

## CHAPTER 308

## COOPERATIVE ASSOCIATIONS'

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NOTE: For definitions, see section 300.02.

**308.01 ORGANIZATION.**

**Subdivision 1. Purposes; certificate, where filed.** A cooperative association may be formed for the purpose of engaging in any lawful mercantile, manufacturing, or agricultural business. Its certificate of incorporation shall be filed for record with the county recorder of the county of its principal place of business, and thereupon it shall become a corporation. A majority of the incorporators shall be residents of the county of its principal place of business, and its duration, without renewal, shall not exceed 20 years.

**Subd. 2. Officers; board of managers.** Every such association shall have a

president, a treasurer, and not less than three directors, who shall together constitute a board of managers and conduct its business. Such officers shall be chosen annually by the stockholders and hold their offices until others have been chosen and have qualified. The association shall make its own bylaws, not inconsistent with law, and may therein provide for any other officers deemed necessary, and the mode of their selection. It may amend its certificate of incorporation at any general stockholders' meeting, or at any special meeting called for that purpose, upon ten days' notice to the stockholders.

**History:** (7822, 7825) *RL s 3073, 3074; 1976 c 181 s 2*

### **308.02 CAPITAL; LIMIT OF INTEREST; SHARES.**

The amount of capital stock shall be fixed by the certificate of incorporation, which amount and the number of shares may be increased or diminished at a stockholders' meeting specially called for that purpose; but the whole amount of stock shall never exceed \$100,000, and, in case of a creamery association, shall not exceed \$25,000. Within 30 days after the adoption of an amendment increasing or diminishing its capital it shall cause the vote so adopting it to be recorded in the office of the county recorder where its original certificate is on record. No share shall be issued for less than its par value, and no member shall own shares of greater par value than \$1,000 or be entitled to more than one vote. It may commence business whenever 20 percent of the stock has been subscribed for and paid in, but no certificate of shares shall be issued to any person until the full amount thereof has been paid in cash, and no person shall become a shareholder therein except by consent of the managers.

**History:** (7826) *RL s 3075; 1976 c 181 s 2*

### **308.03 DISTRIBUTION OF PROFITS.**

The profits on the earnings of such association shall be distributed to those entitled thereto by its bylaws, and in the proportions and at the times therein prescribed, which shall be as often as once in 12 months.

**History:** (7828) *RL s 3077*

### **308.05 FORMATION; POWERS.**

Subdivision 1. A cooperative association may be formed for the purpose of conducting any agricultural, dairy, marketing, transportation, warehousing, commission, contracting, building, mining, telephone, manufacturing, or any mechanical, mercantile or electrical heat, light or power business, or for all such purposes or for any other lawful purpose, upon the cooperative plan; and, in addition to other powers, such cooperative association shall have the power, either as agent or otherwise, to buy, sell, or deal in its own products, the products of its individual members or patrons, the products of any other cooperative association or of its members or patrons. It shall be lawful for such cooperative association to sell its own products, as well as the products of its members or patrons for them, or the products of any other cooperative association or of its members or patrons for them, as the case may be, either individually or collectively, and to negotiate the price at which such products may be sold either for itself or for its members or patrons, or such other cooperative association and its members or patrons, individually or collectively, as the case may be; also to enter into or become a party to any contract or agreement either for itself or for its individual members or patrons, or between it and its members. For the purposes above stated such cooperative association shall have the power and authority as a corporation, to purchase and hold, lease, mortgage, encumber, sell, exchange, and convey such real estate, buildings, and personal property as the business of the association may require, also to erect buildings or other structures or facilities upon its own lands or leased grounds, or upon right of way legally acquired by such cooperative association. Any such cooperative which is engaged in the electrical, heat, light, power or telephone business, shall have the further power and authority to exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of such power

by other corporations engaged in such business. Such cooperative association shall have the power and authority to issue bonds or other evidence of indebtedness and to borrow money to finance the business of the association, or to make advances to its members or patrons upon produce delivered by such members or patrons to the association. For the purpose of empowering and authorizing cooperative associations incorporated under the provisions of sections 308.05 to 308.18 to join with other cooperative associations in this state or other states, whether incorporated under those sections or under the laws of any other state, to form district, state, or national organizations or market agencies, any cooperative association incorporated under those sections, by vote of the governing board thereof may purchase, acquire, hold, or dispose of the stock of any other cooperative association or corporation, whether incorporated under those sections or under the laws of any other state, and assume all rights, interests, privileges, responsibilities, and obligations arising out of the ownership of such stock. A cooperative association incorporated under those sections shall also have the power and authority, either for itself or for its individual members or patrons, to do and perform every act and thing necessary or proper to the conduct of its business or the accomplishment of the purposes set forth in those sections; and, in addition, any other rights, powers, or privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the expressed provisions of those sections.

Subd. 2. A cooperative association incorporated under sections 308.05 to 308.18, constituted wholly or partially of other cooperative associations organized under those sections or under the laws of this or any other state, shall have the power to accept deposits of money or securities from such cooperative associations, to loan or borrow upon such security as it may consider sufficient in dealing with its member cooperatives and to exercise any and all fiduciary powers in its relations with such cooperatives as constitute its membership.

Subd. 3. No corporation or association hereafter organized in this state shall be entitled or permitted to use the term "cooperative" as part of its corporate or business name or title, or to represent itself as a cooperative association, unless it has complied with the provisions of sections 308.05 to 308.18, or any other law of this state now existing or hereafter enacted providing for the incorporation of cooperative associations. Any corporation or association which violates this provision shall be guilty of a misdemeanor.

Subd. 4. Sections 308.68, 308.69 and 308.78 shall apply to marketing contracts of associations organized under or subject to sections 308.05 to 308.18.

Subd. 5. A cooperative association may be formed for the purpose of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of electric generating plants and electric transmission and distribution lines, systems, facilities and equipment and related facilities of its members. Membership in such a cooperative shall be confined to cooperatives engaged in the generation, transmission and distribution of electric energy. Such association shall have power and authority to make loans to its members, to prerefund debt, to obtain funds either through negotiated financing or public sale, to borrow money and to issue its bonds, debentures, notes or other evidence of indebtedness, to mortgage, pledge, or otherwise hypothecate such of its assets as may be necessary, to invest its resources, to deposit in state and national banks and trust companies authorized to receive deposits, and to exercise all other powers and authorities conferred upon cooperatives.

Subd. 6. When authorized by the stockholders the board of directors may dispose of all or substantially all of the property of the cooperative association upon such basis and upon such terms and conditions as may be agreed to by the board. Such authorization by the stockholders shall be in the form of a resolution adopted at a special or regular meeting of stockholders in which the notice of the meeting shall include a statement that such disposition of the property of the association will be considered at said meeting. If a quorum is present in person or by mail ballot at such meeting, the resolution approving of such disposition shall be adopted if approved by two-thirds of

the votes cast, unless the articles of incorporation or bylaws of the association require a greater proportion of the votes cast or of the total number of stockholders with voting rights. No such disposition heretofore or hereafter consummated shall be held invalid if it complies with all other provisions of law. The enactment of this subdivision shall not be construed as a declaration of legislative intent as to whether the statutes prior to this enactment permitted such method of disposition.

**History:** (7834) 1919 c 382 s 1; 1921 c 23 s 1; 1923 c 326 s 1; 1933 c 148 s 1; 1941 c 114 s 1; 1949 c 199 s 1; 1955 c 222 s 1; 1955 c 757 s 1; 1969 c 681 s 1; 1971 c 89 s 1,2

### **308.06 INCORPORATION, CONTENTS OF ARTICLES, FILING AND RECORDATION.**

Subdivision 1. A cooperative association may be organized under the provisions of sections 308.05 to 308.18 by one or more incorporators, who may act for themselves as individuals or as the agents of other cooperative associations, whether organized under sections 308.05 to 308.18 or otherwise.

Subd. 2. The incorporators of a cooperative association under sections 308.05 to 308.18 shall sign written articles of incorporation, specifying (1) the name of the association, its purpose, and the principal place of transacting its business. Such name shall distinguish it from all other corporations, domestic or foreign assumed names, trade or service marks, limited partnerships or reserved corporate or limited partnership names, pursuant to the standards set forth in section 302A.115, doing business in the state and shall be preserved to it during its corporate existence; (2) the period of its duration, which may be limited or perpetual; (3) if organized on a capital stock basis the total authorized number of shares and the par value of each share; a description of the classes of shares, if the shares are to be classified; a statement of the number of shares in each class and relative rights, preferences, and restrictions granted to or imposed upon the shares of each class, and a provision that only common stockholders shall have voting power; (4) that individuals owning common stock shall be restricted to one vote in the affairs of the association; (5) that shares of stock shall be transferable only with the approval of the board of directors of the association; (6) that dividends upon capital stock of the association shall not exceed eight percent annually; (7) the names, post office addresses, and terms of office of the first directors; and (8) that net income in excess of dividends and additions to reserves shall be distributed on the basis of patronage, and that the records of the association may show the interest of patrons, stockholders of any classes, and members in the reserves. The articles of incorporation shall always contain the provisions above required and may contain any other lawful provision; except that the names, post office addresses, and terms of offices of the first directors may be omitted after their successors have been elected by the stockholders or when the articles are amended in their entirety. Cooperative associations may be incorporated for any of the purposes for which an association may also be formed upon a membership basis and without capital stock. Such associations organized on a capital stock basis may be organized, and shall have the same powers and authority as are conferred upon such associations, and the articles of incorporation of any such non-stock associations shall contain the provisions required in the articles of incorporation of an association organized upon a capital stock basis whenever the same are applicable to an association organized upon a membership basis. Except as provided for by section 308.07, subdivision 4, no member of an association organized upon a membership basis shall have more than one vote, and a membership shall be transferable only with the consent and approval of the board of directors of the association. Holders of shares of common stock which entitle the holder thereof to vote, shall be deemed to be members of associations organized on a capital stock basis. As used in sections 308.05 to 308.18, "stockholder," unless otherwise specified, means and includes only a holder of a share of common stock which entitles the holder thereof to vote.

Subd. 3. Cooperative associations organized under or subject to the provisions hereof shall be subject to the provisions of chapter 80A, except as specifically provided in section 80A.15.

Subd. 4. The original articles of incorporation shall be filed with the secretary of state and a copy shall be recorded in the office of the county recorder of the county in which the principal place of business of the association is located. For filing the articles of incorporation with the secretary of state a fee of \$60 shall be paid to the secretary of state. For filing other documents required by this chapter with the secretary of state, a fee of \$25 must be paid to the secretary of state. An additional fee of \$25 must be paid to the secretary of state for filing a merger.

**History:** (7835) 1919 c 382 s 2; 1921 c 23 s 2; 1923 c 326 s 2; 1941 c 114 s 2; 1943 c 438 s 1; 1949 c 199 s 2; 1953 c 16 s 1; 1955 c 222 s 2; 1955 c 820 s 32; 1957 c 129 s 1; 1969 c 1148 s 50; 1971 c 47 s 1; 1975 c 7 s 1; 1976 c 2 s 39; 1976 c 181 s 2; 1980 c 541 s 5; 3Sp1981 c 2 art 1 s 50; 1988 c 682 s 22

### **308.061 PERPETUAL DURATION GRANTED.**

All cooperative associations heretofore organized or existing under the provisions of sections 308.05 to 308.15 are hereby granted perpetual duration irrespective of the period of duration set forth in their articles of incorporation or any amendments thereto. Any such cooperative association may, however, amend its articles of incorporation so as to provide for a limited period of duration for its corporate existence.

**History:** 1953 c 16 s 3

### **308.062 EXPIRATION OF CORPORATE EXISTENCE, RENEWAL.**

Subdivision 1. In any case where the period of duration of corporate existence of any cooperative corporation organized under the laws of this state, or a corporation organized under any law of this state which has conducted its business upon the cooperative plan, has expired or hereafter expires and such corporation thereafter continues in good faith to carry on and transact business, it may at any time thereafter renew its corporate existence by amending its articles of incorporation so as to comply with the provisions of Minnesota Statutes 1949, Sections 308.05 to 308.18, as amended, which amended articles shall include a provision extending its corporate duration for a limited period or making its corporate existence perpetual. This section shall not affect any pending litigation, nor apply to any corporation whose charter has been declared forfeited by any court of competent jurisdiction in this state.

Subd. 2. If any such corporation complies with subdivision 1, all corporate acts and contracts done, performed, made and entered into after the expiration of said corporate existence shall be and each is hereby declared to be legal and valid as against the objection that the period of duration of such corporation had expired.

**History:** 1953 c 16 s 4; 1955 c 222 s 3

### **308.07 CAPITAL STOCK, VOTING RIGHTS, GROUPING OF ASSOCIATIONS.**

Subdivision 1. The amount of the authorized capital stock, the number of shares, or the par value thereof may be increased or diminished, or the classes of stock may be established or altered, at any regular meeting of the stockholders of the association or at any special meeting of the stockholders called for any of such purposes, in the manner hereinafter provided for amending the articles of incorporation.

Subd. 2. The association may commence business whenever ten percent of the authorized capital stock has been subscribed and paid in. No share shall be issued for less than its par value nor until the same has been paid for in cash or its equivalent.

Subd. 3. Any cooperative association organized under sections 308.05 to 308.18 may acquire and hold stock in any other corporation organized under any law of this state or of any other state of the United States, the purpose of which may be a federation of cooperative associations or for the purpose of forming a district, state or national marketing, sales, or service agency or for the purpose of acquiring marketing facilities at terminal or other markets in this state or other states. A stockholder in any cooperative association organized under those sections shall not be entitled to more than one vote which shall be in person, or by mail, as hereinafter provided, and not by

proxy, except that any such cooperative association which holds stock in any other corporations shall have the power and authority, by its board of directors or by its stockholders, to elect or appoint any person to represent it at any meeting of any corporation in which it owns stock and the person so elected or appointed shall have full power and authority to represent such cooperative association and also to cast its vote or votes at any such meeting. Any stockholder or delegate may exercise voting rights on any matter which is before the meeting at the time of the stockholder's or delegate's arrival at the meeting, unless the articles or bylaws specify an earlier and specific time for closing the right to vote.

Subd. 4. In cooperative associations wholly or partially constituted of other cooperative associations organized under sections 308.05 to 308.18 or under the laws of this or any other state, each affiliated member cooperative shall have an additional vote for a certain stipulated volume of business done by it with its central organization or a certain stipulated number of members in such associations, to be determined in either or both cases by the articles and bylaws of the central association.

Subd. 5. Any cooperative association may group its members or stockholders in districts, local units or on such other basis as may be provided in the articles or bylaws of the association.

Subd. 6. Where district or other local units are so created, the bylaws may provide for the election of all or part of the directors upon a district or unit basis, in which event directors may be nominated or elected at district meetings as may be provided in the bylaws. Directors who are nominated at district meetings shall be elected at the annual meeting by vote of the members of the entire membership. However, the bylaws of a cooperative association may provide, in the alternative, that directors who are nominated at district meetings shall be elected by vote of the members of the district at the annual meeting.

Subd. 7. Any cooperative association may provide in its articles or bylaws that local units of its members shall be entitled to be represented at meetings of its stockholders by delegates chosen by the members of the unit and such delegates may exercise the same powers to vote on matters that may be brought before the meeting as may be exercised by any stockholder of the association at such meeting. Delegates shall exercise voting rights on such basis and such number of votes as shall be prescribed in the articles or bylaws. Wherever it is provided in sections 308.05 to 308.18 that approval of a certain portion of the stockholders or members is required for adoption of amendments, or dissolution, or merger, or consolidation, or sale of assets, the votes of delegates cast at a meeting where such delegates are authorized to vote shall be counted the same as if cast by the stockholders or members for whatever number of votes said delegates may be authorized to cast.

Subd. 8. The directors of the association shall have the power to do all things necessary to give full force and effect to this section including the power to fix the time and place and rules of conduct for the holding of meetings by such units for the purpose of their electing a delegate or delegates to all stockholders' meetings of the association.

Subd. 9. Stock in any cooperative association organized under sections 308.05 to 308.18 shall be sold or transferred only with the consent and approval of the board of directors, and the bylaws of such cooperative association shall provide that it shall have the first privilege of purchasing stock offered for sale by a stockholder of any class. Any stock so acquired by the board of directors for such cooperative association may be held as treasury stock or may be retired and canceled. Any stockholder of any class who knowingly, intentionally, or repeatedly violates a provision of the bylaws adopted by any cooperative association organized under those sections may be required by the board of directors of the cooperative association to surrender stock of any class owned, in which case the association shall refund to such stockholder the par value or the book value of such stock whichever is lesser. Stock so required to be surrendered shall be retired and canceled by the board of directors.

Subd. 10. Any stockholder who is absent from any meeting of the stockholders of any association organized under the provisions of those sections may, as herein

provided but not otherwise, vote by mail on the ballot herein prescribed upon any motion, resolution, or amendment which the board of directors may in its discretion submit to the stockholders for vote by them. Such ballot may be in the form prescribed by the board of directors of such association and shall contain the exact text of the proposed motion, resolution, or amendment to be acted upon at such meeting and the date of the meeting; and shall also contain spaces opposite the text of such motion, resolution, or amendment in which such stockholder may indicate an affirmative or negative vote thereon. Such stockholder shall express a choice by marking an "X" in the appropriate space upon such ballot. Such ballot shall be signed by the stockholder, and when received by the association holding the meeting, shall be accepted and counted as the vote of such absent stockholder at such meeting.

**History:** (7836) 1919 c 382 s 3; 1921 c 23 s 3; 1923 c 326 s 3; 1933 c 148; 1941 c 114 s 3; 1949 c 199 s 3; 1955 c 222 s 4; 1959 c 351 s 1,5; 1961 c 389 s 1; 1963 c 172 s 1; 1971 c 89 s 3-5; 1Sp1981 c 4 art 2 s 32; 1986 c 444

### **308.071 COOPERATIVE ASSOCIATIONS, ELECTION OF DIRECTORS.**

Subdivision 1. No action heretofore or hereafter taken by the board of directors nor the election of any director of any cooperative association organized under sections 308.05 to 308.18 shall be held to be invalid by reason of any director having been elected at an election at which any stockholder voted by mail prior to April 18, 1980.

Subd. 2. No stockholder shall vote by mail for a director unless mail voting is authorized by the articles of incorporation or the bylaws of the association. The ballot shall be in such form as the board of directors of the association shall prescribe for use in electing directors. The stockholder shall mark the ballot for the candidate or candidates chosen and mail it to the association in a sealed plain envelope inside another envelope bearing the stockholder's name. If the ballot of the stockholder is received by the association on or before the date of the meeting, the ballot shall be accepted and counted as the vote of the absent stockholder.

Subd. 3. If voting by mail is authorized by the articles of incorporation or the bylaws of a cooperative telephone association, a stockholder or member of the association may, at the election of any director of the association held hereafter, vote by mail in the manner prescribed in the articles of incorporation or bylaws of the association and the mail voting shall be by secret ballot.

**History:** 1957 c 186 s 1,2; 1980 c 586 s 1; 1986 c 444

### **308.08 APPLICATION.**

The provisions of Mason's Minnesota Statutes of 1927, sections 7834 and 7836, as amended by Laws 1933, chapter 148, shall not apply to any cooperative corporation or association organized under the laws of this state, or of any other state, prior to April 1, 1933, unless and until such corporation or association, by proper amendment of its articles of incorporation, elects to be bound by the provisions of Laws 1919, chapter 382.

**History:** (7836-1) 1935 c 231

### **308.09 STOCKHOLDERS, REGULAR AND SPECIAL MEETINGS, NOTICE.**

Subdivision 1. **Annual meetings; notice.** Regular meetings of the stockholders of cooperative associations organized under sections 308.05 to 308.18 shall be held annually at such time as may be determined by the board of directors of the association, unless otherwise provided for in its articles of incorporation or bylaws, and at the principal place of business of the association, or at any other place conveniently located within the area served by it, or, in the case of cooperative associations wholly or partially constituted of other cooperative associations organized under the laws of, or doing business in, any other state, at such place within or without the state, as may be designated in the notice of the meeting. At such annual meeting reports covering the business of the association for the previous fiscal year and showing the condition of the

association at the close of the fiscal year shall be submitted to the stockholders by the officers. Directors shall be elected for such terms of office as shall be prescribed in the bylaws of the association. Except for those directors elected at district meetings pursuant to the provisions of section 308.07, subdivision 6, all directors shall be elected at the annual meeting. The secretary of the association shall give notice of such meeting, by publication in a legal newspaper published in the county of the principal place of business of the association, or by publication in a magazine, periodical or house organ regularly published by or on behalf of the association and circulated generally among its members, at least two weeks previous to the date of the meeting, or by mailing notice thereof to each and every member personally, or, in case of an association, to the secretary thereof, at the person's last known post office address, not less than 15 days previous to the date of the meeting.

**Subd. 2. Special meetings; how called; notice.** Special meetings of the stockholders may be called by a majority vote of the directors of the association or upon the written petition of at least 20 percent of the stockholders. It shall be the duty of the president of the association to cause notice of the special meeting to be given as above provided. The notice shall state the time, place, and purpose of the special meeting and shall be issued within ten days from and after the date of the presentation of such petition, and such special meeting shall be held within 30 days from and after the date of the presentation of the petition. Upon the mailing of any notice of a regular or special meeting of the stockholders of any association, as provided by sections 308.05 to 308.18, the secretary of the association shall execute a certificate, setting forth a correct copy of the notice and showing the date of the mailing thereof and that the same was mailed within the time and in the manner prescribed by sections 308.05 to 308.18. The certificate shall be made a part of the record of the meeting. Failure of any stockholder to receive any such notice shall not invalidate any action which may be taken by the stockholders at any such regular or special meeting.

**History:** (7837) 1919 c 382 s 4; 1921 c 23 s 4; 1923 c 326 s 4; 1947 c 61 s 1; 1947 c 354 s 1; 1949 c 157 s 1; 1949 c 199 s 4; 1955 c 222 s 5; 1971 c 89 s 6; 1976 c 59 s 1; 1986 c 444

### 308.10 QUORUM.

At any regular or special meeting of the stockholders of any association incorporated under sections 308.05 to 308.18 a quorum necessary to the transaction of business shall be ten percent of the total number of stockholders in the association when the number of stockholders in the association does not exceed 500, and, in associations having a larger number of stockholders, 50 stockholders present shall constitute a quorum irrespective of the quorum requirements stated in the articles of incorporation and bylaws; provided however that any cooperative which has filed articles of incorporation providing for a larger quorum after March 26, 1949, such quorum shall apply, and provided further that any cooperative may amend its articles of incorporation and bylaws so as to provide for a larger quorum after May 1, 1959. In determining a quorum at any meeting, on a question submitted to a vote by mail, stockholders or members present in person or represented by mail vote shall be counted. The fact of the attendance of a sufficient number of stockholders to constitute a quorum shall be established by a registration of the stockholders of the association present at such meeting, which registration shall be verified by the president and secretary of the association and shall be reported in the minutes of the meeting. No action by any association organized under sections 308.05 to 308.18 shall be valid or legal in the absence of a quorum at the meeting at which such action may be taken.

**History:** (7838) 1919 c 382 s 5; 1921 c 23 s 5; 1923 c 326 s 5; 1937 c 153 s 1; 1949 c 199 s 5; 1959 c 351 s 2

### 308.105 VOTING BY MEMBERS.

Whenever a vote of members or stockholders of a cooperative association is required or provided for on any matter, including a petition pursuant to section

216B.02, subdivision 4, the spouse of the member or stockholder may vote on behalf of the member or stockholder unless the member or stockholder has indicated otherwise.

**History:** 1980 c 586 s 2

### **308.11 DIRECTORS; OFFICERS.**

Every cooperative association organized under sections 308.05 to 308.18 shall be governed by a board of not less than five directors, except in the case of a cooperative apartment corporation as defined in section 290.09, subdivision 17, in which case the number of directors shall not be less than three, who shall be members of the association. If a member of an association is a family farm corporation within the meaning of section 500.24, subdivision 2, clause (c), or an authorized farm corporation within the meaning of section 500.24, subdivision 2, clause (d), the member may elect or appoint a stockholder of the corporation residing on or actively operating the farm who shall be eligible for election to the board of directors. If a member of an association be other than a natural person, family farm corporation, or an authorized farm corporation, and if the bylaws of the association do not provide otherwise, the member may appoint or elect one or, in the case of associations wholly constituted of other cooperative associations, one or more natural persons who shall be eligible for election to the board of directors. Directors shall be elected for the term, at the time, and in the manner provided in sections 308.05 to 308.18 and the bylaws of the association. The directors shall elect from their number a president and one or more vice-presidents. They shall also elect a secretary and a treasurer, who need not be directors or stockholders. The offices of secretary and treasurer may be combined and when combined the person filling the office shall be termed secretary-treasurer. If the bylaws provide, the board of directors may also elect from their number a chair and one or more vice-chairs, in which case the president and vice-presidents need not be directors or stockholders. The board of directors may also elect additional officers as the articles or bylaws may authorize or require, and unless otherwise required by the articles or bylaws, the additional officers need not be directors or stockholders. The stockholders shall have the power, at any regular or special stockholders' meeting regularly called in the manner above provided, to remove a director or officer for cause and to fill the vacancy caused by the removal.

**History:** (7839) 1919 c 382 s 6; 1921 c 23 s 6; 1923 c 326 s 6; 1949 c 199 s 6; 1969 c 27 s 1; 1974 c 99 s 1; 1976 c 59 s 2; 1978 c 722 s 4; 1979 c 33 s 1; 1986 c 444

### **308.111 ELIMINATION OR LIMITATION OF LIABILITY.**

A director's personal liability to the cooperative association or its members for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the articles. The articles shall not eliminate or limit the liability of a director:

(1) for a breach of the director's duty of loyalty to the cooperative association or its members;

(2) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;

(3) for a transaction from which the director derived an improper personal benefit;

or

(4) for an act or omission occurring prior to the date when the provision in the articles eliminating or limiting liability becomes effective.

**History:** 1987 c 326 s 1

### **308.12 EARNINGS, RESERVE FUND; DISTRIBUTION.**

Subdivision 1. An association organized under sections 308.05 to 308.18 may set aside such part of its net income as its board of directors deems advisable, for the purpose of creating or maintaining a capital reserve. In addition to such capital reserve the directors of any such association may set aside a sum not to exceed five percent of

the annual net income of the association, which shall be used for the purposes of promoting and encouraging cooperative organization, and may establish and accumulate reserves for new buildings, machinery and equipment, depreciation, losses, and other proper purposes. Net income in excess of dividends on capital stock and additions to reserves shall be distributed on the basis of patronage. The stockholders may provide in the bylaws of the association that nonmember patrons shall participate in the distribution of net income upon equal terms with member patrons. If the patron is qualified and eligible for membership, the amount of patronage refund due shall be credited to the patron's individual account, and when such credits shall equal the value of a share of common stock which entitles the holder thereof to vote, or a membership, a share of such stock or a membership shall be issued. If the patron is not qualified or eligible for membership, the refund due may be credited to the patron's individual account, and when such credits shall equal the value of a share of common stock which does not entitle the holder thereof to vote or preferred stock or a certificate of interest a share of such stock or a certificate of interest may be issued, and thereafter such patron may participate in the distribution of income upon the same basis as a stockholder or member.

Subd. 2. Distribution of net income shall be made annually or oftener. Net income of a cooperative association arising from trucking operations shall be distributed only annually. The directors of such association shall present to the stockholders at their annual meeting a report covering the operations of the association during the preceding fiscal year.

Subd. 3. Dividends may be paid on capital stock only when the net income of the association for the previous fiscal year is sufficient and shall not be cumulative.

Subd. 4. An association subject to the provisions of sections 308.05 to 308.18 may distribute net income in cash, credits, revolving fund certificates, or its own or other securities.

Subd. 5. Notwithstanding the provisions of section 345.43, a cooperative association organized under the laws of this state may, in lieu of paying or delivering to the commissioner of commerce the unclaimed property specified in its report of unclaimed property, distribute the unclaimed property to a corporation or organization which is exempt from taxation under section 290.05, subdivision 1, paragraph (b), or 2. A cooperative association making this election shall, within 20 days after the time specified in section 345.42 for claiming the property from the holder, file with the commissioner a verified written explanation of the proof of claim of any owner establishing a right to receive the abandoned property; any error in the presumption of abandonment; and the name, address, and exemption number of the corporation or organization to which the property was or is to be distributed and the approximate date of distribution. Nothing in this subdivision alters the procedure provided in sections 345.41 and 345.42 whereby cooperative associations report unclaimed property to the commissioner and claims of owners are made to the cooperative associations for a period of 65 days following the publication of lists of abandoned property. The rights of an owner to unclaimed property held by a cooperative association is extinguished upon the disbursement of the property by the cooperative association to a tax-exempt organization in accordance with this section.

**History:** (7840) 1919 c 382 s 7; 1921 c 23 s 7; 1923 c 326 s 7; 1941 c 114 s 4; 1949 c 199 s 7; 1953 c 16 s 2; 1955 c 222 s 6; 1975 c 6 s 1; 1986 c 444; 1987 c 336 s 26

### **308.13 PROMOTION EXPENSE NOT TO BE INCURRED.**

None of the funds of any association organized under sections 308.05 to 308.18 shall be used, nor shall any of the capital stock of such association be issued or pledged, nor shall such association be permitted to incur any indebtedness in payment of any promotion of such association or for the payment of commissions, salaries, or expenses of any kind in connection with the promotion of such association; except that a sum not to exceed ten percent of the par value of the capital stock sold may be used by officers or committees elected by the stockholders to sell or solicit the sale of stock or for hiring responsible solicitors for such purpose.

**History:** (7841) 1919 c 382 s 9; 1921 c 23 s 9; 1923 c 326 s 8

**308.14 AMENDMENT OF ARTICLES TO COMPLY WITH STATUTES; VOLUNTARY DISSOLUTION.**

Subdivision 1. Any corporation or cooperative association organized and doing business under statutes of this state, or under the laws of other states, and which has conducted its business upon the cooperative plan, may come under the provisions of sections 308.05 to 308.18 and be bound thereby upon amending its articles of incorporation to conform to the requirements of those sections. Such corporation or cooperative association organized under statutes of this state may thus amend its articles of incorporation in the manner hereinafter provided for the adoption of amendments. Such corporation or cooperative associations organized under laws of other states shall thus amend its articles of incorporation in the manner required by the laws of the state in which it was incorporated, whereupon it shall file a certified copy of its articles of incorporation and amendments thereto with the secretary of state, subject to the fees and requirements prescribed by these sections, and such corporation or cooperative association shall thenceforth be a cooperative association in this state and subject to the provisions of this section. Any corporation or cooperative association originally organized under the laws of another state, which has heretofore complied with the provisions of this section, shall be, and it hereby is declared to be a corporation under the provisions of these sections without any further act by it or any officer of this state.

Subd. 2. Voluntary proceedings for dissolution of any association organized under or subject to the provisions of sections 308.05 to 308.18 or any other law of Minnesota relating to the organization of cooperative associations may be instituted whenever a resolution therefor is adopted by two-thirds of the votes cast thereon at a meeting duly called for that purpose, at which a quorum is present. The resolution may provide that the affairs of the association shall be wound up out of court, in which case the resolution shall designate a trustee or trustees to conduct the winding up, and may provide a method for filling vacancies in the office of trustees; and may provide for the election of a president and secretary of the trustees from their own number, but such appointment shall not be operative until a certificate setting forth the resolution and the manner of adoption thereof, signed by the president, vice-president, secretary, or assistant secretary of the association, shall be filed for record with the secretary of state. If the association's current articles of incorporation or certificate of incorporation and amendments are not on file with the secretary of state, the certificate of voluntary dissolution shall be filed with the public officer having custody of the current articles of incorporation or certificate of incorporation and amendments. If the association's current articles of incorporation or certificate of incorporation and amendments are not on file with a public officer, the certificate of voluntary dissolution shall be filed with the public officer with whom the articles or certificate should have been filed pursuant to law. If a vacancy occurs in the office of trustee, it may be filled by resolution adopted by a majority of the voting power represented at a meeting of stockholders or members. The meeting may be called by the remaining trustee or trustees, if any, and if none, then by any stockholder or member. Unless the resolution to dissolve otherwise provides, the trustee or trustees may be removed with or without cause by the vote of a majority of the voting power at a meeting called for that purpose. The resolution to dissolve may provide that the affairs of the corporation shall be wound up under the supervision of the court, in which case the resolution shall authorize certain directors or stockholders to sign and present a petition to the court praying that the corporation be wound up and dissolved under the supervision of the court. Where a corporation is being wound up and dissolved out of court, the trustee, or if there be more than one then a majority of the trustees, may by petition apply to the court for a receiver and to have the proceedings continued under the supervision of the court, and thereafter the proceedings shall continue as if originally instituted subject to the supervision of the court.

Subd. 3. Except as otherwise provided in the resolution for dissolution, the trustee or trustees appointed by the stockholders or members to conduct the winding up out of court shall, as speedily as practicable after the appointment has become operative, as hereinabove provided, proceed to collect all sums due or owing to the corporation; to sell and convert into cash all corporate assets; to collect any amounts remaining

unpaid on subscriptions to shares, and to pay all debts and liabilities of the association according to their respective priorities. Any property remaining after discharging the debts and liabilities of the corporation shall be distributed by the trustee or trustees to the stockholders of the several classes according to their respective priorities, members, or patrons of the association. Stockholders of the several classes according to their respective priorities shall first be paid the par value of their shares, and the remainder of such property shall be distributed among patrons, members, and common stockholders in accordance with their interest in the reserves and surplus as shown by the records of the association. Nothing contained in this subdivision shall prevent the resolution for dissolution from including therein a different method or plan of liquidation of the association, and such resolution may include a plan or procedure whereby all or part of the property of the association may be acquired by another cooperative association on a basis other than that hereinabove provided for. No such plan of acquisition heretofore or hereafter consummated, contained in the resolution for dissolution, shall be held invalid if all other provisions of subdivisions 2 to 6 have been fully complied with. The enactment of this amendment shall not be construed as a declaration of legislative intent as to whether the statutes prior to this enactment permitted such different method of liquidation.

Subd. 3a. [Repealed, 1982 c 495 s 5]

Subd. 3b. Notwithstanding subdivision 3 and the resolution for dissolution, if any property remaining after discharging the debts and liabilities of the corporation is unable to be distributed for any reason, after a period of five years has elapsed following the resolution for dissolution, the undistributed property may be distributed by the trustee or trustees to any corporation or organization which is exempt from taxation pursuant to section 290.05, subdivision 2, or to any unit of state or local government.

Subd. 4. When an association has been completely wound up, the court, if the proceeding is subject to the supervision of the courts, shall make an order adjudging the association to be dissolved; and if the proceeding is out of court, the trustee, or trustees, or the president or secretary of the trustees, if any, or the attorney of the trustee or trustees, if the attorney or officer makes an affidavit of acting as such, shall sign a certificate stating that the association has been completely wound up and is dissolved. The provisions of this subdivision as herein amended shall apply to all associations who heretofore, or hereafter shall have filed for record a certificate of dissolution as provided in subdivision 2.

Subd. 5. The order or certificate of dissolution shall be filed for record as provided in subdivision 2 and thereupon the corporate existence shall terminate.

Subd. 6. The title to any assets omitted from the winding up shall vest in the trustee or trustees, or receiver or receivers, for the benefit of the persons entitled thereto and shall be administered and distributed accordingly.

**History:** (7843) 1919 c 382 s 11; 1921 c 23 s 11; 1923 c 326 s 10; 1941 c 114 s 5; 1955 c 222 s 7; 1957 c 129 s 2; 1957 c 517 s 1; 1959 c 351 s 3,3; 1961 c 389 s 2,3; 1963 c 92 s 1-3; 1971 c 89 s 7,8; 1982 c 495 s 1; 1984 c 423 s 1; 1985 c 46 s 1; 1986 c 444; 1988 c 682 s 23,24

### 308.15 ARTICLES OF INCORPORATION, AMENDMENT, PROCEDURE.

Subdivision 1. The articles of incorporation of any association organized under sections 308.05 to 308.18 or which may elect to come under the provisions of those sections may be amended in the following manner: The board of directors, by majority vote of its members may pass a resolution setting forth the full text of the proposed amendment. Upon such action by the board of directors, notice shall be mailed to each and every stockholder containing the full text of the proposed amendment - and a mail ballot attached thereto if the board of directors has provided for a mail ballot in its resolution. Such notice shall also designate the time and place of the meeting at which such proposed amendment shall be considered and voted upon, in the same manner as elsewhere provided in those sections. An association having in excess of 200 stockholders or members may publish such notice and ballot if required in the manner

provided for in section 308.09, subdivision 1. If a quorum of the stockholders is registered as being present or represented by mail vote at such meeting, such proposed amendment shall be adopted if approved by a majority of the votes cast. After an amendment has been adopted by the stockholders, articles of amendment setting forth the amendment and the manner of adoption thereof shall be signed by the president, vice-president, secretary, or assistant secretary, and filed in the office of the secretary of state and recorded in the office of the county recorder of the county of its principal place of business.

Subd. 2. The bylaws of any cooperative association may be amended at any regular or special meeting at which a quorum is registered as being present or represented by mail vote, if approved by a majority of the votes cast, where the notice of any such meeting contains a summary statement of the proposed amendment.

Subd. 3. [Repealed, 1984 c 618 s 61]

Subd. 4. If otherwise lawful, any two or more associations organized under or subject to the provisions of sections 308.05 to 308.18, or any other law of Minnesota relating to the organization of cooperative associations, may merge or consolidate with each other, or with one or more associations incorporated under the laws of another state relating to organization of cooperative associations, by complying with the provisions of this subdivision or under the law of the state where the surviving or new association will exist. Before an association may merge or consolidate with any other association, a written plan of merger or consolidation shall be prepared by the board or by a committee selected by the board or the members or stockholders for that purpose. Such plan shall set forth all the terms of the merger or consolidation and the proposed effect thereof on all members or stockholders of the association. In case of consolidation, the plan shall also contain the articles of the new association. Notice shall be mailed to each and every stockholder or member containing the full text of the plan. Such notice shall also designate the time and place of the meeting at which such plan shall be considered and voted upon, in the same manner as elsewhere provided in these sections. An association having in excess of 200 stockholders or members may publish such notice in the manner provided for in section 308.09, subdivision 1. If a quorum of the stockholders or members is registered as being present or represented by mail vote at such meeting, the plan shall be adopted if approved by two-thirds of the votes cast.

After the plan has been adopted by the stockholders or members, articles of merger or consolidation setting forth the plan and the manner of adoption thereof shall be signed by the president, vice-president, secretary, or assistant secretary of each association merging or consolidating and shall be approved by the attorney general and filed in the office of the secretary of state and recorded in the office of the county recorder of each county where each merging or consolidating association has its principal place of business. Unless otherwise specified in the plan, the merger or consolidation shall be effective when said articles are filed in the office of the secretary of state.

After the effective date, the associations, which are parties to the plan become a single association. In the case of a merger, the surviving association is that association so designated in the plan. In the case of a consolidation, the new association is the association provided for in the plan. The separate existence of all associations which are parties to the plan, except the surviving or new association, then ceases.

The surviving or new association possesses all the rights and all the property of each of the individual associations, and is responsible for all their obligations. Title to any property is vested in the surviving or new association with no reversion or impairment thereof caused by the merger or consolidation. No right of any creditor may be impaired by the merger or consolidation without the creditor's consent.

The articles of the surviving association are deemed amended to the extent provided in the plan of merger.

**History:** (7844) 1919 c 382 s 12; 1921 c 23 s 12; 1923 c 326 s 11; 1941 c 114 s 6; 1955 c 222 s 8; 1957 c 129 s 3; 1959 c 351 s 4; 1971 c 89 s 9; 1976 c 181 s 2; 1986 c 444; 1988 c 682 s 25,26

**308.16 COMPANIES EXCEPTED.**

Existing laws relative to the incorporation and management of rural telephone companies and cooperative creameries, except as specifically repealed, shall remain in force and shall not be affected by any of the provisions of sections 308.05 to 308.18. Any rural telephone company or cooperative creamery organized under the provisions of existing laws may continue to operate thereunder until they shall come under the provisions of those sections.

**History:** (7845) 1919 c 382 s 13; 1921 c 23 s 13; 1923 c 326 s 12

**308.17 REPEALS; COOPERATIVES, HOW GOVERNED.**

Sections 308.01, 308.02, 308.03, 308.30, 308.31, and 308.34 are repealed; provided, that any corporation or association incorporated and operating under the provisions of sections 308.01, 308.02, 308.03, 308.30, 308.31, and 308.34 shall continue to be governed thereby during the period of their corporate period or until they shall elect to come under the provisions of sections 308.05 to 308.18.

**History:** (7846) 1919 c 382 s 14; 1921 c 23 s 14; 1923 c 326 s 13; 1971 c 30 s 1

**308.18 APPLICATION.**

This statute shall not be construed or considered as repealing or amending by implication or otherwise any existing law of this state except as herein stated and set forth, and no statute or law hereafter enacted in this state shall be considered or construed as amending or repealing sections 308.05 to 308.18 by implication or otherwise unless so provided in express language in such subsequent enactment.

**History:** (7847) 1923 c 326 s 14

**308.29 POWERS EXTENDED.**

A cooperative association may be formed for the purpose of selling and otherwise disposing of any of its products or the products of its members or of any manufacturing or agricultural cooperative association organized under the laws of this state. Its certificates of incorporation shall be filed for record with the secretary of state and thereupon it shall become a corporation. A majority of the incorporators thereof shall be residents of this state, and its duration, without renewal, shall not exceed 20 years. It shall be lawful for such association to sell its own products, as well as the products of its members for them, either individually or collectively, and to negotiate the price at which such products may be sold either for itself or for its members, individually or collectively, as the case may be.

**History:** (7830) 1907 c 293 s 1; 1909 c 456 s 1; 1919 c 82 s 1

**308.30 OFFICERS; BYLAWS; AMENDMENT OF ARTICLES.**

Every such association shall have a president, a treasurer, and not less than three directors, who shall together constitute a board of managers and conduct its business. Such officers shall be chosen annually by the stockholders, and shall hold their offices until others shall be chosen and have qualified. The association shall make its own bylaws, not inconsistent with the law, and may therein provide for any other officers deemed necessary, and the mode of their selection. It may amend its articles of incorporation at any general stockholders' meeting, or at any special meeting called for that purpose, upon ten days' notice to the stockholders. The amount of capital stock shall be fixed by the articles of incorporation, which amount and the number of shares may be increased or diminished at a stockholders' meeting specially called for that purpose, but the whole amount of stock shall never exceed \$100,000. Within 30 days after the adoption of the amendment increasing or diminishing its capital stock, it shall cause the vote so adopting it to be recorded in the office of the secretary of state. No share shall be issued for less than its par value, and no member shall own shares of a greater par value than \$1,000, or be entitled to more than one vote. It may commence business whenever 20 percent of the authorized stock has been subscribed for and paid

in, but no certificate of shares shall be issued to any person until the full amount of such subscription therein has been paid in cash, and no person shall become a shareholder therein except by the consent of the managers. The profits on the earnings of such association shall be distributed to those entitled thereto by its bylaws and in proportions and at the times therein prescribed, which shall be as often as once in 12 months.

**History:** (7831) 1907 c 293 s 2; 1933 c 330 s 1

### **308.31 STOCK IN OTHER CORPORATIONS.**

Any corporation organized under the provisions of sections 308.01 or 308.34 is hereby authorized, in addition to those other powers to it granted, upon an affirmative vote of a majority of its directors or other governing body, had at any regular meeting or any special meeting called for that purpose, to subscribe to the capital stock of any corporation organized under the provisions of sections 308.29 and 308.30, pay for the same, and thereafter, in like manner, vote the same and exercise all the usual powers of a stockholder in a corporation, subject to the limitations set forth in sections 308.29 and 308.30.

**History:** (7832) 1907 c 393 s 3; 1909 c 280 s 1

### **308.32 RURAL TELEPHONE COMPANIES; PLACE OF BUSINESS; STOCKHOLDERS' MEETINGS, WHERE HELD.**

Any rural telephone company or association, organized or incorporated under any of the laws of this state, shall have its principal place of business in the township or city designated in its articles of incorporation as such; provided, that any officer of such company may transact the business pertaining to that particular office in any township or city into which such township or city, the lines of such company extend, or in any city within any such township; and, provided, further, that any such rural telephone company whose lines extend into more than one township may hold its stockholders' meeting in any township or city through or into which its lines extend, or in any city within any such township as its stockholders, or members, may, from time to time, designate at a previous annual meeting, or a special meeting called for that purpose, but until a different place is so designated the township or city named as its principal place of business shall be the place for holding all stockholders' meetings thereof, and when a place is so designated it shall be and remain the place for holding all stockholders' meetings until again changed by a vote of the stockholders, as aforesaid, and it shall be the duty of the officer calling any such meeting to procure a place of meeting in the township or city so designated; and state the location of same in the notice of the meeting.

**History:** (7833) 1911 c 360 s 1; 1973 c 123 art 5 s 7; 1986 c 444

### **308.34 MAY ENGAGE IN ANY LAWFUL ENTERPRISE.**

A cooperative association may be formed for the purpose of engaging in any lawful mercantile, manufacturing, agricultural or rural telephone business. Its certificate of incorporation shall be filed for record with the county recorder of the county of its principal place of business, and thereupon it shall become a corporation and enjoy all the power and privileges, and can buy and hold stock in other corporations organized for the same general purpose, and be subject to all duties, restrictions and liabilities set forth in all general laws in relation to similar corporations, except so far as the same may be limited or enlarged by this section. A majority of the incorporators that reside in this state shall be residents of the county of its principal place of business, and its duration without renewal shall not exceed 20 years.

**History:** (7824) RL s 3073; 1905 c 276; 1905 c 313 s 1; 1943 c 318 s 2; 1976 c 181 s 2

### **308.341 COOPERATIVE RURAL TELEPHONE COMPANIES, DISSOLUTION.**

Any cooperative rural telephone company organized under Revised Statutes 1905,

chapter 58, or the general laws of Minnesota 1905, chapters 276 and 313, may dissolve by voluntary proceedings as provided by sections 302A.721 to 302A.733, whenever a resolution therefor is adopted by a majority of the voting power of all stockholders or shareholders at a meeting duly called for that purpose.

**History:** 1955 c 241 s 1; 1981 c 270 s 130; 1987 c 384 art 2 s 75

### **308.35 CORPORATE EXISTENCE RENEWED.**

Any cooperative association organized pursuant to sections 308.01 to 308.03, 308.30, 308.31, and 308.34, whose period of corporate existence has not expired, may renew its corporate existence on expiration thereof for a period not exceeding 20 years, any statutory provision to the contrary notwithstanding.

**History:** (7833-1) 1935 c 116 s 1

### **308.36 DEFECTIVE ORGANIZATION.**

**Subdivision 1. Amendment of articles.** Any cooperative corporation organized defectively under the laws of this state relating to cooperative associations, or any other corporation organized defectively under any other law of this state that has conducted its business upon the cooperative plan and has in good faith carried on and transacted business, may amend its articles of incorporation in their entirety so as to come under and be bound by the provisions of Minnesota Statutes 1945, sections 308.05 to 308.18, or any acts amendatory thereof. Its articles of amendment shall be filed with the secretary of state and a true copy thereof recorded in the office of the county recorder of the county in which the principal place of business of the corporation is located.

**Subd. 2. De facto corporation becomes corporation de jure.** Upon the filing and recording of the articles of amendment of any such de facto corporation, it shall thereupon also become a legal and valid corporation de jure, and shall be so deemed and held in all courts as to all transactions, past and future, the same as if there was no defect in its organization.

**Subd. 3. Pending litigation not affected.** This section shall not affect any pending litigation or apply to any corporation whose charter has been declared forfeited by any court of competent jurisdiction in this state.

**History:** 1947 c 510 s 1-3; 1976 c 181 s 2

### **308.361 DEFECTIVELY ORGANIZED.**

**Subdivision 1. Amendment permitted.** Any cooperative corporation organized under the laws of this state relating to cooperatives or any other corporation organized under any other law of this state that has conducted its business upon the cooperative plan, including any such corporation that has been organized defectively and has been operating as a de facto corporation, which has attempted defectively to come under and be bound by the provisions of Laws 1919, chapter 382, Laws 1921, chapter 23, Laws 1923, chapter 326, and laws amendatory thereof, and has in good faith carried on and transacted business in compliance with said laws, may amend its articles of incorporation in their entirety in accordance with the provisions of Minnesota Statutes 1945, sections 308.05 to 308.18, or any acts amendatory thereof, and file its articles of amendment with the secretary of state and record a true copy thereof in the office of the county recorder of the county in which the principal place of business of the corporation is located.

**Subd. 2. Previous acts validated.** Upon the filing and recording of the articles of amendment of any such corporation, all its corporate acts and contracts done, performed, made and entered into prior thereto shall be and are hereby declared to be legal and valid as against the objection that the attempt previously made by it to come under and be bound by the provisions of the aforementioned laws was defective in any respect.

**Subd. 3. Becomes corporation de jure.** Upon the filing and recording of the articles of amendment of any such corporation that has been organized defectively, it

shall thereupon also become a legal and valid corporation de jure and shall be so deemed and held in all courts as to all transactions, past and future, the same as though there had been no defect in its organization.

**Subd. 4. Pending litigation not affected.** This section shall not affect any pending litigation nor apply to any corporation whose charter has been declared forfeited by any court of competent jurisdiction in this state.

**History:** 1947 c 513 s 1-4; 1976 c 181 s 2

### **308.37 OWNING STOCK OF CERTAIN OTHER CORPORATIONS.**

Any cooperative corporation or association organized under the laws of Minnesota may purchase, own, and hold shares of capital stock, memberships, interests in non-stock capital, evidences of indebtedness of any domestic or foreign corporation when reasonably necessary or incidental to accomplish the purposes stated in the articles.

**History:** (7847-3) 1927 c 25 s 1; 1957 c 129 s 4

### **308.39 CREAMERY ASSOCIATIONS, CONDEMNATION POWERS.**

Any creamery association organized in the state of Minnesota shall have the right, power, and authority to condemn lands under the right of eminent domain for easements for sewers and sites for filtration plants to take care of all sewage and refuse made in the operation of its business, which power and authority shall be exercised under and pursuant to the terms and provisions of chapter 117, and acts supplemental thereto.

**History:** (7859-1) 1927 c 179 s 1

### **308.40 SEWERS AND FILTRATION PLANTS, SUPERVISION.**

The establishment of any such sewers or any such filtration plants, or both, for such purposes and their maintenance and operation, shall be under the supervision of the chair of the board of health as defined in section 145A.02, subdivision 2, of the town or city in which such association has its operating plant.

**History:** (7859-2) 1927 c 179 s 2; 1973 c 123 art 5 s 7; 1986 c 444; 1987 c 309 s 24

### **308.41 COOPERATIVE CREAMERY ASSOCIATIONS CONTINUED.**

Any cooperative creamery association organized under the provisions of section 308.01 may renew its corporate existence for a period of not more than 20 years, whenever the holders of a majority of the stock thereof shall adopt a resolution to that effect at any regular meeting, or at any special meeting called for that expressly stated purpose. A copy of the resolution, certified by the chair and secretary of the meeting, shall be filed in the office of the county recorder of the county in which the corporation shall be located.

**History:** (7859-13, 7859-14) 1933 c 358 s 1,2; 1976 c 181 s 2; 1986 c 444

### **308.42 COOPERATIVE ASSOCIATION DEFINED.**

A "cooperative association" is any corporation or association of ultimate producers, consumers, or ultimate producers and consumers organized under any law of the state providing for the incorporation of cooperative associations; also any central organization composed wholly or in part of such associations.

**History:** (7834) 1919 c 382 s 1; 1921 c 23 s 1; 1923 c 326 s 1; 1933 c 148; 1941 c 114 s 1

### **308.43 RURAL ELECTRIC; LOSSES FROM USUAL INSURANCE RISKS.**

Cooperative associations organized under Minnesota Statutes 1949, Chapter 308, for the purpose of providing rural electrification may enter into agreements and contracts with each other, or may form a cooperative corporation constituted wholly of such cooperative associations organized for a rural electrification with which corporation such member cooperatives may enter into agreements or contracts, and the

sharing of losses and risks of losses due to storm, sleet, hail, tornado, cyclone, hurricane, or wind storm, or any thereof, to their transmission and distribution lines, transformers, substations, and appurtenances thereto. No such contract or agreement or any such cooperative association so formed shall be subject to the laws of this state relating to insurance and insurance companies.

**History:** 1951 c 408 s 1

### COOPERATIVE MARKETING ACT

#### 308.51 CITATION, COOPERATIVE MARKETING ACT.

Sections 308.53 to 308.85 shall be referred to as the cooperative marketing act.

**History:** (6080) 1923 c 264 s 2

#### 308.52 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 308.52 to 308.85, the terms defined in this section have the meanings given to them.

Subd. 2. **Agricultural products.** The term "agricultural products" includes horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and any farm products.

Subd. 3. **Member.** The term "member" includes actual members of associations without capital stock, and holders of common stock in associations organized with capital stock, if any.

Subd. 4. **Association.** The term "association" means any corporation or association organized under sections 308.53 to 308.85.

Subd. 5. **Person.** The term "person" includes individuals, firms, partnerships, corporations, and associations.

Subd. 6. **Directors.** The term "directors" means the board of directors.

Subd. 7. **Nonprofit associations.** Associations organized under sections 308.53 to 308.85 shall be deemed nonprofit, inasmuch as they are not organized to make profits for themselves, as such, or for their members, as such, but only for their members as producers.

Subd. 8. **Commissioner.** The term "commissioner" means the commissioner of the department of agriculture.

**History:** (6080) 1923 c 264 s 2; 1961 c 113 s 1; 1961 c 128 s 5,6

#### 308.53 DECLARATION OF POLICY.

In order to promote, foster, and encourage the intelligent and orderly marketing of agricultural products through cooperation, and to eliminate speculation and waste; to make the distribution of agricultural products as direct as can be efficiently done between producer and consumer; and to stabilize the marketing problems of agricultural products, sections 308.53 to 308.85 are passed. It is recognized that agriculture is characterized by individual production in contrast to the group or factory system that characterizes other forms of industrial production; that the ordinary form of corporate organization permits industrial groups to combine for the purpose of group production and the ensuing group marketing and that the public has an interest in permitting farmers to bring their industry to the high degree of efficiency and merchandising skill evidenced in the manufacturing industries; that the public interest urgently needs to prevent the migration from the farm to the city in order to keep up farm production and to preserve the agricultural supply of the nation; and that the public interest demands that the farmer be encouraged to attain superior and more direct system of marketing in the substitution of merchandising for the blind, unscientific, and speculative selling of crops.

**History:** (6079) 1923 c 264 s 1

**308.54 NUMBER OF ORGANIZERS.**

Five or more persons engaged in the production of agricultural products may form a nonprofit cooperative association, with or without capital stock, under the provisions of sections 308.53 to 308.85.

**History:** (6081) 1923 c 264 s 3

**308.55 PURPOSES.**

An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping, or utilization thereof, or the manufacturing or marketing of the by-products thereof, or in connection with the manufacturing, selling, or supplying to its members of machinery, equipment, or supplies; or in the financing of the above enumerated activities; or in any one or more of the activities specified therein.

**History:** (6082) 1923 c 264 s 4

**308.56 POWERS.**

Each association incorporated under sections 308.53 to 308.85 shall have the following powers;

(1) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, or utilization of any agricultural products produced or delivered to it by its members, or patrons, and with the manufacturing or marketing of the by-products thereof, and to provide facilities and services therefor, and in any activities in connection with the purchasing, manufacturing, selling, warehousing, handling, shipping, distributing and otherwise dealing in and procuring for its members or patrons any and all kinds of supplies and equipment, and to perform any and all services to and for its members or patrons as may be required by them in their respective operations, and in the financing of any such activities, and in any one or more of the activities specified in this section; any association may provide in its articles of incorporation that it shall not deal in products, supplies and services for nonmembers in an amount greater in value than such as are dealt in for members.

(2) To borrow money and to make advance payments and advances to members; or patrons;

(3) To act as the agent or representative of its members or patrons in any of the above mentioned activities;

(4) To purchase or otherwise acquire, and to hold, own, and exercise all rights or ownership in, and to sell, transfer, or pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing or handling or marketing of any of the products handled by the association;

(5) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the bylaws;

(6) To buy, hold, and exercise all privileges of ownership over, such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association or incidental thereto; and

(7) To do each and every thing necessary, suitable, or proper for the accomplishment of any one of the purposes, or the attainment of any one or more of the objects herein enumerated, or conducive to or expedient for the interest or benefit of the association or its members or patrons, and to contract accordingly; and, in addition, to exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and, in addition, any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of sections 308.53 to 308.85, and to do any such thing anywhere.

**History:** (6083) 1923 c 264 s 5; 1957 c 128 s 1

**308.57 MEMBERS.**

Under the terms and conditions prescribed in its bylaws, any association may admit as members, or issue common stock only to other cooperative associations and to persons engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent part of the crop raised on the leased premises.

If a member of a nonstock association be other than a natural person, such member may be represented by any individual, associate, officer, and member thereof, duly authorized in writing.

One association, organized under sections 308.53 to 308.85, may become a member or stockholder of any other association or associations so organized.

**History:** (6085) 1923 c 264 s 6; 1957 c 128 s 2

**308.58 ARTICLES OF INCORPORATION.**

**Subdivision 1. Contents.** Each association formed under sections 308.53 to 308.85 must prepare and file articles of incorporation, setting forth:

- (1) The name of the association;
- (2) The purposes for which it is formed;
- (3) The place where its principal business will be transacted;
- (4) The period of its duration, which may be limited or perpetual;
- (5) The number of directors thereof, which must not be less than five and may be any number in excess thereof, and the term of office of such directors, and the names and places of residences of the first board of directors;
- (6) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal, and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed, and the association shall have the power to admit new members, who shall be entitled to share in the property and property rights with the old members, in accordance with such general rule or rules;
- (7) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof; the capital stock may be divided into preferred and common stock; if so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each.

**Subd. 2. Where filed; evidence.** The articles must be subscribed by the several incorporators and shall be filed in the office of the secretary of state, and when so filed such incorporation shall be complete. The articles, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association.

**History:** (6085) 1923 c 264 s 7; 1957 c 128 s 3; 1961 c 113 s 1; 1987 c 396 art 11 s 16; 1988 c 682 s 27

**308.59 AMENDMENT OF ARTICLES OF INCORPORATION.**

The articles of incorporation may be altered or amended at any regular meeting of members or stockholders or at any special meeting called for that purpose where a quorum is registered as being present. An amendment must first be approved by two-thirds of the directors and a copy of the text of the proposed amendment shall be mailed to each member or stockholder not less than ten days prior to the meeting or published in the same manner as publication of notice of meetings of members or stockholders, and the same must be approved by a vote representing a majority of the members or stockholders present at the meeting. After an amendment has been

adopted by the stockholders, articles of amendment setting forth the amendment and the manner of adoption thereof shall be signed by the president, vice-president, secretary, or assistant secretary, and shall be filed in accordance with the provisions of original filing.

**History:** (6086) 1923 c 264 s 8; 1957 c 128 s 4; 1959 c 128 s 1; 1988 c 682 s 28

### 308.60 BYLAWS.

Each association in its bylaws may provide for any or all of the following matters:

- (1) The time, place, and manner of calling and conducting its meetings;
- (2) The number of stockholders or members constituting a quorum;
- (3) The right of members or stockholders to vote by proxy or by mail, or by both, and the conditions, manner, form, and effect of such votes;
- (4) The number of directors constituting a quorum;
- (5) The qualifications, compensation, duties, and term of offices of directors and officers, the time of their election and mode and manner of giving notice thereof;
- (6) Penalties for violations of the bylaws;
- (7) The amount of entrance, organization, and membership fees, if any; the manner and method of collection of the same and the purposes for which they may be used;
- (8) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to the member or stockholder, and the time of payment and manner of collection; and the form of marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign; and
- (9) The qualifications of members or stockholders of the association, and the particular conditions, if any, precedent to membership or ownership of common stock; the method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock, the manner of assignment and transfer of the interest of members, and of the shares of common stock; the conditions upon which, and the time when membership of any member shall cease, the automatic suspension of the rights of a member on ceasing to be eligible to membership in the association, and the mode, manner and effect of the expulsion of a member.

**History:** (6087) 1923 c 264 s 9; 1957 c 128 s 5; 1986 c 444

### 308.61 GENERAL AND SPECIAL MEETINGS.

In its bylaws each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time, and ten percent of the members or stockholders may file a petition with the secretary stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting must thereupon be called by the secretary. Notice of all meetings shall be mailed to each member at least ten days prior to the meeting or such notice may be given by publication not less than ten days prior to the meeting once in a newspaper of general circulation published at the principal place of business of the association, or once in a periodical of general circulation among the members of the association which is regularly published at said principal place of business, not less than ten days prior to the meeting.

**History:** (6088) 1923 c 264 s 10; 1957 c 128 s 6

### 308.62 DIRECTORS; ELECTION.

The affairs of the association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own number, except as hereinafter provided. The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected

according to such districts. In such case the bylaws shall specify the number of directors to be elected by each district, the manner and method of apportioning or reapportioning the directors, and of districting or redistricting the territory covered by the association. The bylaws may provide that primary elections should be held in each district to elect the directors apportioned to such districts, and the result of all such primary elections must be ratified by the next regular meeting of the association, or may be considered final by the association.

An association may provide a fair remuneration for the time actually spent by its officials and directors in its service. No director, while serving in office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association, or to any other kind of contract differing from terms generally current in that district.

The bylaws may provide that no director shall occupy any position in the association, except the president and secretary on regular salary or substantially full-time pay.

The bylaws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

When a vacancy on the board of directors occurs, other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by district. In such a case the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

**History:** (6089) 1923 c 264 s 11; 1986 c 444; 1987 c 396 art 11 s 17

### **308.63 ELECTION OF OFFICERS.**

The directors shall elect from their number a president and one or more vice-presidents. They shall also elect a manager, a secretary, and a treasurer, who need not be directors, and they may combine the two latter offices and designate the combined office as secretary-treasurer. The treasurer may be a bank or any depository, and as such shall not be considered as an officer but as a function of the board of directors. In such case the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as authorized by the board of directors.

**History:** (6090) 1923 c 264 s 12

### **308.64 OFFICERS, EMPLOYEES, AND AGENTS BONDED.**

Every officer, employee, and agent handling funds or negotiable instruments or property of or for any association created hereunder shall be required to execute and deliver adequate bonds for the faithful performance of duties and obligations.

**History:** (6091) 1923 c 264 s 13; 1986 c 444

### **308.65 STOCK; MEMBERSHIP CERTIFICATES; VOTING; LIABILITY; LIMITATIONS ON TRANSFER AND OWNERSHIP.**

When a member of an association established without capital stock has paid the membership fee in full, the member shall receive a certificate of membership. No association shall issue stock to a member until it has been fully paid for. The promissory note of the member may be accepted by the association as full or partial payment. The association shall, in case of associations organized without capital stock, hold the stock or membership certificate as security for the payment of the note, but such retention as security shall not affect the member's right to vote.

Except for debts lawfully contracted between a member and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on the membership fee, including any unpaid balance or any promissory notes given in payment thereof.

No stockholder of a cooperative association shall own more than 1/20 of the

common stock of the association; and an association, in its bylaws, may further limit the amount of common stock which one member may own.

No member or stockholder shall be entitled to more than one vote, excepting that where the stockholder is a local cooperative association and the general association is a central exchange composed of local cooperative associations, the central cooperative association may, in its option, provide for one vote for each such stockholder or for any other method of voting which may seem to it equitable on the basis of membership in each such local cooperative association or tonnage amount or value of products handled by each such local cooperative association.

Any association organized with stock under sections 308.53 to 308.85 may issue preferred stock, with or without the right to vote. Such stock may be sold to any person, member or nonmember, and may be redeemable or retirable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate. The promotion, organization, and extension of organization costs and expenses shall not exceed the sum of \$5 per member, such sum to be fixed and determined, from time to time, by the board of directors.

The bylaws shall prohibit the transfer of the common stock or certificate of membership in the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions must be printed upon every certificate of stock or membership.

**History:** (6092) 1923 c 264 s 14; 1986 c 444

### **308.66 REMOVAL OF OFFICER OR DIRECTOR.**

Any member may bring charges against an officer or director by filing them, in writing, with the secretary of the association, together with a petition signed by not less than ten percent of the members requesting the removal of the officer or director in question.

The removal shall be voted upon at the next regular or special meeting of the association, and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The officer or director against whom such charges have been brought shall be informed, in writing, of the charges previous to the meeting and shall have an opportunity at the meeting to be heard, in person or by counsel, and to present witnesses; and the person or persons bringing the charge against the officer or director shall have the same opportunity.

In case the bylaws provide for election of directors by districts with primary elections in each district, then, in lieu of the foregoing, the petition for removal of a director must be signed by 20 percent of the members residing in the district from which the director was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director. By a vote of the majority of the members of that district, the director in question shall be removed from office.

**History:** (6093) 1923 c 264 s 15; 1986 c 444

### **308.67 REFERENDUM.**

Upon demand of not less than one-third of the entire board of directors, made immediately and so recorded, at the same meeting at which the original motion was passed, any matter of policy that has been approved or passed by the board must be referred to the entire membership or the stockholders for decision at the next special or regular meeting; and a special meeting may be called for the purpose.

**History:** (6094) 1923 c 264 s 16

### **308.68 MARKETING CONTRACT.**

The association and its members or patrons may make and execute marketing contracts, requiring the members or patrons to sell all or any specified part of their agricultural products or specified commodities exclusively to or through the association

or any facilities to be created by the association. If they contract a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly, except for recorded liens, to the association upon delivery; or at any other specified time if expressly and definitely agreed in the contract. The contract may provide that the association may sell or resell the products of its members, or patrons, with or without taking title thereto, and pay over to them the resale price, after deducting all necessary selling, overhead and other costs and expenses; and other proper reserves, and interest not exceeding eight percent per annum upon common stock, if any. The term of the contract may not exceed five years, but may be made self-renewing for periods not exceeding five years each, subject to the right of either party to terminate at the end of the original and each renewal term upon giving written notice of such termination during a period specified in the contract, which period shall be not more than 180 days or less than 30 days before the end of the term.

**History:** (6095) 1923 c 264 s 17; 1957 c 128 s 7; 1971 c 89 s 10

### **308.69 REMEDIES FOR BREACH OF CONTRACT.**

The bylaws or the marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder or patron to the association upon the breach of any provisions of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member or patron will pay all costs, premiums for bonds, expenses and fees in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the courts of this state, and such provisions, or provisions fixing liquidated damages, shall be enforceable as such and shall not be considered or regarded as a penalty.

In the event of any such breach or threatened breach of such marketing contract by a member, or patron, the association shall be entitled to an injunction to prevent the further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of such an action, and upon filing a certified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member or patron.

In any action upon such marketing agreement, it shall be conclusively presumed that landowners or landlords or lessors are able to control the delivery of products produced on their land by tenants or others, whose tenancy or possession or work on such land or the terms of whose tenancy or possession or labor thereon were created or changed after execution by the landowners or landlords or lessors, of such a marketing agreement; and in such actions the foregoing remedies for nondelivery or breach shall lie and be enforceable against such landowners or lessors.

**History:** (6096) 1923 c 264 s 18; 1957 c 128 s 8; 1971 c 89 s 11; 1986 c 444

### **308.70 PURCHASING BUSINESS OF OTHERS; PAYMENT; STOCK ISSUED.**

When an association, organized under sections 308.53 to 308.85, with preferred capital stock, shall purchase the stock or any property, or any interest in any property of any person, firm, or corporation, or association, it may discharge the obligations so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred capital stock to an amount which, at par value, would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued.

**History:** (6097) 1923 c 264 s 19

### **308.71 ANNUAL REPORTS.**

Each association formed under sections 308.53 to 308.85 shall annually prepare, make out, certify, and file with the commissioner of agriculture an annual report, on forms furnished by the commissioner, containing the name of the association, its

principal place of business, and a general statement of its business operations during the fiscal year, showing the amount of capital stock paid up and the number of stockholders, if a stock association, or the number of members, the amount of membership fees received, if a nonstock association; also, in all cases, the total expenses of operations, the amount of its indebtedness, or liability, and a copy of its balance sheets.

**History:** (6098) 1923 c 264 s 20; 1961 c 113 s 1; 1986 c 444

### **308.72 APPLICATION.**

Sections 308.53 to 308.85 shall not be construed or considered as repealing or amending by implication, or otherwise, any existing law of this state, and no statute or law hereafter enacted in this state shall be considered or construed as amending or repealing sections 308.53 to 308.85 by implication or otherwise, unless so provided in express language in such subsequent enactment.

Any exemptions whatsoever under any and all existing laws, applying to agricultural products in the possession or under the control of the individual producer, and for the producer's benefit, shall apply similarly and completely to such products delivered by its members or patrons, and to the proceeds of such products in case the products, if still in the hands of the producer, would have been exempt under the laws of this state.

**History:** (6099) 1923 c 264 s 21; 1957 c 128 s 9; 1986 c 444

### **308.73 COOPERATIVE, USE OF WORD.**

No person, firm, corporation, or association hereafter organized or doing business in this state as a cooperative marketing association shall be entitled to use the word "cooperative" as a part of its corporate or other business name or title unless it is in fact a cooperative association or corporation.

**History:** (6100) 1923 c 264 s 22

### **308.74 INTEREST IN OTHER CORPORATIONS OR ASSOCIATIONS.**

An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock, and engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling the agricultural products handled by the association, or the by-products thereof and cooperative associations engaged in procuring supplies and services to its members and patrons. If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association for any such products or by-products actually delivered, and such legal warehouse receipt shall be considered as adequate collateral to the extent of the current value of the commodity represented thereby. In case such warehouse is licensed, or licensed and bonded under the laws of this or any other state or the United States, its warehouse receipt shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association.

**History:** (6101) 1923 c 264 s 23; 1957 c 128 s 10

### **308.75 CONTRACTS AND AGREEMENTS WITH OTHER ASSOCIATIONS.**

Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements, contracts, and arrangements with any other cooperative corporations, associations, or association, formed in this or in any other state, for the cooperative and more economical carrying on of its business, or any part or parts thereof. Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use, the same methods, means and agencies for carrying on and conducting their respective businesses.

**History:** (6102) 1923 c 264 s 24

**308.76 RIGHTS AND REMEDIES APPLY TO SIMILAR ASSOCIATIONS OF OTHER STATES.**

Any corporation or association heretofore or hereafter organized under generally similar laws of another state shall be allowed to carry on any proper activities, operations, and functions in this state upon compliance with the general rules applicable to foreign corporations desiring to do business in this state, and all contracts theretofore or thereafter made by or with such associations, which could be made by any association incorporated hereunder, shall be legal and valid and enforceable in this state, with each and all of the remedies set forth in sections 308.53 to 308.85.

**History:** (6102-1) 1923 c 264 s 24A; 1985 c 248 s 70

**308.77 ASSOCIATION HERETOFORE ORGANIZED MAY ADOPT PROVISIONS.**

Any corporation or association organized under previously existing statutes may, by a majority vote of its stockholders or members, be brought under the provisions of sections 308.53 to 308.85 by limiting its membership and adopting the other restrictions, as provided therein. It shall make out, in duplicate, a statement signed and sworn to by its directors to the effect that the corporation or association has, by a majority vote of its stockholders or members, decided to accept the benefits and be bound by the provisions of sections 308.53 to 308.85. Articles of incorporation shall be filed as required in section 308.58, except that they shall be signed by the members of the board of directors. The filing fee shall be the same as for filing an amendment to the articles of incorporation. Where any association or corporation may be incorporated or brought under sections 308.53 to 308.85, all contracts heretofore made by or on behalf of the same by the promoters thereof in anticipation of such association becoming incorporated under the laws of this state or otherwise, including such contracts made by or in the name of some corporation organized elsewhere, and when same would have been valid, if entered into subsequent to the passage of Laws 1923, chapter 264, are hereby accepted and validated as if made after that date. Cooperative corporations and associations heretofore or hereafter organized and doing business under the existing law or laws supplementary thereto or amendatory thereof shall continue to be governed thereby unless and until they shall elect to be brought under the provisions of sections 308.53 to 308.85 in the manner provided in this section.

**History:** (6103) 1923 c 264 s 25; 1961 c 113 s 1; 1987 c 396 art 11 s 18

**308.78 BREACH OF MARKETING CONTRACT OF COOPERATIVE ASSOCIATIONS; SPREADING FALSE REPORTS CONCERNING ASSOCIATIONS.**

Any person, or any corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association organized hereunder or organized under similar statutes of other states with similar restrictions and rights and operating in this state under due authority, to break a marketing contract with the association, or who maliciously and knowingly spreads false reports about the finances or management or activity thereof, shall be guilty of a misdemeanor for each such offense; and shall be liable to the association aggrieved in a civil suit in the penal sum of \$500 for each such offense.

**History:** (6104) 1923 c 264 s 26; 1986 c 444

**308.79 [Unconstitutional, 163 M 403, 204 NW 314]****308.80 ASSOCIATION DEEMED NOT IN RESTRAINT OF TRADE.**

No association or organization under sections 308.53 to 308.85 shall be deemed to be a combination in restraint of trade or an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily; nor shall the marketing contracts or agreements between the association and its members or patrons, or any agreement authorized in sections 308.53 to 308.85 be considered illegal or in unlawful restraint of trade, or as a part of a conspiracy or combination to accomplish an improper or illegal purpose.

**History:** (6106) 1923 c 264 s 28; 1957 c 128 s 11

**308.81 STATE MAY REPEAL OR AMEND.**

The state reserves the right at any future time to modify, amend, or repeal sections 308.53 to 308.85, or any part thereof, or to cancel, modify, repeal, or extend any grant of power or any permit or franchise obtained or secured under the terms of sections 308.53 to 308.85.

**History:** (6107) 1923 c 264 s 29

**308.82 SUPERVISION.**

Every association organized or existing under the provisions of sections 308.53 to 308.85 shall be at all times under the supervision and subject to the control of the commissioner. At least annually, and as much oftener as the commissioner deems it necessary, without previous notice, the commissioner, a deputy or assistant, shall visit and examine the business and offices of every such corporation, verify its books, vouchers, and papers, and ascertain its financial condition and ability to perform its functions and fulfill its obligations, and wherein, if at all, it has violated any provision of law, and determine what, if any, further action shall be taken in the premises. For the purpose of making such examination, the commissioner is authorized to enforce the attendance as witnesses of persons whose testimony is desired, and the production of books and papers, by subpoena or attachment, and may administer oaths to witnesses and compel them to testify. The commissioner, on forming the opinion that the further operation of such corporation is hazardous to public interests, shall forthwith take possession of its property and report the matter to the governor for appropriate action. The commissioner shall investigate the affairs of any such association, prescribe uniform system of accounting, and to do or perform any act in relation to any association which in the commissioner's opinion may be necessary or expedient to protect the public interest. It shall be the duty of the officers and directors of any such association to comply with the orders or requirements of the commissioner and, upon failure so to do, the commissioner shall report such failure to the governor for such appropriate action as the governor shall consider necessary.

**History:** (6108) 1923 c 264 s 30; 1986 c 444

**308.83 GOVERNOR TO ACT UPON REPORT.**

The governor shall have the power to remove from office any officer or director of any association, such removal to be upon such notice to the association and to the officers or directors thereof as shall be prescribed by the governor. In case the further operation of any such association is deemed hazardous to the public interest, the governor may refer the matter of winding up the affairs of such association to the attorney general and it shall thereupon be the duty of the attorney general to proceed to wind up the affairs of any such association in the manner provided by law for winding up the business of insolvent banking institutions in the state.

**History:** (6109) 1923 c 264 s 31; 1987 c 396 art 11 s 19

**308.84 EXPENSES OF EXAMINATION; PAYMENT.**

The commissioner shall furnish to such association, as soon as possible, after any such examination, a complete copy of the report in relation to any examination made of any such association, and it shall forthwith be the duty of the association and the treasurer thereof to pay all of the costs of such services, including compensation of the accountants employed, transportation, meals, lodging, and all other expenses in connection with or incidental to the services performed, upon presentation of a bill therefor by the commissioner, who shall deposit the same with the state treasurer to the credit of the cooperative accounting fund. Such charges shall be at the prevailing rates charged by the division of cooperative accounting for services rendered pursuant to sections 308.902 to 308.905, inclusive.

**History:** (6110) 1923 c 264 s 32; 1949 c 183 s 1; 1986 c 444

**308.85 FEES.**

For filing articles of incorporation, or amendments thereto, any association organized under sections 308.29 to 308.85 shall pay \$15.

**History:** (6113) 1923 c 264 s 35; 1961 c 384; 3Sp1981 c 2 art 1 s 51; 1987 c 396 art 11 s 20

**308.853 PERPETUAL DURATION GRANTED.**

All cooperative corporations heretofore organized or existing under the provisions of sections 308.53 to 308.85 are hereby granted perpetual duration irrespective of the period of duration set forth in their articles of incorporation or any amendments thereto. Any such cooperative corporation may, however, amend its articles of incorporation so as to provide for a limited period of duration for its corporate existence.

**History:** 1957 c 514 s 1

**308.854 RENEWAL OF EXPIRED CORPORATE EXISTENCE.**

Subdivision 1. In any case where the period of duration of corporate existence of any cooperative corporation organized or existing under the provisions of sections 308.53 to 308.85 has expired and such corporation has continued in good faith to carry on and transact business, it may at any time thereafter renew its corporate existence by amending its articles of incorporation so as to comply with the provisions of sections 308.53 to 308.85, which amended articles shall include a provision extending its corporate duration for a limited period or making its corporate existence perpetual. Sections 308.853 and 308.854 shall not affect any pending litigation, nor apply to any corporation whose charter has been declared forfeited by any court of competent jurisdiction in this state.

Subd. 2. If any such corporation complies with subdivision 1, all corporate acts and contracts done, performed, made and entered into after the expiration of said corporate existence shall be and each is hereby declared to be legal and valid as against the objection that the period of duration of such corporation had expired.

**History:** 1957 c 514 s 2

## COOPERATIVE ACCOUNTING SYSTEMS, ANNUAL REPORTS

**308.901 COMMISSIONER DEFINED.**

For the purposes of sections 308.902 to 308.905, "commissioner" means the commissioner of the department of agriculture.

**History:** 1961 c 113 s 1; 1961 c 128 s 7

**308.902 ACCOUNTING SYSTEMS.**

It shall be the duty of the commissioner to make inquiry into the requirements of the different types of cooperative associations in this state and to formulate appropriate systems of accounting for their use, such systems of accounting to be established, as nearly as practicable, upon uniform classification of accounts. Bulletins shall be prepared under the direction of the commissioner of agriculture, illustrating the forms to be used in such accounting system, and to be accompanied by a detailed explanation of their use. The bulletins shall be furnished without charge to any person or cooperative association in this state upon application being made therefor.

It shall also be the duty of the commissioner to employ and assign competent accountants to install accounting systems appropriate to the requirements of any such cooperative associations whenever written application is made for such service by such associations. The applications shall be made in the manner described in sections 308.903 to 308.905, and services shall be extended under such applications subject to the terms and provisions set forth in sections 308.903 to 308.905.

**History:** (6114) 1923 c 284 s 1; 1961 c 113 s 1

**308.903 ACCOUNTS AND RECORDS EXAMINED.**

It shall be the duty of the commissioner to cause the books, accounts, and corporate records of any cooperative associations in this state to be examined by a competent accountant whenever written application is made by the properly elected officers of such association for such service. The application shall be made in the manner hereinafter described and services shall be extended under the application, subject to the terms and provisions hereinafter set forth.

It shall be the duty of the accountant making such examinations to examine the books, accounts, and corporate records of such cooperative associations in detail and to point out any irregularities or inaccuracies that might exist. The accountant shall prepare statements of the financial condition and business affairs of the association and a statement covering the operations of such association for the period designated, which exhibits shall be supported by schedules of detail necessary to the information of the officers and stockholders. The accountant shall report upon any other matters pertaining to the business and affairs of the association as may be requested or required by the officers thereof and suggest improvements that might be desirable or advantageous in the accounting methods or business practices of such association. Reports of the examination shall be prepared under the direction of the commissioner, three copies of which shall be furnished to the properly elected officers of the association and one copy to be filed in the office of the commissioner. Such reports filed in the office of the commissioner shall be accessible only to officers, stockholders, and members of the association so examined or to authorities of the state having jurisdiction over or administration of the activities in which such association is engaged. Other persons shall be permitted to have access to the reports only upon presentation of a written order signed by the president and secretary of the association.

*History: (6115) 1923 c 284 s 2; 1986 c 444*

**308.904 APPLICATION FOR EXAMINATION.**

Any cooperative association in this state may secure the services permitted under sections 308.902 to 308.905 by making application to the commissioner, which application shall state the character of services required by such association, and shall be signed by the president and the secretary of the association. The application shall be accompanied by a copy of a resolution adopted by the vote of a majority of the directors of the association, and such other information as may be required by the commissioner. In case of the neglect, failure, or refusal of the directors of any such cooperative association in this state to secure an examination of its books, accounts, and corporate records, the stockholders or members may make application to the commissioner for such an examination. The application shall be accompanied by a petition signed by at least ten percent of the total number of the stockholders or members of the association. The application and petition shall be prepared in duplicate, one copy of each to be filed with the secretary of the association represented by such stockholders or members, and the originals to be sent to the commissioner. In case of such application by the stockholders or members of an association, the commissioner shall require a sufficient guarantee from the signers of the petition to cover the estimated cost of such an examination before giving approval to such application. The costs shall be determined in the manner set forth in section 308.905.

*History: (6116) 1923 c 284 s 3; 1986 c 444*

**308.905 FEES AND EXPENSES.**

Any cooperative association which makes application to the commissioner for any of the services permitted under sections 308.902 to 308.905 shall pay all of the costs of such services, including the compensation of the accountants employed, transportation, meals, lodging, and all other expenses in connection with or incidental to the services performed, payment of such costs to be made by such association upon presentation of a bill therefor by the commissioner, who shall deposit the same with the state treasurer to the credit of the general fund.

*History: (6117) 1923 c 284 s 4; 1973 c 492 s 14; 1975 c 204 s 81*

# MINNESOTA STATUTES 1988

308.92 COOPERATIVE ASSOCIATIONS

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## 308.92 ASSOCIATIONS, ANNUAL REPORTS.

Every association organized under any corporation laws of this state, or under the laws of any other state and doing business in this state, or which represents itself to be a cooperative association, shall file with the department of agriculture, each year a report of its business for its last fiscal year, which report shall be made within 90 days after the close of the fiscal year. The report shall contain the name of the association, the amount of its authorized and paid-in capital, the names of its officers and directors, a statement of its resources and liabilities and other information required by the commissioner.

**History:** (7842) 1919 c 382 s 10; 1921 c 23 s 10; 1923 c 326 s 9; 1955 c 92 s 2; 1961 c 113 s 1