inspection or copying.

10 A court that issues an order under this paragraph may impose reasonable
11 restrictions on the use or distribution of the records by the person. A court that issues
12 an order under this paragraph may do any of the following, unless the cooperative
13 proves that it refused inspection or copying in good faith because it had a reasonable
14 basis for doubt about the right of the person to inspect or copy the records under par.

15 (a):

16 1. Order the cooperative to pay the person's reasonable costs in obtaining the
17 order, including reasonable attorney fees.

18 2. Order the cooperative to pay the person for any damages the person incurred
19 by reason of the cooperative's refusal to permit inspection or copying.

20 3. Order the cooperative to pay the member's inspection and copying expenses,
21 notwithstanding par. (f).

22 5. Impose reasonable restrictions on the use or distribution of the records by
23 the person.

24 **193.505 Member liability.** A person is not personally liable for the acts, debts,
25 liabilities, or obligations of a cooperative merely because of the person's status as a

ASSEMBLY BILL 327**SECTION 89**

1 member. A member is liable for any unpaid subscription for the member's
2 membership interest, unpaid membership fees, or any debt for which the member
3 has separately contracted with the cooperative.

4 **193.511 Regular members' meetings.** (1) ANNUAL MEETING. A regular
5 members' meeting shall be held annually at a time determined by the board, unless
6 the articles or bylaws provide otherwise.

7 (2) LOCATION. The regular members' meeting shall be held at the principal
8 place of business of the cooperative or at another conveniently located place as
9 determined by the board or under the articles or bylaws.

10 (3) BUSINESS AND FISCAL REPORTS. The officers shall submit reports to the
11 members at the regular members' meeting covering the business of the cooperative
12 for the previous fiscal year and indicating the condition of the cooperative at the close
13 of the fiscal year.

14 (5) NOTICE. Except as otherwise provided in this subsection, sub. (6), and s.
15 193.553, the cooperative shall mail a notice of the regular members' meeting to each
16 member at the member's last known address. The cooperative shall deposit the
17 notice in the mail at least 15 days before the date of the meeting. In lieu of mailing,
18 the cooperative may provide notice of the meeting by any means approved by the
19 board and agreed to by the members. The cooperative shall provide any such notice
20 at least 2 weeks before the date of the meeting. Any notice provided to an entity
21 under this subsection shall be addressed or directed to an officer of the entity.

22 (6) WAIVER AND OBJECTION. A member may waive notice of a regular members'
23 meeting. A waiver is effective whether given before, at, or after the meeting, and
24 whether given in writing, orally, or by attendance. Attendance by a member at a
25 regular members' meeting is a waiver of notice of that meeting, except where the

ASSEMBLY BILL 327

1 member objects at the beginning of the meeting to the transaction of business
2 because the meeting is not lawfully called or convened and does not participate in the
3 meeting after the objection, or objects before a vote on an item of business at the
4 meeting because the item may not lawfully be considered at the meeting and does
5 not participate in the consideration of the item at the meeting.

6 **193.515 Special members' meetings. (1) CALLING A MEETING.** A special
7 members' meeting may be called by any of the following means:

8 (a) By the board.

9 (b) By petition of the members under this paragraph. Except as otherwise
10 provided in this paragraph, the chairperson of the board shall call a special members'
11 meeting if a written petition requesting the meeting is signed by at least 20 percent
12 of the patron members and is submitted to the chairperson. Unless the articles or
13 bylaws provide otherwise and except as otherwise provided in this paragraph, the
14 chairperson of the board shall call a special members' meeting if a written petition
15 requesting the meeting is signed by at least 20 percent of the nonpatron members,
16 20 percent of all members, or members representing 20 percent of all membership
17 interests and is submitted to the chairperson. A special members' meeting held
18 under this paragraph shall be held within 30 days after submission of the petition
19 to the chairperson. This paragraph does not authorize any meeting that is unrelated
20 to a proper cooperative purpose.

21 **(2) NOTICE.** Except as otherwise provided in this subsection, sub. (3), and s.
22 193.553, the cooperative shall mail a notice of any special members' meeting to each
23 member at the member's last known address. In lieu of mailing, the cooperative may
24 provide notice of the meeting by any means approved by the board and agreed to by
25 the members. Any notice provided to an entity under this subsection shall be

ASSEMBLY BILL 327**SECTION 89**

1 addressed or directed to an officer of the entity. Any notice provided under this
2 subsection shall state the time, place, and purpose of the meeting. Any notice
3 provided under this subsection shall be given at least 10 days before the date of the
4 meeting.

5 (3) **WAIVER AND OBJECTION.** A member may waive notice of a special members'
6 meeting. A waiver is effective whether given before, at, or after the meeting, and
7 whether given in writing, orally, or by attendance. Attendance by a member at a
8 special members' meeting is a waiver of notice of that meeting, except where the
9 member objects at the beginning of the meeting to the transaction of business
10 because the meeting is not lawfully called or convened and does not participate in the
11 meeting after the objection, or objects before a vote on an item of business at the
12 meeting because the item may not lawfully be considered at the meeting and does
13 not participate in the consideration of the item at the meeting.

14 **193.518 Effect of insufficient notice.** Failure of a member to receive a notice
15 required under s. 193.511 (5) or 193.515 (2) does not invalidate any action that is
16 taken at the applicable meeting.

17 **193.521 Certification of notice. (1) CERTIFICATE REQUIRED.** After mailing
18 or otherwise providing notices required under s. 193.511 (5) or 193.515 (2), the
19 cooperative shall execute a certificate containing the date of mailing or provision of
20 the notices and a statement that the notices were mailed or provided as required
21 under s. 193.511 (5) or 193.515 (2), as applicable.

22 (2) **MATTER OF RECORD.** The cooperative shall include the certificate under sub.
23 (1) in the record of the meeting to which the certificate relates.

24 **193.523 Electronic notice. (1) EFFECTIVE DATE OF ELECTRONIC NOTICE.** Any
25 notice given by a cooperative to members in electronic format takes effect as follows:

ASSEMBLY BILL 327

1 (a) If by facsimile communication, when directed to a telephone number at
2 which the member has consented to receive notice.

3 (b) If by electronic mail, when directed to an electronic mail address at which
4 the member has consented to receive notice.

5 (c) If by a posting on an electronic network on which the member has consented
6 to receive notice, upon the later to occur of the posting and the giving of a separate
7 notice to the member of the specific posting.

8 (d) If by any other means to which the member has consented, when directed
9 to the member pursuant to that means.

10 (2) **AFFIDAVIT.** An affidavit of the secretary of the board, other authorized
11 officer, or authorized agent of the cooperative, indicating that a notice has been given
12 in electronic format under sub. (1) is, in the absence of fraud, prima facie evidence
13 that the notice was so given.

14 (3) **CONSENT.** If a member consents to the receipt of notice in electronic format,
15 the member shall deliver a statement to that effect in writing to the cooperative. A
16 statement under this subsection is effective until it is revoked by the member. A
17 revocation under this subsection does not affect the validity of any notice given before
18 receipt by the cooperative of the revocation.

19 **193.524 Revocation of electronic communication.** A member may revoke
20 any vote, authorization, or consent submitted in electronic format by the member to
21 a cooperative under this chapter by delivering a notice of revocation to a director or
22 the chief executive officer of the cooperative before the vote is counted or the
23 authorization or consent is relied upon.

24 **193.525 Quorum at members' meeting.** (1) **GENERALLY; PRESENCE OF**
25 **OBJECTING MEMBER.** Unless the articles or bylaws provide otherwise and except as

ASSEMBLY BILL 327**SECTION 89**

1 provided in sub. (2m), a quorum for the transaction of business at a members'
2 meeting is 10 percent of the total number of members for a cooperative with 100 or
3 less members and 15 percent of the total number of members for all other
4 cooperatives. The attendance of a sufficient number of members to constitute a
5 quorum shall be established by a registration of the members present at the meeting.
6 The registration shall be verified by the chairperson of the board or the records officer
7 of the cooperative and shall be reported in the minutes of the meeting. Any member
8 who objects at the beginning of a members' meeting to the transaction of business
9 because the meeting is not lawfully called or convened and who fails to participate
10 in the meeting after the objection may not be considered as present at the meeting
11 for purposes of determining whether a quorum is present.

12 **(2) QUORUM FOR VOTING BY MAIL OR ALTERNATIVE BALLOT.** Except as provided in
13 s. 193.531 (2), in determining whether a quorum is present at a members' meeting
14 for purposes of conducting a vote on a question that members may vote on by mail
15 or alternative ballot, the number of members physically present at the meeting shall
16 be added to the number of members voting by mail or alternative ballot.

17 **(2m) QUORUM FOR VOTES BY CLASS OR SERIES.** Except as otherwise provided in
18 the articles or bylaws or a member control agreement, if a vote at a members' meeting
19 is open only to holders of a particular class or series of membership interests, a
20 quorum for conducting the vote is a number of members holding 10 percent of the
21 voting power of the class or series for a cooperative with 100 or less members and a
22 number of members holding 15 percent of the voting power of the class or series for
23 all other cooperatives.

24 **(3) MEETING ACTION INVALID WITHOUT QUORUM.** An action taken or approved at
25 a members' meeting by vote of the members is invalid if a quorum is not present at

ASSEMBLY BILL 327

1 the time of the vote, unless approval of the members is not required under this
2 chapter, the articles, or the bylaws.

3 **193.531 Virtual members' meetings and attendance. (1) CONSTRUCTION**
4 **AND APPLICATION.** This section shall be construed and applied as follows:

5 (a) To facilitate remote communication consistent with other applicable law.

6 (b) To be consistent with reasonable practices concerning remote
7 communication and with the continued expansion of those practices.

8 **(2) VIRTUAL MEMBERS' MEETINGS AND ATTENDANCE.** To the extent authorized in
9 the articles or bylaws or, unless prohibited by the articles or bylaws, in a member
10 control agreement, and as determined by the board, a members' meeting may be held
11 such that all members participate in the meeting by a means of communication
12 rather than by being physically present at the meeting. To the extent authorized in
13 the articles or bylaws or, unless prohibited by the articles or bylaws, in a member
14 control agreement, and as determined by the board, a member may participate in a
15 members' meeting at which other members are physically present by a means of
16 communication rather than by being physically present at the meeting. A meeting
17 may be held or a member may participate in a meeting as authorized under this
18 subsection only if the requirements of sub. (4) are satisfied. The number of members
19 physically present at a meeting, if any, shall be added to the number of members
20 otherwise participating in the meeting under this subsection to determine whether
21 a quorum is present under s. 193.525, except that any member who objects at the
22 beginning of the meeting to the transaction of business because the meeting is not
23 lawfully called or convened and who fails to participate in the meeting after the
24 objection may not be considered as present at the meeting for purposes of
25 determining whether a quorum is present.

ASSEMBLY BILL 327**SECTION 89**

1 (4) REQUIREMENTS FOR VIRTUAL MEETINGS AND ATTENDANCE. All of the following
2 apply to any meeting held under sub. (2):

3 (a) The cooperative shall implement reasonable measures to verify that each
4 person participating in the meeting by a means of communication is a member.

5 (b) The cooperative shall implement reasonable measures to provide each
6 member participating in the meeting by a means of communication with a
7 reasonable opportunity to actively participate, including an opportunity to do all of
8 the following:

9 1. Read or hear the proceedings of the meeting substantially concurrently with
10 those proceedings.

11 2. If allowed by the procedures governing the meeting, have the member's
12 remarks heard or read by other participants in the meeting substantially
13 concurrently with the making of those remarks.

14 3. If otherwise entitled, vote on matters submitted to the members.

15 **193.535 Actions of the members. (1) GENERALLY.** Unless this chapter
16 provides otherwise and except as provided in sub. (2m) and s. 193.545 (1) (a) and (4),
17 the members shall take action by the affirmative vote of the greater of the following:

18 (a) A majority of the voting power of the membership interests present and
19 entitled to vote on that item of business.

20 (b) A majority of the voting power that would constitute a quorum for the
21 transaction of business at the meeting or for conducting the vote.

22 (c) The proportion of voting power specified in this chapter, the articles or
23 bylaws, or a member control agreement as necessary for that item of business.

24 **(2m) EXCEPTION FOR OBJECTING MEMBER.** Any member who objects at the
25 beginning of a members' meeting to the transaction of business because the meeting

ASSEMBLY BILL 327

1 is not lawfully called or convened and who fails to participate in the meeting after
2 the objection may not be considered as present at the meeting for purposes of sub.
3 (1).

4 **193.541 Actions without a members' meeting. (1) GENERALLY.** (a) Unless
5 the articles or bylaws provide otherwise, any action required or permitted by this
6 chapter to be authorized at a members' meeting may be authorized without a
7 meeting if that action is authorized by all members and is evidenced by one or more
8 written statements, signed by each member, describing and consenting to the action.
9 Such an action has the same effect as an action authorized by unanimous vote at a
10 members' meeting at which all members are present and may be described as such
11 in any document.

12 (b) The articles or bylaws may allow the members to authorize any other action
13 on behalf of the cooperative, other than an action requiring board approval, without
14 a members' meeting, if the action is authorized by the number of members that would
15 be required to approve the action at a members' meeting at which all members were
16 present and if the action is evidenced by one or more written statements, signed by
17 each authorizing member, describing and consenting to the action. Such an action
18 has the same effect as an action authorized by vote of the number of authorizing
19 members at a meeting at which all members are present and may be described as
20 such in any document.

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

24 **(3) NOTICE AND LIABILITY.** When an action is taken under sub. (1) (b) with the
25 authorization of less than all members, the board shall ensure that all other

ASSEMBLY BILL 327**SECTION 89**

1 members are notified immediately of the action and its effective date. Failure to
2 provide the notice does not invalidate the action. A member who does not authorize
3 an action taken under sub. (1) (b) may not be held liable as a result of the action.

4 (4) RECORDS. A cooperative shall retain all statements signed by its members
5 under sub. (1).

6 **193.545 Member voting rights. (1) GENERALLY.** (a) Each patron member
7 has one vote on each issue that patron members may vote upon. Nonpatron
8 members, if authorized by the patron members, may or may not have voting rights
9 relating to being a nonpatron member or holding nonpatron membership interests.
10 If voting rights are granted to nonpatron members or to nonpatron membership
11 interests, patron members may not have less voting rights than provided in this
12 section. The collective vote of the patron members shall be determined by the vote
13 of the majority of patron members voting on the issue. Except as provided under s.
14 193.551, in determining the collective vote of patron members, each patron member
15 has one vote on the issue. Unless the articles or bylaws provide otherwise, no issue
16 that patron members may vote upon may be approved unless, in determining the
17 collective vote of the patron members, the number of patron members voting to
18 approve the issue is a majority of all members voting on the issue. The articles or
19 bylaws may not reduce the collective patron member vote to less than 51 percent of
20 the total member vote.

21 (b) Except as otherwise provided in this chapter, a nonpatron member has the
22 voting rights granted to members holding nonpatron membership interests in the
23 articles or bylaws.

ASSEMBLY BILL 327

1 **(2) VOTING AT A MEMBERS' MEETING.** A member may vote at a members' meeting
2 at any time from the time the member arrives at the meeting to the time the meeting
3 is adjourned, unless the articles or bylaws specify an earlier time for closing the vote.

4 **(3) VOTING METHOD.** (a) Except as otherwise provided in this paragraph, a
5 member may vote only by casting a ballot at a meeting, by delegate as provided under
6 sub. (4), by proxy as provided under s. 193.565, or, if authorized by the board, by
7 mailing a ballot or by using an alternative ballot.

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

9 (c) To cast a ballot by mail, a member shall mark the member's choice on the
10 ballot, seal the ballot in a plain envelope bearing the member's name and the words
11 "BALLOT ENCLOSED," or similar words, and enclose that envelope in another
12 envelope addressed to the cooperative. To cast an alternative ballot, a member shall
13 follow the procedure prescribed by the board.

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

18 **(4) MEMBERS REPRESENTED BY DELEGATES.** For a cooperative with districts or
19 other units, the articles or bylaws may provide that members from the districts or
20 other units be represented at members' meetings by delegates chosen by those
21 members. A delegate representing patron members shall be a patron member.
22 Except as provided in s. 193.551 (2) and as otherwise provided in this subsection, a
23 delegate may vote in the same manner as and to the same extent as the members
24 collectively whom the delegate represents are otherwise authorized to vote.

ASSEMBLY BILL 327**SECTION 89**

1 **193.551 Patron member voting based on patronage.** (1) ADDITIONAL VOTE
2 PERMITTED. (a) The articles or bylaws may authorize patron members to have an
3 additional vote in determining the collective vote of patron members under s.
4 193.545 (1) (a) as provided in this subsection.

5 (b) The articles or bylaws may grant a patron member an additional vote under
6 par. (a) if the issue to be voted upon relates to a specified amount of business
7 transacted between the patron member and the cooperative.

8 (c) The articles or bylaws may grant additional votes under par. (a) to a
9 specified number of patron members who are also patron members of another
10 cooperative that is itself a member of the cooperative.

11 (d) The articles or bylaws may grant additional votes under par. (a) to a patron
12 member that is a cooperative, based on the amount of equity allocated to or held by
13 the patron member in the cooperative.

14 **(2) ADDITIONAL VOTES FOR DELEGATES.** (a) For a cooperative with districts or
15 other units of patron members, the articles or bylaws may authorize a delegate
16 elected by patron members to have additional votes as provided in this subsection
17 in determining the collective vote of patron members under s. 193.545 (1) (a).

18 (b) The articles or bylaws may grant a delegate an additional vote under par.
19 (a) based on a specified amount of business transacted between the patron members
20 represented by the delegate and the cooperative.

21 (c) The articles or bylaws may grant a delegate an additional vote under par.
22 (a) based upon the amount of equity allocated to or held by the patron members
23 represented by the delegate.

24 **193.553 Voting rights limited to members as of date certain.** The board
25 may establish a date for the determination of membership interests entitled to notice

ASSEMBLY BILL 327

1 of and entitled to vote at a members' meeting. The date established by the board may
2 not be more than 60 days before the date of the meeting. If a date is established under
3 this subsection, only members as of that date are entitled to notice of and may vote
4 at that meeting.

5 **193.555 Voting rights of nonmembers.** The articles or bylaws may
6 authorize any nonmember or class of nonmembers to vote at a members' meeting in
7 the same manner as patron members are permitted to vote. The articles or bylaws
8 may prescribe the manner by which persons are authorized to vote under this
9 section.

10 **193.557 Voting of jointly owned membership interests.** If a membership
11 interest is owned jointly by 2 or more persons, any one of the owners may vote based
12 upon that membership interest, unless the cooperative receives written notice from
13 any of the owners denying the authority of that person to vote based upon that
14 membership interest.

15 **193.559 Cumulative voting by members.** Except as provided in ss. 193.411
16 (4m) and 193.557, a member with more than one vote that is entitled to vote may
17 allocate the member's votes in any way the member chooses. If such a member votes
18 without designating an allocation, the member is considered to have voted all of the
19 member's votes in that way.

20 **193.561 Voting by business entities, subsidiaries, legal**
21 **representatives, and holders of security interests.** (1) MEMBERSHIP INTERESTS
22 HELD BY A BUSINESS ENTITY. If a member entitled to vote is a business entity, the
23 chairperson of the board, chief executive officer, or other authorized agent of the
24 member may cast the member's votes.

ASSEMBLY BILL 327**SECTION 89**

1 (2) MEMBERSHIP INTEREST HELD BY SUBSIDIARY OF COOPERATIVE. Except as
2 provided in the articles or bylaws or sub. (3), if a member is a subsidiary of the
3 cooperative, the member may not vote.

4 (3) MEMBERSHIP INTEREST HELD IN FIDUCIARY CAPACITY BY COOPERATIVE.
5 Membership interests held in a fiduciary capacity by the cooperative or a subsidiary
6 of the cooperative are not entitled to vote, except to the extent that the settlor or
7 beneficiary is entitled to vote and either exercises the right to vote or instructs the
8 cooperative or subsidiary on how to vote.

9 (4) MEMBERSHIP INTEREST CONTROLLED BY CERTAIN REPRESENTATIVES. Except as
10 provided in subs. (3) and (5), if a person, in the capacity of a personal representative,
11 administrator, executor, guardian, or conservator, or in a similar capacity, controls
12 the membership interest of a member entitled to vote, the person may vote on behalf
13 of the member.

14 (5) MEMBERSHIP INTEREST CONTROLLED BY TRUSTEE IN BANKRUPTCY OR RECEIVER.
15 If a trustee in bankruptcy or a receiver controls the membership interest of a member
16 entitled to vote, the trustee or receiver may vote on behalf of the member if
17 authorized to do so by the court appointing the trustee or receiver.

18 (7) HOLDERS OF SECURITY INTEREST. The granting of a security interest in a
19 membership interest does not entitle the holder of the security interest to vote.

20 **193.565 Voting by proxy.** (1) AUTHORIZATION AND APPOINTMENT OF PROXY. (a)
21 A member entitled to vote may do so by proxy appointed under this paragraph.
22 Except as provided in sub. (7), a member may grant a proxy to vote by giving the
23 board or an authorized agent of the cooperative an appointment of a proxy, in writing,
24 before the meeting at which the appointment is to be effective. If the appointment
25 of proxy is given in electronic format, the appointment is effective only if an

ASSEMBLY BILL 327

1 authorized agent of the cooperative determines that the appointment is authorized
2 by the member. The authorized agent shall record the information upon which he
3 or she relied to make the determination. A proxy appointed under this paragraph
4 may vote in the same manner as and to the same extent as the appointing member
5 is otherwise authorized to vote, consistent with subs. (5) and (7).

6 (b) A reproduction of the original written appointment under par. (a) may be
7 substituted or used in lieu of the original for any purpose for which the original could
8 be used, if the reproduction is a complete, legible, and accurate reproduction of the
9 entire original.

10 (c) If a membership interest is owned jointly by 2 or more members, any one
11 of the owners may appoint a proxy under par. (a), unless the cooperative receives
12 written notice from any of the owners denying the authority of that person to appoint
13 a proxy or appointing a different proxy.

14 **(2) DURATION OF APPOINTMENT.** The appointment of a proxy under sub. (1) (a)
15 is valid for 11 months, unless a longer period is expressly provided in the
16 appointment or unless the appointment is terminated under sub (3).

17 **(3) TERMINATION.** An appointment of a proxy under sub. (1) (a) may be
18 terminated at will by the appointing member or the proxy, unless the appointment
19 is conditioned upon ownership of or subject to terms and conditions of a membership
20 interest. Except as provided in sub. (4), an appointment that is coupled with a
21 membership interest as described in this subsection is irrevocable and may not be
22 terminated, unless an agreement between the appointing member and the proxy
23 specifies otherwise. A termination under this subsection is effective upon filing
24 written notice of the termination with an authorized agent of the cooperative or filing
25 a new appointment under sub. (1) (a), whichever occurs first.

ASSEMBLY BILL 327**SECTION 89**

1 (4) REVOCATION BY DEATH OR INCAPACITY. The death or incapacity of a member
2 appointing a proxy under sub. (1) (a) does not revoke the appointment, unless written
3 notice of the death or incapacity is received by an authorized agent of the cooperative
4 before the proxy exercises the authority under the appointment.

5 (5) MULTIPLE PROXIES. Except as provided in sub. (7), all of the following apply
6 if 2 or more persons are appointed as proxies for a member under sub. (1) (a):

7 (a) Only one of them may vote on behalf of the member on each item of business
8 in accordance with specific instructions contained in the appointment.

9 (b) If no specific instructions are contained in the appointment with respect to
10 a particular item of business, the vote of the member shall be cast as a majority of
11 the proxies determine. If the proxies are equally divided in determining how such
12 a vote shall be cast, no vote may be cast.

13 (6) LIABILITY OF PROXY. A proxy appointed under sub. (1) (a) is liable to the
14 appointing member for damages resulting from the proxy's failure to exercise his or
15 her authority or from the proxy's acting in violation of the authority granted in the
16 appointment.

17 (7) LIMITATIONS ON PROXIES. (a) A patron member may only appoint another
18 patron member as a proxy under sub. (1) (a).

19 (b) No member may vote by proxy under sub. (1) (a) if the member is
20 represented by a delegate under s. 193.545 (4).

21 (c) No member may vote by proxy under sub. (1) (a) in an election of directors
22 under s. 193.411 (3) or (4).

23 (d) If an appointment of a proxy under sub. (1) (a) gives the proxy authority to
24 vote on less than all items of business considered at a meeting, the appointing

ASSEMBLY BILL 327

1 member may vote by proxy only with respect to those items of business for which the
2 proxy has authority to vote.

3 (e) An appointment of a proxy under sub. (1) (a) may restrict or limit the
4 authority of the proxy or reserve authority for the appointing member.

5 **193.571 Member authority concerning certain cooperative property.**

6 Except as provided in s. 193.443, a cooperative may sell, lease, transfer, or otherwise
7 dispose of all or substantially all of its property and assets, including its good will,
8 not in the usual and regular course of its business, upon those terms and conditions
9 that the board considers expedient, when approved by the affirmative vote of the
10 members owning a majority of the voting power of the interests entitled to vote and
11 by the board. Notwithstanding s. 193.511 (6), 193.515 (3), and 193.553, written
12 notice of any members' meeting at which a vote will be taken under this section shall
13 be given to all members. The written notice shall state that a purpose of the meeting
14 is to consider the sale, lease, transfer, or other disposition of all or substantially all
15 of the property and assets of the cooperative.

16 SUBCHAPTER VI

17 MEMBERSHIP INTERESTS

18 **193.601 Membership interests.** (1) AMOUNTS AND DIVISIONS OF MEMBERSHIP
19 INTERESTS. To the extent permitted under this chapter, a cooperative may increase,
20 decrease, establish, or alter the authorized amount and divisions of membership
21 interests by amending the articles under s. 193.221 or the bylaws under s. 193.241.

22 (2) ISSUANCE AND ACQUISITION OF MEMBERSHIP INTERESTS GENERALLY. A
23 cooperative may issue authorized membership interests on terms and conditions
24 prescribed in the articles or bylaws or, if authorized in the articles or bylaws, on terms
25 and conditions determined by the board. The cooperative shall disclose to any person

ASSEMBLY BILL 327**SECTION 89**

1 to whom a membership interest is issued, before issuance, the organizational and
2 capital structure of the cooperative, known business prospects and risks of the
3 cooperative, and the nature of the governance and financial rights of the membership
4 interest being acquired and of other classes of membership and membership
5 interests. The cooperative shall notify all members, before issuance, of any
6 membership interest issued by the cooperative. The cooperative may not issue a
7 membership interest to any person unless the subscription price of the membership
8 interest has been paid for in money or property. If the subscription price is paid for
9 in property, the value of the property to be contributed shall be approved by the
10 board.

11 (3) TRANSFERRING OWNERSHIP OF MEMBERSHIP INTERESTS. After issuance by the
12 cooperative, ownership of a membership interest may be transferred only with the
13 approval of the board. The board may adopt resolutions prescribing procedures to
14 approve transfers prospectively.

15 (4) PATRON MEMBERSHIP INTERESTS. Except as otherwise provided in this
16 subsection, if nonpatron membership interests are authorized by the patron
17 members, all patron membership interests, collectively, shall have not less than 51
18 percent of the cooperative's financial rights to profit allocations and distributions.
19 The patron members by majority vote may authorize that the patron membership
20 interests, collectively, may have less than 51 percent, but not less than 30 percent,
21 of the cooperative's financial rights to profit allocations and distributions, and this
22 change must be included in the bylaws. Notwithstanding s. 193.221 (1) and (3), an
23 amendment of the articles under this subsection may be adopted only if approved by
24 the affirmative vote of the patron members.

ASSEMBLY BILL 327

1 **(5) FIRST PRIVILEGE TO PURCHASE MEMBERSHIP INTERESTS.** The articles or bylaws
2 may provide the patron members, individually or collectively, or the cooperative with
3 the first privilege of purchasing the membership interests of any class of
4 membership interests offered for sale. If the articles or bylaws provide patron
5 members with a first privilege to purchase membership interests under this
6 subsection, the articles or bylaws shall include a procedure by which patron
7 members may proceed to acquire the membership interests. If the cooperative
8 acquires a membership interest under this subsection, the cooperative may hold the
9 interest to be reissued or may retire and cancel the interest.

10 **(6) NONPATRON MEMBERSHIP INTERESTS.** If nonpatron membership interests are
11 authorized by the patron members, each person to whom a nonpatron membership
12 interest is issued shall sign a member control agreement or a statement agreeing to
13 abide by any applicable conditions imposed under the bylaws. Unless the bylaws
14 contain a sufficient description, the cooperative shall provide to a person to whom a
15 nonpatron membership interest is issued, before issuance, a description of the rights
16 and obligations applicable to holders of that nonpatron membership interest, the
17 transferability of that nonpatron membership interest, and the manner in which
18 profits and losses are divided and allocated among the membership interests and
19 membership classes.

20 **(6m) ALLOCATION OF PROFITS, LOSSES, AND DISTRIBUTIONS.** If the articles or bylaws
21 do not otherwise provide for the allocation of the profits and losses between patron
22 membership interests and any authorized nonpatron membership interests, then
23 the allocation of profits and losses among nonpatron membership interests
24 individually and patron membership interests collectively shall be allocated based
25 on the value of contributions to capital made according to the patron membership

ASSEMBLY BILL 327**SECTION 89**

1 interests collectively and the nonpatron membership interests individually to the
2 extent the contributions have been accepted by the cooperative. Distributions of cash
3 or other assets of the cooperative shall be allocated among the membership interests
4 as provided in the articles and bylaws, subject to the provisions of this chapter. If not
5 otherwise provided in the articles or bylaws, distributions shall be made on the basis
6 of value of the capital contributions of the patron membership interests collectively
7 and the nonpatron membership interests to the extent the contributions have been
8 accepted by the cooperative.

9 (7) REACQUISITION OF NONPATRON MEMBERSHIP INTERESTS AFTER DISSENT. Unless
10 the articles or bylaws provide otherwise, a nonpatron member may force the
11 cooperative to acquire the member's nonpatron membership interests as provided
12 under this subsection if the articles or bylaws are amended in a manner that
13 materially and adversely affects the rights and preferences applicable to the
14 nonpatron membership interests of the nonpatron member. If approval of the
15 amendment is not required of the members, the nonpatron member shall file a notice
16 of dissent and intent to demand fair value of the membership interests with the
17 cooperative within 30 days after the date on which notice of the amendment is given
18 to members. If approval of the amendment is required of the members, the
19 nonpatron member shall file a notice of dissent and intent to demand fair value of
20 the membership interests with the cooperative before the vote on the proposed
21 amendment and shall not vote in favor of the proposed amendment. After receipt of
22 a notice under this subsection and, if applicable, after approval of the amendment,
23 the cooperative shall rescind the amendment within 60 days after receipt of the
24 notice or acquire the membership interests by paying the fair value of the
25 membership interests to the dissenting member within 180 days after receipt of the

ASSEMBLY BILL 327

1 notice. Upon acquiring the membership interests, the cooperative may hold the
2 interests to be reissued or may retire and cancel the interests.

3 **193.605 Cooperative securities. (1) APPLICABILITY OF CH. 408 TO COOPERATIVE**
4 **SECURITIES.** To the extent that the provisions of this chapter concerning the
5 authorization, issuance, control, use, and rights of membership interests or
6 concerning the stock of a cooperative are inconsistent with ch. 408, the provisions of
7 this chapter apply.

8 **(2) LIABILITY OF COOPERATIVE FOR WRONGFUL TRANSFERS OF ITS SECURITIES.** (a) In
9 this subsection:

10 1. “Proper person” means the registered owner or last prior transferee, whether
11 or not described as fiduciary for another, or his or her authorized agent or legal
12 representative or the successor to his or her interest by operation of law.

13 2. “Transfer” includes a redemption or recall of stock.

14 3. “Wrongful transfer” means a transfer which is in excess of the authorization
15 or capacity of the transferor, or which is made in breach of the transferor’s fiduciary
16 duty.

17 (b) A cooperative may not be held liable for acting upon wrongful transfers of
18 its securities which are not “securities” as defined in s. 408.102, unless it has notice
19 that the certificate was not transferred by a proper person or has notice that the
20 transfer was a wrongful transfer.

21 **(3) MISSING SECURITIES OR RECORDS.** (a) When a security issued by a cooperative,
22 which is not a “security” as defined in s. 408.102, is missing, the cooperative shall
23 issue a duplicate security if the owner so requests and furnishes an indemnity
24 acceptable to the cooperative.

ASSEMBLY BILL 327**SECTION 89**

1 (b) When records showing ownership of securities or apportionment of equity
2 or membership interests are missing and the information therein contained is
3 necessary to a proposed redemption of the interest, the cooperative may give notice
4 and redeem by satisfying all of the following:

5 1. The cooperative shall set aside an amount equal to the value of the interests
6 to be redeemed.

7 2. The cooperative shall give notice of such redemption to all owners of interests
8 of which the cooperative has knowledge.

9 3. If there are interests, the ownership of which is unknown to the cooperative,
10 it shall publish notice of the redemption at least once a month for 4 months in a
11 publication circulated among members of cooperatives in the area, and also publish
12 a class 3 notice, under ch. 985.

13 **193.611 Assignment of financial rights.** (1) ASSIGNMENT OF FINANCIAL
14 RIGHTS PERMITTED. Except as provided in sub. (3), a member's financial rights in a
15 cooperative are transferable in whole or in part.

16 (2) EFFECT OF ASSIGNMENT OF FINANCIAL RIGHTS. An assignment of a member's
17 financial rights under sub. (1) entitles the assignee to receive, to the extent assigned,
18 only the share of profits and losses and the distributions to which the assignor would
19 otherwise be entitled. An assignment of a member's financial rights under sub. (1)
20 does not dissolve the cooperative and does not entitle or empower the assignee to
21 become a member, to exercise any governance rights, to receive any notices from the
22 cooperative, or to cause dissolution. The assignment may not allow the assignee to
23 control the member's exercise of governance or voting rights.

24 (3) RESTRICTIONS ON ASSIGNMENT OF FINANCIAL RIGHTS. (a) A restriction on the
25 assignment of financial rights in a cooperative may be imposed in the articles, in the

ASSEMBLY BILL 327

1 bylaws, in a member control agreement, by a resolution adopted by the members at
2 a members' meeting, or by an agreement among members and the cooperative. A
3 restriction is not binding with respect to financial rights reflected in the required
4 records of the cooperative before the adoption of the restriction, unless the owners
5 of those financial rights are parties to the agreement or voted in favor of the
6 restriction.

7 (b) Subject to par. (c), a restriction under par. (a) is enforceable only if the
8 restriction is not manifestly unreasonable under the circumstances and is noted
9 conspicuously in the required records of the cooperative. Such a restriction may be
10 enforced against the owner of the restricted financial rights or a successor or
11 transferee of the owner, including a pledgee or a legal representative.

12 (c) A restriction on an assignment of financial rights under par. (a) which is
13 otherwise valid and in effect at the time of the issuance of a statement of membership
14 interest issued by the cooperative under s. 193.615 but which is not reflected in that
15 statement is ineffective against an assignee who takes an assignment in reliance on
16 the statement.

17 (d) A security interest in a member's financial rights may be foreclosed and
18 otherwise enforced, and a secured party may assign a member's financial rights in
19 accordance with ch. 408, without the consent or approval of the member whose
20 financial rights are subject to the security interest.

21 **193.615 Nature and terms of a membership interest and statement of**
22 **interest owned. (1) GENERALLY.** A membership interest is personal property. A
23 membership interest does not give the owner of the interest any interest in specific
24 cooperative property. All property of the cooperative is property of the cooperative
25 itself.

ASSEMBLY BILL 327**SECTION 89**

1 (2) STATEMENT OF MEMBERSHIP INTEREST. At the request of any member, the
2 cooperative shall state in writing the particular membership interest owned by that
3 member as of the date the cooperative makes the statement. The statement shall
4 describe the member's rights to vote, if any, and to share in profits, losses, and
5 distributions, restrictions on assignments of the member's financial rights under s.
6 193.611 (3) or voting rights under s. 193.555, and any assignment of the member's
7 rights then in effect other than a security interest.

8 (3) TERMS OF MEMBERSHIP INTERESTS GENERALLY. (a) All the membership
9 interests of a cooperative shall satisfy all of the following:

10 1. Unless the articles or bylaws provide otherwise, the membership interests
11 shall be of one class, without series.

12 2. The membership interests shall be patron membership interests and, if
13 authorized, nonpatron membership interests subject to this chapter entitled to vote
14 as provided in s. 193.555, and have equal rights and preferences in all matters not
15 otherwise provided for by the board unless and to the extent that the articles or
16 bylaws have fixed the relative rights and preferences of different classes and series.

17 (b) All of the following apply to the rights and preferences of a class or series
18 of membership interests:

19 1. The rights and preferences may be made dependent upon facts ascertainable
20 outside the articles or bylaws, or outside the resolution or resolutions under sub. (5)
21 establishing the class or series, if the manner in which the facts operate upon the
22 rights and preferences is clearly and expressly set forth in the articles or bylaws or
23 in the resolution or resolutions establishing the class or series.

24 2. The rights and preferences may include by reference some or all of the terms
25 of any agreements, contracts, or other arrangements entered into by the cooperative

ASSEMBLY BILL 327

1 in connection with the establishment of the class or series if the cooperative retains
2 at its principal office a copy of the agreements, contracts, or other arrangements or
3 the portions thereof included by reference.

4 (c) If specified in the articles or bylaws, or the resolution under sub. (5)
5 establishing the class or series, all of the following apply to membership interests of
6 a class or series:

7 1. The membership interests are subject to the right of the cooperative to
8 redeem any of those membership interests at a price fixed in the articles or bylaws
9 or by the board.

10 2. Owners of the membership interests may receive cumulative, partially
11 cumulative, or noncumulative distributions.

12 3. The membership interests may have preference over any other class or series
13 of membership interests for the payment of distributions.

14 4. The membership interests may be convertible into membership interests of
15 any other class or series.

16 5. The membership interests may have full, partial, or no voting rights, except
17 as provided in s. 193.555.

18 **(4) RIGHTS OF JUDGMENT CREDITOR.** On application to the circuit court by any
19 judgment creditor of a member, the court may order the payment of the unsatisfied
20 amount of the judgment from a member's or an assignee's financial rights. Such a
21 judgment creditor has only the rights of an assignee of a member's financial rights
22 under s. 193.611. This subsection is the sole and exclusive remedy of a judgment
23 creditor with respect to the judgment debtor's membership interest. This subsection
24 does not deprive any member or assignee of financial rights of the benefit of any
25 exemption under s. 815.18 applicable to the membership interest.

ASSEMBLY BILL 327**SECTION 89**

1 **(5) BOARD AUTHORITY TO FIX TERMS.** (a) If permitted under the bylaws, the board
2 may adopt a resolution establishing a class or series of membership interests, setting
3 forth the designation of the class or series, and fixing the relative rights and
4 preferences of the class or series, consistent with this chapter. A resolution under
5 this paragraph takes effect on the 3rd day after the date on which the statement
6 required under par. (b) is given to the members, as determined by the board.

7 (b) The cooperative may not accept contributions for any membership interests
8 established by resolution under par. (a) until the board gives the members a
9 statement setting forth the name of the cooperative, the text of the resolution, and
10 the date on which the resolution was adopted.

11 **(7) SECURITY INTEREST IN COOPERATIVE SECURITIES.** For the purpose of any law
12 relating to security interests, a membership interest, governance or voting rights,
13 and financial rights are each to be characterized as provided in s. 408.103 (3).

14 **(8) POWERS OF ESTATE OF A DECEASED OR INCOMPETENT MEMBER AND OTHER**
15 **FIDUCIARIES.** (a) Except as provided in par. (b), if a member who is an individual dies
16 or a court adjudges the member to be incompetent to manage his or her person or
17 property, or an order for relief under a judgment of bankruptcy is entered with
18 respect to the member, the member's executor, administrator, guardian, conservator,
19 trustee, or other legal representative may exercise all of the rights applicable to the
20 member's membership interest for the purpose of settling the estate or
21 administering the member's property. Except as provided in par. (b), if a member is
22 not an individual and is dissolved, terminated, or placed by a court in receivership
23 or bankruptcy, the member's legal representative or successor may exercise all of the
24 rights applicable to the member's membership interest.

ASSEMBLY BILL 327

1 (b) Subject to the articles and bylaws, if an event described in par. (a) causes
2 the termination of a member's membership interest and the termination does not
3 result in dissolution of the cooperative, the terminated member's interest is
4 considered to be that of an assignee of financial rights under s. 193.611 and the rights
5 to be exercised by the executor, administrator, guardian, conservator, trustee, legal
6 representative, or successor are limited accordingly.

7 (9) LIABILITY OF SUBSCRIBERS AND MEMBERS WITH RESPECT TO MEMBERSHIP
8 INTERESTS. A subscriber for membership interests or a member of a cooperative is
9 under no obligation to the cooperative or its creditors with respect to the membership
10 interests subscribed for or owned, except to pay to the cooperative the full
11 consideration for which the membership interests are issued or to be issued.

12 **193.621 Certificated membership interests.** (1) CERTIFICATED INTERESTS
13 AUTHORIZED. A membership interest of a cooperative may be certificated. The
14 cooperative shall provide each holder of a certificated membership interest with a
15 certificate of membership interest under sub. (2).

16 (2) REQUIREMENTS OF CERTIFICATE; GENERALLY. (a) A certificate of membership
17 interest shall be signed by an agent or officer authorized in the articles or bylaws to
18 sign the certificate or, in the absence of such an authorization, by the chairperson of
19 the board or the records officer of the cooperative. If the person who signs the
20 certificate subsequently ceases to have the capacity to sign the certificate before the
21 certificate is issued, the cooperative may issue the certificate with the same effect as
22 if the person had that capacity on the date of its issue.

23 (b) A certificate of membership interest shall contain all of the following
24 information on the certificate's face:

- 25 1. The name of the cooperative.

ASSEMBLY BILL 327**SECTION 89**

1 2. A statement that the cooperative is organized under the laws of this state
2 and this chapter.

3 3. The name of the person to whom the certificate is issued.

4 4. The number and class of membership interests, and the designation of the
5 series, if any, that the certificate represents.

6 5. A statement that membership interests are subject to the articles and
7 bylaws.

8 6. Any restrictions on transfer of the membership interests that the certificate
9 represents, including any requirement for the approval of the board and first rights
10 to purchase by the cooperative. Notwithstanding any other provision of this
11 subsection, the information required under this subdivision may be stated by
12 reference to the back of the certificate or to another document.

13 **(3) REQUIREMENTS OF CERTIFICATE; MULTIPLE SERIES OR CLASSES.** A certificate of
14 membership interest representing a membership interest issued by a cooperative
15 that is authorized to issue membership interests of more than one class or series shall
16 set forth upon the face or back of the certificate, or shall state that the cooperative
17 will furnish to any member upon request and without charge, a full statement of the
18 designations, preferences, limitations, and relative rights of the membership
19 interests of each class or series authorized to be issued, so far as they have been
20 determined, and the authority of the board to determine the relative rights and
21 preferences of subsequent classes or series.

22 **(4) PRIMA FACIE EVIDENCE.** A certificate of membership interest issued under
23 this section is prima facie evidence of the ownership of the membership interest that
24 the certificate represents.

ASSEMBLY BILL 327

1 **(5) UNCERTIFICATED MEMBERSHIP INTERESTS AUTHORIZED.** Unless uncertificated
2 membership interests are prohibited by the articles or bylaws, the board may adopt
3 a resolution permitting uncertificated membership interests. Such a resolution does
4 not apply to a membership interest represented by a certificate until the certificate
5 is surrendered to the cooperative. Within a reasonable time after the issuance or
6 transfer of an uncertificated membership interest, the cooperative shall send to the
7 new member a statement containing the information required under sub. (2) (b) and
8 (3) to be stated on certificates, unless the cooperative is publicly held and has adopted
9 a system of issuance, recordation, and transfer of its membership interests by
10 electronic or other means not involving an issuance of certificates, in compliance
11 with section 17A of the Securities Exchange Act of 1934.

12 **(6) COMPARABLE RIGHTS.** Except as otherwise provided under this chapter, the
13 rights and obligations of holders of certificated membership interests are identical
14 to the rights and obligations of holders of uncertificated membership interests of the
15 same class and series.

16 **193.625 Replacement certificates. (1) ISSUANCE.** A cooperative may issue
17 a replacement certificate of membership interest under s. 193.621 using the
18 procedure specified in s. 408.405 (1), if the owner of the membership interest
19 represented in a certificate claims that the certificate has been lost, destroyed or
20 wrongfully taken.

21 **(2) NOT AN OVERISSUE.** The issuance of a replacement certificate under sub. (1)
22 is not an overissue of the membership interest it represents.

23 **193.631 Restriction on transfer or registration of membership**
24 **interests. (1) HOW IMPOSED.** A restriction on the transfer, including registration,
25 of a membership interest may be imposed in the articles, in the bylaws, in a member

ASSEMBLY BILL 327**SECTION 89**

1 control agreement, by a resolution adopted by the members, or by an agreement
2 among or other written action by members or among them and the cooperative. A
3 restriction imposed by a member control agreement or other written action of
4 members is effective only against the parties to the agreement or written action or
5 the members who assent pursuant to a member resolution. A restriction is not
6 binding with respect to membership interests issued prior to the adoption of the
7 restriction, unless the holders of those membership interests are parties to the
8 agreement or voted in favor of the restriction.

9 (2) RESTRICTIONS PERMITTED. (a) A restriction under sub. (1) is enforceable only
10 if the restriction is not manifestly unreasonable under the circumstances and any of
11 the following apply:

12 1. The restriction is noted conspicuously on a certificate of membership interest
13 representing the membership interest or the existence of the restriction is noted on
14 the certificate and reference is made to a separate document creating or describing
15 the restriction.

16 2. The restriction is imposed under this chapter or is included in the articles
17 or bylaws.

18 3. The restriction relates to an uncertificated membership interest and is
19 included in information sent to the holders of such a membership interest.

20 (b) A restriction that is enforceable under par. (a) may be enforced against the
21 holder of the restricted membership interest or a successor or transferee of the
22 holder, including a pledgee or a legal representative.

23 SUBCHAPTER VII

24 CONTRIBUTIONS, ALLOCATIONS,

25 AND DISTRIBUTIONS