

Colorado Cooperative Act

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This research is intended to provide detailed information on specific provisions of the Colorado Cooperative Act. The table of contents provides a list of provision topics addressed. The descriptions of the statute provisions include legal citations to the specific part of the statute where the topic is addressed so users can easily look at the statute language. A URL for the statute is also provided when it is available.

This research has been provided by a private individual and does not represent official policy of the U.S. Department of Agriculture or any other government agency. The research is presented only to provide summary information to persons interested in the state statutory treatment of Colorado cooperatives. Individuals considering organizing a cooperative are advised to seek professional advice from an expert on cooperative law who is familiar with the specifics of the individual's situation.

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1. Cooperative Statute: Policy, Purposes, Powers

1. State and Statute Title. Please name the state and the title of the cooperative organization law. Provide a nickname for the cooperative law using the state abbreviation hyphenated with a brief statute descriptor (e.g., Virginia's general cooperative statute, "Cooperative Associations Generally," could be called "VA-Gen," and Virginia's agricultural cooperative statute,

- "Agricultural Cooperative Associations," could be called "VA-Ag." You will lead each answer with this nickname and the specific statute or article citation.
- Colorado Cooperative Act; CO-Gen.

2. Statute Nickname, Legal Citation, and URL. Please provide a full legal citation to the statute and, if available, a uniform resource locator (URL) address where the statute may be accessed for free.

- Colorado Cooperative Act, 7-56-101 7-56-901, C.R.S. (West 2016);
<http://www.lexisnexis.com/hottopics/Colorado/> , under Title 7, Article 56, Associations.

3. Application of General Law. Briefly describe whether general corporate law or general limited liability company law applies to cooperatives organized under the statute.

- CO-Gen: N/A.

4. Conflict of Laws. Briefly describe any provisions addressing any conflict between the cooperative statute and general corporate or general limited liability company law.

- CO-Gen: N/A.

5. Construction of Law. Briefly describe any reference to how the statute should be construed.

- CO-Gen: N/A.

6. Declaration of Statutory Policy. Briefly state any broad declaration of statutory policy (i.e., description of conditions in agriculture or in the economy prompting the enactment of the cooperative statute).

- CO-Gen § 7-56-102(1)(a): Statute began with agricultural marketing and expanded to all forms of cooperatives in 1996. "It is in the best interests of the people of the state of Colorado to promote, foster, and encourage the utilization of cooperatives."

7. Statutory Qualification as a Cooperative. Briefly describe any statement indicating that a cooperative is an entity that qualifies under this particular statute.

- CO-Gen § 7-56-201(1): One or more persons may form a cooperative for the transaction of any lawful business.

8. Cooperative Operational Description. Briefly describe any provision that gives a general, operational description of a cooperative.

- CO-Gen § 7-56-103(6): Cooperative defined:
 - (a) The business is operated at cost by adjusting the prices charged for goods or services or by returning any net margins at the end of a fiscal year on a patronage basis to members and other persons qualified to share in the net margins;
 - (b) Dividends on stock or interest on equity capital is limited, as prescribed in the articles or bylaws;
 - (c) Voting rights limited to members of the cooperative as prescribed in the articles or bylaws;
 - (d) The cooperative's business carried on for the mutual benefit of its members; and
 - (e) Members not liable for any debt, obligation, or liability of the cooperative.

9. "Nonprofit" Nature of Cooperative. Briefly describe any reference to the "nonprofit" nature of the cooperative inasmuch as it is organized to pass margins to users rather than to make profit for itself.

- CO-Gen: Nonprofit not mentioned.
- CO-Gen § 7-56-103(15): Patronage refund definition means a portion of a cooperative's net margins paid or allocated to a patron based on the patron's patronage.

10. Cooperative Purpose. List any specific purpose(s) of the cooperative.

- CO-Gen § 7-56-201(3)(d): The articles may state the purpose or purposes for which the cooperative is incorporated which may state any lawful business.

11. Perpetual Duration and Succession. Does a cooperative have perpetual duration and succession?

- CO-Gen § 7-56-501(a): To have perpetual existence and succession unless limited by the articles.

12. General Powers. State briefly any general power mentioned (e.g., the power to do all things necessary or convenient to carry out the cooperative's business).

- CO-Gen § 7-56-501(3): All powers, rights, and privileges granted by the law of this state to domestic corporations or domestic nonprofit corporations that are not inconsistent with the provisions of this article 56.

13. Specific Powers. Please list any specific powers mentioned (e.g. buy/sell/produce/process products, handle byproducts, make purchases for members, manufacture, enter contracts, act

as agent, own property, sue and be sued, develop and own patents, trademarks, and copyrights, borrow and lend money, invest, etc.).

- CO-Gen § 7-56-501(1)(a)-(cc): 30 specific powers enumerated.
- CO-Gen § 7-56-501(2)(a)-(c): 3 specific powers for just agricultural cooperatives.

14. Inter-Association Agreements. Briefly describe any provision that permits activities between or among two or more cooperatives.

- CO-Gen: N/A.

15. Prohibited Powers. State briefly (list) powers denied to the cooperative.

- CO-Gen § 7-56-201(3)(d): Only prohibits unlawful businesses. The articles of incorporation may state the purpose or purposes for which the cooperative is incorporated, and/or any lawful business.

16. Prohibited Lines of Business. State briefly (list) prohibited lines of business.

- CO-Gen: N/A.

17. Emergency Powers. State briefly any emergency powers.

- CO-Gen: N/A.

18. Ultra Vires. Briefly describe any provision addressing when a cooperative exceeds its legal purpose.

- CO-Gen: N/A.

19. Quo Warranto Proceeding. Describe briefly any provision addressing any inquiry into the legitimacy of an association's operation as a cooperative.

- CO-Gen: N/A.

20. Miscellaneous. Describe any other provision(s) that address cooperative powers or their limits.

- CO-Gen § 7-56-501(3): All state powers granted to a domestic corporation or a domestic nonprofit corporation, not inconsistent with article 56.

2. Cooperative Association Formation

1. Provide the statute nickname and article/section. Specific Cooperative Forms. Name any specific cooperative forms mentioned by the statute (e.g., worker cooperative, agricultural cooperative, value-added producer cooperative, etc.).

- CO-Gen: N/A.

2. Provide the state statute nickname and section/article. Number of Organizers. Is a minimum number of organizers required?

- CO-Gen § 7-56-201(1): One or more persons may act as the incorporator.

3. Requirements for Organizers. Are there any other requirements for organizers (e.g. an organizer must be a "person," a "natural person," an "association," must be a state resident, must be a certain age, must produce agricultural products, etc.)?

- CO-Gen § 7-56-201(1): Incorporator must be an individual at least 18 years old.

4. Promoter Activities, Expenses. Briefly describe any provisions that address the activities and/or expenses of individuals ("promoters") engaged in assisting in the organization of the cooperative.

- CO-Gen: N/A.

5. State Filing Requirements. Briefly state where and how to file the articles of incorporation or organization.

- CO-Gen § 7-56-201(1): Incorporator files articles of incorporation with Secretary of State's office per the Colorado corporate code; § 7-90-301 et al

6. State Fees. State the fee amount for starting a cooperative.

- CO-Gen: Per fee chart located at http://www.sos.state.co.us/pubs/info_center/fees/business.html \$50

7. Start of Legal Existence. When does the cooperative's legal existence begin?

- CO-GEN § 7-56-201(1): When Articles of Incorporation are filed with the office of the Secretary of State

8. Cooperative Name. Is "cooperative" or another term of art required as part of the association's name?

- CO-GEN § 7-56-201(2)(a): Name must comply with Colorado corporate statutes § 7-90-601(7) on use of the word "cooperative" but the word is not required.

9. Additional Name Requirements. Is the cooperative's name required to be unique?

- CO-GEN § 7-90-601(2): Yes, must be distinguishable from every other entity name or name that is reserved.

10. Permitted Businesses. Are there restrictions on types of business entities that can be called a cooperative?

- CO-GEN § 7-56-201(1): No restrictions, any lawful business.

11. Nonstock Cooperatives. Are nonstock cooperatives permitted?

- CO-GEN § 7-56-201(2)(e): Yes.

12. Stock Cooperatives. Are stock cooperatives permitted?

- CO-GEN § 7-56-201(2)(f): Yes.

13. Prerequisites to Formation. State briefly any special prerequisites to forming a cooperative (e.g. requirement of certain percentage of capital paid prior to organization/incorporation or requirement that a permit be obtained).

- CO-GEN: N/A.

14. Annual Renewal. Is an annual renewal of the organization/incorporation required?

- CO-GEN: N/A.

15. Annual Report. Is an annual report required?

- CO-GEN § 7-56-106: Applying corporate statute § 7-90-501, yes, annual with the Secretary of State

16. Annual Report Content. Briefly describe any provisions stating the required content in the annual report.

- CO-GEN § 7-90-501(1): Registered agent name and address, principal office address

17. Failure to File. Briefly describe any provision that addresses consequences for failure to file an annual report.

- CO-GEN § 7-90-501(7): Shall be shown on the records as delinquent and required to pay a fee to be reinstated.

18. State Assistance. Briefly describe any provision that allows for state assistance to individuals contemplating forming a cooperative.

- CO-GEN: N/A.

19. Foreign Cooperatives. Briefly describe any provisions on permission for an out-of-state cooperative to do business in the state.

- CO-GEN § 7-56-801: State corporate statutes re foreign entities transacting business applies to foreign cooperatives (§ 7-90-801).

20. Domestic Cooperatives. Briefly describe any provision allowing a domestic cooperative to do business in another state.

- CO-GEN: N/A.

21. Miscellaneous. Briefly describe any other provision addressing the start of a cooperative that was not addressed by the previous questions.

- CO-GEN: N/A.

3. Cooperative Articles of Association

3.1. Signatures and Acknowledgment. Briefly describe any provision that requires that the articles be signed, subscribed, acknowledged, or notarized.

- CO-GEN: N/A.

3.2. Cooperative Name. Do the organizing documents/articles of incorporation require the cooperative's name?

- CO-GEN § 7-56-201(2)(a): Yes.

3.3. Cooperative Purpose. Are the organizing documents/articles required to state a purpose for the cooperative?

- CO-GEN § 7-56-201(3)(d): Permissible but not required.

3.4. Place of Business. Is the place of business required?

- CO-GEN § 7-56-201((2)(b): Yes, principal office address.

3.5. Term of Existence. Briefly describe any provision requiring that the term of existence of the organization be required in the articles.

- CO-GEN § 7-56-201: Not required.

3.6. Incorporators, Subscribers. Briefly describe any provision that requires that the names and addresses of incorporators and/or subscribers be identified in the articles.

- CO-GEN § 7-56-201(2)(g): Name and mailing address of each incorporator.

3.7. Number of Directors. Briefly describe any provision requiring a statement in the articles of the number and of directors.

- CO-GEN § 7-56-201(3)(c): Not required but permissible.

3.8. Director Term. Briefly describe any provision requiring that the term of the directors be specified in the articles.

- CO-GEN: N/A.

3.9. Registered Agent. Is the name of a registered agent required?

- CO-GEN § 7-56-201(2)(c): Yes.

3.10. Limitations of Power. Briefly describe any required/permitted provisions in the organizing document limiting the powers of the cooperative, its board, and/or its members.

- CO-GEN § 7-56-201(3)(f): Permits provisions to define, limit and regulate powers of the cooperative, its board and its members.

3.11. Limitations of Liability. Briefly describe any required/permitted organizing document provision(s) regarding limitation of liability with respect to the organizers/incorporators, officers, members, and/or shareholders.

- CO-GEN § 7-56-201(3)(a): Permits provision eliminating or limiting personal liability of a director.

3.12. Membership Definition. Briefly describe any statutory reference to defining membership in the organizing document.

- CO-GEN § 7-56-201(2)(e): For non-stock cooperatives, describe property rights and interests.

3.13. Member Classes. Is a description of member classes required/permitted?

- CO-GEN § 7-56-201(2)(e): Can offer preferred stock or other equity interests in addition to nonstock equity interests.

3.14. Member Property Rights. Is a description required/permitted regarding member property rights?

- CO-GEN § 7-56-201(2)(e): Yes, required.

3.15. Member Voting Rights. Is a description required/permitted regarding member voting rights?

- CO-GEN § 7-56-201(2)(e): Yes, required.

3.16. Membership Certificates. Is a statement required/permitted on whether the cooperative is organized with membership certificates?

- CO-GEN § 7-56-201: Not in the Articles of Incorporation

3.17. Capital Stock. Is a statement required/permitted that the cooperative is organized with capital stock?

- CO-GEN § 7-56-201(2)(f): Yes, required.

3.18. Amount of Capital Stock. Is a description of the amount of capital stock required/permitted?

- CO-GEN § 7-56-201(2)(e): Yes, required.

3.19. Par Value. Is a statement of par value required/permitted?

- CO-GEN § 7-56-201(3)(e): Yes, permitted.

3.20. Authorized Classes of Stock. Is a description of other authorized classes of stock required/permitted?

- CO-GEN § 7-56-201(2)(e): Yes, required.

3.21. Par Value of Authorized Classes of Stock. Is a statement of par value required/permitted for other authorized classes of stock?

- CO-GEN § 7-56-201(3)(e): Yes, permitted.

3.22. Acquire/Recall Stock. Is a statement of a reservation of right for the cooperative to acquire/recall stock required/permitted?

- CO-GEN § 7-56-201(3)(l): Any other provision not inconsistent with law.

3.23. Voting Rules. State briefly if a description of voting rules is required/permitted.

- CO-GEN § 7-56-201(2)(e) and (f): Required to state the preferences, limitations, relative rights and privileges of each class of membership.
- CO-GEN § 7-56-201(3)(b): Permitted to have a provision permitting proportional voting based on patronage, amount of equity held, or a combination.

3.24. Distributions/Appportionments. Is a description of distribution/appportionment of dividends, earnings, and losses required/permitted?

- CO-GEN § 7-56-201(3)(l): Any other provision not inconsistent with law. Permitted but detailed in other statutes.

3.25. Capital Accounts. Is a description of a cooperative's capital account(s) required/permitted?

- CO-GEN § 7-56-201(3)(l): Any other provision not inconsistent with law. Permitted but detailed in other statutes.

3.26. Asset Distribution on Liquidation. Is a statement on distribution of assets on liquidation required/permitted?

- CO-GEN § 7-56-201(3)(l): Any other provision not inconsistent with law. Permitted but detailed in other statutes.

3.27. Provide the nickname of the statute and the section/article citation. Miscellaneous Provisions. Briefly describe any additional important provisions.

- CO-Gen: N/A.

3.28. Amendment Initiation. Briefly describe the initiation of an amendment to the organizing document.

- CO-GEN § 7-56-202(2): Presented for a vote at any meeting of members; first approved by 2/3rds of the directors.

3.29. Notice of Amendment. Briefly describe notice requirements regarding an amendment to the organizing document.

- CO-GEN § 7-56-202(2): Notice with copy of amendment mailed at least 10 days prior to the member meeting.

3.30. When Amendments Occur. Briefly describe any requirement regarding when the amendments must be made (e.g. during the annual membership meeting).

- CO-GEN § 7-56-202(2): Any special or regular meeting of the members.

3.31. Quorum Requirements. Briefly describe any quorum requirements for an amendment.

- CO-GEN § 7-56-304: Quorum at all meetings is 5% or 30 members, whichever is less.

3.32. Margin Required for Approval. State briefly whether a majority or supermajority is required for approval of an amendment and state amount (e.g., 51 percent, 2/3 majority, etc.).

- CO-GEN § 7-56-202(2): Simple majority only, 51% of members present.

3.33. Voting Members. List types of members who can vote on the amendment.

- CO-GEN: N/A.

3.34. Board Authority. Describe briefly any authority of the board of directors to make amendments.

- CO-GEN § 7-56-202(3): Delete incorporators, registered agent, other minor changes only.

3.35. Filing of Amendment. Describe briefly how an amendment is executed and filed.

- CO-GEN § 7-56-202(5): File on-line with the Secretary of State's office per the Colorado corporate code; § 7-90-301 et al.

3.36. Restrictions on Amendment. Describe briefly any restrictions on changes to the articles of organization/incorporation other than supermajority requirements.

- CO-GEN § 7-56-202(6): Amendment not invalidated because of the manner of adoption unless an action to do so is commenced within 2 years after filing.

3.37. Miscellaneous Rules. Describe briefly any miscellaneous rules regarding amendments to the articles of organization.

- CO-GEN § 7-56-202(1.5): If no memberships or stock yet issued, Board may amend the articles.

4. Cooperative Definitions

1. Cooperatives Defined in Statute. Please list specific types of cooperatives defined in the statute (e.g., worker cooperative, consumer cooperative, producer cooperative).

- CO-GEN: N/A.

2. Agricultural Cooperative Definition. Please provide a brief summary of any definition of an agricultural cooperative.

- CO-GEN § 7-56-103 (1): A cooperative in which the members, including landlords and tenants, are all producers of agricultural products.

3. Worker Cooperative Definition. Please describe briefly any worker cooperative definition.

- CO-GEN: N/A.

4. Other Cooperative Definitions. Please describe briefly any other definitions of types of cooperatives.

- CO-GEN: N/A.

5. Agricultural Products Definitions. Please list any agricultural products defined.

- CO-GEN § 7-56-103 (2): Agricultural Products means agronomic, horticultural, viticultural, aquacultural, forestry, dairy, livestock, poultry, bee, and any other farm or ranch products.

6. Other Definitions. Please describe briefly any unique or unusual definitions unlikely to be addressed in other parts of the surveys.

- CO-GEN: N/A.