Chapter 62

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Cooperatives

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GENERAL

(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 §1]

62.010 [Repealed by 1957 c.716 §76]

62.015 Definitions. (1) As used in this chapter, unless the context requires otherwise:

(a) "Articles" means articles of incorporation.

(b) "Board" means board of directors.

(c) "Cooperative" means a cooperative corporation which is subject to the provisions of this chapter.

(d) "Corporation" means a corporation which is not a cooperative.

(e) "Foreign cooperative" means a cooperative corporation organized under laws other than the laws of this state.

(f) "Member" means a person who has been qualified and accepted for membership in a cooperative.

(g) "Membership stock" means any class of stock, continuous ownership of which is required for membership in a cooperative.

(h) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, trusts and estates.

(i) "Shareholder" means a holder of shares of capital stock of a cooperative other than membership stock.

(j) "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) As used in ORS 62.245, 62.415, 62.425 and 62.700, "security" or "securities" means any indebtedness, capital stock or other equity interest in a cooperative's assets. [1957 c.716 §2; 1963 c.492 §41; 1974 s.s. c.2 §4; 1987 c.94 §78]

62.020 [Repealed by 1957 c.716 §76]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 accompanied by a true copy, except as provided in ORS 62.155 and 62.455, and 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 §69]

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

(a) Articles of incorporation, $30.

(b) Application for reserved name, $5.

(c) Application of a cooperative for reinstatement following administrative dissolution, $25.

(d) Annual report of a cooperative, $15.

(e) Application for certificate of existence, $2.

(2) The Secretary of State shall collect a fee of $2 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 §71]

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.

(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 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 §72]

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 §73]

62.045 Forms. (1) Upon request, the Secretary of State shall furnish a form for the annual report. The Secretary of State may by rule require the use of the form.

(2) Upon request, the Secretary of State shall furnish forms for other documents required or permitted to be filed by this chapter. Use of these forms is not required. [1987 c.94 §70]

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 the true copy 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 §74]

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 §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 §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. [1987 c.94 §77]

62.110 [Repealed by 1957 c.716 §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 §3]

62.120 [Repealed by 1957 c.716 §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 §4; 1981 c.542 §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 §2; 1987 c.94 §79]

62.130 [Repealed by 1957 c.716 §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 §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 §8]

62.140 [Repealed by 1957 c.716 §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; except that 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 §9]

62.150 [Repealed by 1957 c.716 §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 §10; 1987 c.94 §80]

62.160 [Repealed by 1957 c.716 §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 §11]

62.170 [Repealed by 1957 c.716 §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 §12; 1963 c.156 §1]

62.180 [Repealed by 1957 c.716 §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 §13]

62.190 [Repealed by 1957 c.716 §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 §15; 1987 c.94 §81]

62.200 [Repealed by 1957 c.716 §76]

62.205 Subscription for shares. A subscription for shares of a cooperative is irrevocable for six months unless otherwise provided by the subscription agreement, or unless all subscribers consent to the revocation. [1957 c.716 §16]

62.210 [Repealed by 1957 c.716 §76]

62.215 Limitation of liability of members. Except for debts lawfully contracted between a member and the cooperative, no member is liable for the debts of the cooperative to an amount exceeding the sum remaining unpaid on the subscription of the member 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 §17]

62.220 [Repealed by 1957 c.716 §76]

62.225 Dividends on capital stock. A cooperative organized with capital stock may pay such dividend upon capital stock as is authorized by its articles if its capital is not impaired and would not be impaired by such payment. [1957 c 716 §18]

62.230 [Repealed by 1957 c.716 §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. 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 §14]

62.240 [Repealed by 1957 c.716 §76]

62.245 Missing securities or records relating to securities. (1) When a certificate for a security issued by a cooperative is missing, the cooperative shall issue a duplicate certificate 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 securities are missing or if records upon which the apportionment of securities is based are missing, and in either case if the information which is missing is necessary to a proposed redemption of the securities, the cooperative may give notice and redeem such securities as follows:

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

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

(c) If there are securities 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 such publication, any unclaimed outstanding securities 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 §19]

62.250 [Repealed by 1957 c.716 §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 §20]

62.260 [Repealed by 1957 c 716 §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 §21]

62.270 [Repealed by 1957 c 716 §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 §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.

(2) The number of directors of a cooperative shall be not less than three. 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 imme-

diately 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 §23; 1981 c.542 §2]

62.283 Standard of conduct for directors; permissible reliance on opinions and reports of others; limitation of liability. (1) A director shall perform in good faith the duties of a director under this chapter, including the duties as a member of any committee of the board upon which the director may serve, in a manner the director reasonably believes to be in the best interests of the cooperative and with the care an ordinarily prudent person in a like position would use under similar circumstances. A person who performs the duties of a director as provided in this section shall not be liable to the cooperative on the basis of being or having been a director.

(2) In performing the duties of a director, a director may rely on information, opinions, reports or statements, including financial statements and other financial data, 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 matter presented;

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

(c) A committee of the board created under the articles of incorporation or bylaws and upon which the director does not serve.

(3) A director may rely on a committee under subsection (2) of this section only as to matters within the committee's designated authority. The director must reasonably believe that the committee merits confidence. The director does not act in good faith under this subsection if the director has knowledge concerning the matter in question that would cause the director's reliance to be unwarranted. [1981 c.542 §3]

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 §24]

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 §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 §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 §26; 1969 c.312 §1; 1981 c.542 §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 §27]

62.305 Taking action without meeting. 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, 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, or executive committee members 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. [1957 c.716 §28]

62.310 [Repealed by 1957 c.716 §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 §29]

62.320 [Repealed by 1957 c 716 §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 §30]

62.330 [Repealed by 1957 c.716 §76]

62.335 Action brought in right of cooperative by member or shareholder. (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, out of the proceeds of the action, award the plaintiff the reasonable expenses of maintaining the action, including reasonable attorney fees at trial and on appeal, and 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. [1957 c.716 §69; 1981 c.897 §15]

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 §32]

62.360 Filing cooperative contracts. (1) A cooperative may file 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 filing the original contracts, file:

(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 number consecutively and file each such contract, and shall record alphabetically in a book to be kept for that purpose and available for public inspection the name of each party to that contract and enter opposite that name the file number of the contract and its effective date as to that party. For filing such contract the fee is the same as for filing a financing statement, and for recording names of parties to such contract the fee is two cents for each name.

(3) Filing and 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 filing and 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 filing and 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 filed 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 file the statement in the office of the county clerk where the contract was originally filed. The county clerk shall stamp "Expired" after the name of the member in the alphabetical record. The fee for the filing and stamping is $1.25. A cooperative may file at any time in the office of the county clerk where the contract was originally filed, 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 stamp "Expired" after the name of each of those persons in the alphabetical record. For such filing and stamping the county clerk shall receive a fee of two cents for each such name. [1957 c.716 §33; 1965 c.632 §6; 1971 c.621 §12; 1975 c.607 §14; 1979 c 833 §15; 1981 c.835 §5]

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 §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 §72]

62.410 [Repealed by 1957 c.716 §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 other securities or certificates 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

which 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.

(5) 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 §36; 1963 c.156 §2]

62.420 [Repealed by 1957 c.716 §76]

62.425 Unclaimed distribution, redemptions or payments. (1) Any distrib-

ution of net margins by a cooperative or any redemption of or payment based upon any security, 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 §37; 1987 c.341 §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 §48]

62.440 Books and records. (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.

(2) In any action or proceeding to enforce the rights of members or shareholders provided in this section, if the member or shareholder prevails in the action or proceeding, there shall be taxed and allowed to such member or shareholder, at trial and on appeal, a reasonable amount to be fixed by the court as attorney fees for the prosecution of the action or proceeding. [1957 c.716 §31; 1981 c.897 §16]

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 §63; 1963 c.492 §43; 1983 c.717 §25; 1985 c.728 §66, 1987 c.94 §82; 1987 c.843 §16]

62.460 Indemnification of director, officer, employee or agent permitted for certain expenses incurred in legal action other than action by or in the right of the cooperative; conditions. (1) As provided in this section, a cooperative may indemnify any person described in this section who is made or threatened to be made a party to a proceeding by reason of that person's status as to the cooperative as a director or former director or as otherwise described in this section. The indemnification may cover expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with the proceeding. This section applies to the following persons:

(a) Any person who is or was a director of the cooperative;

(b) Any person who is or was serving at the request of the cooperative as a director, officer, employee or agent of another cooperative or other person; and

(c) Any person who, as a director of the cooperative, is or was serving at the request of the cooperative as a trustee or other fiduciary with respect to an employee benefit plan.

(2) This section applies to a person only if the person:

(a) With respect to actions taken in the person's official capacity, acted in good faith and in a manner the person reasonably believed to be in the best interests of the cooperative;

(b) With respect to any other actions, acted in a manner the person reasonably believed to be at least not opposed to the cooperative's best interests; or

(c) With respect to any criminal proceeding, had no reasonable cause to believe the person's conduct was unlawful.

(3) The termination of any proceeding described in this section shall not of itself be determinative that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the cooperative, and, with respect to any criminal proceeding, had reasonable cause to believe that the person's conduct was unlawful.

(4) This section applies to any threatened, pending or completed action, suit or any other proceeding, whether civil, criminal, administrative or investigative, but does not apply to an action by or in the right of the cooperative. [1981 c.542 §6]

62.465 Indemnification of director permitted for expenses incurred in action by or in the right of the cooperative; conditions. (1) A cooperative may indemnify any person who was or is a party or is threatened to be made a party to any action or suit by or in the right of the cooperative to procure a judgment in its favor by reason of the fact that the person is or was a director of the cooperative. The indemnification may cover expenses, including attorney fees, actually and reasonably incurred by the person in connection with the defense or settlement of the action or suit if the person:

(a) With respect to actions taken in the person's official capacity, acted in good faith and in a manner the person reasonably be-

lieved to be in the best interest of the cooperative; or

(b) With respect to any other actions, acted in a manner the person reasonably believed to be at least not opposed to the cooperative's best interests.

(2) Notwithstanding subsection (1) of this section, no indemnification shall be made in respect of any claim, issue or matter as to which the person is adjudged to be liable for negligence or misconduct in the performance of the person's duty to the cooperative unless the court in which an action or suit was brought determines, upon application by the person, that the person is fairly and reasonably entitled to indemnity for expenses which the court considers proper.

(3) Any indemnification of a director under this section shall be reported in writing to the members of the cooperative in or prior to the notice of the next membership meeting. [1981 c.542 §7]

62.470 Indemnification of director or officer required when director or officer prevails in certain actions; exceptions. (1) Unless limited by the articles of incorporation, if a present or former director or officer of a cooperative has been wholly successful on the merits or otherwise in the defense of any proceeding or threatened proceeding referred to in ORS 62.460 and 62.465, the cooperative shall indemnify the director or officer against reasonable expenses, including attorney fees, that the director or officer incurred in connection with that proceeding.

(2) A director or former director shall not be indemnified in regard to any proceeding referred to in ORS 62.460 or 62.465 charging improper benefit to the director, whether or not the proceeding involves any action by the director in the director's official capacity, if the director is adjudged to be liable on the basis that the director improperly received personal benefit. [1981 c.542 §8]

62.475 Director's service to employee benefit plan as service to cooperative; status of actions taken. For the purposes of ORS 62.460 to 62.480, and in regard to a director's or former director's service to an employee benefit plan:

(1) A cooperative is considered to have requested a director to serve an employee benefit plan whenever the director's performance of the director's duties to the cooperative also impose duties on, or otherwise involve services by, that director to the plan or to participants or beneficiaries of the plan;

(2) Excise taxes assessed against a director with respect to an employee benefit plan pursuant to applicable law are considered to be "fines"; and

(3) An action taken or omitted by the director in performing the director's duties with respect to an employee benefit plan, for a purpose that the director reasonably believes to be in the interest of the participants and beneficiaries of the plan, is considered to be for a purpose which is not opposed to the best interests of the cooperative. [1981 c 542 §9]

62.480 Method of indemnification; insurance against liability of director, officer, employee or agent; effect of indemnification provisions in articles or bylaws. (1) Unless ordered by a court, a cooperative shall make indemnification under ORS 62.460 and 62.465, only as authorized in the specific case upon a determination that the director or former director has met the applicable standard of conduct set forth in ORS 62.460, 62.465 or 62.475 and that indemnification is therefore proper in the circumstances. The determination shall be made:

(a) By the board of directors by a majority vote of a quorum consisting of directors who were not parties to a proceeding under ORS 62.460 or 62.465;

(b) If a quorum under paragraph (a) of this subsection is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion;

(c) By the members; or

(d) By the court in which the proceeding referred to in ORS 62.460 or 62.465 is or was pending, upon application by the cooperative or the agent, attorney or other person rendering services in connection with the defense, whether or not the cooperative opposes the application by the attorney, agent or other person.

(2) A cooperative may pay or reimburse expenses incurred in defending a proceeding under ORS 62.460 or 62.465 in advance of the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the director or former director to repay the amount unless it is ultimately determined that the cooperative may make indemnification as authorized in this section.

(3) A cooperative may purchase and maintain insurance on behalf of any person described in this subsection against any liability asserted against or incurred by the person in the person's capacity or arising out of the person's status with the cooperative as described in this subsection, whether or not the cooperative would have the power to indemnify the person against liability under

this section and ORS 62.460 to 62.470. This subsection applies to the following persons:

(a) Any person who is or was a director, officer, employee or agent of the cooperative;

(b) Any person 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, employee or agent of another cooperative or other person; and

(c) Any person who, while a director, officer, employee or agent of the cooperative, is or was serving at the request of the cooperative as a trustee or other fiduciary with respect to an employee benefit plan.

(4) Nothing in ORS 62.460 to 62.480 limits the cooperative's power to pay or reimburse expenses incurred by a director or former director in connection with that director's or former director's appearance as a witness in a threatened, pending or completed action, suit or any other proceeding, whether civil, criminal or investigative, in which the director or former director is not a named defendant or respondent.

(5) Except as provided in subsection (3) of this section, if a director or former director is made a party to a proceeding or threatened proceeding referred to in ORS 62.460 or 62.465, a cooperative may not indemnify or pay expenses to the director pursuant to a provision in the articles of incorporation, the bylaws, a resolution of the members or directors, an agreement or otherwise unless the provision is consistent with this section and ORS 62.460 to 62.475 or, to the extent indemnity is limited by the articles of incorporation, consistent with the articles.

(6) Unless limited by the articles of incorporation:

(a) A cooperative may indemnify and pay expenses of an officer, employee or agent or former officer, employee or agent of the cooperative to the same extent that it may indemnify and pay expenses of directors pursuant to this section and ORS 62.460 to 62.470; and

(b) A cooperative, in addition, may indemnify and pay expenses of an officer, employee or agent or former officer, employee or agent who is not a director to such further extent, consistent with law, as may be provided by its articles of incorporation, bylaws, a general or specific action of its board of directors or a contract. [1981 c.542 §10]

FORMATION OF COOPERATIVES

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

62.510 Incorporators; articles of incorporation. (1) One or more individuals 18 years of age or older, a domestic or foreign corporation, 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. The articles of incorporation shall set forth:

(a) The name of the cooperative, which shall be written using letters of the English alphabet and may include numerals and incidental punctuation.

(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 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, not less than three, constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of the members or until their successors be elected and take office.

(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 enumer-

ated 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 restricting the transfer of shares or which 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) The Secretary of State by rule may require additional identifying information. [1957 c.716 §6; 1963 c.492 §45, 1983 c.717 §26; 1985 c.728 §68; 1987 c.94 §83]

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 §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 §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 §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) If an amendment changes any provision of the original or amended articles, an identification by reference or description of the affected provision and a statement of its text as it is amended to read. If an amendment strikes or deletes any provision of the original or amended articles, an identification by reference or description of the provision so stricken or deleted and a statement that it is stricken or deleted. If the amendment is an addition to the original or amended articles, a statement of that fact and the full text of each provision added.

(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 §40; 1981 c.633 §63; 1985 c.728 §69; 1987 c.94 §85]

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 of incorporation, without further action of the board of directors or shareholders. Restated articles of incorporation shall contain a statement that they supersede the theretofore existing articles of incorporation and amendments thereto. 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 the number, names and addresses of directors constituting the initial board of directors or the names and addresses of the incorporators or the initial or present registered office or agent.

(2) 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.

(3) 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 §41; 1963 c.492 §46; 1987 c.94 §86]

MERGER AND CONSOLIDATION; CONVERSION OF CORPORATION INTO COOPERATIVE

62.605 Definitions for ORS 62.610 to 62.635. As used in ORS 62.610 to 62.635:

(1) "New cooperative" means the new cooperative provided for in the plan of consolidation.

(2) "Surviving cooperative" means the cooperative designated in the plan of merger as the surviving cooperative. [1957 c.716 §42]

62.610 Merger and consolidation. (1) Any two or more cooperatives may merge or consolidate pursuant to a plan of merger or consolidation adopted in the manner provided in this section.

(2) The board of each cooperative shall, by resolution adopted by each such board, approve a plan of merger or consolidation setting forth:

(a) The names of the cooperatives proposing to merge or consolidate, and the name of the cooperative into which they propose to merge or the name of the new cooperative into which they propose to consolidate.

(b) The terms and conditions of the proposed merger or consolidation.

(c) The effect of the proposed merger or consolidation on all members and shareholders of each of the cooperatives.

(d) In the case of a plan for consolidation, the articles of the new cooperative, which shall include all of the statements required to be set forth in articles for cooperatives organized under this chapter.

(e) Such other provisions with respect to the proposed merger or consolidation as are considered necessary or desirable.

(3) The board of each cooperative, upon approving the plan of merger or plan of consolidation, shall by resolution 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 adoption 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 adoption of the plan, and may fix the proportion of shareholder votes required for adoption thereof. 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.

(4) After adoption of the plan, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation. [1957 c.716 §43; 1963 c.156 §3]

62.615 Articles of merger or consolidation. Upon adoption of the plan of merger or consolidation, articles of merger or articles of consolidation, as the case may be, shall set forth:

(1) The plan of merger or plan of consolidation.

(2) The date of adoption of the plan.

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

(4) 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 numbers of such shareholder votes cast for and against the plan and the number of such votes required by the articles for adoption thereof. [1957 c.716 §44, 1963 c 156 §4; 1981 c.633 §64; 1985 c.728 §70; 1987 c.94 §87]

62.620 Effect of merger or consolidation. When the merger or consolidation has been effected:

(1) The several cooperative parties to the plan of merger or consolidation shall be a single cooperative, which, in the case of a merger, shall be that cooperative designated in the plan of merger as the surviving cooperative, and, in the case of a consolidation, shall be the new cooperative provided for in the plan of consolidation.

(2) The separate existence of all cooperatives parties to the plan of merger or consolidation, except the surviving or new cooperative, shall cease.

(3) The surviving or new cooperative shall thereupon and thereafter possess all the rights, privileges, immunities and franchises, as well of a public as of a private nature, of each of the merging or consolidating cooperatives; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest, of or belonging to or due to each of the cooperatives so merged or consolidated, shall be deemed to be transferred to and vested in such single cooperative without further act or deed; and the title to any real estate, or any interest therein, vested in any of such cooperatives shall not revert or be in any way impaired by reason of the merger or consolidation.

(4) The surviving or new cooperative is thenceforth responsible and liable for all the liabilities and obligations of each of the cooperatives so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such cooperatives may be prosecuted as if the merger or consolidation had not taken place, or the surviving or new cooperative may be substituted in its place. Neither the rights of creditors nor any liens upon the property of

any such cooperative are impaired by the merger or consolidation.

(5) In the case of a merger, the articles of the surviving cooperative shall be deemed to be amended to the extent, if any, that changes in its articles are stated in the plan of merger; and, in case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of cooperatives organized under this chapter shall be deemed to be the original articles of the new cooperative. [1957 c.716 §45]

62.625 Merger or consolidation of cooperatives and domestic and foreign business organizations. (1) One or more cooperatives may merge or consolidate with one or more of the following classes of business organizations:

(a) Foreign cooperatives if such merger or consolidation is permitted by the laws of the state under which each such foreign cooperative is organized and each such foreign cooperative complies with the applicable provisions of such laws.

(b) Foreign business corporations if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized and each such foreign corporation complies with the applicable provisions of such laws.

(2) One or more cooperatives may merge with one or more domestic corporations that are subject to ORS chapter 60 if such corporations comply with the provisions of ORS chapter 60 relating to the merger.

(3) Each cooperative merging or consolidating pursuant to this section shall comply with the provisions of this chapter relating to merger or consolidation.

(4) If the surviving or new business corporation or cooperative, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with the provisions of ORS chapter 60 with respect to foreign corporations if it is to transact business in this state.

(5) The effect of the merger or consolidation under subsection (1) of this section shall:

(a) If the surviving or new corporation is a cooperative, be the same as provided in this chapter for the merger or consolidation of cooperatives.

(b) If the surviving or new corporation or cooperative is to be governed by the laws of any state other than this state, be the same as in the case of the merger or consolidation of cooperatives or merger of domestic corporations, as the case may be, except insofar as the laws of the other state provide otherwise.

(6) The effect of the merger under subsection (2) of this section:

(a) If the surviving or new corporation is a cooperative, shall be the same as provided in this chapter for the merger of cooperatives.

(b) If the surviving corporation is a domestic corporation, shall be the same as provided in ORS chapter 60 for the merger. [1957 c.716 §46, 1987 c.94 §88]

62.635 Conversion of corporation into cooperative or cooperative into corporation. (1) A domestic corporation may convert itself into a cooperative by adopting an amendment to its articles by which it elects to become subject to this chapter, together with changes in its articles required by this chapter and other changes permitted by this chapter which it may determine desirable. The amendment shall be adopted, filed, and shall become effective, all as provided by the law then applicable to the domestic corporation.

(2) A domestic cooperative may convert itself into a corporation by adopting an amendment to its articles by which it elects to become subject to ORS chapter 60, together with other changes in its articles required by ORS chapter 60, and other changes permitted by ORS chapter 60, which it may determine desirable. The amendment shall be adopted, filed, and shall become effective, all as provided by the law then applicable to the domestic cooperative.

(3) The existence of a domestic corporation or cooperative which is converted into a cooperative or corporation, as the case may be, pursuant to this section, shall be uninterrupted by the conversion and the cooperative or corporation existing after the conversion shall be the same entity as the domestic corporation or domestic cooperative, as the case may be, which was so converted. [1957 c.716 §47; 1983 c.95 §1; 1987 c.94 §89]

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 §49, 1965 c.631 §20]

62.660 [1957 c 716 §50, repealed by 1965 c 631 §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 §51; 1965 c.631 §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 §52; 1965 c.631 §22, 1985 c.728 §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 §53; 1965 c.631 §23]

62.680 Articles of dissolution. 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:

(1) The name of the cooperative.

(2) That all the property and assets of the cooperative remaining after payment or discharge, or adequate provision therefor, of all debts, obligations and liabilities of the cooperative have been distributed to the persons entitled thereto in accordance with their respective rights and interests, or that 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.

(3) That there are no suits pending against the cooperative in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

(4) The names and respective addresses of its officers.

(5) The names and respective addresses of its directors.

(6) A copy of the resolution adopted authorizing the dissolution of the cooperative and a statement of the date of its adoption.

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

(8) 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. [1957 c.716 §54; 1965 c.631 §24; 1981 c 633 §65; 1985 c.728 §72, 1987 c.94 §90]

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 §55; 1981 c.633 §66; 1985 c.728 §73, 1987 c.94 §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 §56; 1987 c.94 §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 §57; 1965 c.631 §25; 1987 c.94 §93]

62.700 Procedure in dissolution of cooperative by court. ORS 60.667 and 60.671 apply to judicial dissolution of a cooperative, but as so applied to a cooperative the term "shareholders" used in those sections means "members or security holders." [1957 c.716 §58; 1987 c.94 §94]

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

62.710 Effect of dissolution; known and unknown claims against dissolved cooperative. ORS 60.637 to 60.644 apply to cooperatives, except that the terms "shareholder" and "shareholders" used in those sections when applied to a cooperative mean "members or shareholders." [1957 c.716 §60; 1987 c.94 §95]

62.720 Presumption of abandonment; procedure for agriculture cooperatives and others. 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 except that with respect to agricultural cooperatives:

(1) A copy of the report of the abandoned property required to be filed with the Division of State Lands by ORS 98.352 shall also be filed with the State Board of Higher Education.

(2) All abandoned property specified in the report required by ORS 98.352 shall be delivered within the time specified in ORS 98.362 to the State Board of Higher Education which shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the State Board of Higher Education 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 abandoned property, reasonable service charges of the Division of State Lands and expenses of the Division of State Lands in connection with claims made pursuant to ORS 98.392 to 98.402. Such costs and expenses shall be reimbursed to the Division of State Lands by the State Board of Higher Education.

(4) The provisions of ORS 98.392 to 98.402 are applicable to claims against abandoned 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, texting, 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 s s c 2 §§1, 2, 3; 1985 c 565 §7, 1987 c 94 §127]

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 §61; 1987 c.94 §96]

62.760 Registration of name of foreign cooperative. Any foreign cooperative may register its corporate name under ORS 60.101. [1957 c.716 §70; 1987 c 94 §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 §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 §§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 §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 §16, 1989 c 171 §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 §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 §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 §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 §20]

62.789 Procedure for revocation of election; limits on consolidation or 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 consolidate or merge with another corporation other than an employee cooperative. Two or more employee cooperatives may consolidate or merge in accordance with this chapter. [1987 c.677 §21]

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 §11]

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

62.810 [1957 c.716 §64; 1965 c.631 §26; 1985 c.351 §16; repealed by 1987 c.94 §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 §65]

62.830 [1957 c.716 §66, repealed by 1987 c.94 §174]

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

62.840 [1957 c.716 §68, 1983 c.717 §26a, repealed by 1987 c.94 §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 §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 §71; 1981 c.542 §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 §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 §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 §75]

62.990 [Repealed by 1957 c.716 §76]