

BILL ANALYSIS

Senate Research Center
80R13226 BEF-F

H.B. 2671
By: Swinford (Hegar)
S/C on Agriculture, Rural Affairs, and Coastal Resources
5/14/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Throughout Texas, agricultural cooperatives provide for the efficient processing and marketing of agricultural products, and support individuals and businesses involved in agriculture. However, due to the limits in existing law, cooperatives are currently experiencing difficulty in attaining the necessary capital in order to invest and expand. Several other states, such as Wyoming, Minnesota, Wisconsin, Iowa, and Tennessee, were experiencing difficulties very similar to the situation in Texas. Those states enacted legislation allowing for a restructuring of agricultural cooperatives into limited agricultural cooperatives that are similar to limited liability corporations.

In Texas, a similar addition to the law would also greatly benefit existing cooperatives if they choose to convert, as well as those who may be considering creating a new cooperative. H.B. 2671 creates a new chapter in the Agriculture Code to establish the limited agricultural cooperative. These cooperatives will allow for outside investment by non-farmer patrons. This new cooperative classification will be completely optional and will have no effect on existing cooperatives. Establishing limited agricultural cooperatives will allow for more outside investment for the cooperative than a traditional limited liability corporation and help to keep cooperatives in Texas operating effectively and efficiently.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 1 (Section 53.107, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Agriculture Code, by adding Chapter 53, as follows:

CHAPTER 53. LIMITED AGRICULTURAL COOPERATIVES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 53.001. **SHORT TITLE.** Authorizes this Act to be cited as the Limited Agricultural Cooperatives Act.

Sec. 53.002. **DEFINITIONS.** Defines "address," "articles of organization," "association," "board," "business entity," "cooperative," "domestic business entity," "foreign business entity," "governing documents," "jurisdiction of formation," "member," "membership interest," "members' meeting," "merger," "nonpatron membership interest," "patron," "patronage," "patron member," and "patron membership interest."

Sec. 53.003. **APPLICATION OF OTHER LAW.** Provides that, to the extent the provision is not inconsistent with this chapter, the provisions of Title 1, Business Organization Code (General Provisions), apply to a cooperative in the same manner as if the cooperative were a domestic limited liability company.

Sec. 53.004. **FEES.** Requires the secretary of state to impose fees for certain filings.

[Reserves Sections 53.005-53.050 for expansion.]

SUBCHAPTER B. PURPOSE AND POWERS

Sec. 53.051. ORGANIZATIONAL PURPOSE. Authorizes a cooperative to be formed and organized on a cooperative plan under this chapter to market, process, or otherwise change the form or marketability of crops, livestock, and other agricultural products, including manufacturing and further processing of products, and other purposes that are necessary or convenient to facilitate the production or marketing of agricultural products by patron members or that are related to the business of the cooperative.

Sec. 53.052. POWERS. (a) Sets forth certain powers and authorities of a cooperative.

(b) Authorizes a cooperative to buy, sell, or deal in its own products, the products of the cooperative's individual members, patrons, or nonmembers, the products of another cooperative association or of its members or patrons, or the products of another person or entity. Authorizes a cooperative to negotiate the price for which the products the cooperative sells may be sold.

(c) Authorizes a cooperative to enter into or become a party to a contract or agreement for the cooperative or for the cooperative's individual members or patrons or between the cooperative and its members.

(d) Authorizes a cooperative to purchase and hold, lease, mortgage, encumber, sell, exchange, or convey real property, buildings, and personal property as the business of the cooperative may require, including the sale or other disposition of assets required by the business of the cooperative as determined by the board.

(e) Authorizes a cooperative to erect buildings or other structures or facilities on land owned or leased by the cooperative or on a right-of-way acquired by the cooperative.

(f) Authorizes a cooperative to issue bonds or other evidence of indebtedness and borrow money to finance the business of the cooperative.

(g) Authorizes a cooperative to make advances to the cooperative's members or patrons on products delivered by the members or patrons to the cooperative.

(h) Authorizes a cooperative to accept deposits of money from other cooperatives, associations, or its members.

(i) Authorizes a cooperative to extend trade credit to or borrow money from individual members, cooperatives, or associations from which it is constituted using security that it considers sufficient in dealing with the members, cooperatives, or associations.

(j) Authorizes a cooperative, if reasonably necessary or incidental to accomplish the purposes stated in its articles of organization, to purchase, acquire, hold, or dispose of an ownership interest in another business entity, whether organized under the laws of this state or another state, and assume all rights, interests, privileges, responsibilities, and obligations arising out of the ownership interest.

(k) Authorizes a cooperative to acquire and hold an ownership interest in another business entity organized under the laws of this or another state, including a business entity organized in a certain manner.

(l) Authorizes a cooperative to purchase, own, and hold ownership interests, memberships, interests in nonstock capital, or evidences of indebtedness of any domestic business entity or foreign business entity if reasonably necessary or incidental to accomplish the purposes stated in the articles of organization.

(m) Authorizes a cooperative to exercise any fiduciary power in relations with the members, cooperatives, associations, or business entities from which it is constituted.

(n) Authorizes a cooperative to take, receive, and hold real and personal property, including the principal of and interest on money or other funds and rights in a contract, in trust for any purpose not inconsistent with the purposes of the cooperative stated in its articles of organization and to exercise fiduciary powers in relation to the taking, receiving, or holding of the property.

(o) Prohibits a cooperative from acting as a credit union, bank, trust company, savings bank, or savings association regulated under the Finance Code.

Sec. 53.053. AGRICULTURAL PRODUCT MARKETING CONTRACTS. (a) Authorizes a cooperative and its patron member or patron to make and execute a marketing contract that requires the patron member or patron to sell a specified portion of the patron member's or patron's agricultural product or specified commodity produced from a certain area exclusively to or through the cooperative or a facility established by the cooperative.

(b) Provides that, if a sale is contracted to the cooperative, the sale transfers title to the product absolutely, subject only to a recorded lien or security interest, to the cooperative on delivery of the product or at another specified time if expressly provided in the contract. Authorizes the contract to allow the cooperative to sell or resell the product with or without taking title to the product and pay the resale price to the patron member or patron after deducting all necessary selling, overhead, and other costs and expenses, including other proper reserves and interest.

(c) Prohibits the term of a marketing contract from exceeding 10 years, but a marketing contract is authorized to be made self-renewing for subsequent periods of five years each, subject to the right of either party to terminate by giving written notice of the termination as specified in the contract.

(d) Authorizes the bylaws or the marketing contract, or both, to set a specific sum as liquidated damages to be paid by the patron member or patron to the cooperative for a breach of any provision of a marketing contract regarding the sale, delivery, or withholding of a product and to provide that the patron member or patron shall pay the costs, premiums for bonds, expenses, and fees if an action is brought on the contract by the cooperative. Provides that the remedies for breach of contract are valid and enforceable in the courts of this state. Requires the provisions to be enforced as liquidated damages and may not be considered or regarded as a penalty.

(e) Entitles the cooperative, on a breach or threatened breach of a marketing contract by a patron member or patron, to seek an injunction to prevent the breach and to specific performance of the contract. Authorizes the cooperative, pending the adjudication of the action, to be granted a temporary restraining order and preliminary injunction against the patron member or patron.

(f) Provides that a person commits an offense if the person knowingly induces or attempts to induce a member or patron of a cooperative to breach a marketing contract with the cooperative or knowingly spreads false reports about the finances or management of a cooperative organized under this chapter. Provides that an offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$1,000. Provides that it is a defense to prosecution under this subsection that the person is a bona fide creditor of the cooperative or the agent or attorney of a bona fide creditor attempting to collect a debt of the cooperative.

(g) Provides that a person is liable to the cooperative for civil damages if the person takes certain actions.

Sec. 53.054. DISTRIBUTION OF UNCLAIMED PROPERTY. (a) Authorizes a cooperative, instead of paying or delivering unclaimed property to this state, to distribute the unclaimed property to a corporation or organization that is exempt from federal income taxation. Requires a cooperative that elects to distribute unclaimed property to file with the comptroller certain documentation to be valid.

(b) Provides that this section does not alter any procedure provided by law for a cooperative to report unclaimed property to this state or a requirement that the claims of an owner be made to the cooperative for a period following the publication of a list of abandoned property.

(c) Provides that the entitlement of an owner to unclaimed property held by a cooperative is extinguished when the property is distributed under this section.

[Reserves Sections 53.055-53.100 for expansion.]

SUBCHAPTER C. FILINGS

Sec. 53.101. WHEN FILINGS TAKE EFFECT. (a) Provides that, except as permitted by Subsection (b) or as otherwise provided by this chapter, a filing instrument submitted to the secretary of state takes effect when filed.

(b) Authorizes the date and time at which a filing instrument takes effect to be delayed as provided by Subchapter B, Chapter 4 (Filings), Business Organizations Code.

Sec. 53.102. ABANDONMENT BEFORE EFFECTIVENESS. Authorizes the parties to a filing instrument to abandon the filed instrument if the instrument has not taken effect by filing a certificate of abandonment in accordance with Section 4.057 (Abandonment Before Effectiveness), Business Organizations Code.

Sec. 53.103. CORRECTING AN ERRONEOUS OR DEFECTIVE INSTRUMENT. (a) Authorizes a cooperative, by filing a certificate of correction in accordance with Subchapter C, Chapter 4, Business Organizations Code, to correct any instrument filed with the secretary of state if the instrument is an inaccurate record of the event or transaction evidenced in the instrument, contains an inaccurate or erroneous statement, or was defectively or erroneously signed, sealed, acknowledged, or verified.

(b) Requires the certificate of correction to be signed by a director or authorized officer of the cooperative.

(c) Provides that, except as provided by Subsection (d), after the certificate of correction is filed by the secretary of state, the filing instrument is considered to have been corrected on the date the filing instrument was originally filed.

(d) Provides that, with respect to a person who is adversely affected by the correction, the filing instrument is considered to have been corrected on the date the certificate of correction is filed.

(e) Provides that a certificate issued by the secretary of state before a filing instrument is corrected, with respect to the effect of filing the original filing instrument, applies to the corrected filing instrument as of the date the corrected filing instrument is considered to have been filed under this section.

Sec. 53.104. SIGNATURE AND GENERAL FILING REQUIREMENTS. (a) Requires a filing instrument submitted by or on behalf of a cooperative to be signed by an authorized officer of the cooperative unless otherwise provided by this chapter.

(b) Authorizes a filing instrument to be signed by a fiduciary if the cooperative is under the control of a receiver, trustee, or other court-appointed fiduciary.

(c) Provides that a person authorized to sign a filing instrument for a cooperative is not required to show evidence of the person's authority as a requirement for filing.

(d) Authorizes a photographic, photostatic, facsimile, electronic, or similar reproduction of a filing instrument, signature, acknowledgment of filing, certificate, or communication to be filed or issued in place of certain filing instruments.

(e) Requires an instrument that is submitted for filing, to be accepted and filed by the secretary of state, to satisfy the filing requirements of this chapter, the requirements of any other law that is made applicable to the instrument or cooperative by this chapter, and any administrative rule adopted by the secretary of state relating to the instrument.

(f) Requires the secretary of state, if the secretary of state finds that a filing instrument conforms to the requirements of Subsection (e) and all required fees have been paid, to take certain actions.

(g) Requires the secretary of state, if a duplicate copy of a filing instrument is delivered to the secretary of state, to endorse the duplicate copy with the word "Filed" and the month, day, and year of filing and return the duplicate copy to the cooperative or its representative with the written acknowledgment or certificate evidencing filing on accepting the filing instrument.

Sec. 53.105. APPEALS FROM SECRETARY OF STATE'S REFUSAL TO FILE INSTRUMENT. Authorizes a person to appeal the secretary of state's disapproval of the filing of an instrument only as provided by Section 12.004 (Appeals from Secretary of State), Business Organizations Code.

Sec. 53.106. PENALTY FOR SUBMISSION OF A FALSE OR FRAUDULENT INSTRUMENT. Provides that Section 4.008 (Offense; Penalty), Business Organizations Code, applies to a filing instrument under this chapter.

Sec. 53.107. SECRETARY OF STATE; DUTIES AND AUTHORITY. (a) Provides that the duty of the secretary of state to file instruments under this chapter is ministerial.

(b) Authorizes the secretary of state to adopt procedural rules for the filing of instruments authorized to be filed with the secretary of state under this chapter.

(c) Authorizes the secretary of state to adopt forms for a filing instrument authorized or required by this chapter.

(d) Provides that the secretary of state has the power and authority reasonably necessary to perform the duties imposed under this chapter.

[Reserves Sections 53.108-53.150 for expansion.]

SUBCHAPTER D. ORGANIZATION

Sec. 53.151. ORGANIZERS. Authorizes a cooperative to be organized by one or more organizers who are required to be adult individuals and who are authorized to act for themselves or as agents for other entities. Provides that an organizer of the cooperative is not required to become a member of the cooperative.

Sec. 53.152. COOPERATIVE NAME. (a) Requires the name of a cooperative to comply with Subchapters A and B, Chapter 5 (Names of Entities; Registered Agents and

Registered Offices), Business Organizations Code, in the manner required of a domestic filing entity.

(b) Authorizes a cooperative to conduct business under a name other than the name stated in the articles of organization if the cooperative files an assumed name certificate in accordance with Chapter 36 (Assumed Business or Professional Name), Business & Commerce Code.

(c) Prohibits a cooperative's name from infringing on the rights of another person under certain laws.

Sec. 53.153. ARTICLES OF ORGANIZATION. (a) Requires the organizers to prepare the articles of organization, which must include certain information.

(b) Requires the articles of organization to indicate if a cooperative is being formed under a plan of conversion or a plan of merger. Requires, if the cooperative is being formed under a plan of conversion, the articles of organization to state the name, address, date of formation, organizational form, and jurisdiction of formation of the entity being converted to a cooperative under the plan.

(c) Requires the articles of organization to contain the provisions described by Subsections (a) and (b), except that the names and mailing addresses of the directors of the initial board are authorized to be omitted after their successors have been elected by the members or the articles of organization are amended or restated in their entirety.

(d) Authorizes the articles of organization to contain any other lawful provision. Provides that the articles of organization are not required to state any of the powers provided to the cooperative under this chapter.

(e) Requires the articles of organization to be signed by the organizers.

(f) Requires the original articles of organization to be filed with the secretary of state, except as otherwise provided by this subsection. Requires the articles of organization for a cooperative that is formed under a plan of merger or conversion to be filed with the articles of merger or certificate of conversion and are not required to be separately filed. Requires the secretary of state, if the secretary of state determines that articles of organization submitted with articles of merger or a certificate of conversion meet the requirements of this chapter, to file the articles of organization and issue a certificate of organization. Provides that, in the case of a merger or conversion, the certificate of organization of the cooperative that is the converted entity or that is created under the plan of merger becomes effective when the merger or conversion becomes effective.

(g) Provides that, when the articles of organization are filed with the secretary of state and the required fee is paid, it is presumed that certain conditions have been satisfied.

Sec. 53.154. AMENDMENT OF ARTICLES OF ORGANIZATION. (a) Authorizes the articles of organization of a cooperative to be amended in a certain manner.

(b) Requires the cooperative, after an amendment has been adopted, to file with the secretary of state articles of amendment signed by the chair, vice chair, records officer, or assistant records officer that provide certain information.

(c) Requires a certificate to be prepared stating certain information.

(d) Requires the certificate to be signed by the chair, vice chair, records officer, or financial officer and filed with the records of the cooperative.

(e) Authorizes a majority of directors to amend the articles of organization if the cooperative does not have any members with voting rights.

Sec. 53.155. **RESTATED ARTICLES OF ORGANIZATION.** (a) Authorizes a cooperative to authorize, execute, and file restated articles of organization using the procedures for amending the articles of organization under Section 53.154. Requires the restated articles of organization to restate the entire text of the cooperative's articles of organization and incorporate all amendments previously filed with the secretary of state. Authorizes the restated articles of organization to incorporate new amendments not previously filed with the secretary of state.

(b) Provides that, unless otherwise provided by the articles of organization or bylaws, member approval is not required to file restated articles of organization if the restated text consists only of the text of articles of organization and amendments previously filed with the secretary of state.

(c) Requires restated articles of organization to be signed by an authorized officer of the cooperative and filed in accordance with Section 3.059 (Restated Certificate of Formation), Business Organizations Code.

(d) Authorizes restated articles of organization to omit the name and address of each organizer and to insert the names and addresses of the current directors of the cooperative in place of similar information concerning the initial directors.

Sec. 53.156. **CONVERSION OF AN EXISTING ASSOCIATION TO BE GOVERNED BY THIS CHAPTER.** (a) Provides that, notwithstanding any other law of this state, an existing association incorporated under this code or organized under another law of this state is authorized to convert and become subject to the provisions of this chapter by adopting a plan of conversion.

(b) Requires, to effect a conversion, the converting association to act on and the members of the association to approve a plan of conversion in the manner provided for the approval of a plan of merger by an association if the association does not survive the merger. Authorizes, if a law or the governing documents of the association do not provide a method to approve a merger if the association does not survive the merger, the members of the association to approve a plan of conversion in the manner provided by Chapter 10 (Mergers, Interest Exchanges, Conversions, and Sales of Assets), Business Organizations Code, for the adoption and approval of a conversion by a domestic entity.

(c) Requires the plan of conversion to include certain information.

(d) Authorizes a plan of conversion to include any other provisions relating to the conversion allowed by law.

(e) Requires a certificate of conversion, on approval of the plan of conversion, to be filed with the secretary of state for the conversion to be effective. Requires the certificate of conversion to include certain information.

(f) Provides that, when a conversion takes effect, each member of the converting association has a membership interest in the cooperative resulting from the conversion. Sets forth certain persons to whom this subsection does not apply.

(g) Prohibits an association from converting under this section if, as a result of the conversion, a member of the association would become personally liable for a liability or other obligation of the cooperative without that person's consent.

(h) Sets forth certain events that occur when the conversion takes effect.

Sec. 53.157. **CONVERSION OF AN EXISTING BUSINESS ENTITY TO BE GOVERNED BY THIS CHAPTER.** (a) Authorizes a business entity other than an

association described by Section 53.156 to convert to a cooperative governed by this chapter by adopting a plan of conversion and by filing a certificate of conversion as provided by Section 53.156.

(b) Requires the business entity, to effect the conversion, to take any action that may be required for a conversion under the laws of the entity's jurisdiction of formation and the entity's governing documents.

(c) Requires the conversion to be permitted by the laws under which the business entity is incorporated or organized, or by its governing documents if the governing documents are not inconsistent with the laws of the entity's jurisdiction of formation.

Sec. 53.158. EXISTENCE. (a) Provides that the existence of a cooperative begins when the filing of the articles of organization takes effect as provided by this chapter.

(b) Provides that a cooperative has a perpetual duration unless the articles of organization provide for a limited period of duration.

Sec. 53.159. REGISTERED AGENT; CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT. (a) Requires each cooperative to continuously maintain certain offices, agents, and entities in this state.

(b) Authorizes a cooperative to change its registered office or agent on filing with the secretary of state a statement that includes certain information.

(c) Requires the statement under Subsection (b) to be signed and delivered to the secretary of state. Requires the secretary of state to file the statement if the secretary of state finds that the statement meets the requirements of this section. Provides that the change of address of the registered office or the appointment of a new registered agent is effective when filed by the secretary of state.

(d) Authorizes a registered agent of a cooperative to resign as agent in the manner provided by Section 5.204 (Resignation of Registered Agent), Business Organizations Code.

(e) Authorizes the registered agent of a cooperative to change its name, its address as the address of the cooperative's registered office, or both, by filing a statement of the change in accordance with Section 5.203 (Change by Registered Agent to Name or Address of Registered Office), Business Organizations Code.

Sec. 53.160. FAILURE TO MAINTAIN REGISTERED AGENT OR REGISTERED OFFICE; INVOLUNTARY DISSOLUTION AND REINSTATEMENT. (a) Authorizes the secretary of state, if the secretary of state determines that a cooperative has failed to maintain a registered agent or registered office in this state as required by law, to notify the cooperative of the failure by regular or certified mail addressed to the cooperative's registered office or principal place of business as shown on the records of the secretary of state.

(b) Authorizes the secretary of state to involuntarily dissolve a cooperative at any time after the 90th day after the date that notice under Subsection (a) was mailed if the cooperative has continuously failed to maintain a registered agent or registered office as required by law.

(c) Requires the secretary of state to take certain actions if the secretary of state involuntarily dissolves a cooperative under this section.

(d) Requires the certificate of involuntary dissolution to state certain information.

(e) Provides that, except as otherwise provided by this section, the existence of the cooperative is terminated on the issuance of the certificate of involuntary dissolution by the secretary of state.

(f) Requires the secretary of state to reinstate a cooperative that has been involuntarily dissolved under this section if the cooperative files an application for reinstatement with the secretary of state as prescribed for a filing entity by Section 11.253 (Reinstatement by Secretary of State After Involuntary Termination), Business Organizations Code, and:

(g) Prohibits the secretary of state from reinstating a cooperative if the cooperative name is the same as or deceptively similar or similar to a name of a cooperative or other domestic or foreign business entity already on file, reserved, or registered with the secretary of state. Provides that this subsection does not prevent a cooperative from being reinstated if the cooperative files an amendment to its articles of organization, accompanied by the required fee, to change its name to a name that does not violate this subsection.

(h) Provides that Section 11.253(d), Business Organizations Code, applies to a cooperative that is reinstated under Subsection (f) to the same extent it applies to a filing entity reinstated under Section 11.253, Business Organizations Code.

[Reserves Sections 53.161-53.200 for expansion.]

SUBCHAPTER E. BYLAWS

Sec. 53.201. BYLAWS. (a) Requires a cooperative to adopt bylaws governing the cooperative's business affairs and structure, the qualifications, classification, rights, and obligations of its members, and the classifications, allocations, and distributions of membership interests.

(b) Authorizes the bylaws of a cooperative to be adopted or amended by the directors as provided by Subsection (c) or at a regular or special members' meeting if certain conditions are satisfied.

(c) Authorizes the majority of directors, until the next annual or special members' meeting, to adopt and amend bylaws for the cooperative that are consistent with Subsection (d) and that are authorized to be additionally amended or repealed by the members at an annual or special members' meeting.

(d) Authorizes bylaws to contain any provision relating to the management or regulation of the affairs of the cooperative that is not inconsistent with the laws of this state or the articles of organization and requires the bylaws to include certain information.

[Reserves Sections 53.202-53.250 for expansion.]

SUBCHAPTER F. MEMBERSHIP INTERESTS

Sec. 53.251. INTERESTS. (a) Authorizes the authorized amount and divisions of patron membership interests and nonpatron membership interests to be increased or decreased or established or altered in accordance with the restrictions in this chapter by amending the articles of organization at a regular members' meeting or at a special members' meeting called for the purpose of acting on the amendment.

(b) Authorizes authorized membership interests to be issued on terms prescribed in the articles of organization, bylaws, or as determined by the board. Requires the cooperative to disclose to any person or entity who acquires a membership interest issued by the cooperative the organization, capital structure, and business prospects and risks of the cooperative and the nature of the governance and financial rights of the membership interest acquired and of other classes of

membership and membership interests. Requires the cooperative to notify all members of the membership interests being offered by the cooperative. Prohibits a membership interest from being issued until the subscription price of the membership interest has been paid in cash or a cash equivalent or property with the agreed-on value.

(c) Authorizes the patron membership interests collectively to have at least 15 percent of the cooperative's financial rights to profit allocations and distributions.

(d) Authorizes, after issuance by the cooperative, a membership interest in a cooperative to be sold or transferred only with the approval of the board.

(e) Authorizes the cooperative to solicit and issue nonpatron membership interests on terms determined by the board and disclosed in the articles of organization, bylaws, or by separate disclosure to the members. Requires each member acquiring a nonpatron membership interest to sign a member control agreement that describes the rights and obligations of the member as they relate to the nonpatron membership interest, the financial and governance rights, the transferability of the nonpatron membership interest, the division and allocations of profits and losses among the membership interests and membership classes, and financial rights on liquidation. Requires, if the bylaws do not otherwise provide for the allocation of the profits and losses between patron membership interests and nonpatron membership interests, the allocation of profits and losses among nonpatron membership interests individually and patron membership interests collectively to be allocated on the basis of the value of contributions to capital made according to the patron membership interests collectively and the nonpatron membership interests individually to the extent the contributions have been accepted by the cooperative. Requires distributions of cash or other assets of the cooperative to be allocated among the membership interests as provided in the articles of organization and bylaws, subject to the provisions of this chapter. Requires distributions, if not otherwise provided, to be made on the basis of value of the capital contributions of the patron membership interests collectively and the nonpatron membership interests to the extent the contributions have been accepted by the cooperative.

(f) Authorizes the bylaws to provide that the cooperative or the patron members, individually or collectively, have the first privilege to purchase the membership interest of any class of patron member's membership interest offered for sale. Authorizes the first privilege to purchase a patron membership interest to be complied with by notice to other patron members that the patron membership interest is for sale and a procedure by which patron members are authorized to proceed to attempt to purchase and acquire the patron membership interest. Authorizes a patron membership interest acquired by the cooperative to be held to be reissued or to be retired and canceled.

(g) Authorizes a member, subject to the bylaws, to dissent from and obtain payment for the fair value of the member's nonpatron membership interest in the cooperative if the articles of organization or bylaws are amended in a manner that materially and adversely affects the rights and preferences of the nonpatron membership interest of the dissenting member. Requires the dissenting member to file a notice of intent to demand fair value of the membership interest with the records officer of the cooperative before the 30th day after the amendment of the bylaws and notice of the amendment to members, or the right of the dissenting member to demand payment of fair value for the membership interest is waived. Requires, if a proposed amendment of the articles of organization or bylaws is approved by the members, a member who is entitled to dissent and who elects to exercise dissenter's rights to file a notice to demand fair value of the membership interest with the records officer of the cooperative before the vote on the proposed action and is prohibited from voting in favor of the proposed action, or the right to demand fair value for the membership interest by the dissenting member is waived. Requires the cooperative, after receipt of the dissenting member's

demand notice and approval of the amendment, not later than the 60th day after the date of the approval of the amendment to rescind the amendment or remit the fair value for the one member's interest to the dissenting member before the 180th day after the date the cooperative received the notice. Provides that, on receipt of the fair value for the membership interest, the member has no further member rights in the cooperative.

Sec. 53.252. ALLOCATIONS AND DISTRIBUTIONS TO MEMBERS. (a) Requires the bylaws to prescribe the allocation of profits and losses between patron membership interests collectively and other membership interests. Requires the profits and losses between patron membership interests collectively and other membership interests, if the bylaws do not otherwise provide, to be allocated on the basis of the value of contributions to capital made by the patron membership interests collectively and other membership interests and accepted by the cooperative. Prohibits the allocation of profits to the patron membership interests collectively from being less than 15 percent of the total profits in any fiscal year of the cooperative.

(b) Requires the bylaws to prescribe the distribution of cash or other assets of the cooperative among the membership interests of the cooperative. Requires the distribution, if not otherwise provided in the bylaws, to be made to the patron membership interests collectively and other members on the basis of the value of contributions to capital made and accepted by the cooperative by the patron membership interests collectively and other membership interests. Prohibits the distributions to patron membership interests collectively from being less than 15 percent of the total distributions in any fiscal year of the cooperative.

Sec. 53.253. ALLOCATIONS AND DISTRIBUTIONS TO PATRON MEMBERS. (a) Authorizes the board of a cooperative to set aside a portion of net income allocated to the patron membership interests to create or maintain a capital reserve.

(b) Authorizes the board to take certain actions for patron membership interests in addition to a capital reserve.

(c) Requires net income allocated to patron members that exceeds dividends on equity and additions to reserves to be distributed to patron members on the basis of patronage. Authorizes a cooperative to establish allocation units, whether functional, divisional, departmental, geographic, or otherwise, establish pooling arrangements, and account for and distribute net income to patrons on the basis of allocation units and pooling arrangements. Authorizes a cooperative to offset the net loss of an allocation unit or pooling arrangement against the net income of other allocation units or pooling arrangements.

(d) Requires distribution of net income to be made at least annually. Requires the board to present to the members at the annual meeting a report covering the operations of the cooperative during the preceding fiscal year of the organization.

(e) Authorizes a cooperative to distribute net income to patron members in cash, capital credits, allocated patronage equities, revolving fund certificates, or its own or other securities.

(f) Authorizes a cooperative to provide in its bylaws that nonmember patrons are allowed to participate in the distribution of net income payable to patron members on equal terms with patron members.

(g) Authorizes a refund owed, if a nonmember patron with patronage credits is not qualified or eligible for membership, to be credited to the patron's individual account. Authorizes the board to issue a certificate of interest to reflect the credited amount. Authorizes a patron, after the patron is issued a certificate of interest, to participate in the distribution of income on the same basis as a patron member.

[Reserves Sections 53.254-53.300 for expansion.]

SUBCHAPTER G. MEMBERS

Sec. 53.301. GROUPING OF MEMBERS. (a) Authorizes a cooperative to group members and patron members in districts, units, or another basis if and as authorized by its articles of organization and bylaws, which may include authorization for the board to determine the groupings.

(b) Authorizes the board to do anything necessary to implement the use of districts or units, including setting the time and place and prescribing the rules of conduct for holding a meeting by a district or unit to elect delegates to members' meetings.

Sec. 53.302. MEMBER VIOLATIONS; LIABILITY FOR COOPERATIVE DEBTS.

(a) Authorizes a member who knowingly, intentionally, or repeatedly violates a provision of the articles of organization, bylaws, member control agreement, or marketing contract with the cooperative to be required by the board to surrender the financial right of membership interest of any class owned by the member.

(b) Requires the cooperative to refund to the member for the surrendered financial right of membership interest the lesser of the book value or market value of the financial right of the membership interest payable in not more than seven years from the date of surrender or transfer all of any patron member's financial rights to a class of financial rights held by members who are not patron members, or to a certificate of interest that carries liquidation rights on par with a membership interest and is redeemable within seven years after the transfer as provided in the certificate.

(c) Authorizes a membership interest required to be surrendered to be reissued or retired and canceled by the board.

(d) Authorizes a member who knowingly, intentionally, or repeatedly violates a provision of the articles of organization, bylaws, member control agreement, or marketing contract to be required by the board to surrender the member's entitlement to vote in the cooperative.

(e) Provides that a member is not, merely because of the member's status, personally liable for the acts, debts, liabilities, or obligations of a cooperative. Provides that a member is liable for any unpaid subscription for the membership interest, unpaid membership fees, or debt for which the member has separately contracted with the cooperative.

Sec. 53.303. REGULAR MEMBERS' MEETINGS. (a) Requires a regular members' meetings to be held annually at a time determined by the board, unless otherwise provided for in the bylaws.

(b) Requires the regular members' meeting to be held at the principal place of business of the cooperative or at another conveniently located place as determined by the bylaws or the board.

(c) Requires the officers to submit reports to the members at the regular members' meeting covering the business of the cooperative for the previous fiscal year that show the condition of the cooperative at the end of the fiscal year of the organization.

(d) Requires directors to be elected at the regular members' meeting for the terms of office prescribed in the bylaws, other than directors elected at a district or unit meeting.

(e) Requires the cooperative to give notice of regular members' meetings by mailing a notice to each member at the member's last known mailing address or by other notification approved by the board and agreed to by the members. Requires notice of a regular members' meeting to be published or otherwise given by an approved method at least two weeks before the date of the meeting or mailed at least 15 days before the date of the meeting.

Sec. 53.304. SPECIAL MEMBERS' MEETINGS. (a) Authorizes a special members' meeting to be called by certain methods.

(b) Requires the cooperative to give notice of a special members' meeting by mailing a notice to each member personally at the person's last known mailing address or an alternative method approved by the board and the member individually or the members generally. Requires notice mailed or delivered by an alternative method to be to an officer of the entity for a member that is an entity. Requires the notice to state the time, place, and purpose of the special members' meeting. Requires the notice to be issued not later than the 10th day after the date the members' petition is submitted and the meeting to be held within 30 days after the date the members' petition is submitted.

Sec. 53.305. CERTIFICATION OF MEETING NOTICE. (a) Requires the chair or records officer, after mailing or delivering of the special or regular members' meeting notices, to execute a certificate containing the date of mailing or delivery of the notices and a statement that the notices were mailed or delivered as prescribed by law.

(b) Requires the certificate to be made a part of the record of the meeting.

Sec. 53.306. FAILURE TO RECEIVE MEETING NOTICE. Provides that failure of a member to receive notice of a special or regular members' meeting does not invalidate an action taken by the members at the meeting.

Sec. 53.307. QUORUM. (a) Sets forth the quorum for a members' meeting.

(b) Requires, in determining a quorum at a meeting, on a question submitted to a vote by mail or an alternative method, members present in person or represented by mail vote or the alternative voting method to be counted. Requires the attendance of a sufficient number of members to establish a quorum to be determined by a registration of the members of the cooperative present at the meeting. Requires registration to be verified by the chair or the records officer and reported in the minutes of the meeting.

(c) Provides that an action by a cooperative is invalid in the absence of a quorum at the meeting at which the action was taken.

Sec. 53.308. MEMBER VOTING RIGHTS. (a) Provides that a patron member is only entitled to one vote on an issue to be voted on by members who hold a patron membership interest, except that a patron member of a cooperative described by Section 53.309 is authorized to be entitled to more than one vote as provided by that section. Requires the entire patron members' voting power, on any matter of the cooperative, to be voted collectively based on the vote of the majority of patron members voting on the issue. Provides that a nonpatron member has voting rights according to the member's nonpatron membership interest granted in the bylaws, subject to the provisions of this chapter.

(b) Authorizes a member or delegate to exercise the member's voting rights on any matter that is before the members as provided by the articles of organization or bylaws at a members' meeting from the time the member or delegate arrives at the members' meeting, unless the articles of organization or bylaws specify an earlier and specific time for the expiration of the member's right to vote.

(c) Requires a member's vote at a members' meeting to be in person or by mail if a mail vote is authorized by the board or by an alternative method authorized by the board and not by proxy except as provided by Subsection (d).

(d) Authorizes a cooperative to provide in the articles of organization or bylaws that a unit or district of members is entitled to be represented at a members' meeting by delegates chosen by the members of the unit or district. Authorizes the delegates to vote on matters at the members' meeting in the same manner as a member. Authorizes the delegates to only exercise the voting rights on a basis of and with the number of votes as provided by the articles of organization or bylaws. Requires, if the approval by a certain number of the members is required for the adoption of amendments, a dissolution, a merger, a conversion, or a sale of assets, the votes of delegates to be counted as votes by the members represented by the delegate. Authorizes patron members to be represented by a delegate who is a patron member. Authorizes nonpatron members to be represented by a delegate if authorized in the bylaws.

(e) Authorizes a member who is or will be absent from a members' meeting to vote by mail or by an approved alternative method on any motion, resolution, or amendment that the board submits for vote by mail or alternative method to the members. Requires a properly executed ballot to be accepted by the board and counted as the vote of the absent member at the meeting.

(f) Requires the ballot used for a vote under Subsection (e) to meet certain criteria.

Sec. 53.309. PATRON MEMBER VOTING IN COOPERATIVES CONSTITUTED ENTIRELY OR PARTIALLY OF OTHER COOPERATIVES OR ASSOCIATIONS.

(a) Authorizes the articles of organization or the bylaws of a cooperative that is constituted wholly or partly of other cooperatives or associations to authorize the patron members of a subsidiary cooperative to have an additional vote for certain matters.

(b) Authorizes the articles of organization or the bylaws of a cooperative that is organized into units or districts of patron members to authorize the delegates elected by its patron members to have an additional vote for certain matters.

[Reserves Sections 53.310-53.350 for expansion.]

SUBCHAPTER H. ADMINISTRATION

Sec. 53.351. GOVERNANCE. Provides that a cooperative is governed by its board.

Sec. 53.352. NUMBER OF DIRECTORS. Requires the board to have at least three directors.

Sec. 53.353. ELECTION OF DIRECTORS. (a) Provides that directors are elected for the term, at the time, and in the manner provided by this section and the bylaws. Requires a majority of the directors to be members, and at least one director is required to be elected exclusively by the members holding patron membership interests. Authorizes the voting entitlement of the directors to be allocated according to allocation units or equity classifications of the cooperative provided that at least one-half of the voting power on general matters of the cooperative is required to be allocated to one or more directors elected by members holding a patron membership interest.

(b) Provides that directors are elected for the terms of office prescribed in the bylaws. Provides that, other than directors elected at a district meeting, all directors are elected at the regular members' meeting.

(c) Authorizes members, for a cooperative with districts or other units, to elect directors on a district or unit basis if provided for by the bylaws. Authorizes the directors to be nominated or elected at a district meeting if authorized by the

bylaws. Provides that directors who are nominated at district meetings are elected at the annual regular members' meeting by vote of the entire membership unless the bylaws provide that a director who is nominated at a district meeting is to be elected by vote of the members of the district at the annual regular members' meeting.

(d) Requires a member to vote in person at a meeting for a director unless an alternative method of voting is authorized for the election of directors by the articles of organization or bylaws.

(e) Sets forth certain actions that must be taken regarding a ballot if alternative voting for directors is authorized.

(f) Authorizes a member to nominate one or more natural persons for election to the board if a member is not a natural person and the bylaws do not provide otherwise.

Sec. 53.354. FILLING VACANCIES. Requires the board, if a director who was elected by patron members vacates the director's position, to appoint a patron member of the cooperative to fill the vacancy until the next regular or special members' meeting. Requires the board, if the vacating director was not a patron member, to appoint a patron member to fill the vacancy. Requires the members or patron members, at the next regular or special members' meeting, to elect a director for the unexpired term of the vacant position.

Sec. 53.355. REMOVAL OF DIRECTORS. Authorizes the class of members who elected a director, at a members' meeting, to remove the director for cause related to the duties of the position and fill the vacancy caused by the removal.

Sec. 53.356. LIMITATION OF DIRECTOR'S LIABILITY. (a) Authorizes, except as provided by Subsection (b), a director's personal liability to the cooperative or its members for monetary damages for a breach of fiduciary duty as a director to be eliminated or limited in the articles of organization.

(b) Prohibits the articles of organization from eliminating or limiting the liability of a director for certain acts.

Sec. 53.357. OFFICERS. (a) Requires the board to elect certain officers.

(b) Authorizes the board to elect additional officers as the articles of organization or bylaws authorize or require.

(c) Authorizes the offices of records officer and financial officer to be combined.

(d) Requires the chair and first vice chair to be directors and members. Provides that the financial officer, records officer, and other officers are not required to be directors or members.

(e) Authorizes the board to employ a chief executive officer to manage the day-to-day affairs and business of the cooperative.

(f) Authorizes members, at a members' meeting, members to remove an officer, other than the chief executive officer, for cause related to the duties of the position of the officer and fill the vacancy caused by the removal.

Sec. 53.358. VOTE OF OWNERSHIP INTERESTS HELD BY COOPERATIVE. Authorizes a cooperative that holds an ownership interest in another business entity, by direction of the cooperative's board, to elect or appoint a person to represent the cooperative at a meeting of that business entity. Authorizes the representative to represent the cooperative and cast the cooperative's vote at the business entity's meeting.

[Reserves Sections 53.359-53.400 for expansion.]

SUBCHAPTER I. MERGER AND CONVERSION

Sec. 53.401. MERGER. (a) Authorizes a cooperative to merge with one or more cooperatives or other business entities as provided by this subchapter.

(b) Requires a written plan of merger, to initiate a merger, to be prepared by the board or by a committee selected by the board to prepare a plan. Requires the plan to contain certain information.

(c) Requires the plan to include certain information if more than one business entity survives or is created under the plan of merger, in addition to each other requirement of this section.

Sec. 53.402. NOTICE. (a) Requires the board to mail a merger plan or otherwise transmit or deliver notice to each member. Sets forth the required contents of the notice.

(b) Authorizes a cooperative with more than 200 members to provide the merger notice in the same manner as the notice of a regular members' meeting.

Sec. 53.403. ADOPTION OF MERGER PLAN. (a) Sets forth the conditions under which a plan of merger is adopted.

(b) Requires articles of merger, after the plan has been adopted, to be filed with the secretary of state for the merger to take effect.

(c) Requires the articles of merger to be signed by an officer or other authorized representative on behalf of each cooperative and each business entity that is a party to the merger and to include certain information.

(d) Provides that the articles of organization of each surviving cooperative subject to this chapter are considered amended as provided in the plan of merger.

(e) Provides that, except as otherwise provided by Section 53.101, the merger is effective when the articles of merger are filed in the office of the secretary of state.

(f) Requires the articles of organization, if the plan of merger creates a new cooperative, to also be filed with the secretary of state.

(g) Requires the certificate of formation, if the plan of merger creates a new domestic business entity to be formed or organized under the laws of this state and the entity is required to file a certificate of formation, to also be filed with the secretary of state.

Sec. 53.404. MERGER AUTHORIZED. (a) Authorizes an existing association incorporated under this law, notwithstanding any other law of this state, to merge with a cooperative governed by this chapter by adopting and approving a plan of merger in the same manner as a cooperative governed by this chapter.

(b) Authorizes an existing association organized under a law of this state, other than an association organized under this code, notwithstanding any other law of this state, to merge with a cooperative governed by this chapter by adopting and approving a plan of merger in the manner prescribed by the law governing the association, or if the law governing the association does not provide a method, in the same manner as a cooperative governed by this chapter.

Sec. 53.405. EFFECT OF MERGER. (a) Sets forth certain actions that occur when a merger takes effect.

(b) Provides that, if the plan of merger does not provide for the allocation and vesting of the right, title, and interest in any particular property, each surviving and new cooperative or business entity that is a party to the merger owns an undivided interest in the property pro rata to the total number of surviving and new cooperatives and business entities resulting from the merger. Provides that, if the plan of merger does not provide for the allocation of a liability or obligation of a party to the merger, each surviving or new cooperative or business entity that is a party to the merger is jointly and severally liable for the liability or obligation.

(c) Prohibits the right of a creditor from being impaired by a merger without the creditor's consent.

(d) Provides that the surviving entity is considered to have taken certain actions if a surviving entity in a merger is not a cooperative or domestic business entity.

(e) Requires a surviving entity, if the surviving entity in a merger is not a cooperative or domestic business entity, to register to transact business in this state if the entity is required to register for that purpose by another law of this state.

Sec. 53.406. CONVERSION TO OTHER FORM OF BUSINESS ENTITY. (a) Authorizes a cooperative to convert to another form of business entity by adopting and approving a plan of conversion.

(b) Requires the board or a committee selected by the board, to initiate a conversion, to prepare a written plan of conversion. Sets forth the information that the plan is required to include.

(c) Authorizes a plan of conversion to include other provisions relating to the conversion allowed by law.

(d) Requires a certificate of conversion, after approval of the plan of conversion, to be filed with the secretary of state for the conversion to take effect. Sets forth the information that the certificate of conversion is required to include.

(e) Provides that, when a conversion takes effect, each member of the converting entity has a membership or ownership interest in the converted entity. Provides that this subsection does not apply to a member who agrees to an alternative disposition of the person's interest under the conversion.

(f) Prohibits a cooperative from converting under this section if, as a result of the conversion, a member of the converting entity would become personally liable for a liability or other obligation of the converted entity without that person's consent.

(g) Sets forth certain actions that occur when the conversion takes effect.

Sec. 53.407. ABANDONMENT OF MERGER OR CONVERSION. (a) Authorizes, at any time after a plan of merger or plan of conversion is approved as provided by this chapter and before the merger or conversion takes effect, a cooperative or domestic business entity that is a party to the plan to abandon the plan, without action by the owners or members, under the procedures provided by the plan of merger or plan of conversion. Provides that a cooperative or domestic business entity's right to abandon a plan of merger or plan of conversion is subject to the contractual rights of any party to the merger or conversion.

(b) Authorizes the board of directors or governing authority of the parties to the plan, if the plan of merger or plan of conversion does not provide procedures for abandonment, to determine the procedures for abandonment.

(c) Authorizes the merger or conversion to be abandoned before its effectiveness in accordance with Section 53.102, if articles of merger or a certificate of conversion has been filed.

[Reserves Sections 53.408-53.450 for expansion.]

SUBCHAPTER J. LIQUIDATION

Sec. 53.451. LIQUIDATION. (a) Authorizes a cooperative to be liquidated as provided in the articles of organization in a manner consistent with other business entities formed or organized in this state or, if not provided, to be liquidated in the same manner as a limited liability company formed or organized in this state.

(b) Authorizes the members, in addition to the methods in Subsection (a), to authorize a liquidation by adopting a resolution at a members' meeting. Requires the notice of the members' meeting to include a statement that the disposition of all of the assets of the cooperative will be considered at the meeting. Provides that, if a quorum is present in person, by mail ballot, or alternative method approved by the board at the members' meeting, the resolution approving of the liquidation is adopted if certain conditions are satisfied.

(c) Authorizes the board of directors by resolution to liquidate a cooperative if the board obtains an opinion of an accountant that the cooperative is unlikely to continue as a business, based on its current finances.

[Reserves Sections 53.452-53.500 for expansion.]

SUBCHAPTER K. DISSOLUTION

Sec. 53.501. METHODS OF DISSOLUTION. Authorizes a cooperative to be dissolved by the members or by the order of a court.

Sec. 53.502. WINDING UP. (a) Requires, after a notice of intent to dissolve has been filed with the secretary of state, the board or the officers acting under the direction of the board to proceed as soon as possible to take certain actions regarding debts.

(b) Authorizes the board, after a notice of intent to dissolve has been filed with the secretary of state, to sell, lease, transfer, or otherwise dispose of all or substantially all of the property and assets of the cooperative without a vote of the members.

(c) Authorizes tangible and intangible property, including money, remaining after the discharge of the debts, obligations, and liabilities of the cooperative to be distributed to the members and former members as provided in the bylaws. Authorizes the tangible and intangible property of the cooperative, if previously authorized by the members, to be liquidated and disposed of at the discretion of the board.

Sec. 53.503. REVOCATION OF DISSOLUTION PROCEEDINGS. (a) Authorizes dissolution proceedings to be revoked before the articles of dissolution are filed with the secretary of state.

(b) Authorizes the chair to call a members' meeting to determine whether to revoke the dissolution proceedings. Requires the question of the proposed revocation to be submitted to the members at the members' meeting called to consider the revocation. Provides that the dissolution proceedings are revoked if the revocation is approved at the members' meeting by a majority of the members of the cooperative, or for a cooperative with articles of organization or bylaws requiring a greater number of members, the number of members required by the articles of organization or bylaws.

(c) Provides that revocation of the dissolution proceedings is effective when a notice of revocation is filed with the secretary of state. Authorizes the cooperative to resume business after the notice is filed.

Sec. 53.504. STATUTE OF LIMITATIONS. Provides that the claim of a creditor or claimant against a dissolving cooperative is barred if the claim has not been enforced by legal, administrative, or arbitration proceedings relating to the claim initiated not later than two years after the date the notice of intent to dissolve is filed with the secretary of state.

Sec. 53.505. ARTICLES OF DISSOLUTION. (a) Authorizes articles of dissolution of a cooperative to be filed with the secretary of state only after payment of the claims of all known creditors and claimants has been made or provided for and the remaining property distributed by the board. Requires the articles of dissolution to state certain information.

(b) Provides that the cooperative is dissolved when the articles of dissolution are filed with the secretary of state.

(c) Requires the secretary of state to issue to the dissolved cooperative or its legal representative a certificate of dissolution that contains certain information.

Sec. 53.506. APPLICATION FOR COURT-SUPERVISED VOLUNTARY DISSOLUTION. Authorizes the cooperative, or, for good cause shown, a member or creditor, after a notice of intent to dissolve is filed with the secretary of state and before a certificate of dissolution is issued, to apply to a district court for the county in which the registered address is located to have the dissolution conducted or continued under the supervision of the court as provided by Section 53.513.

Sec. 53.507. COURT-ORDERED REMEDIES OR DISSOLUTION. (a) Authorizes a district court to grant equitable relief that it considers just and reasonable in the circumstances or to dissolve a cooperative and liquidate its assets and business in a certain manner.

(b) Requires the court, in determining whether to order equitable relief or dissolution, to take into consideration the financial condition of the cooperative but prohibits the court from refusing to order equitable relief or dissolution solely on the ground that the cooperative has accumulated operating net income or current operating net income.

(c) Requires the court, in deciding whether to order dissolution of the cooperative, to consider whether lesser relief suggested by one or more parties, such as a form of equitable relief or a partial liquidation, would be adequate to permanently relieve the circumstances established under Subsection (a)(2)(B) or (C). Authorizes lesser relief to be ordered if it would be appropriate under the facts and circumstances of the case.

(d) Authorizes the court in its discretion, if the court finds that a party to a proceeding brought under this section has acted arbitrarily, vexatiously, or otherwise not in good faith, to award reasonable expenses, including attorney's fees and disbursements, to any of the other parties.

(e) Requires proceedings under this section to be brought in a district court for the county in which the registered address of the cooperative is located.

(f) Provides that members are not necessary parties to the action or proceeding unless relief is sought against them personally.

Sec. 53.508. PROCEDURE IN INVOLUNTARY OR COURT-SUPERVISED VOLUNTARY DISSOLUTION. (a) Authorizes the court, in dissolution proceedings, before a hearing is completed, to take certain actions.

(b) Authorizes the court, after a hearing is completed, on notice directed to be given to the parties to the proceedings and to other parties in interest designated by the court, to appoint a receiver to collect the cooperative's assets, including an amount owed to the cooperative by a subscriber on account of an unpaid portion of the consideration for the issuance of shares. Authorizes the receiver, subject to the order of the court, to continue the business of the cooperative and sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative at either a public or private sale.

(c) Requires the assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition to be applied in a certain order of priority.

(d) Authorizes any remaining assets, after payment of the expenses of receivership and claims of creditors are proved, to be distributed to the members or distributed under an approved liquidation plan.

Sec. 53.509. RECEIVER QUALIFICATIONS AND POWERS. (a) Requires a receiver to be a natural person or a domestic or foreign corporation authorized to transact business in this state. Requires a receiver to give a bond as directed by the court with the sureties required by the court.

(b) Authorizes a receiver to sue and defend in all courts as receiver of the cooperative. Provides that the court appointing the receiver has exclusive jurisdiction of the cooperative and its property.

Sec. 53.510. DISSOLUTION ACTION BY ATTORNEY GENERAL; ADMINISTRATIVE DISSOLUTION. (a) Authorizes a cooperative to be dissolved involuntarily by order of a court in this state in an action filed by the attorney general if it is established that certain conditions are present.

(b) Prohibits an action from being brought under Subsection (a) before the 31st day after the date notice is given to the cooperative by the attorney general of the reason for filing the action. Authorizes the attorney general, if the reason for filing the action is an act or omission of the cooperative and the act or omission may be corrected by an amendment of the articles of organization or bylaws or by performance of or abstention from the act, to file the action only if the cooperative fails to make the correction before the 31st day after notice is given to the cooperative by the attorney general.

Sec. 53.511. FILING CLAIMS IN COURT-SUPERVISED DISSOLUTION PROCEEDINGS. (a) Authorizes the court, in a proceeding to dissolve a cooperative, to require a creditor or claimant of the cooperative to file a claim made under oath with the court administrator or with the receiver in a form prescribed by the court.

(b) Requires the court to take certain actions if the court requires the filing of claims.

(c) Authorizes the court to extend the time for filing claims before the date set by the court. Authorizes a creditor or claimant who fails to file a claim on or before the date to be barred by order of the court from claiming an interest in or receiving payment from the property or assets of the cooperative.

Sec. 53.512. DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS. Authorizes the involuntary or supervised voluntary dissolution of a cooperative to be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. Requires the court to dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets.

Sec. 53.513. COURT-SUPERVISED DISSOLUTION ORDER. (a) Requires the court, in an involuntary or supervised voluntary dissolution, to enter an order dissolving the

cooperative after the costs and expenses of the proceedings and all debts, obligations, and liabilities of the cooperative have been paid or discharged and the remaining property and assets have been distributed to its members or, if its property and assets are not sufficient to satisfy and discharge the costs, expenses, debts, obligations, and liabilities, when all the property and assets have been applied to their payment according to their priorities.

(b) Provides that, when the court enters the order dissolving the cooperative or association, the cooperative or association is dissolved.

Sec. 53.514. **FILING OF DISSOLUTION ORDER.** Requires the court administrator, after the court enters an order dissolving a cooperative, to cause a certified copy of the dissolution order to be filed with the secretary of state. Prohibits the secretary of state from charging a fee for filing the dissolution order.

Sec. 53.515. **BARRING OF CLAIMS.** (a) Provides that a person who is or becomes a creditor or claimant before, during, or after the conclusion of dissolution proceedings, who does not file a claim or pursue a remedy in a legal, administrative, or arbitration proceeding during the pendency of the dissolution proceeding, or who does not initiate a legal, administrative, or arbitration proceeding before the dissolution proceedings commenced and all those claiming through or under the creditor or claimant are forever barred from suing on that claim or otherwise realizing upon or enforcing it, except as provided by this section.

(b) Authorizes a creditor or claimant who shows good cause for not having previously filed the claim, not later than the first anniversary of the date the articles of dissolution are filed with the secretary of state or a dissolution order is entered, to apply to a court in this state to allow a claim against certain entities.

(c) Requires debt, obligation, or liability incurred during the dissolution proceedings to be paid or provided for by the cooperative before the distribution of assets to a member. Authorizes a person to whom such a debt, obligation, or liability is owed but not paid to pursue any remedy against the officers, directors, or members of the cooperative before the expiration of the applicable statute of limitations. Provides that this subsection does not apply to dissolution under the supervision or order of a court.

Sec. 53.516. **RIGHT TO SUE OR DEFEND AFTER DISSOLUTION.** Authorizes, after a cooperative has been dissolved, any of its former officers, directors, or members to assert or defend, in the name of the cooperative, a claim by or against the cooperative.

SECTION 2. Effective date: September 1, 2007.