Chapter 62

1999 EDITION

Cooperatives

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GENERAL PROVISIONS

(Short Title and Definitions)

62.005 Short title. This chapter shall be known and may be cited as the “Oregon Cooperative Corporation Act.” [1957 c.716 s.1]

62.010 [Repealed by 1957 c.716 s.76]

62.015 Definitions. As used in this chapter, unless the context requires otherwise:
(1) “Anniversary” means that day each year exactly one or more years after:
(a) The date of filing by the Secretary of State of the articles of incorporation in the case of a domestic cooperative.
(b) The date of filing by the Secretary of State of an application for authority to transact business in the case of a foreign cooperative.
(2) “Articles” means articles of incorporation, articles of conversion and articles of merger.
(3) “Board” means board of directors.
(4) “Cooperative” means a cooperative corporation which is subject to the provisions of this chapter.
(5) “Corporation” means a corporation which is not a cooperative.
(6) “Foreign cooperative” means a cooperative corporation organized under laws other than the laws of this state.
(7) “Member” means a person who has been qualified and accepted for membership in a cooperative.
(8) “Membership stock” means any class of stock, continuous ownership of which is required for membership in a cooperative.
(9) “Person” includes individuals, corporations, associations, firms, partnerships, joint stock companies, trusts, estates and foreign and domestic cooperative corporations.
(10) “Shareholder” means a holder of shares of capital stock of a cooperative other than membership stock. [1957 c.716 s.2; 1963 c.492 s.41; 1974 c.2 s.4; 1987 c.94 s.78; 1995 c.195 s.1; 1999 c.362 s.16]

62.020 [Repealed by 1957 c.716 s.76]

(Filing Documents)

62.025 Filing requirements. (1) A document must satisfy the requirements of this section or any other section that modifies these requirements, to be entitled to filing by the Secretary of State.
(2) This chapter must require or permit filing the document with the Office of Secretary of State.
(3) The document shall contain the information required by this chapter. It may contain other information as well.

(4) The document must be legible.
(5) The document must be in the English language.
(6) The document must be executed:
(a) By the chairman of the board of directors of a domestic cooperative, its president or another of its officers;
(b) If directors have not been selected or before the organizational meeting, by an incorporator; or
(c) If the cooperative is in the hands of a receiver, trustee or other court-appointed fiduciary, by that receiver, trustee or fiduciary.
(7) The person executing the document shall state beneath or opposite the signature the name of the person and the capacity in which the person signs. The document may, but is not required to contain:
(a) The corporate seal;
(b) An attestation by the secretary or an assistant secretary; and
(c) An acknowledgment, verification or proof.
(8) If the Secretary of State has prescribed a mandatory form for the document under ORS 62.045, the document must be in or on the prescribed form.
(9) The document must be delivered to the Office of Secretary of State and must be accompanied by the required fees.
(10) Delivery of a document to the Office of Secretary of State is accomplished only when the document is actually received by the Office of Secretary of State. [1987 c.94 s.69; 1999 c.486 s.7]

62.030 Filing, service and copying fees. (1) The Secretary of State shall collect the following fees for the documents delivered for filing:

Document	Fee
(a) Articles of incorporation	$ 40
(b) Application for reserved name	$ 10
(c) Application of a cooperative for reinstatement following administrative dissolution	$ 30
(d) Annual report of a cooperative	$ 20
(e) Application for certificate of existence	$ 10
(f) Dissolutions	$ 10
(g) Change of registered agent or office	$ 10
(h) Registered agent resignation	$ 10
(i) Correction of annual report/articles	$ 10
(j) Amendments	$ 10
(k) Restated articles of incorporation	$ 10
(L) Articles of merger	$ 10
(m) Articles of conversion	$ 10

(2) The Secretary of State shall collect a fee of $20 each time process is served on the Secretary of State under this chapter.
(3) The Secretary of State by rule may establish fees, in addition to those provided for in subsections (1) and (2) of this section, for:
(a) Copying any public record maintained by the Office of Secretary of State and relating to a cooperative, and for certifying the copy.

(b) Certifying to facts of record, other than a certificate of existence, pursuant to ORS 62.065. [1987 c.94 s.71; 1991 c.132 s.4; 1995 c.195 s.35; 1999 c.362 s.17]

Note: The amendments to 62.030 by section 17a, chapter 362, Oregon Laws 1999, become operative July 1, 2001. See section 17b, chapter 362, Oregon Laws 1999. The text that is operative on and after July 1, 2001, is set forth for the user's convenience.

62.030. The Secretary of State shall collect the fees described in ORS 56.140 for each document delivered for filing under this chapter and for process served on the secretary under this chapter. The secretary may collect the fees described in ORS 56.140 for copying any public record under this chapter, certifying the copy or certifying to other facts of record under this chapter.

62.035 Effective time and date of document. (1) Except as provided in subsection (2) of this section and ORS 62.040, a document accepted for filing is effective on the date it is filed by the Secretary of State and at the time, if any, specified in the document as its effective time or at 12:01 a.m. on that date if no effective time is specified.

(2) If a document specifies a delayed effective time and date, the document becomes effective at the time and date specified. If a document specifies a delayed effective date but no time, the document becomes effective at 12:01 a.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed. [1987 c.94 s.72; 1995 c.195 s.36]

62.040 Correcting filed document. (1) A cooperative may correct a document filed by the Secretary of State, other than an annual report, if the document contains an incorrect statement or was defectively executed, attested, sealed, verified or acknowledged.

(2) A cooperative shall correct a document by delivering articles of correction to the Office of Secretary of State. The articles shall include the following:

(a) A description of the document, including its filing date, or a copy of the document.

(b) The incorrect statement and the reason it is incorrect, or a description of the manner in which the execution, attestation, seal, verification or acknowledgment is defective.

(c) A correction of the incorrect statement or defective execution, attestation, seal, verification or acknowledgment.

(3) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed. [1987 c.94 s.73]

62.045 Forms. Upon request, the Secretary of State may furnish forms for documents required or permitted to be filed by this chapter. The Secretary of State may by rule require the use of the forms. [1987 c.94 s.70; 1995 c.215 s.9]

62.050 Filing duty of Secretary of State. (1) If a document delivered to the Office of Secretary of State for filing satisfies the requirements of ORS 62.025, the Secretary of State shall file it.

(2) The Secretary of State files a document by indicating thereon that it has been filed by the Secretary of State and the date of filing. After filing a document, except as provided in ORS 62.155 and 62.455, the Secretary of State shall return an acknowledgment of filing to the cooperative or its representative.

(3) If the Secretary of State refuses to file a document, the Secretary of State shall return it to the cooperative or its representative within 10 business days after the document was delivered together with a brief written explanation of the reason for the refusal.

(4) The Secretary of State's duty to file documents under this section is ministerial and is limited in scope of review as set out by rule of the Secretary of State. The Secretary of State is not required to verify or inquire into the legality or truth of any matter included in any document delivered to the Office of Secretary of State for filing. The Secretary of State's filing or refusing to file a document does not:

(a) Affect the validity or invalidity of the document in whole or part; or

(b) Relate to the correctness or incorrectness of information contained in the document.

(5) The Secretary of State's refusal to file a document does not create a presumption that the document is invalid or that information contained in the document is incorrect. [1987 c.94 s.74; 1999 c.486 s.8]

62.055 Appeal from Secretary of State's refusal to file document. If the Secretary of State refuses to file a

document delivered to the Office of Secretary of State for filing, the cooperative, in addition to any other legal remedy that may be available, shall have the right to appeal from such order pursuant to the provisions of ORS 183.480. [1987 c.94 s.75]

62.060 Evidentiary effect of copy of filed document. (1) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature, which may be in facsimile, is conclusive evidence that the original document, or a facsimile thereof, is on file with the Office of Secretary of State.

(2) The provisions of ORS 56.110 apply to all documents filed pursuant to this chapter. [1987 c.94 s.76]

62.065 Certificate of existence. (1) Anyone may apply to the Secretary of State to furnish a certificate of existence for a cooperative.

(2) A certificate of existence when issued means that:

(a) The cooperative's corporate name is registered in this state;

(b) The cooperative is duly incorporated under the law of this state;

(c) All fees payable to the Secretary of State under this chapter have been paid, if nonpayment affects the existence or authorization of the cooperative;

(d) An annual report required by ORS 62.455 has been filed by the Secretary of State within the preceding 14 months; and

(e) Articles of dissolution have not been filed by the Secretary of State.

(3) A person may apply to the Secretary of State to issue a certificate covering any fact of record.

(4) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign cooperative is in existence or is authorized to transact business in the state. [1987 c.94 s.77; 1995 c.195 s.37]

62.110 [Repealed by 1957 c.716 s.76]

SUBSTANTIVE PROVISIONS

62.115 Purposes for which cooperatives may be organized. Cooperatives may be organized under this chapter for any lawful purpose or purposes, except for the purpose of banking or insurance. [1957 c.716 s.3]

62.120 [Repealed by 1957 c.716 s.76]

62.125 General powers. Each cooperative shall have power:

(1) To have perpetual succession unless a limited period of duration is stated in its articles.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the seal by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of, all or any part of its property and assets.

(6) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(7) To make contracts and incur liabilities, borrow money at such rates of interest as the cooperative may determine, issue its notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(8) To lend money for its corporate purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds so loaned or invested.

(9) To conduct its business and affairs and have offices and exercise its powers in any state, territory, district or

possession of the United States, or in any foreign country.

(10) To elect or appoint officers and agents, and define their duties and fix their compensation.

(11) To make and alter bylaws, consistent with its articles and the laws of this state, for the administration and regulation of its affairs.

(12) To make donations for the public welfare or for charitable, scientific or educational purposes.

(13) To cease its activities and surrender its franchise.

(14) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the cooperative is organized. [1957 c.716 s.4; 1981 c.542 s.1]

62.128 Reserved name. (1) A person may apply to the Office of Secretary of State to reserve a corporate name. The application must set forth the name and address of the applicant and the name proposed to be reserved.

(2) If the Secretary of State finds that the corporate name applied for conforms to ORS 62.131, the Secretary of State shall reserve the name for the applicant for a 120-day period.

(3) A person may transfer the reservation of a corporate name to another person by delivering to the Office of Secretary of State a notice of the transfer executed by the person for whom the name was reserved and specifying the name and address of the transferee. [1969 c.364 s.2; 1987 c.94 s.79]

62.130 [Repealed by 1957 c.716 s.76]

62.131 Cooperative name. (1) The name of a cooperative shall be written in the English language and may include Arabic and Roman numerals and incidental punctuation.

(2) The name of a cooperative shall be distinguishable upon the records of the Office of Secretary of State from any other corporate name, professional corporate name, nonprofit corporate name, cooperative name, limited partnership name, reserved name, registered corporate name or assumed business name of active record with the Office of Secretary of State.

(3) The name of a cooperative need not satisfy the requirement of subsection (2) of this section if the applicant delivers to the Office of Secretary of State a certified copy of a final judgment of a court of competent jurisdiction that finds that the applicant has a prior or concurrent right to use the cooperative name in this state.

(4) The provisions of this section do not prohibit a cooperative from transacting business under an assumed business name.

(5) The provisions of this section do not:

(a) Abrogate or limit the law governing unfair competition or unfair trade practices.

(b) Derogate from the common law, the principles of equity or the statutes of this state or of the United States with respect to the right to acquire and protect trade names. [1987 c.94 s.84]

62.135 Bylaws. The initial bylaws of a cooperative shall be adopted by its board of directors. Power to alter, amend or repeal the bylaws or adopt new bylaws is vested in the members of the cooperative. Bylaws may contain any provisions for the regulation and management of the affairs of the cooperative not inconsistent with law or the articles. [1957 c.716 s.8]

62.140 [Repealed by 1957 c.716 s.76]

62.145 Membership. (1) Membership in a cooperative is conditioned on ownership of a share of membership stock or payment of a membership fee as set forth in the articles. If the articles so provide, the bylaws may authorize a procedure by which the membership fee initially stated in the articles pursuant to ORS 62.513 (1)(c) may be changed without filing amended or restated articles. The bylaws of a cooperative may authorize membership conditioned upon payment of part of the membership fee or payment for part of the membership stock subscribed for and compliance with an agreement to pay the balance.

(2) Qualifications for membership and method of acceptance of members shall be as set forth in the bylaws of the cooperative.

(3) Bylaws may provide for termination of membership and the conditions and terms thereof. [1957 c.716 s.9; 1995 c.195 s.2]

62.150 [Repealed by 1957 c.716 s.76]

62.155 Registered office and registered agent; service of process on cooperative. (1) Each cooperative shall have and continuously maintain in this state:

(a) A registered office which may, but need not be, the same as its place of business.

(b) A registered agent, which agent may be either an individual resident in this state whose business office is identical to such registered office, or a domestic corporation having a business office identical to such registered office, or a foreign corporation authorized to transact business in this state and having a business office identical to such registered office.

(2) A cooperative may change its registered office or registered agent in accordance with the procedure set forth in ORS 60.114.

(3) A person who has been designated by a cooperative as its registered agent may resign in accordance with the procedure set forth in ORS 60.117.

(4) A registered agent appointed by a cooperative is an agent of the cooperative upon whom any process, notice or demand required or permitted by law to be served upon the cooperative may be served.

(5) The provisions of ORS 60.121 are applicable to cooperatives. [1957 c.716 s.10; 1987 c.94 s.80]

62.160 [Repealed by 1957 c.716 s.76]

62.165 Defense of ultra vires. No act and no transfer of property to or by a cooperative is invalid because in excess of the cooperative's power to do such act or make or receive such transfer, except that such lack of power may be asserted in a proceeding by:

(1) A member, shareholder or director against the cooperative to enjoin any act or transfer of property to or by the cooperative. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the cooperative is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of the contract, and in so doing may allow to the cooperative or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of the contract but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) A cooperative, its legal representative, or through its members or shareholders in a representative suit, against the officers or directors or former officers or directors of the cooperative.

(3) The Attorney General against the cooperative in an action to dissolve the cooperative or to enjoin it from the transaction of unauthorized business. [1957 c.716 s.11]

62.170 [Repealed by 1957 c.716 s.76]

62.175 Capital stock; membership stock. (1) Any cooperative, including a cooperative which requires a membership fee rather than the holding of membership stock as a prerequisite of membership, has power to issue the number of shares of capital stock stated in its articles. Such shares may be divided into more than one class with such designations, preferences, limitations and relative rights as shall be stated in the articles, except that capital stock as such shall have no voting power except as specifically authorized in this chapter.

(2) The articles may require that members own one or more shares of membership stock, and may provide limitations on the issuance and transferability of such stock. Unless restricted by the articles, stock other than membership stock may be issued or transferred without limitation.

(3) Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board. Shares without par value, may be issued for such consideration expressed in dollars as may be fixed for such shares by the board. Payment for shares may be in cash or other property, tangible or intangible. If in other property, the value thereof shall be determined by the board, and such determination, if made in good faith, is conclusive.

(4) No certificate shall be issued for any share until such share is fully paid.

(5) Shareholders as such have no preemptive right to purchase additional shares. [1957 c.716 s.12; 1963 c.156 s.1]

62.180 [Repealed by 1957 c.716 s.76]

62.185 Certificates representing shares. Each certificate of stock of a cooperative shall bear the manual or facsimile signature of a principal officer and shall include the following information:

(1) The name of the cooperative, number and class of the shares represented by the certificate, the par value of each share or a statement that the shares are without par value, and if the shares are membership stock, their designation as such.

(2) Any restrictions on the issuance or transfer of such shares.

(3) If more than one class of stock is authorized or if stock is authorized in a cooperative which requires a membership fee of its members, designation of the several classes of stock and the respective preferences, limitations and relative rights of such classes. In lieu of a full statement, the information required by this subsection may be given in summary form. [1957 c.716 s.13]

62.190 [Repealed by 1957 c.716 s.76]

62.195 Voting by shareholders. (1) A shareholder may vote either in person or by proxy executed in writing by the shareholder or by the duly authorized attorney-in-fact of the shareholder. No proxy shall be valid after 11 months from the date of its execution unless otherwise provided in the proxy. The following provisions, relating to voting of shares, apply to shareholders of cooperatives and shares of the capital stock of cooperatives other than membership stock:

(a) Shares standing in the name of another domestic or foreign cooperative may be voted by such officer, agent or proxy as the bylaws of the cooperative may prescribe, or, in the absence of such provision, as the board of directors of the cooperative may determine.

(b) An administrator, executor, guardian or conservator holding shares may vote the shares, either in person or by proxy, without a transfer of such shares into the name of the administrator, executor, guardian or conservator. Shares standing in the name of a trustee may be voted by the trustee, either in person or by proxy, but no trustee shall be entitled to vote shares held by the trustee without a transfer of the shares into the trustee's name.

(c) Shares standing in the name of a receiver may be voted by the receiver, and shares held by or under control of a receiver may be voted by the receiver without the transfer thereof into the receiver's name if authority so to do is contained in an appropriate order of the court by which the receiver was appointed.

(d) A shareholder whose shares are pledged shall be entitled to vote the shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(3) For the purpose of determining shareholders entitled to notice of or to vote at meetings, or entitled to receive payment of any dividend, the bylaws may fix in advance a date as the record date for any such determination of shareholders. Such date shall be not more than 50 days and not less than 10 days prior to the date on which the particular action requiring such determination of shareholders is to be taken. If no such record date is fixed by the bylaws, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting has been made as provided in this section, such determination shall apply to any adjournment of that meeting. [1957 c.716 s.15; 1987 c.94 s.81]

62.200 [Repealed by 1957 c.716 s.76]

62.205 Subscription agreement for shares or agreement to pay a membership fee; default. (1) A subscription agreement for shares, including membership stock, of a cooperative, where the subscription is entered into before incorporation, or an agreement entered into before incorporation to pay a membership fee is irrevocable for six months unless:

(a) Otherwise provided by the subscription agreement or the agreement to pay a membership fee; or

(b) All subscribers or parties to all the agreements to pay a membership fee consent to the revocation.

(2) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, or if a party to an agreement to pay a membership fee defaults in the payment of money or property under an agreement to pay a membership fee entered into before incorporation, the cooperative may collect the amount owed as any other debt. Alternatively, unless the subscription agreement or agreement to pay a membership fee provides otherwise, the cooperative may rescind the agreement if the debt remains unpaid more than 20 days after the cooperative sends written demand for payment to the subscriber or the party. [1957 c.716 s.16; 1995 c.195 s.3]

62.210 [Repealed by 1957 c.716 s.76]

62.215 Limitation of liability of members and shareholders. Except for debts lawfully contracted between a member or shareholder and the cooperative, no member or shareholder is liable for the acts or debts of the cooperative to an amount exceeding the sum remaining unpaid on the subscription of the member or shareholder for shares of the cooperative, and the sum remaining unpaid on such member's membership fee if such fee is required by the cooperative. [1957 c.716 s.17; 1995 c.195 s.4]

62.220 [Repealed by 1957 c.716 s.76]

62.225 Dividends on capital stock. A cooperative organized with capital stock may pay a dividend upon capital stock as is authorized by its articles. A payment under this section shall not be made if the result of the payment would be to bring the value of the cooperative's remaining assets below the aggregate of the cooperative's indebtedness. [1957 c.716 s.18; 1995 c.195 s.5]

62.230 [Repealed by 1957 c.716 s.76]

62.235 Recall, exchange or redemption of stock or other evidence of equity by cooperative. (1) Unless the articles provide otherwise, a cooperative may recall membership stock upon termination of membership, acquire, exchange, redeem, and reissue its own shares or other evidences of equity. Consideration paid for shares of membership stock recalled by the cooperative shall be the par value thereof and accrued and unpaid dividends, if any, except that if such shares have no par value the consideration paid therefor shall be the consideration in dollars for which the shares were issued plus accrued and unpaid dividends. The cooperative may set off obligations to it of the holder of membership stock or other stock or other evidence of equity, including capital credits or accounts representing capital credits. The cooperative shall have a continuing perfected security interest in the evidence of equity, capital credits or accounts representing capital credits to secure payment of any indebtedness, whenever incurred, owed to the cooperative by the holder. Notwithstanding any other provision of law, the security interest shall take priority over all other perfected security interests. No such acquisition, recall or redemption of stock or other evidence of equity shall be made if the result thereof would be to bring the value of the remaining assets of the cooperative below the aggregate of its indebtedness. The articles may provide other limitations on the right of a cooperative to acquire, recall, exchange or redeem its shares or other evidences of equity.

(2) When shares are acquired, recalled, exchanged or redeemed by the cooperative, such shares shall be restored to the status of authorized but unissued shares. [1957 c.716 s.14; 1993 c.428 s.1]

62.240 [Repealed by 1957 c.716 s.76]

62.245 Missing certificates or evidence of interest in cooperative; missing records relating to redemption of interest in cooperative. (1) When a certificate of membership in a cooperative or a certificate for a share or shares of membership or capital stock, if certificated, in a cooperative, or other written evidence of the apportionment, distribution and payment of net proceeds or savings of the cooperative, or of any indebtedness or other equity interest in a cooperative, issued by a cooperative is missing, the cooperative shall issue a duplicate thereof upon the request of the owner and upon the furnishing of such indemnity as may be required by the cooperative.

(2) When records showing ownership of membership in a cooperative or of a share or shares of membership or capital stock in a cooperative, or of the apportionment, distribution and payment of net proceeds or savings of the cooperative, or of any indebtedness or other equity interest in a cooperative, are missing and if the information which is missing is necessary to a proposed redemption of any of the items described in this subsection, the cooperative may give notice and redeem the items as follows:

(a) The cooperative shall set aside an amount equal to the value of the items to be redeemed.

(b) The cooperative shall give notice of the redemption to all owners of items of which the cooperative has knowledge.

(c) If there are items the ownership of which is unknown to the cooperative, it shall publish notice of the redemption at least once a month for four months in a newspaper of general circulation in the county in which the registered office of the cooperative is located.

(d) After the completion of the publication, any unclaimed outstanding items represented by the missing records

may then be terminated in accordance with the provisions of this chapter dealing with unclaimed distributions, redemptions or proceeds. [1957 c.716 s.19; 1995 c.195 s.6]

62.250 [Repealed by 1957 c.716 s.76]

62.255 Meetings of members. (1) Meetings of members may be held either within or without this state as may be provided in the bylaws, and in the absence of a bylaw provision such meetings shall be held at the principal place of business of the cooperative.

(2) An annual meeting of the members shall be held at such time or within such time as may be provided in the bylaws. If the bylaws do not fix a time for such meeting, the annual meeting shall be held in each calendar year at such time as the board shall determine. Failure to hold the annual meeting at the designated time does not work a forfeiture or dissolution of the cooperative.

(3) Special member meetings may be called by the president or the board; or the secretary shall call such a meeting upon the filing of a petition stating the business to be brought before the meeting signed by not less than 10 percent of the members of the cooperative.

(4) Written or printed notice, stating the place, day and hour, and in case of a special member meeting the purposes for which the meeting is called, shall be given to each member and each shareholder, if shareholders are entitled to vote at such meeting, either personally or by mail not less than seven or more than 30 days before the meeting by direction of the person calling the meeting. If mailed, the notice shall be deemed to be given when deposited in the United States mail addressed to the member or shareholder at the address of the member or shareholder as it appears on the records of the cooperative with postage thereon prepaid. At any meeting at which the members are to be represented by delegates, notice to the members may be given by notifying the delegates and their alternates if any.

(5) A cooperative may provide in its bylaws:

(a) For the formation of districts and the holding of member meetings by districts and that elections of directors may be held at district meetings.

(b) That district meetings may elect delegates who shall represent their districts in annual and special meetings of the members. Notice of district meetings shall be given in the same manner as prescribed in this section for member meetings. [1957 c.716 s.20]

62.260 [Repealed by 1957 c.716 s.76]

62.265 Voting by members. (1) At any member meeting each member has one vote except that bylaws may authorize voting according to actual, estimated or potential patronage, or a combination of such plans of voting. Shares of stock as such shall not be given voting power except in the specific instances authorized by this chapter.

(2) Members as such shall not vote by proxy; but a member that is a corporation, association or partnership may designate a representative to cast its vote. In the absence of written notice that some person has been designated to represent a member which is other than a natural person, such member may be represented by any of its principal officers. If the bylaws of a cooperative provide for the formation of districts and the election of delegates at district meetings to represent their districts in member meetings, such representation is not considered voting by proxy, and the delegates so elected shall cast the votes to which members represented by them are entitled on such matters as are not covered by mail ballots submitted to all members.

(3) If the bylaws so provide, the board may cause to be submitted by mail ballot any question to be voted on at any member meeting, including the election of directors. In such event the secretary shall mail to each member along with the notice of the meeting, the ballot on each such question and a voting envelope. The ballot may be cast only in a sealed envelope which is authenticated by the member's signature. A vote so cast shall be counted as if the member were present and voting in person.

(4) The bylaws may set forth provisions, not inconsistent with this chapter, relating to the methods and procedures for voting. [1957 c.716 s.21]

62.270 [Repealed by 1957 c.716 s.76]

62.275 Quorum of members. (1) Those members present at any annual or special member meeting of a cooperative constitute a quorum at the meeting, unless the bylaws of that cooperative provide that a greater number constitutes a quorum.

(2) Any action taken at a member meeting of a cooperative subsequent to December 31, 1953, and prior to January 1, 1958, which would have been effective except for the absence of a quorum shall be deemed effective in all respects if there were present at such meeting a quorum of members as provided in the bylaws of that cooperative which were in effect at the time of that meeting. [1957 c.716 s.22]

62.280 Board of directors. (1) The corporate powers of a cooperative shall be exercised by or under the authority of the board of directors, and the business and affairs of a cooperative shall be managed under the direction of the board of directors. Each director, at all times during the director's term of office, shall be a member or a representative of a member which is other than a natural person. Unless the bylaws otherwise provide, directors need not be residents of this state. The bylaws may prescribe any other qualifications for directors and may provide that directors be from specified territorial districts. The bylaws may also provide that voting on the election of directors from specified territorial districts may be limited to members from the respective districts without the obligation to hold district meetings.

(2) The number of directors of a cooperative shall be not less than three, unless the number of members of the cooperative is less than three. If the number of members of the cooperative is less than three, the number of directors shall not be less than the number of members of the cooperative. Subject to this limitation, the number of directors shall be fixed or determined by the bylaws, except as to the number constituting the initial board, which number shall be fixed by the articles.

(3) Directors constituting the initial board named in the articles shall hold office until the first annual meeting of the members and until their successors are elected and take office. At that meeting and thereafter, directors shall be elected by the members in the manner and for the term of office, not to exceed three years, provided in the bylaws. Each director shall begin immediately to discharge the duties of director and, subject to resignation or removal, shall hold office for the term for which the director was elected and until a successor takes office.

(4) A director may be removed upon a majority vote of all members voting in person thereon at a duly called member meeting if written reasons for removal of the director are included in the notice of the meeting and the director whose removal is sought has had an opportunity to answer the reasons at the meeting. The written statement of reasons for removal shall be filed with the minutes of the meeting. The bylaws may contain such other provisions for the removal of a director as may be consistent with the provisions of this subsection.

(5) Unless the bylaws provide otherwise, any vacancy occurring in the board may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board. The director elected to fill a vacancy shall be elected for the unexpired term of the director's predecessor in office. [1957 c.716 s.23; 1981 c.542 s.2; 1995 c.195 s.7]

62.283 Standard of conduct for directors; permissible reliance on opinions and reports of others; limitation of liability. (1) A director shall discharge the duties of a director, including the duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner the director reasonably believes to be in the best interests of the cooperative.

(2) In discharging the duties of a director, a director is entitled to rely on information, opinions, reports or statements including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employees of the cooperative whom the director reasonably believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(3) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.

(4) A director is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section.

(5) When evaluating any offer of another party to make a tender or exchange offer for any equity security of the cooperative or any proposal to merge or consolidate the cooperative with another corporation or cooperative or to purchase or otherwise acquire all or substantially all the properties and assets of the corporation or cooperative, the directors of the cooperative may, in determining what they believe to be in the best interests of the cooperative, give due consideration to the social, legal and economic effects on employees, customers and suppliers of the cooperative

and on the communities and geographical areas in which the cooperative and its subsidiaries operate, the economy of the state and nation, the long term as well as short term interests of the cooperative and its members, including the possibility that these interests may be best served by the continued independence of the cooperative, and other relevant factors. [1981 c.542 s.3; 1995 c.195 s.8]

62.284 Director conflict of interest. (1) A conflict of interest transaction is a transaction with the cooperative, other than in the ordinary course of business for which the cooperative is organized, whether or not on a patronage basis, in which a director of the cooperative has a direct or indirect interest. A conflict of interest transaction is not voidable by the cooperative solely because of the director's interest in the transaction if any one of the following is true:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors, and the board of directors or committee authorized, approved or ratified the transaction;

(b) The material facts of the transaction and the director's interest were disclosed or known to the members entitled to vote and they authorized, approved or ratified the transaction; or

(c) The transaction was fair to the cooperative.

(2) For purposes of this section, a director of the cooperative has an indirect interest in a transaction if:

(a) Another entity in which the director has a material financial interest or in which the director is a general partner is a party to the transaction; or

(b) Another entity of which the director is a director, officer or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the cooperative.

(3) For purposes of subsection (1)(a) of this section, a conflict of interest transaction is authorized, approved or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no direct or indirect interest in the transaction. A transaction may not be authorized, approved or ratified under this section by a single director, unless only one director is authorized to serve pursuant to ORS 62.280. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (1)(a) of this section if the transaction is otherwise authorized, approved or ratified as provided in subsection (1) of this section.

(4) For purposes of subsection (1)(b) of this section, a conflict of interest transaction is authorized, approved or ratified if it receives the vote of a majority of the member votes entitled to be counted under this subsection. Any director who is a member who has a direct or indirect interest in the transaction, and any votes by a member under the control of an entity described in subsection (2)(a) of this section may be counted in a vote of members to determine whether to authorize, approve or ratify a conflict of interest transaction under subsection (1)(b) of this section. A majority of the members, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section. [1995 c.195 s.9]

62.285 Meetings of board of directors. (1) Regular or special meetings of the board may be held either within or without this state.

(2) Regular meetings of the board may be held with or without notice as prescribed in the bylaws. Special meetings of the board shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at a meeting shall constitute a waiver of notice of the meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

(3) Unless the bylaws provide otherwise, the purposes of any meeting of the board need not be specified in the notice or waiver of notice of the meeting.

(4) Unless a greater number is required in the bylaws, a majority of the number of directors fixed by or determined pursuant to the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles, shall constitute a quorum for the transaction of business. Unless a greater number is required in the bylaws, an act of the majority of the directors present at a meeting at which a quorum is present is the act of the board. [1957 c.716 s.24]

62.286 Loans to or guarantees for directors. (1) Except as provided by subsection (3) of this section, a cooperative may not lend money to or guarantee the obligation of a director of the cooperative unless:

(a) The particular loan or guarantee is approved by a majority of the votes of all the members excluding the votes of any member who is a benefited director; or

(b) The cooperative's board of directors determines that the loan or guarantee benefits the cooperative and either approves the specific loan or guarantee or a general plan authorizing the loans and guarantees.

(2) The fact that a loan or guarantee is made in violation of this section does not affect the borrower's liability on the loan.

(3) This section does not apply to loans and guarantees authorized by statute regulating any special class of cooperatives. [1995 c.195 s.10]

62.287 Directors' meeting by conference telephone or similar communications equipment permissible. Unless otherwise restricted by the articles of incorporation or bylaws of a cooperative, members of the board of directors of a cooperative or any committee designated by the board may hold a meeting of the board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at the meeting. [1981 c.542 s.5]

62.290 Executive committee. (1) If the bylaws so provide, the board may elect an executive committee to consist of three or more directors, which committee to the extent provided in the bylaws of the cooperative shall have and may exercise all the authority of the board in the management of the cooperative, except in respect to:

(a) Apportionment or distribution of net proceeds, savings or losses.

(b) Selection of officers.

(c) Filling of vacancies in the board or the executive committee.

(2) The board may elect other directors as alternates for members of the executive committee.

(3) Designation of an executive committee and the delegation thereto of authority shall not operate to relieve the board or any member thereof of any responsibility imposed upon the board or member by law. [1957 c.716 s.25]

62.295 Officers. (1) The principal officers of a cooperative are a president, one or more vice presidents as prescribed in the bylaws, a secretary and a treasurer. These officers shall be elected annually by the board at such time and in such manner as the bylaws provide. The offices of secretary and treasurer may be combined in one person. At least one principal officer must be a director of the cooperative. The manager of a cooperative may hold the office of president or any other office.

(2) The bylaws may provide for a chairman of the board of directors. The offices of chairman and president may be combined in one person. However, notwithstanding subsection (1) of this section, a person who is not a director may not serve as chairman of the board of directors.

(3) Any other officer may be chosen by the board.

(4) All officers shall have such authority and perform such duties as the bylaws provide, or as the board may determine, not inconsistent with the bylaws. Any officer may be removed by the board whenever in its judgment the best interests of the cooperative will be served thereby. Election or appointment shall not of itself create contract rights. [1957 c.716 s.26; 1969 c.312 s.1; 1981 c.542 s.4]

62.300 Compensation and benefits to directors, officers and employees. (1) Unless the bylaws provide otherwise, only the members of the cooperative may establish compensation or other benefits for a director, not available generally to officers and employees, for services as a director.

(2) Unless the bylaws provide otherwise, no director shall hold during the term as director any position in the cooperative on regular salary.

(3) Unless the bylaws provide otherwise, the board may provide, for prior or future services of any officer or employee, reasonable compensation, pension or other benefits to such officer or employee and pension or other benefits to a member of the family of the officer or employee or beneficiaries of the officer or employee. No officer or employee who is a director may take part in any vote on the compensation of the officer or employee for services rendered or to be rendered the cooperative. [1957 c.716 s.27]

62.305 Taking action without meeting; effective date of action. Any action required by this chapter to be taken at a meeting of the members or directors of a cooperative, or any other action which may be taken at a meeting of the members, directors or members of the executive committee, and any matter on which shareholders are entitled to vote

under this chapter, may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the members, directors, executive committee members or shareholders entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote at a meeting. Unless the consent specifies a different effective date, action taken under this section is effective when the last member, director, member of the executive committee or shareholder entitled to vote, signs the consent. [1957 c.716 s.28; 1995 c.195 s.11]

62.310 [Repealed by 1957 c.716 s.76]

62.315 Waiver of notice. Whenever any notice is required to be given to any member or director of a cooperative under the provisions of this chapter or under the provisions of the articles or bylaws of a cooperative, a waiver thereof in writing signed by the person or persons entitled to the notice, whether before or after the time stated therein, is equivalent to the giving of the notice. [1957 c.716 s.29]

62.320 [Repealed by 1957 c.716 s.76]

62.325 Voting requirements of articles. Whenever the articles require the vote of a greater proportion of the members or shareholders than required by this chapter, the articles shall control. [1957 c.716 s.30]

62.330 [Repealed by 1957 c.716 s.76]

62.335 Action brought in right of cooperative by member or shareholder; attorney fees. (1) No action may be instituted or maintained in the right of any cooperative by a member or shareholder unless the member or shareholder:

(a) Alleges in the complaint that the member or shareholder was a member or shareholder of record when any part of the transaction of which complained took place, or that the membership or stock thereafter devolved upon the member or shareholder by operation of law from a member or shareholder at such time.

(b) Alleges in the complaint with particularity the efforts of the member or shareholder to secure from the board such action as desired. The member or shareholder shall further allege that the member or shareholder has either informed the cooperative or board in writing of the ultimate facts of each cause of action against each director or delivered to the cooperative or board a copy of the complaint proposed to be filed. The member or shareholder shall state the reasons for failure to obtain such action or the reasons for not making such effort.

(c) Files a complaint in such action within 20 days after notification given to the cooperative or board as provided by paragraph (b) of this subsection.

(2) The action shall not be dismissed or compromised without the approval of the court.

(3) If anything is recovered or obtained as the result of the action, whether by means of a compromise and settlement or by a judgment, the court may direct the plaintiff to account to the cooperative for the remainder of the proceeds.

(4) In an action brought in the right of a cooperative by fewer than three percent of the members or by holders of less than three percent of any class of stock outstanding, the defendants may require the plaintiff to give security for the reasonable expenses of defending the action, including attorney fees. The amount of the security may thereafter be increased or decreased in the discretion of the court upon showing that the security provided is or may be inadequate or is excessive.

(5) The court may award reasonable attorney fees to the prevailing party in an action under this section. [1957 c.716 s.69; 1981 c.897 s.15; 1995 c.618 s.38]

62.355 Cooperative contracts. (1) Contracts for any of the following purposes, whether contained in the bylaws or separately written, are valid when made between a cooperative and any member in which such member agrees to:

(a) Sell, market or deliver to or through the cooperative or any facilities furnished by it, all or any specified part of products produced or to be produced either by the member or under the control of the member.

(b) Authorize the cooperative or any facilities furnished by it to act for the member in any manner with respect to all or any specified part of such products.

(c) Buy or procure from or through the cooperative or any facilities furnished by it, all or any specified part of goods or services to be bought or procured by the member.

(d) Authorize the cooperative or any facilities furnished by it to act for the member in any manner in the procurement of goods or the procurement or performance of services.

(2) The contract referred to in subsection (1) of this section may fix and require liquidated damages to be paid by the member to the cooperative in the event of breach of the contract by the member. Liquidated damages may be a percentage of the value or a specific amount per unit of the products, goods or services involved by the breach, or a specific sum.

(3) Two or more cooperatives may contract and act in association, corporate or otherwise, to perform collectively any of their powers or purposes authorized by this chapter. [1957 c.716 s.32]

62.360 Recording cooperative contracts. (1) A cooperative may record any contract authorized by ORS 62.355 in the office of the county clerk of the county in which the member resides or in which products covered by that contract have been or are to be produced. If the cooperative has substantially uniform contracts with more than one member residing or producing such products in any county, it may, in lieu of recording the original contracts, record:

(a) A true copy of the uniform contract; and

(b) A sworn list or sworn lists of the names of members who have executed such contract and who reside or produce such products in that county, and the effective date of the contract as to each such member.

(2) The county clerk shall record each such contract, and shall record alphabetically in the Cooperative Contract Record the name of each party to that contract. For recording such contract the fee is the same as for recording a contract under ORS 205.320.

(3) Recording pursuant to this section shall operate as constructive notice to all persons of the existence and contents of the contract. Any right, title, interest or lien created as to the products covered by the contract subsequent to such recording is subject to the cooperative's right, title or interest under that contract. If the member creates any mortgage upon or other security interest in any such products subsequent to such contract recording, and if the member and the mortgagee or secured party jointly notify the cooperative in writing of the existence and amount of the mortgage or other security interest, all payments which after such notice become due from the cooperative to that member by reason of the cooperative's sale or other handling of those products shall be paid by the cooperative to the mortgagee or other secured interest until the amount of the mortgage or secured party has been paid, and the balance thereafter shall be paid to the member.

(4) When a contract recorded under this section has been terminated in any manner, the cooperative shall give, upon demand, a statement of termination to the member party to the contract, who may record the statement in the office of the county clerk where the contract was originally filed or recorded. The county clerk shall record the termination and index the name of the member in the Cooperative Contract Record. A cooperative may record at any time in the office of the county clerk where the contract was originally filed or recorded, a sworn list of the names of all persons whose contracts have been terminated in any manner other than by expiration of their term, and the county clerk shall record the termination and index the name of each of those persons in the Cooperative Contract Record. The fee for recording and indexing a document under this section is the fee established in ORS 205.320. [1957 c.716 s.33; 1965 c.632 s.6; 1971 c.621 s.12; 1975 c.607 s.14; 1979 c.833 s.15; 1981 c.835 s.5; 1999 c.654 s.3]

62.365 Relief against breach or threatened breach of contract; penalty for interference. (1) In the event of a breach or threatened breach of a cooperative contract authorized by ORS 62.355, the cooperative is entitled to an injunction to prevent the breach or any further breach thereof, and to a decree of specific performance thereof. Upon filing of a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the cooperative is entitled to a temporary restraining order.

(2) Any person who, with knowledge that a contract exists, induces or attempts to induce any member to breach the contract with the cooperative, or who in any manner aids a breach of the contract, is liable to the cooperative for damages caused by such interference. The cooperative is also entitled to an injunction to prevent any interference or further interference with the contract. [1957 c.716 s.34]

62.370 Action for civil penalty for inducing breach of contract with cooperative or spreading false reports about cooperative. In addition to the remedies provided in ORS 62.365 (2), any person who knowingly and maliciously induces or attempts to induce any member of a cooperative to breach a contract of the member with the cooperative authorized by ORS 62.355, or who knowingly and maliciously spreads any false report about the finances or management of a cooperative is liable, in a civil action, to the cooperative aggrieved, in the penal sum of $500 for each offense. [1957 c.716 s.72]

62.410 [Repealed by 1957 c.716 s.76]

62.415 Apportionment and distribution of net proceeds or savings or net losses. (1) The net proceeds or savings of a cooperative shall be apportioned, distributed and paid periodically to those persons entitled to receive them, at such times and in such reasonable manner as the bylaws shall provide; except that net proceeds or savings on patronage of the cooperative by its members shall be apportioned and distributed among those members in accordance with the ratio which each member's patronage during the period involved bears to total patronage by all members during that period. The bylaws may contain any reasonable provisions for the apportionment and charging of net losses. For the purposes of this section work performed as a member of a workers' cooperative shall be deemed to be patronage of that cooperative.

(2) The apportionment, distribution and payment of net proceeds or savings required by subsection (1) of this section may be in cash, credits, capital stock, certificates of interest, revolving fund certificates, letters of advice or written evidence of indebtedness or other equity interest issued by the cooperative or by any affiliated domestic or foreign cooperative association whether or not incorporated under this chapter.

(3) Apportionment and distribution of its net proceeds or savings or net losses may be separately determined for, and be based upon patronage of, single or multiple pools, particular departments of the cooperative, or as to particular commodities, supplies or services, or such apportionment and distribution may be based upon classification of patronage according to the type thereof.

(4) A cooperative may provide in its bylaws:

(a) The minimum amount of any single patronage transaction; and

(b) The minimum aggregate amount of patronage transactions by any patron during the fiscal year of the cooperative.

(5) Any amount described in subsection (4) of this section shall be taken into account for the purpose of participation in allocation and distribution of net proceeds or savings or net losses under this section.

(6) For the purposes of this section net proceeds or savings or net losses shall be computed in accordance with generally accepted accounting principles applicable to cooperative corporations, and after deducting from gross proceeds or savings any dividends paid upon capital stock. [1957 c.716 s.36; 1963 c.156 s.2; 1995 c.79 s.15; 1995 c.195 s.12]

62.420 [Repealed by 1957 c.716 s.76]

62.425 Unclaimed distribution, redemptions or payments. (1) Any distribution of net margins by a cooperative or any redemption of or payment based upon any indebtedness, capital stock of a cooperative or other equity interest which remains unclaimed four years after the date authorized for payment, redemption or retirement may be forfeited by the board. Any amount forfeited may revert to the cooperative, if, at least six months prior to the declared date of forfeiture, notice that the payment is available has been mailed to the last-known address of the person shown by the cooperative's records to be entitled thereto or, if the address is unknown, is published as provided by ORS 62.245.

(2) This section applies to payments authorized before or after January 1, 1958, except that this section does not authorize the forfeiture prior to January 1, 1959, of any right to any such amount which would not otherwise have been barred prior to January 1, 1959. [1957 c.716 s.37; 1987 c.341 s.1; 1995 c.195 s.13]

62.430 Payments in name of deceased owner of capital credits or retains in cooperative. (1) If authorized by the bylaws, a cooperative may pay the following persons up to $10,000 in redemption or refund of capital credits or retains recorded on the books and records of the cooperative in the name of a deceased owner thereof:

(a) The surviving spouse of the deceased owner;

(b) If there is no surviving spouse, the deceased owner's surviving children 18 years of age or older;

(c) If the deceased owner left no surviving spouse or surviving children 18 years of age or older, the deceased owner's surviving parents; or

(d) If there is no surviving spouse, surviving children 18 years of age or older or surviving parent, the deceased owner's surviving brothers and sisters 18 years of age or older.

(2) The affidavit of the person claiming payment shall:

(a) State where and when the deceased owner died;

(b) State that the total face value of the capital credits or retains of the deceased owner in the cooperative does not exceed $10,000 and that they are free and clear of any security interest or other lien or encumbrance;

(c) Show the relationship of the affiant or affiants to the deceased owner;

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased owner out of the capital credits or retains to be redeemed or refunded to the full extent thereof if necessary, and to distribute any balance to those persons entitled thereto by law; and

(e) State any other information deemed appropriate by the cooperative.

(3) A cooperative is under no obligation to determine the relationship of the affiant to the deceased owner, or to determine other than from its books and records whether the deceased owner's capital credits or retains are subject to a security interest or other lien or encumbrance. Payment made in good faith to the person making the affidavit is a full acquittance and release of the cooperative for the amount so paid.

(4) A probate proceeding is not necessary to establish the right of the surviving spouse, surviving children, surviving parent or surviving brothers and sisters to obtain payment of the capital credits or retains as provided by this section. However, if a personal representative is appointed in an estate of a deceased member or patron whose capital credits or retains have been redeemed or refunded under this section, the person or persons signing the affidavit shall account for them to the personal representative.

(5) Nothing in this section shall abrogate the rights of a cooperative set forth in ORS 62.235, and a cooperative's right to set off from a deceased owner's capital credits or retains any debts owed to the cooperative by the deceased owner. This section shall not require that redemption or refund of capital credits or retains be made in accordance with this section, or otherwise limit or affect the manner in which a cooperative may pay, redeem, refund, administer or distribute its net savings, or any retains thereof, capital credits or other equity interests, nor shall it be deemed or construed to impose any further obligation or liability on a cooperative in its payment or redemption of retains in excess of $10,000.

(6) Notwithstanding any provision of this section, if the cooperative's books and records reflect that the deceased owner's capital credits or retains are subject to a security interest or other encumbrance, the cooperative shall not be relieved of any liability arising from the security interest or the encumbrance if the redemption or refund of capital credits is made to the person making the affidavit under this section. [1995 c.195 s.31; 1999 c.377 s.1]

62.435 Sale or other disposition of entire assets. (1) The sale, lease, exchange or other disposition of all, or substantially all, the property and assets of a cooperative, when made in the usual and regular course of the business of the cooperative, may be made on such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other cooperative, corporation or association, domestic or foreign, as shall be authorized by its board; and in such case no authorization or consent of members or shareholders is required.

(2) A sale, lease, exchange or other disposition of all, or substantially all, the property and assets, with or without the good will, of a cooperative, if not made in the usual and regular course of its business, may be made upon such terms and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other cooperative, corporation or association, as may be authorized in the following manner:

(a) The board shall adopt a resolution recommending the sale, lease, exchange or other disposition and directing the submission thereof to a vote at a meeting of members, which may be either an annual or a special meeting, or if there are shareholders the submission shall be to a joint meeting of members and shareholders.

(b) Written or printed notice shall be given to each member and to each shareholder within the time and in the manner provided in ORS 62.255 for the giving of notice of meetings of members, and shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed sale, lease, exchange or other disposition.

(c) At the meeting, the members, by affirmative vote of a majority of the member votes cast thereon, and the shareholders, by affirmative vote of a majority of the shareholder votes entitled to be voted thereon, or in the case of an electric or a telephone cooperative by affirmative vote of two-thirds of all the members and affirmative vote of two-thirds of the shareholder votes entitled to be voted thereon, may approve the sale, lease, exchange or other disposition, and may fix, or may authorize the board to fix, any or all of the terms and conditions thereof and the consideration to be received by the cooperative therefor.

(3) After authorization by votes of members and shareholders, the board nevertheless, in its discretion, may abandon the sale, lease, exchange or other disposition of assets subject to the rights of third parties under any contracts relating thereto, without further action or approval by members or shareholders. [1957 c.716 s.48]

62.440 Books and records; attorney fees. (1) A cooperative shall keep correct and complete books and records of account, and shall keep minutes of the proceedings of its members, board and executive committee. It shall keep at its principal office records of the names and addresses of all members and shareholders. At any reasonable time, any

member or shareholder, or the agent or attorney of any member or shareholder, upon written notice stating the purposes thereof, may examine for any proper purpose any books or records pertinent to the purpose specified in the notice and may make extracts therefrom, all in accordance with any reasonable conditions prescribed by the board restricting the disclosure, dissemination or use by any member or shareholder, or any agent or attorney of any member or shareholder, of any information therein contained. The board may deny a request to examine books and records if the board determines that the purpose is not directly related to the business or affairs of the cooperative and is contrary to the best interests of the cooperative.

(2) In any action or proceeding to enforce the rights of members or shareholders provided in this section, the court may award reasonable attorney fees to the prevailing party. [1957 c.716 s.31; 1981 c.897 s.16; 1995 c.195 s.14; 1995 c.618 s.39]

62.455 Annual report; form; effect of error; amendment. (1) Each cooperative shall by its anniversary deliver to the Office of Secretary of State for filing an annual report that sets forth:

(a) The name of the cooperative.

(b) The street address of its registered office and the name of its registered agent at that office in this state.

(c) The address, including street and number and mailing address, if different, of its principal office.

(d) The names and addresses of the president and secretary of the cooperative.

(e) The category of the classification code established by rule of the Secretary of State most closely designating the primary business activity of the cooperative.

(f) The federal employer identification number of the cooperative.

(g) Additional identifying information that the Secretary of State may require by rule.

(2) The information contained on the annual report shall be current as of 30 days before the anniversary of the cooperative.

(3) The Secretary of State shall mail the annual report form to any address shown for the cooperative in the current records of the Office of Secretary of State. The failure of the cooperative to receive the annual report form from the Secretary of State shall not relieve the cooperative of its duty to deliver an annual report to the Office of Secretary of State as required by this section.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall notify the reporting cooperative in writing and return the report to it for correction. The cooperative must correct the error within 45 days after the Secretary of State gives such notice.

(5) A cooperative may deliver to the Office of Secretary of State for filing an amendment to the annual report if a change in the information set forth in the annual report occurs after the report is delivered to the Office of Secretary of State for filing and before the next anniversary. This subsection applies only to a change that is not required to be made by an amendment to the articles of incorporation. The amendment to the annual report must set forth:

(a) The name of the cooperative as shown on the records of the Office of Secretary of State; and

(b) The information as changed. [1957 c.716 s.63; 1963 c.492 s.43; 1983 c.717 s.25; 1985 c.728 s.66; 1987 c.94 s.82; 1987 c.843 s.16]

62.460 [1981 c.542 s.6; repealed by 1995 c.195 s.46]

INDEMNIFICATION OF DIRECTORS

62.462 Definitions for ORS 62.462 to 62.482. As used in ORS 62.462 to 62.482:

(1) “Cooperative” includes any domestic or foreign predecessor entity of a cooperative in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) “Director” means an individual who is or was a director of a cooperative or an individual who, while a director of a cooperative, is or was serving at the cooperative's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic cooperative, corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. A director is considered to be serving an employee benefit plan at the cooperative's request if the director's duties to the cooperative also impose duties on or otherwise involve services by the director to the plan or to participants in or beneficiaries of the plan. “Director” includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) “Expenses” includes counsel fees.

(4) “Liability” means the obligation to pay a judgment, settlement, penalty or fine, including an excise tax assessed

with respect to an employee benefit plan or reasonable expenses incurred with respect to a proceeding.

(5) “Officer” means an individual who is or was an officer of a cooperative or an individual who, while an officer of a cooperative, is or was serving at the cooperative's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic cooperative, corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. An officer is considered to be serving an employee benefit plan at the cooperative's request if the officer's duties to the cooperative also impose duties on or include services by the officer to the employee benefit plan or to participants in or beneficiaries of the plan. “Officer” includes, unless the context requires otherwise, the estate or personal representative of an officer.

(6) “Party” includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(7) “Proceeding” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal. [1995 c.195 s.15]

62.464 Authority to indemnify director; report to members. (1) Except as provided in subsection (4) of this section, a cooperative may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

(a) The conduct of the individual was in good faith;

(b) The individual reasonably believed that the individual's conduct was in the best interests of the cooperative, or at least not opposed to its best interests; and

(c) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

(2) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection (1)(b) of this section.

(3) The termination of a proceeding by judgment, order, settlement or conviction or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

(4) A cooperative may not indemnify a director under this section:

(a) In connection with a proceeding by or in the right of the cooperative in which the director was adjudged liable to the cooperative; or

(b) In connection with any other proceeding charging improper personal benefit to the director in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the cooperative is limited to reasonable expenses incurred in connection with the proceeding.

(6) If a cooperative indemnifies or advances expenses to a director under this section or ORS 62.466, 62.468 or 62.472 in connection with a proceeding by or in the right of the cooperative, the cooperative shall report the indemnification or advance in writing to the members with or before the notice of the next membership meeting. [1995 c.195 s.16]

62.465 [1981 c.542 s.7; repealed by 1995 c.195 s.46]

62.466 Mandatory indemnification of director. Unless limited by its articles of incorporation, a cooperative shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because of being a director of the cooperative against reasonable expenses incurred by the director in connection with the proceeding. [1995 c.195 s.17]

62.468 Advance for expenses. (1) A cooperative may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) The director furnishes the cooperative a written affirmation of the director's good faith belief that the director has met the standard of conduct described in ORS 62.464; and

(b) The director furnishes the cooperative a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct.

(2) The undertaking required by subsection (1)(b) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

(3) Any authorization of payments under this section may be made by provision in the articles of incorporation, or bylaws, by a resolution of the members or board of directors or by contract. [1995 c.195 s.18]

62.470 [1981 c.542 s.8; repealed by 1995 c.195 s.46]

62.472 Court-ordered indemnification. Unless the cooperative's articles of incorporation provide otherwise, a director of the cooperative who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court after giving any notice the court considers necessary may order indemnification if it determines:

(1) The director is entitled to mandatory indemnification under ORS 62.466, in which case the court shall also order the cooperative to pay the director's reasonable expenses incurred to obtain court-ordered indemnification; or

(2) The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in ORS 62.464 or was adjudged liable as described in ORS 62.464 (4), whether the liability is based on a judgment, settlement or proposed settlement or otherwise. [1995 c.195 s.19]

62.474 Determination and authorization of indemnification. (1) A cooperative may not indemnify a director under ORS 62.464 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in ORS 62.464.

(2) A determination that indemnification of a director is permissible shall be made:

(a) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(b) If a quorum cannot be obtained under paragraph (a) of this subsection, by a majority vote of a committee duly designated by the board of directors consisting solely of two or more directors not at the time parties to the proceeding. However, directors who are parties to the proceeding may participate in designation of the committee;

(c) By special legal counsel selected by the board of directors or its committee in the manner prescribed in paragraph (a) or (b) of this subsection or, if a quorum of the board of directors cannot be obtained under paragraph (a) of this subsection and a committee cannot be designated under paragraph (b) of this subsection, the special legal counsel shall be selected by majority vote of the full board of directors, including directors who are parties to the proceeding; or

(d) By the members.

(3) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (2)(c) of this section to select counsel. [1995 c.195 s.20]

62.475 [1981 c.542 s.9; repealed by 1995 c.195 s.46]

62.476 Indemnification of officers, employees and agents. Unless a cooperative's articles of incorporation provide otherwise:

(1) An officer of the cooperative is entitled to mandatory indemnification under ORS 62.466, and is entitled to apply for court-ordered indemnification under ORS 62.472, in each case to the same extent as a director under ORS 62.466 or 62.472.

(2) The cooperative may indemnify and advance expenses under ORS 62.462 to 62.482 to an officer, employee or agent of the cooperative to the same extent as to a director. [1995 c.195 s.21]

62.478 Insurance. A cooperative may purchase and maintain insurance on behalf of an individual against liability asserted against or incurred by the individual who is or was a director, officer, employee or agent of the cooperative or who, while a director, officer, employee or agent of the cooperative, is or was serving at the request of the cooperative as a director, officer, partner, trustee, employee or agent of another foreign or domestic cooperative, corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. The cooperative may purchase and maintain the insurance even if the cooperative has no power to indemnify the individual against the same liability under ORS 62.464 or 62.466. [1995 c.195 s.22]

62.480 [1981 c.542 s.10; repealed by 1995 c.195 s.46]

62.482 Application of ORS 62.462 to 62.482. (1) The indemnification and provisions for advancement of expenses provided by ORS 62.462 to 62.482 shall not be deemed exclusive of any other rights to which directors, officers, employees or agents may be entitled under the cooperative's articles of incorporation or bylaws, any agreement, general or specific action of its board of directors, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. Specifically and not by way of limitation, a cooperative shall have the power to make or agree to make any further indemnification, including advancement of expenses, of:

(a) Any director as authorized by the articles of incorporation, any bylaws approved, adopted or ratified by the members or any resolution or agreement approved, adopted or ratified, before or after such indemnification or agreement is made, by the members, provided that no such indemnification shall indemnify any director from or on account of acts or omissions for which liability could not be eliminated under ORS 62.513 (4)(f); and

(b) Any officer, employee or agent who is not a director as authorized by its articles of incorporation or bylaws, general or specific action of its board of directors or agreement. Unless the articles of incorporation, or any such bylaws, agreement or resolution provide otherwise, any determination as to any further indemnity under this paragraph shall be made in accordance with ORS 62.474.

(2) If articles of incorporation limit indemnification or advance of expenses, any indemnification or advance of expenses is valid only to the extent consistent with the articles of incorporation.

(3) ORS 62.462 to 62.482 do not limit a cooperative's power to pay or reimburse expenses incurred by a director in connection with the director's appearance as a witness in a proceeding at a time when the director has not been made a named defendant or respondent to a proceeding. [1995 c.195 s.23]

62.505 [1957 c.716 s.5; 1963 c.492 s.44; 1975 c.161 s.2; 1981 c.633 s.62; 1985 c.728 s.67; repealed by 1987 c.94 s.174]

62.510 [1957 c.716 s.6; 1963 c.492 s.45; 1983 c.717 s.26; 1985 c.728 s.68; 1987 c.94 s.83; repealed by 1995 c.195 s.46]

FORMATION OF COOPERATIVES

62.511 Incorporators; articles of incorporation. One or more individuals 18 years of age or older, a domestic or foreign corporation or cooperative, a partnership or an association may act as incorporators of a cooperative by delivering articles of incorporation to the Office of Secretary of State for filing. [1995 c.195 s.24]

62.513 Contents of articles of incorporation. (1) The articles of incorporation shall set forth:

(a) The name of the cooperative, which satisfies the requirements of ORS 62.131.

(b) The purposes for which the cooperative is organized. It shall be sufficient to state, either alone or with other purposes, that the purpose of the cooperative is to engage in any lawful activity for which cooperatives may be organized under this chapter, and by such statement, all lawful activities shall be within the purposes of the cooperative, except for express limitations, if any.

(c) Whether the cooperative is organized with or without membership stock, and if organized without membership stock the amount of the membership fee and whether the membership fee may be changed in accordance with a procedure established in the bylaws without the necessity of filing amended or restated articles, and the limitations, if any, on transfer of a membership.

(d) The number and par value, if any, of shares of each authorized class of stock, and if more than one class is authorized, the designation, preferences, limitations and relative rights of each class.

(e) Which classes of stock, if any, are membership stock, and the limitations upon transfer, if any, applicable to such stock.

(f) Any limitation of the right to acquire or recall any stock.

(g) The basis of distribution of assets in the event of dissolution or liquidation.

(h) The street address of the cooperative's initial registered office and the name of its initial registered agent who shall be amenable to service of process at the address.

(i) A mailing address to which the Secretary of State may mail notices as required by this chapter.
(j) The number of directors constituting the initial board of directors.
(k) The name and address of each incorporator.
(2) Duration shall be perpetual unless the articles of incorporation expressly limit the period of duration.
(3) It is not necessary to set forth in the articles any of the corporate powers enumerated in this chapter. The articles may include additional provisions, not inconsistent with law, for the regulation of the internal affairs of the cooperative, including any provision that restricts the transfer of shares or that under this chapter is required or permitted to be set forth in the bylaws. Any provision required or permitted in the bylaws has equal force and effect if stated in the articles. Whenever a provision of the articles is inconsistent with a bylaw, the articles control.
(4) Without limiting the provisions of subsection (3) of this section, the articles of incorporation may set forth:
(a) The names of the initial directors;
(b) The addresses of the initial directors;
(c) The names and addresses of the president and secretary;
(d) The federal employer identification number of the cooperative;
(e) Provisions regarding:
(A) Managing the business and regulating the affairs of the cooperative; and
(B) Defining, limiting and regulating the powers of the cooperative, its board of directors and members;
(f) A provision eliminating or limiting the personal liability of a director to the cooperative, its members or its shareholders for monetary damages for conduct as a director, provided that the provision shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision becomes effective and the provision shall not eliminate or limit the liability of a director for:
(A) Any breach of the director's duty of loyalty to the cooperative, its members or its shareholders;
(B) Acts or omissions that are not in good faith or that involve intentional misconduct or a knowing violation of law; or
(C) Any transaction from which the director derived an improper personal benefit; and
(g) Any provision that under this chapter is required or permitted to be set forth in the bylaws.
(5) The Secretary of State by rule may require additional identifying information. [1995 c.195 s.25]

62.515 Organization meeting of directors. After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. [1957 c.716 s.7]

AMENDMENT OF ARTICLES

62.555 Right to amend articles of incorporation. (1) A cooperative may amend its articles from time to time in any and as many respects as may be desired, so long as its articles as amended contain only such provisions as might be lawfully contained in original articles at the time of making the amendment, and, if a change in shares or the rights of shareholders or members, or an exchange, reclassification or cancellation of shares or rights of shareholders or members is to be made, such provisions as may be necessary to effect the change, exchange, reclassification or cancellation.
(2) Amendments to the articles shall be made in the following manner:
(a) The board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members of the cooperative, which may be either an annual or a special meeting.
(b) Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member of record within the time and in the manner provided in ORS 62.255 for the giving of notice of meetings of members. If the meeting is an annual meeting, the proposed amendment or the summary may be included in the notice of the annual meeting.
(c) At the meeting a vote of the members shall be taken on the proposed amendment. The proposed amendment is adopted upon receiving the affirmative vote of a majority of the member votes cast thereon, unless shareholders are entitled by ORS 62.560 to vote on the proposed amendment, in which event the proposed amendment is adopted upon receiving the approval of shareholders as specified in ORS 62.560, as well as the affirmative vote of a majority of member votes cast thereon. Any number of amendments may be submitted to the members and voted upon by them at one meeting. [1957 c.716 s.38]

62.560 Shareholder voting on amendments to articles. (1) If a proposed amendment to articles would affect a shareholder, such shareholder, whether or not permitted to vote by the articles, is entitled to cast one vote on the amendment regardless of the dollar amount of stock or number of affected classes of stock held by the shareholder; except that the articles may permit such affected shareholder to cast one vote for each share of stock the shareholder holds other than membership stock. A member holding stock affected by a proposed amendment may vote both as a member and as an affected shareholder.

(2) If any shareholder is entitled to vote on a proposed amendment, the meeting at which that proposed amendment is to be voted upon shall be a joint meeting of members and affected shareholders, and notice of that meeting together with a copy of the proposed amendment or a summary of the changes to be effected thereby shall be given to each such shareholder of record entitled to vote thereon within the time and in the manner provided in ORS 62.255 for the giving of notice of meetings of members. The proposed amendment is adopted only if it receives the affirmative vote of a majority of the votes of the affected shareholders entitled to vote thereon.

(3) For the purpose of this section, a shareholder is affected as to any class of stock owned by the shareholder only if an amendment would expressly:

(a) Decrease the dividends to which that class may be entitled or change the method by which the dividend rate on that class is fixed.

(b) Restrict rights to transfer that class.

(c) Give to another existing or any new class of stock or equity interest not previously entitled thereto any preference as to dividends or upon dissolution which is the same or higher than preferences of that class.

(d) Change the par value of shares of that class or of any other class having the same or higher preferences as to dividends or upon dissolution.

(e) Increase the number of authorized shares of any class having a higher preference as to dividends or upon dissolution.

(f) Require or permit an exchange of shares of any class with lower preferences as to dividends or upon dissolution for shares of that class or any other class with the same or higher preferences. [1957 c.716 s.39]

62.565 Articles of amendment; effect of amendment. (1) Following adoption of an amendment or amendments to articles as provided in this chapter, articles of amendment shall set forth:

(a) The name of the cooperative.

(b) The text of each amendment adopted.

(c) The date of the adoption of the amendment by the members.

(d) The numbers of members voting for and against the amendment.

(e) If affected shareholders had the right to vote under ORS 62.560, the number of affected shareholders, the number of shareholder votes entitled to be voted thereon, and the numbers of such votes cast for and against the amendment.

(2) No amendment shall affect any existing cause of action in favor of or against the cooperative, or any pending suit to which the cooperative is a party, or the existing rights of persons other than members or affected shareholders; and, if the cooperative's name is changed by amendment, no suit brought by or against the cooperative under its former name shall abate for that reason. [1957 c.716 s.40; 1981 c.633 s.63; 1985 c.728 s.69; 1987 c.94 s.85; 1995 c.195 s.32]

62.570 Restated articles. (1) A cooperative by action taken in the same manner as required for amendment of articles of incorporation may adopt restated articles of incorporation. The restated articles of incorporation may contain any changes in the articles of incorporation that could be made by amendment regularly adopted. Adoption of restated articles of incorporation containing any such changes shall have the effect of amending the existing articles of incorporation to conform to the restated articles, without further action of the board of directors or shareholders.

(2) Restated articles of incorporation shall contain all the statements required under this chapter to be included in original articles of incorporation except that no statement need be made with respect to:

(a) The number, names and addresses of directors constituting the initial board of directors;

(b) The names and addresses of the incorporators;

(c) The initial or present registered office or agent; or

(d) The mailing address of the cooperative if an annual report has been filed with the Office of the Secretary of State.

(3) Restated articles of incorporation when executed and filed in the manner prescribed in this chapter shall

supersede the theretofore existing articles of incorporation and amendments thereto. The Secretary of State shall upon request certify a copy of the articles of incorporation, or the articles of incorporation as restated, or any amendments to either thereof.

(4) The restated articles of incorporation, when filed, shall be accompanied by a statement and a true copy of the statement as provided in this subsection. The statement shall set forth:

(a) The name of the cooperative.

(b) The date of the adoption of the restated articles of incorporation.

(c) The number of shares outstanding, and if affected shareholders have the right to vote, the number of affected shares, the number of shareholder votes entitled to be voted thereon, and, if the shareholders of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each class.

(d) The number of members voting for and against the restated articles of incorporation, respectively, and, if there are shareholders entitled to vote, the number of shares voted for and against the restated articles of incorporation, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against the restated articles, respectively.

(e) If the restated articles of incorporation provide for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the restated articles of incorporation, then a statement of the manner in which the same shall be effected. [1957 c.716 s.41; 1963 c.492 s.46; 1987 c.94 s.86; 1995 c.195 s.33]

CONVERSIONS AND MERGERS

62.605 Definitions for ORS 62.605 to 62.623. As used in this section and ORS 62.607 to 62.623:

(1) “Business entity” means any of the following for-profit entities:

(a) A professional corporation organized under ORS chapter 58, predecessor law or comparable law of another jurisdiction;

(b) A corporation organized under ORS chapter 60, predecessor law or comparable law of another jurisdiction;

(c) A cooperative organized under this chapter, predecessor law or comparable law of another jurisdiction;

(d) A limited liability company organized under ORS chapter 63 or comparable law of another jurisdiction;

(e) A partnership organized in Oregon after January 1, 1998, or that is registered as a limited liability partnership, or that has elected to be governed by ORS chapter 67, and a partnership governed by law of another jurisdiction that expressly provides for conversions and mergers; and

(f) A limited partnership organized under ORS chapter 70, predecessor law or comparable law of another jurisdiction.

(2) “Organizational document” means the following for an Oregon business entity or, for a foreign business entity, a document equivalent to the following:

(a) In the case of a corporation, professional corporation or cooperative, articles of incorporation;

(b) In the case of a limited liability company, articles of organization;

(c) In the case of a partnership, a partnership agreement and, for a limited liability partnership, its registration; and

(d) In the case of a limited partnership, a certificate of limited partnership.

(3) “Owner” means a:

(a) Shareholder of a corporation or of a professional corporation;

(b) Member or shareholder of a cooperative;

(c) Member of a limited liability company;

(d) Partner of a partnership; and

(e) General partner or limited partner of a limited partnership. [1957 c.716 s.42; 1995 c.195 s.38; 1999 c.362 s.18]

62.607 Conversion. (1) A business entity other than a cooperative may be converted to a cooperative, and a cooperative may be converted to another business entity, pursuant to this section, by adopting a plan of conversion, if conversion is permitted by the statutes governing the other business entity.

(2) The plan of conversion shall set forth:

(a) The name and type of the business entity prior to conversion;

(b) The name and type of the business entity after conversion;

(c) The terms and conditions of the conversion;

(d) The manner and basis of converting the ownership interests of each owner into ownership interests or

obligations of the surviving business entity or any other business entity, or into cash or other property in whole or in part; and

(e) Any additional information required in the organizational document of the converted business entity by the statutes governing that type of business entity.

(3) The plan of conversion may set forth other provisions relating to the conversion. [1999 c.362 s.20]

62.609 Action on plan of conversion. (1) A plan of conversion shall be approved by the business entity as follows:

(a) In the case of a cooperative, in the manner provided in ORS 62.619 (1)(a) for mergers; and

(b) In the case of a business entity other than a cooperative, as provided by the statutes governing that business entity.

(2) After a conversion is approved, and at any time before articles of conversion are filed, the planned conversion may be abandoned, subject to any contractual rights:

(a) By a cooperative, without further action by the members or shareholders, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, in the manner determined by the board of directors.

(b) By another business entity that planned to convert to a cooperative, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, in the manner permitted by the statutes governing that business entity. [1999 c.362 s.21]

62.610 [1957 c.716 s.43; 1963 c.156 s.3; 1995 c.195 s.39; repealed by 1999 c.362 s.67]

62.611 Articles of conversion. (1) After conversion is approved by the owners, the business entity shall file articles of conversion, which shall state the name and type of business entity prior to conversion and the name and type of business entity after conversion, and shall include the plan of conversion.

(2) The conversion takes effect at the later of the date and time determined pursuant to ORS 62.035 or the date and time determined pursuant to the statutes governing the business entity that is not a cooperative. [1999 c.362 s.22]

62.613 Effect of conversion; entity existence continues. (1) When a conversion to or from a cooperative pursuant to ORS 62.607 takes effect:

(a) The business entity continues its existence despite the conversion;

(b) Title to all real estate and other property owned by the converting business entity is vested in the converted business entity without reversion or impairment;

(c) All obligations of the converting business entity including, without limitation, contractual, tort, statutory and administrative obligations are obligations of the converted business entity;

(d) An action or proceeding pending against the converting business entity or its owners may be continued as if the conversion had not occurred, or the converted business entity may be substituted as a party to the action or proceeding;

(e) The ownership interests of each owner that are to be converted into ownership interests or obligations of the converted business entity or any other business entity, or into cash or other property, are converted as provided in the plan of conversion;

(f) Liability of an owner for obligations of the business entity shall be determined:

(A) As to liabilities incurred by the business entity prior to conversion, according to the status of the owner prior to conversion; and

(B) As to liabilities incurred by the business entity after conversion, according to the status of the owner after conversion, except as provided in paragraph (g) of this subsection;

(g) If prior to conversion an owner of a business entity was a partner of a partnership or general partner of a limited partnership and was personally liable for the business entity's liabilities, and after conversion is an owner normally protected from personal liability, then such owner shall continue to be personally liable for the business entity's liabilities incurred during the 12 months following conversion, if the other party or parties to the transaction reasonably believed that the owner would be personally liable and had not received notice of the conversion; and

(h) The registration of an assumed business name of a business entity under ORS chapter 648 shall continue as the assumed business name of the converted business entity.

(2) Owners of the business entity that converted are entitled to the rights provided in the plan of conversion and, in the case of business entities other than cooperatives, to the rights provided in the statutes applicable to the business

entity prior to conversion, including, without limitation, any rights to dissent, to dissociate, to withdraw, to recover for breach of any duty or obligation owed by the other owners, and to obtain an appraisal or payment for the value of an owner's interest. [1999 c.362 s.23]

62.615 [1957 c.716 s.44; 1963 c.156 s.4; 1981 c.633 s.64; 1985 c.728 s.70; 1987 c.94 s.87; 1995 c.195 s.40; 1999 c.362 s.26; renumbered 62.621 in 1999]

62.617 Merger. (1) One or more cooperatives may merge with one or more business entities, pursuant to this section, if each business entity that is a party to the merger approves a plan of merger and if the merger is permitted by the statutes governing each business entity. The business entity that survives may be a cooperative or another business entity.

(2) The plan of merger shall set forth:

(a) The name and type of each business entity planning to merge;

(b) The name and type of the business entity that will survive;

(c) The terms and conditions of the merger;

(d) The manner and basis of converting the shares or other ownership interests of each owner into shares, ownership interests or obligations of the surviving business entity or any other business entity, or into cash or other property in whole or in part; and

(e) If any party is a business entity other than a cooperative, any additional information required for a merger by the statutes governing that type of business entity.

(3) The plan of merger may set forth:

(a) Amendments to the articles of incorporation of a cooperative, if the cooperative is the surviving business entity; and

(b) Other provisions relating to the merger. [1999 c.362 s.24]

62.619 Action on plan of merger. (1) A plan of merger shall be approved by each business entity that is a party to the merger, as follows:

(a) In the case of a cooperative, the board shall by resolution approve the plan and direct that the plan be submitted to a vote at an annual or a special meeting of members. Written notice shall be given to each member in the manner provided in this chapter for meetings of members, and approval of the plan shall be by affirmative vote of a majority of the member votes cast thereon. The articles may permit shareholders to vote on approval of the plan, and may fix the proportion of shareholder votes required for approval. If the articles permit shareholders to vote on such a plan, written notice shall be given to each shareholder entitled to vote thereon in the manner and at the time provided for notice to members.

(b) In the case of a business entity other than a cooperative, as provided by the statutes governing that business entity.

(2) After a merger is authorized, and at any time before articles of merger are filed, the planned merger may be abandoned, subject to any contractual rights:

(a) By the cooperative, without further action by the members or shareholders, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the board of directors.

(b) By a party to the merger that is not a cooperative, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner permitted by the statutes governing that business entity. [1999 c.362 s.25]

62.620 [1957 c.716 s.45; 1995 c.195 s.41; 1999 c.362 s.27; renumbered 62.623 in 1999]

62.621 Articles of merger. (1) After a plan of merger is approved by each business entity that is a party to the merger, the surviving business entity shall deliver to the office of the Secretary of State, for filing, articles of merger setting forth:

(a) The plan of merger;

(b) The date of approval of the plan;

(c) A statement that the plan of merger was duly authorized and approved by each business entity that is a party to the merger in accordance with ORS 62.619;

(d) As to each cooperative, the numbers of member votes cast for and against the plan; and

(e) As to each cooperative, if shareholders are authorized to vote on the plan, the number of shareholder votes

entitled to be voted on the plan, the number of such shareholder votes cast for and against the plan and the number of such votes required by the articles for approval thereof.

(2) The merger takes effect on the later of the date and time determined pursuant to ORS 62.035 or the date and time determined pursuant to the statutes governing any party to the merger that is a business entity other than a cooperative. [Formerly 62.615]

62.623 Effect of merger. (1) When a merger involving a cooperative takes effect:

(a) Every other business entity that is a party to the merger merges into the surviving business entity, and the separate existence of every other party ceases;

(b) Title to all real estate and other property owned by each of the business entities that were parties to the merger is vested in the surviving business entity without reversion or impairment;

(c) All obligations of each of the business entities that were parties to the merger, including, without limitation, contractual, tort, statutory and administrative obligations, are obligations of the surviving business entity;

(d) An action or proceeding pending against each of the business entities that were parties to the merger may be continued as if the merger had not occurred, or the surviving business entity may be substituted as a party to the action or proceeding;

(e) If a cooperative is the surviving business entity, its articles of incorporation are amended to the extent provided in the plan of merger;

(f) The shares or other ownership interests of each shareholder or other owner that are to be converted into shares or other ownership interests or obligations of the surviving business entity or any other business entity, or into cash or other property, are converted as provided in the plan of merger;

(g) Liability of an owner for obligations of a business entity that is a party to the merger shall be determined:

(A) As to obligations incurred by the business entity prior to merger, according to the status of the owner prior to merger; and

(B) As to obligations incurred by the business entity after merger, according to the status of the owner after merger, except as provided in paragraph (h) of this subsection;

(h) If prior to merger an owner of a business entity was a partner of a partnership or general partner of a limited partnership and was personally liable for the business entity's obligations, and after merger is an owner normally protected from personal liability, then such owner shall continue to be personally liable for the business entity's obligations incurred during the 12 months following merger, if the other party or parties to the transaction reasonably believed that the owner would be personally liable and had not received notice of the merger; and

(i) The registration of an assumed business name of a business entity under ORS chapter 648 shall continue as the assumed business name of the surviving business entity.

(2) Owners of the business entities that merged are entitled to the rights provided in the plan of merger and, in the case of owners of business entities other than cooperatives, the rights provided in the statutes applicable to that business entity, including, without limitation, any rights to dissent, to dissociate, to withdraw, to recover for breach of any duty or obligation owed by the other owners, and to obtain an appraisal or payment for the value of an owner's interest. [Formerly 62.620]

62.625 [1957 c.716 s.46; 1987 c.94 s.88; 1995 c.195 s.42; repealed by 1999 c.362 s.67]

62.635 [1957 c.716 s.47; 1983 c.95 s.1; 1987 c.94 s.89; repealed by 1999 c.362 s.67]

DISSOLUTION

62.655 Voluntary dissolution by act of cooperative. A cooperative may be dissolved by the act of the cooperative, when authorized in the following manner:

(1) The board shall adopt a resolution directing that the question of dissolution be submitted to a vote at a meeting of members, which may be either an annual or a special meeting.

(2) Written or printed notice shall be given to each member in the manner provided in ORS 62.255 for the giving of notice of meetings of members, and whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of the meeting is to consider the advisability of dissolving the cooperative.

(3) At the meeting a vote of members shall be taken on a resolution to dissolve the cooperative. Adoption of the resolution shall be by affirmative vote of two-thirds of the member votes cast on that resolution. The articles may

permit shareholders to vote on such a resolution for dissolution, and may fix the proportion of authorized shareholder votes required for adoption thereof. [1957 c.716 s.49; 1965 c.631 s.20]

62.660 [1957 c.716 s.50; repealed by 1965 c.631 s.27]

62.665 Procedure for dissolution. After the adoption of a resolution to dissolve by the members and, if appropriate, the shareholders:

(1) The cooperative shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its members or shareholders, pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets either in cash or in kind, among the persons entitled to the same by law, the articles and the bylaws.

(2) The cooperative, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the state and judicial subdivision in which the registered office or principal place of business of the cooperative is situated, to have the liquidation continued under the supervision of the court as provided in this chapter. [1957 c.716 s.51; 1965 c.631 s.21]

62.670 Revocation of voluntary dissolution. A cooperative, at any time prior to the time the Secretary of State has filed the articles of dissolution, may revoke voluntary dissolution proceedings theretofore taken, by adoption of a resolution of revocation in the same manner and by the same required vote of members and shareholders as are required by this chapter for adoption of a resolution to dissolve. [1957 c.716 s.52; 1965 c.631 s.22; 1985 c.728 s.71]

62.675 Effect of revocation of voluntary dissolution proceedings. Upon the revocation of voluntary dissolution proceedings the cooperative may again carry on its business. [1957 c.716 s.53; 1965 c.631 s.23]

62.680 Articles of dissolution. (1) If voluntary dissolution proceedings have not been revoked, articles of dissolution may be filed when all debts, liabilities and obligations of the cooperative have been paid and discharged or adequate provision has been made therefor, or all of the assets of the cooperative have been distributed to its creditors for application to the outstanding debts, obligations and liabilities of the cooperative to the fullest extent possible, and all of the remaining property and assets of the cooperative, if any, have been distributed to the persons entitled thereto. Articles of dissolution shall set forth:

(a) The name of the cooperative.

(b) The date dissolution was authorized.

(c) The number of member votes for and against the resolution.

(d) If shareholders were authorized to vote on the resolution, the total number of authorized shareholder votes, the numbers of such votes cast for and against the resolution and the number of such votes required by the articles for adoption thereof.

(2) A cooperative is dissolved upon the effective date of its articles of dissolution. [1957 c.716 s.54; 1965 c.631 s.24; 1981 c.633 s.65; 1985 c.728 s.72; 1987 c.94 s.90; 1995 c.195 s.34]

62.685 Effect of filing articles of dissolution. When the Secretary of State has filed the articles of dissolution, the existence of the cooperative shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, shareholders, directors and officers as provided in this chapter. [1957 c.716 s.55; 1981 c.633 s.66; 1985 c.728 s.73; 1987 c.94 s.91]

62.690 Administrative dissolution. The provisions of ORS 60.647 to 60.657, relating to dissolution by the Secretary of State, apply to cooperatives. [1957 c.716 s.56; 1987 c.94 s.92]

62.695 Jurisdiction of court to dissolve cooperative and liquidate assets and business of cooperative. (1) In addition to any other instances in which the law provides such power, a circuit court has full power to dissolve a cooperative and liquidate the assets and business thereof:

(a) In an action by a member or shareholder when it is established that:

(A) The members are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired

upon the election of their successors; or

(B) The corporate assets are being misapplied or wasted.

(b) In an action by a creditor:

(A) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the cooperative is insolvent; or

(B) When the cooperative has admitted in writing that the claim of the creditor is due and owing and it is established that the cooperative is insolvent.

(c) Upon application by a cooperative which has commenced voluntary dissolution proceedings as provided in this chapter, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the Attorney General to dissolve a cooperative and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

(2) Venue for a proceeding by the Attorney General to dissolve a corporation lies in Marion County. Venue for a proceeding brought by any other party named in this section lies in the county where a corporation's principal office is located or, if the principal office is not in this state, where its registered office is or was last located.

(3) It is not necessary to make members or shareholders parties to any action or proceeding under this section unless relief is sought against them personally.

(4) A court in a proceeding brought to dissolve a cooperative may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the assets of the cooperative wherever located and carry on the business of the cooperative until a full hearing can be held. [1957 c.716 s.57; 1965 c.631 s.25; 1987 c.94 s.93]

62.700 [1957 c.716 s.58; 1987 c.94 s.94; repealed by 1995 c.195 s.46]

62.702 Procedure for dissolution of cooperative by court. (1) A court in a judicial proceeding brought to dissolve a cooperative may appoint one or more receivers to wind up and liquidate the business and affairs of the cooperative or one or more custodians to manage the business and affairs of the cooperative. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the cooperative and all its property wherever located.

(2) The court may appoint an individual or a domestic or foreign corporation, authorized to transact business in this state, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended periodically. Among other powers:

(a) The receiver may dispose of all or any part of the assets of the cooperative wherever located, at a public or private sale, if authorized by the court and may sue and defend in the receiver's own name as receiver of the cooperative in all courts of this state.

(b) The custodian may exercise all of the powers of the cooperative, through or in place of its board of directors or, creditors and any holders of other equity interest in the cooperative officers, to the extent necessary to manage the affairs of the cooperative in the best interests of its members, shareholders, creditors and any holders of other equity interest in the cooperative.

(4) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the cooperative, its members, shareholders, creditors and any holders of other equity interest in the cooperative.

(5) The court periodically during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver's or custodian's counsel from the assets of the cooperative or proceeds from the sale of the assets. [1995 c.195 s.26]

62.704 Decree of dissolution issued by court. (1) If after a hearing the court determines that one or more grounds for judicial dissolution described in ORS 62.695 exist, it may enter a decree dissolving the cooperative and specifying the effective date of the dissolution. The clerk of the court shall deliver a certified copy of the decree to the office for filing. The Secretary of State shall file the certified copy of the decree.

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the cooperative's business and affairs in accordance with ORS 62.708 and the notification of claimants in accordance with

ORS 62.712 and 62.714. [1995 c.195 s.27]

62.705 [1957 c.716 s.59; repealed by 1974 c.2 s.5]

62.708 Effect of dissolution. (1) A dissolved cooperative continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind to its members or shareholders;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property among its members or shareholders according to their interests; and

(e) Doing every other act necessary to wind up and liquidate its business and affairs.

(2) Dissolution of a cooperative does not:

(a) Transfer title to the cooperative's property;

(b) Prevent transfer of its shares, indebtedness or other equity interest, although the authorization to dissolve may provide for closing the cooperative's share transfer records;

(c) Subject its directors or officers to standards of conduct different from those prescribed in this chapter;

(d) Change quorum or voting requirements for the board of directors, members or shareholders, change provisions for selection, resignation or removal of its directors or officers or both or change provisions for amending its bylaws;

(e) Prevent commencement of a proceeding by or against the cooperative in its corporate name;

(f) Abate or suspend a proceeding pending by or against the cooperative on the effective date of dissolution; or

(g) Terminate the authority of the registered agent of the cooperative. [1995 c.195 s.28]

62.710 [1957 c.716 s.60; 1987 c.94 s.95; 1991 c.883 s.17; repealed by 1995 c.195 s.46]

62.712 Disposition of known claims against dissolved cooperative. (1) A dissolved cooperative may dispose of the known claims against it by following the procedure described in this section.

(2) The dissolved cooperative shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the dissolved cooperative must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against the dissolved cooperative is barred:

(a) If a claimant who was given written notice under subsection (2) of this section does not deliver the claim to the dissolved cooperative by the deadline; or

(b) If a claimant whose claim was rejected by the dissolved cooperative does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(4) For purposes of this section, “claim” does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution. [1995 c.195 s.29]

62.714 Notice of dissolution; presentation of claims against cooperative. (1) A dissolved cooperative may also publish notice of its dissolution and request that persons with claims against the cooperative present them in accordance with the notice.

(2) The notice must:

(a) Be published one time in a newspaper of general circulation in the county where the dissolved cooperative's principal office is located, or if the principal office is not in this state, where its registered office is or was last located;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the cooperative will be barred unless a proceeding to enforce the claim is commenced within five years after the publication of the notice.

(3) If the dissolved cooperative publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved cooperative within five years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under ORS 62.712;

(b) A claimant whose claim was sent in a timely manner to the dissolved cooperative but not acted on; or

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution. [1995 c.195 s.30]

62.720 Presumption of abandonment; procedure for agriculture cooperatives and others. (1) All intangible personal property distributable in the course of a voluntary or involuntary dissolution of a cooperative that is unclaimed by the owner within two years after the date for final distribution is presumed abandoned. Such property shall be subject to the provisions of ORS 98.302 to 98.436 and 98.992, except that with respect to agricultural cooperatives, the report of unclaimed property shall be filed with the Division of State Lands as set forth in ORS 98.352. A copy of the report shall also be filed with the State Board of Higher Education.

(2) All unclaimed property specified in the report required by ORS 98.352 shall be delivered within the time specified in ORS 98.362 to the Division of State Lands which shall assume custody and shall be responsible for the safekeeping thereof. The division shall reconcile the report to the delivered funds, deduct the costs as provided for in subsection (3) of this section, and forward the funds to the State Board of Higher Education within 14 working days of receipt of the funds. Any person who pays or delivers unclaimed property to the Division of State Lands under this section is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

(3) All funds received under this section shall be used for the benefit of Oregon State University in such programs related to agricultural research as the university may determine except for:

(a) The payment of claims which may be made pursuant to this section; and

(b) The payment of expenses of mailing and publication in connection with any unclaimed property, reasonable service charges and expenses of the Division of State Lands in connection with claims made pursuant to ORS 98.392 to 98.402.

(4) The provisions of ORS 98.392 to 98.402 are applicable to claims against unclaimed property delivered to the State Board of Higher Education pursuant to this section. The State Board of Higher Education shall pay such claims from funds delivered to it pursuant to this section within 30 days of receipt of a verified copy of a finding and decision of the Division of State Lands made pursuant to ORS 98.396 or a certified copy of a judgment made pursuant to ORS 98.402.

(5) As used in this section, an agricultural cooperative is any cooperative in which farmers act together in producing, processing, preparing for market, handling or marketing the agricultural products of such farmers, and any cooperative in which farmers act together in purchasing, testing, grading, processing, distributing and furnishing farm supplies or farm business services.

(6) The provisions of this section are applicable with respect to the voluntary or involuntary dissolution of any cooperative, which dissolution commenced on or after January 1, 1970. [1974 c.2 ss.1,2,3; 1985 c.565 s.7; 1987 c.94 s.127; 1993 c.694 s.35; 1995 c.79 s.16]

Note: 62.720 was enacted into law by the Legislative Assembly, but was not added to or made a part of ORS chapter 62 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

FOREIGN COOPERATIVES

62.755 Admission of foreign cooperatives. A foreign cooperative which has a member or members residing in this state, and which distributes its proceeds and savings according to either this chapter or the law of the state where incorporated, is entitled to all rights, exemptions and privileges of a cooperative organized under this chapter, if it is authorized to do business in this state under ORS chapter 60. A foreign cooperative may be authorized under ORS chapter 60 to transact business in this state whether or not formed for profit and whether or not formed with stock. [1957 c.716 s.61; 1987 c.94 s.96]

62.760 Registration of name of foreign cooperative. Any foreign cooperative may register its corporate name under ORS 60.101. [1957 c.716 s.70; 1987 c.94 s.97]

EMPLOYEE COOPERATIVES

62.765 Definitions for ORS 62.765 to 62.792. As used in ORS 62.765 to 62.792, unless the context requires otherwise:

(1) “Employee cooperative” means a corporation which has elected to be governed by the provisions of ORS 62.765 to 62.792.

(2) “Member” means a natural person who has been accepted for membership in, and owns a membership share issued by an employee cooperative. [1987 c.677 s.12]

62.768 Election to be governed as employee cooperative; corporate name. (1) Any corporation organized under this chapter may elect to be governed as an employee cooperative under the provisions of ORS 62.765 to 62.792, by so stating in its articles of incorporation or amendments thereto filed in accordance with this chapter.

(2) A corporation so electing shall be governed by all provisions of this chapter, except as otherwise provided in ORS 62.765 to 62.792.

(3) An employee cooperative may include the word “cooperative” or “co-op” in its corporate name. [1987 c.677 ss.13,15]

62.771 Revocation of election to be governed as employee cooperative. An employee cooperative may revoke its election under ORS 62.765 to 62.792 by a vote of two-thirds of the members and through amendment to its articles of incorporation filed in accordance with this chapter. [1987 c.677 s.14]

62.774 Qualifications of members; membership shares; rights of members. (1) The articles of incorporation or the bylaws shall establish qualifications and the method of acceptance and termination of members. No person may be accepted as a member unless employed by the employee cooperative on a full-time or part-time basis.

(2) An employee cooperative shall issue a class of voting shares designated as membership shares. Each member shall own only one such membership share and only members may own such shares.

(3) Membership shares shall be issued for a fee as shall be determined from time to time by the directors. The redemption price of membership shares is determined by reference to internal capital accounts as described in ORS 62.783.

(4) Members of an employee cooperative shall have all the rights and responsibilities of shareholders of a corporation organized under this chapter, except as otherwise provided in ORS 62.765 to 62.792. [1987 c.677 s.16; 1989 c.171 s.8]

62.777 Membership powers. (1) No capital shares other than membership shares shall be given voting power in an employee cooperative, except as otherwise provided in ORS 62.765 to 62.792 or in the articles of incorporation.

(2) The power to amend or repeal bylaws of an employee cooperative shall be in the members only, except to the extent that directors are authorized to amend or repeal the bylaws.

(3) Voting on amendments to the articles of incorporation of an employee cooperative shall be limited to the members, except that amendments adversely affecting the rights of shareholders may not be adopted without the vote of such shareholders. [1987 c.677 s.17]

62.780 Apportionment of net earnings or losses. (1)(a) The net earnings or losses of an employee cooperative shall be apportioned and distributed at such times and in such manner as the articles of incorporation or bylaws shall specify. Net earnings declared as patronage allocations with respect to a period of time, and paid or credited to members, shall be apportioned among the members in accordance with the ratio which each member's patronage during the period involved bears to total patronage by all members during that period.

(b) As used in this subsection, “patronage” means the amount of work performed as a member of an employee cooperative, measured in accordance with the articles of incorporation and bylaws.

(2) The apportionment, distribution and payment of net earnings required by subsection (1) of this section may be in cash, credits, written notices of allocation or capital shares issued by the employee cooperative. [1987 c.677 s.18]

62.783 Internal capital accounts; redemption of shares; collective reserve account. (1)(a) Any employee cooperative may establish through its articles of incorporation or bylaws a system of internal capital accounts, to reflect the book value and to determine the redemption price of membership shares, capital shares and written notices of allocation.

(b) As used in this subsection, “written notice of allocation” means a written instrument which discloses to a

member the stated dollar amount of such member's patronage allocation and the terms for payment of that amount by the employee cooperative.

(2) The articles of incorporation or bylaws of an employee cooperative may permit the periodic redemption of written notices of allocation and capital shares, and must provide for recall and redemption of the membership share upon termination of membership in the cooperative. No redemption shall be made if such redemption would result in the liability of any director or officer of the employee cooperative.

(3) The articles of incorporation or bylaws may provide for the employee cooperative to pay or credit interest on the balance in each member's internal capital account.

(4) The articles of incorporation or bylaws may authorize assignment of a portion of retained net earnings and net losses to a collective reserve account. Earnings assigned to the collective reserve account may be used for any and all corporate purposes as determined by the board of directors. [1987 c.677 s.19]

62.786 Internal capital account cooperative. (1) An internal capital account cooperative is an employee cooperative whose entire net book value is reflected in internal capital accounts, one for each member, and a collective reserve account, and in which no persons other than members own capital shares. In an internal capital account cooperative, each member shall have one and only one vote in any matter requiring voting by shareholders.

(2) An internal capital account cooperative shall credit the paid-in membership fee and additional paid-in capital of a member to the member's internal capital account, and shall also record the apportionment of retained net earnings or net losses to the members in accordance with patronage by appropriately crediting or debiting the internal capital accounts of members. The collective reserve account in an internal capital account cooperative shall reflect any paid-in capital, net losses and retained net earnings not allocated to individual members.

(3) In an internal capital account cooperative, the balances in all the individual internal capital accounts and collective reserve account, if any, shall be adjusted at the end of each accounting period so that the sum of the balances is equal to the net book value of the employee cooperative. [1987 c.677 s.20]

62.789 Procedure for revocation of election; limits on merger. (1) When any employee cooperative revokes its election in accordance with ORS 62.771, the amendment to the articles of incorporation shall provide for conversion of membership shares and internal capital accounts or their conversion to securities or other property in a manner consistent with this chapter.

(2) An employee cooperative which has not revoked its election under ORS 62.765 to 62.792 may not merge with another corporation other than an employee cooperative. Two or more employee cooperatives may merge in accordance with this chapter. [1987 c.677 s.21; 1995 c.195 s.43]

62.792 Short title. ORS 62.765 to 62.792 shall be known and may be cited as the “Employee Cooperative Corporations Act.” [1987 c.677 s.11]

62.805 [1957 c.716 s.62; 1963 c.492 s.47; 1981 c.633 s.67; 1985 c.351 s.15; 1985 c.728 s.74; repealed by 1987 c.94 s.174]

62.810 [1957 c.716 s.64; 1965 c.631 s.26; 1985 c.351 s.16; repealed by 1987 c.94 s.174]

MISCELLANEOUS PROVISIONS

62.825 Powers of Secretary of State. The Secretary of State has the power and authority reasonably necessary to enable the Secretary of State to administer this chapter efficiently and to perform the duties imposed upon the Secretary of State by this chapter. [1957 c.716 s.65]

62.830 [1957 c.716 s.66; repealed by 1987 c.94 s.174]

62.835 [1957 c.716 s.67; repealed by 1981 c.633 s.83]

62.840 [1957 c.716 s.68; 1983 c.717 s.26a; repealed by 1987 c.94 s.174]

62.845 Public policy; cooperatives are not in restraint of trade. It is the public policy of the State of Oregon to

encourage the efficient production and distribution of agricultural and other products derived from natural resources or labor resources of this state. Accordingly, no cooperative which operates in compliance with the provisions of this chapter and which does not during its fiscal year market products for nonmember patrons in an amount greater in value than the products marketed for its members, shall be deemed to be a conspiracy or combination in restraint of trade, or an illegal monopoly; nor shall the contracts of such cooperative authorized by this chapter, whether or not required by the cooperative as a condition of membership or of doing business with the cooperative, be construed as an unlawful restraint of trade, or as part of a conspiracy or combination to accomplish an improper or illegal purpose or act. [1957 c.716 s.35]

62.850 Use of term "cooperative." (1) No person other than a cooperative incorporated under this chapter or a previous Act of this state shall use the term "cooperative," or any variation thereof, as part of its corporate or other business name or title.

(2) Any violation of this section may be enjoined upon suit by any cooperative, without a showing of any damage to itself. [1957 c.716 s.71; 1981 c.542 s.12]

62.855 Application of chapter. The provisions of this chapter apply to the fullest extent permitted by the laws and Constitution of the United States and of the State of Oregon, to all existing cooperative associations incorporated under any previously existing Act of this state relating to incorporation of cooperative associations. [1957 c.716 s.73]

62.860 Effect of amendment or repeal of Oregon Cooperative Corporation Act. The Oregon Cooperative Corporation Act may be amended, repealed or modified, but such amendment, repeal or modification shall not affect any vested rights or take away or impair any remedy for any liability which has been previously incurred. [1957 c.716 s.74]

62.865 Effect of repeal of prior statutes. The repeal (by section 76, chapter 716, Oregon Laws 1957) of the sections compiled in the 1953 part for ORS chapter 62 does not affect any right accrued or established, or any liability or penalty incurred, under the provisions of those sections prior to their repeal. [1957 c.716 s.75]

62.990 [Repealed by 1957 c.716 s.76]