

The Senate Committee on Judiciary offered the following substitute to SB 437:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 14 of the Official Code of Georgia Annotated, relating to corporations,
2 partnerships, and associations, so as to provide for the formation of general cooperative
3 associations under the laws of this state; to provide for duties of the Secretary of State; to
4 provide for procedures and requirements for membership in and the formation, governance,
5 management, meetings, voting, and dissolution of general cooperative associations; to
6 provide for exceptions for applicability; to provide for definitions; to provide for a short title;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships,
11 and associations, is amended by adding a new chapter to read as follows:

12 "CHAPTER 12

13 ARTICLE 1

14 Part 1

15 14-12-101.

16 This chapter shall be known and may be cited as the 'Georgia Cooperative Associations
17 Code.'

18 14-12-102.

19 The General Assembly has power to amend or repeal all or part of this chapter at any time,
20 and all domestic and foreign cooperative associations subject to this chapter are governed
21 by the amendment or repeal.

22 14-12-103.

23 This chapter shall not apply to a corporation or association organized on a cooperative
 24 basis:

25 (1) Under a chapter other than this chapter unless that other chapter specifically states
 26 that this chapter does apply; or

27 (2) To act as:

28 (A) A distributor or to hold a master license or location license for a bona fide coin
 29 operated amusement machine business under Article 3 of Chapter 27 of Title 50;

30 (B) In a business licensed under Chapter 11 of Title 48;

31 (C) In a business licensed under Title 3;

32 (D) In a business licensed or regulated under Article 9 of Chapter 12 of Title 16 or
 33 Title 31 involving cannabis or low THC oil; or

34 (E) A state or federally chartered credit union.

35 Part 2

36 14-12-120.

37 (a) A document must satisfy the requirements of this Code section and of any other Code
 38 section that adds to or varies these requirements to be entitled to filing by the Secretary of
 39 State.

40 (b) This chapter must require or permit filing the document in the office of the Secretary
 41 of State.

42 (c) The document must contain the information required by this chapter. It may contain
 43 other information as well.

44 (d) The document must be typewritten or printed.

45 (e) The document must be in the English language. However, a cooperative association's
 46 name need not be in English if written in English letters or Arabic or Roman numerals, and
 47 the certificate of existence required of foreign cooperative associations need not be in
 48 English if accompanied by a reasonably authenticated English translation.

49 (f) The document must be executed:

50 (1) By the chairperson of the board of directors of a domestic or foreign cooperative
 51 association, its president, or by another of its officers;

52 (2) If directors have not been selected or the cooperative association has not been
 53 formed, by the persons desiring to form the cooperative association; or

54 (3) If the cooperative association is in the hands of a receiver, trustee, or other court
 55 appointed fiduciary, by that fiduciary;

56 provided, however, that the person executing the document may do so as an attorney in
57 fact. Powers of attorney relating to the execution of the document do not need to be shown
58 to or filed with the Secretary of State.

59 (g) The person executing a document shall sign it and state beneath or opposite the
60 signature his or her name and the capacity in which he or she signs; provided, however,
61 that if the document is electronically transmitted, the electronic version of such person's
62 name may be used in lieu of a signature. The document may, but need not, contain:

63 (1) The association seal;

64 (2) An attestation by the secretary or an assistant secretary; or

65 (3) An acknowledgment, verification, or proof.

66 (h) The document must be delivered to the office of the Secretary of State for filing and
67 must be accompanied by one exact or conformed copy, the correct filing fee, any certificate
68 required by this chapter, and any penalty required by this chapter or other law.

69 (i) Notwithstanding the provisions of this chapter, the Secretary of State may authorize the
70 filing of documents by electronic transmission, following the provisions of Chapter 12 of
71 Title 10, the 'Uniform Electronic Transactions Act,' and the Secretary of State shall be
72 authorized to promulgate such rules and regulations as are necessary to implement
73 electronic filing procedures.

74 14-12-121.

75 Notwithstanding any other law to the contrary, the Secretary of State may provide for the
76 annual registration required under this chapter to be valid for a period up to and including
77 three years. The Secretary of State is authorized to adopt the necessary rules and
78 regulations to implement such a registration process.

79 14-12-122.

80 The Secretary of State may prescribe and furnish, on request, forms for:

81 (1) An application for a certificate of existence;

82 (2) A foreign cooperative association's application for a certificate of authority to
83 conduct affairs in this state;

84 (3) A foreign cooperative association's application for a certificate of withdrawal;

85 (4) The annual registration; and

86 (5) Such other forms not in conflict with this chapter as may be prescribed by the
87 Secretary of State.

88 14-12-123.

89 The Secretary of State shall collect the following fees when the documents described in this
 90 Code section are delivered for filing:

<u>Document</u>	<u>Fee</u>
92 (1) <u>Certificate of formation</u>	<u>\$100.00</u>
93 (2) <u>Application for certificate of authority</u>	<u>225</u>
94 (3) <u>Annual registration</u>	<u>30</u>
95 (4) <u>Penalty for late filing of annual registration</u>	<u>25</u>
96 (5) <u>Agent's statement of resignation</u>	<u>No fee</u>
97 (6) <u>Certificate of judicial dissolution</u>	<u>No fee</u>
98 (7) <u>Articles of dissolution or intent to dissolve</u>	<u>No fee</u>
99 (8) <u>Application of withdrawal</u>	<u>No fee</u>
100 (9) <u>Application for reservation of a cooperative association name</u>	<u>25</u>
101 (10) <u>Statement of change of address of registered agent...\$5.00 per cooperative</u> 102 <u>association but not less than</u>	<u>20</u>
103 (11) <u>Application for reinstatement</u>	<u>250</u>
104 (12) <u>Any other document required or permitted to be filed by this chapter</u> ..	<u>20</u>

105 14-12-124.

106 (a) Except as provided in subsection (b) of this Code section and subsection (c) of Code
 107 Section 14-12-125, a document is effective:

108 (1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's
 109 endorsement on the original document; or

110 (2) At any later time specified in the document as its effective time on the date it is filed.

111 (b) A document may specify a delayed effective time and date, and if it does so the
 112 document becomes effective at the time and date specified. If a delayed effective date but
 113 no time is specified, the document is effective at the close of business on that date. A
 114 delayed effective date for a document may not be later than the ninetieth day after the date
 115 filed.

116 (c) If a document is determined by the Secretary of State to be incomplete and
 117 inappropriate for filing, the Secretary of State may return the document to the person or
 118 corporation filing it, together with a brief written explanation of the reason for the refusal
 119 to file, in accordance with subsection (c) of Code Section 14-12-126 and, if the applicant
 120 returns the document with corrections in accordance with the rules and regulations of the
 121 Secretary of State, the filing date of the document will be the filing date that would have
 122 been applied had the original document not been deficient.

123 14-12-125.

124 (a) A domestic or foreign cooperative association may correct a document filed by the
125 Secretary of State if the document:

126 (1) Contains an incorrect statement; or

127 (2) Was defectively executed, attested, sealed, verified, or acknowledged.

128 (b) A document is corrected:

129 (1) By preparing articles of correction that:

130 (A) Describe the document, including its filing date;

131 (B) Specify the incorrect statement and the reason it is incorrect or the manner in
132 which the execution was defective; and

133 (C) Correct the incorrect statement or defective execution; and

134 (2) By delivering the articles of correction to the Secretary of State for filing.

135 (c) Articles of correction are effective on the effective date of the document they correct
136 except as to persons relying on the uncorrected document and adversely affected by the
137 correction. As to those persons, articles of correction are effective when filed.

138 14-12-126.

139 (a) If a document delivered to the office of the Secretary of State for filing satisfies the
140 requirements of Code Section 14-12-120, the Secretary of State shall file it.

141 (b) The Secretary of State files a document by stamping or otherwise endorsing his or her
142 official title and the date and time of receipt on both the original and the document copy.
143 After filing a document, the Secretary of State shall deliver the document copy to the
144 domestic or foreign corporation or its representative.

145 (c) If the Secretary of State refuses to file a document, he or she shall return it to the
146 domestic or foreign corporation or its representative within ten days after the document was
147 delivered, together with a brief, written explanation of the reason for his or her refusal.

148 (d) The Secretary of State's duty to file documents under this Code section is ministerial.
149 Filing or refusing to file a document does not:

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

151 (2) Relate to the correctness or incorrectness of information contained in the document;
152 or

153 (3) Create a presumption that the document is valid or invalid or that information
154 contained in the document is correct or incorrect.

155 14-12-127.

156 (a) If the Secretary of State refuses to file a document delivered to his or her office for
157 filing, the domestic or foreign cooperative association may appeal the refusal within 30

158 days after the return of the document to the superior court. The appeal is commenced by
159 petitioning the court to compel filing of the document and by attaching to the petition the
160 document and the Secretary of State's explanation of his or her refusal to file.

161 (b) The matter shall promptly be tried de novo by the court without a jury. The court may
162 summarily order the Secretary of State to file the document or take other action the court
163 considers appropriate.

164 (c) The court's final decision may be appealed as in other civil proceedings.

165 14-12-128.

166 A certificate attached to a copy of a document or electronic transmission filed by the
167 Secretary of State, bearing his or her signature, which may be in facsimile, and the printed
168 or embossed seal of this state, or its electronic equivalent, is prima-facie evidence that the
169 original document has been filed with the Secretary of State.

170 14-12-129.

171 (a) Any person may apply to the Secretary of State to furnish a certificate of existence for
172 a domestic cooperative association or a certificate of authorization for a foreign cooperative
173 association.

174 (b) A certificate of existence or authorization sets forth:

175 (1) The domestic cooperative association's name or the foreign cooperative association's
176 name used in this state;

177 (2) That the domestic cooperative association is duly established under the law of this
178 state and the date of its establishment, or that the foreign cooperative association is
179 authorized to transact business in this state;

180 (3) That its most recent annual registration required by Code Section 14-12-121 has been
181 delivered to the Secretary of State; and

182 (4) That articles of dissolution have not been filed.

183 (c) Subject to any qualification stated in the certificate, a certificate of existence or
184 authorization issued by the Secretary of State may be relied upon as prima-facie evidence
185 that the domestic or foreign cooperative association is in existence or is authorized to
186 transact business in this state.

187 14-12-130.

188 A person who signs a document he or she knows is false in any material respect with intent
189 that the document be delivered to the Secretary of State for filing shall be guilty of a
190 misdemeanor and, upon conviction thereof, shall be punished by a fine not to
191 exceed \$500.00.

192 Part 3193 14-12-135.

194 The Secretary of State has the power reasonably necessary to perform the duties required
 195 of him or her by this chapter.

196 Part 4197 14-12-140.198 As used in this chapter, the term:

199 (1) 'Cooperative basis' means that net savings, after payment of any investment dividends
 200 or after provision for separate funds has been made as required or authorized by law, the
 201 certificate of formation, or bylaws, are:

202 (A) Allocated or distributed to a member patron or to each patron in proportion to
 203 patronage; or

204 (B) Retained by the entity for:

205 (i) Actual or potential expansion of the entity's services;

206 (ii) The reduction of charges to patrons; or

207 (iii) Any other purpose consistent with the entity's character.

208 (2) 'Invested capital' means funds invested in a cooperative association by an investor
 209 with the expectation of receiving an investment dividend.

210 (3) 'Investment dividend' means the return on invested capital or on membership capital
 211 derived from the net savings of the cooperative association.

212 (4) 'Membership capital' means the funds of a cooperative association derived from
 213 members of the cooperative association generally as a requirement of membership or in
 214 lieu of patronage dividends. Such term shall not include deposits or loans from members.

215 (5) 'Net savings' means the total income of a cooperative association less the costs of
 216 operation.

217 (6) 'Patronage dividend' means a share of the net savings distributed among members of
 218 the cooperative association on the basis of patronage, as provided by the certificate of
 219 formation.

220 (7) 'Savings returns' means the amount returned by a cooperative association to patrons
 221 of a cooperative association in proportion to patronage or otherwise.

222 14-12-141.

223 (a) Notice under this chapter shall be in writing or by electronic transmission unless oral
 224 notice is reasonable under the circumstances.

225 (b) Notice may be communicated in person; by telephone, electronic transmission, or other
226 form of wire or wireless communication; or by mail or private carrier. If these forms of
227 personal notice are impracticable, notice may be communicated by a newspaper of general
228 circulation in the area where published or by radio, television, or other form of public
229 broadcast communication. Unless otherwise provided in the bylaws, or this chapter, notice
230 by electronic transmission shall be deemed to be notice in writing for purposes of this
231 chapter.

232 (c) Written notice by a domestic or foreign cooperative association to its members, if in
233 a comprehensible form, is effective when mailed, if mailed with first-class postage prepaid
234 and correctly addressed to the member's address shown in the cooperative association's
235 current record of members. If the cooperative association has more than 500 members of
236 record entitled to vote at a meeting, it may utilize a class of mail other than first class if the
237 notice of the meeting is mailed, with adequate postage prepaid, not less than 30 days before
238 the date of the meeting.

239 (d) Written notice to a cooperative association authorized to transact business in this state
240 may be addressed to its registered agent at its registered office or to the cooperative
241 association or its secretary at its principal office shown in its most recent annual
242 registration or, in the case of a foreign cooperative association that has not yet delivered
243 an annual registration, in its application for a certificate of authority.

244 (e) Except as provided in subsections (c) and (h) of this Code section or in the bylaws,
245 written notice, if in a comprehensible form, is effective at the earliest of the following:

246 (1) When received or when delivered, properly addressed, to the addressee's last known
247 principal place of business or residence;

248 (2) Five days after its deposit in the mail, as evidenced by the postmark, if mailed with
249 first-class postage prepaid and correctly addressed; or

250 (3) On the date shown on the return receipt, if sent by registered or certified mail or
251 statutory overnight delivery, return receipt requested, and the receipt is signed by or on
252 behalf of the addressee.

253 (f) Oral notice is effective when communicated if communicated in a comprehensible
254 manner.

255 (g) In calculating time periods for notice under this chapter, when a period of time
256 measured in days, weeks, months, years, or other measurement of time is prescribed for the
257 exercise of any privilege or the discharge of any duty, the first day shall not be counted but
258 the last day shall be counted.

259 (h)(1) Without limiting the manner by which notice otherwise may be given effectively
260 to members, any notice to members given by the cooperative association under any
261 provision of this chapter or the bylaws shall be effective if given by a form of electronic

262 transmission consented to by the member to whom the notice is given. Any such consent
263 shall be revocable by the member by written notice to the cooperative association. Any
264 such consent shall be deemed revoked if:

265 (A) The cooperative association is unable to deliver by electronic transmission two
266 consecutive notices given by the corporation in accordance with such consent; and

267 (B) Such inability becomes known to the secretary or an assistant secretary of the
268 cooperative association or to the transfer agent or other person responsible for the
269 giving of notice; provided, however, that the inadvertent failure to treat such inability
270 as a revocation shall not invalidate any meeting or other action.

271 (2) Notice given pursuant to this subsection shall be deemed effective:

272 (A) If by facsimile telecommunication, when transmitted to a number at which the
273 member has consented to receive notice;

274 (B) If by email, when transmitted to an email address at which the member has
275 consented to receive notice;

276 (C) If by a posting on an electronic network together with separate notice to the
277 member of such specific posting, upon the later of (i) such posting or (ii) the giving of
278 such separate notice; and

279 (D) If by any other form of electronic transmission, when transmitted to the member.

280 (i) An affidavit, certificate, or other written confirmation of the secretary or an assistant
281 secretary or of the transfer agent or other agent of the cooperative association that the
282 notice has been given under this Code section shall, in the absence of fraud, be prima-facie
283 evidence of the facts stated therein.

284 (j) The cooperative association may be obligated to accept from a member consents,
285 requests, demands, or notices given and delivered under this chapter to the principal place
286 of business of the cooperative association or to an officer or agent of the cooperative
287 association having custody of the books in which proceedings of meetings of members are
288 recorded by electronic transmission only as provided by resolution of the board of directors
289 of the cooperative association or in the certificate of formation.

290 (k) Unless the registered agent of the corporation shall provide written consent to the
291 cooperative association to the receipt of a member's consent, request, demand, or notice by
292 electronic transmission under this chapter, delivery made to a cooperative association's
293 registered office shall be made by hand or by certified or registered mail or statutory
294 overnight delivery, return receipt requested.

295 (l) If this chapter prescribes notice requirements for particular circumstances, those
296 requirements govern. If certificates of formation or bylaws prescribe notice requirements,
297 not inconsistent with this Code section or other provisions of this chapter, those
298 requirements govern.

299

Part 5300 14-12-160.

301 (a) If for any reason it is impractical or impossible for any cooperative association to call
302 or conduct a meeting of its members or directors, or otherwise obtain their consent, in the
303 manner prescribed by its certificate of formation, bylaws, or this chapter, then upon petition
304 of a director, officer, member, or the Attorney General, the superior court may order that
305 such a meeting be called or that a ballot in writing or by electronic transmission or other
306 form of obtaining the vote of members or directors be authorized, in such a manner as the
307 court finds fair and equitable under the circumstances.

308 (b) The court shall, in an order issued pursuant to this Code section, provide for a method
309 of notice reasonably designed to give actual notice to all persons who would be entitled to
310 notice of a meeting held pursuant to the certificate of formation, bylaws, or this chapter,
311 whether or not the method results in actual notice to all such persons or conforms to the
312 notice requirements that would otherwise apply. In a proceeding under this Code section,
313 the court may determine who the members or directors are.

314 (c) The order issued pursuant to this Code section may dispense with any requirement
315 relating to the holding of or voting at meetings or obtaining votes, including any
316 requirement as to quorums or as to the number or percentage of votes needed for approval,
317 that would otherwise be imposed by the certificate of formation, bylaws, or this chapter.

318 (d) Whenever practical, any order issued pursuant to this Code section shall limit the
319 subject matter of meetings or other forms of consent authorized to items, including
320 amendments to the certificate of formation, the resolution of which will or may enable the
321 cooperative association to continue managing its affairs without further resort to this Code
322 section; provided, however, that an order under this Code section may also authorize the
323 obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale
324 of assets.

325 (e) Any meeting or other method of obtaining the vote of members or directors conducted
326 pursuant to an order issued under this Code section, and that complies with all the
327 provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and
328 shall have the same force and effect as if it complied with every requirement imposed by
329 the certificate of formation, bylaws, and this chapter.

ARTICLE 2

330

331 14-12-201.

332 (a) After a cooperative association's certificate of formation is filed, the cooperative
333 association shall hold an organization meeting in accordance with subsection (b) of this
334 Code section.

335 (b) After the certificate of formation is filed, the board of directors named in the certificate
336 of formation of a cooperative association shall hold an organization meeting of the board,
337 either in or out of this state, at the call of the organizers or a majority of the directors to
338 adopt bylaws and elect officers and for other purposes determined by the board at the
339 meeting. The organizers or directors calling the meeting shall send notice of the time and
340 place of the meeting to each director named in the certificate of formation not later than the
341 third day before the date of the meeting.

342 (c) A first meeting of the members may be held at the call of the majority of the directors
343 on notice provided not later than the third day before the date of the meeting. The notice
344 must state the purposes of the meeting.

345 (d) If the management of a cooperative association is vested in the cooperative
346 association's members, the members shall hold the organization meeting on the call of an
347 organizer. An organizer who calls the meeting shall:

348 (1) Send notice of the time and place of the meeting to each member not later than the
349 third day before the date of the meeting; or

350 (2) Send notice of the meeting in the manner provided by the certificate of formation.

351 14-12-202.

352 (a) The board of directors of a cooperative association may propose an amendment to the
353 cooperative association's certificate of formation by a two-thirds' vote of the board
354 members. The members of a cooperative association may petition to amend the certificate
355 of formation as provided by the bylaws.

356 (b) Not later than 31 days before the date of the meeting, the secretary shall:

357 (1) Send notice of a meeting to consider a proposed amendment to each member of the
358 cooperative association at the member's last known address; or

359 (2) Post notice of a meeting to consider a proposed amendment in a conspicuous place
360 in all principal places of activity of the cooperative association.

361 (c) The notice required by subsection (b) of this Code section shall include the full text of
362 the proposed amendment and the text of the part of the certificate of formation to be
363 amended.

364 (d) To be approved, an amendment shall be adopted by the affirmative vote of two-thirds
 365 of the members voting on the amendment.

366 (e) Not later than 30 days after the date an amendment is adopted by the members of a
 367 cooperative association, the cooperative association shall file a certificate of amendment
 368 with the Secretary of State. The certificate of amendment shall be:

369 (1) Signed by an authorized officer of the cooperative association; and

370 (2) In the form required by the Secretary of State and this chapter.

371 14-12-203.

372 (a) Unless the certificate of formation or bylaws of a cooperative association require a
 373 greater majority, the bylaws shall be adopted, amended, or repealed by a majority vote of
 374 the cooperative association's members voting on the matter.

375 (b) Except as provided by this chapter, the bylaws may contain:

376 (1) Requirements for admission to membership;

377 (2) Requirements for disposal of a member's interest on cessation of membership;

378 (3) The time, place, and manner of calling and conducting meetings;

379 (4) The number or percentage of the members constituting a quorum;

380 (5) The number, qualifications, powers, duties, and term of directors and officers;

381 (6) The method of electing, removing, and filling a vacancy of directors and officers;

382 (7) The division or classification, if any, of directors to provide for staggered terms;

383 (8) The compensation, if any, of the directors;

384 (9) The number of directors necessary to constitute a quorum;

385 (10) The method for distributing the net savings;

386 (11) A requirement that each officer or employee of the cooperative association who
 387 handles funds or securities be bonded; and

388 (12) Any other provision incident to a purpose or activity of the cooperative association.

389 14-12-204.

390 The board of directors of a cooperative association may adopt a restated certificate of
 391 formation by following the procedure to amend the association's certificate of formation
 392 provided for in Code Section 14-12-202, except that member approval is required if the
 393 restated certificate of formation contains an amendment.

394 ARTICLE 3

395 14-12-301.

396 (a) A cooperative association shall be managed by a board of directors.

397 (b) The board of directors shall contain at least five directors elected by and from the
 398 cooperative association's members. A director shall:

399 (1) Serve a term not to exceed three years as provided by the bylaws; and

400 (2) Hold office until the director is removed or the director's successor is elected.

401 (c) The bylaws of a cooperative association may:

402 (1) Apportion the number of directors among the units into which the cooperative
 403 association may be divided; and

404 (2) Provide for the election of the directors by the respective units to which the directors
 405 are apportioned.

406 (d) An executive committee of the board of directors may be elected in the manner and
 407 with the powers and duties specified by the certificate of formation or bylaws.

408 14-12-302.

409 (a) The directors of a cooperative association shall annually elect, unless otherwise
 410 provided for by the bylaws, the following officers for the cooperative association:

411 (1) A president;

412 (2) One or more vice presidents; and

413 (3) A secretary and treasurer or a secretary-treasurer.

414 (b) Any two or more offices, other than the offices of president and secretary, may be held
 415 by the same person.

416 (c) The officers of a cooperative association may be designated by other titles as provided
 417 by the certificate of formation or the bylaws of the cooperative association.

418 (d) A committee duly designated by the board of directors may perform the functions of
 419 any office, and the functions of any two or more officers may be performed by a single
 420 committee, including the functions of both president and secretary.

421 14-12-303.

422 (a) A director or officer of a cooperative association may be removed from office in the
 423 manner provided by the certificate of formation or bylaws of the cooperative association.

424 (b) If the certificate of formation or bylaws do not provide for the person's removal, a
 425 director or officer may be removed with cause by a vote of a majority of the members
 426 voting at a regular or special meeting. The director or officer who is to be removed is
 427 entitled to be heard at the meeting.

428 (c) Except as provided by the certificate of formation or bylaws, a vacancy on the board
 429 of directors caused by removal shall be filled by a director elected in the same manner
 430 provided by the bylaws for the election of directors.

431 14-12-304.

432 (a) The certificate of formation or bylaws of a cooperative association may provide for a
433 referendum on any action undertaken by the cooperative association's board of directors
434 if the referendum is:

435 (1) Requested by petition of 10 percent or more of all of the members of the cooperative
436 association; or

437 (2) Requested and approved by the vote of at least a majority of the directors of the
438 cooperative association.

439 (b) The proposition to be voted on in a referendum authorized under subsection (a) of this
440 Code section shall be submitted to the members of the cooperative association for
441 consideration within the time specified in the document authorizing the referendum.

442 (c) A right of a third party that has vested between the time of the action and the time of
443 the referendum shall not be impaired by the referendum results.

444 ARTICLE 4

445 14-12-401.

446 A person or an unincorporated group or other person organized on a cooperative basis or
447 a nonprofit group may be admitted to membership in a cooperative association only if the
448 person meets the qualifications for eligibility stated in the certificate of formation or bylaws
449 of the cooperative association.

450 14-12-402.

451 (a) A member of a cooperative association may be expelled by the vote of a majority of
452 the cooperative association's members voting at a regular or special meeting.

453 (b) Not later than 11 days before the date of the meeting at which the member is proposed
454 to be expelled, the cooperative association shall give such member written notice of the
455 charges. Such member shall be entitled to be heard at the meeting in person or by counsel.

456 (c) If the cooperative association votes to expel a member, the cooperative association's
457 board of directors shall cause the cooperative association to purchase the member's capital
458 holdings at par value if the purchase does not jeopardize the cooperative association's
459 solvency.

460 14-12-403.

461 (a) A person is a subscriber of a cooperative association only if the person is:

462 (1) Eligible for membership in the cooperative association under Code
463 Section 14-12-401; and

464 (2) Legally obligated to purchase a share or membership in the cooperative association.
465 (b) The certificate of formation or bylaws of a cooperative association may state whether
466 and the conditions under which voting rights or other membership rights are granted to a
467 subscriber of the cooperative association.

468 14-12-404.

469 (a) Except as provided by subsection (b) of this Code section, a member or subscriber of
470 a cooperative association shall not be jointly or severally liable for a debt of the cooperative
471 association. A subscriber shall be liable for any unpaid amount on the subscriber's
472 membership certificates or invested capital certificates.

473 (b) A subscriber who assigns the subscriber's interest in membership certificates or
474 invested capital certificates is jointly and severally liable with the assignee until the
475 appropriate certificates are fully paid.

476 ARTICLE 5

477 14-12-501.

478 (a) A cooperative association shall not issue a certificate for membership capital or for
479 invested capital until any par value of the certificate has been paid in full.

480 (b) Each certificate for membership capital issued by a cooperative association shall
481 contain a statement of the requirements of subsections (a) and (b) of Code
482 Section 14-12-502.

483 (c) Each certificate for invested capital issued by a cooperative association shall contain
484 a statement of the restrictions on transferability as provided for by the cooperative
485 association's bylaws.

486 14-12-502.

487 (a) A member who decides to withdraw from a cooperative association shall make a
488 written offer to sell the member's membership certificates to the cooperative association's
489 board of directors.

490 (b) Not later than 90 days after the date the directors receive an offer under subsection (a)
491 of this Code section, the directors may cause the cooperative association to purchase the
492 holdings by paying such member the par value of the certificates and the directors shall
493 cause the cooperative association to reissue or cancel the shares after purchasing the
494 holdings. The directors shall cause the cooperative association to purchase the shares if a
495 majority of the cooperative association's members voting at a regular or special meeting
496 vote to require the purchase.

497 (c) An investor owning investor certificates shall sell, assign, or convey the certificates in
498 accordance with the cooperative association's bylaws. If an investor fails to sell, assign,
499 or convey investor certificates in accordance with the bylaws, the cooperative association
500 on written notice to its directors shall repurchase the certificates by paying the investor the
501 par value of the certificate plus all accrued investment dividends. The certificates shall be
502 repurchased not later than 90 days after the date the cooperative association receives notice
503 of the failure.

504 14-12-503.

505 (a) The bylaws of a cooperative association may authorize the cooperative association's
506 board of directors to recall during a specified time and in accordance with the bylaws the
507 membership certificates of a member who fails to patronize the cooperative association.
508 The board may use the reserve funds to recall, at par value, the membership certificates of
509 any member in excess of the amount required for membership.

510 (b) After the board of directors of a cooperative association recalls a membership
511 certificate under subsection (a) of this Code section, membership in the cooperative
512 association shall be terminated and the board shall cause the cooperative association to
513 reissue or cancel the certificate. The board of directors shall not recall membership
514 certificates if recalling the certificates would jeopardize the cooperative association's
515 solvency.

516 (c) The board of directors may use the reserve funds to recall and repurchase the
517 investment certificates of an investor at par value plus any investment dividends due.

518 (d) The bylaws of a cooperative association may establish specific procedures, terms, and
519 conditions for recalls and repurchases of investment certificates.

520 14-12-504.

521 The minimum amount necessary for membership in a cooperative association, not to
522 exceed \$50.00, shall be exempt from attachment, execution, or garnishment for the debts
523 of a member of a cooperative association. If a member's holdings are subject to
524 attachment, execution, or garnishment, the directors of the cooperative association shall
525 admit the purchaser to membership or purchase the holdings at par value.

526 ARTICLE 6

527 14-12-601.

528 (a) Regular meetings of members of a cooperative association shall be held at least once
529 a year as prescribed by the cooperative association's bylaws.

530 (b) A special meeting of the members of a cooperative association may be requested by
531 a majority vote of the directors or by written petition of at least one-tenth of the
532 membership of the cooperative association. The secretary shall call a special meeting to
533 be held 30 days after receipt of the request for a special meeting.

534 14-12-602.

535 The notice of a special meeting of the members of a cooperative association shall state the
536 purpose of the meeting.

537 14-12-603.

538 (a) The certificate of formation or bylaws of a cooperative association may provide for the
539 holding of meetings by units of the membership of the cooperative association and may
540 provide for:

541 (1) A method of transmitting the votes cast at unit meetings to the central meeting;

542 (2) A method of representation of units of the membership by the election of delegates
543 to the central meeting; or

544 (3) A combination of both methods.

545 (b) Except as otherwise provided for by the certificate of formation or bylaws, a meeting
546 by a unit of the membership shall be called and held in the same manner as a regular
547 meeting of the members.

548 14-12-604.

549 (a) Except as provided for by subsection (b) of this Code section, a member of a
550 cooperative association has one vote.

551 (b) If a cooperative association includes among its membership another cooperative
552 association or a group that is organized on a cooperative basis, the voting rights of the
553 cooperative association member or group member shall be prescribed by the certificate of
554 formation or bylaws of the cooperative association.

555 (c) Any voting agreement or other device that is made to evade the one-member-one-vote
556 rule provided for under subsection (a) of this Code section shall not be enforceable.

557 14-12-605.

558 A member is not entitled to vote by proxy.

559 14-12-606.

560 (a) The certificate of formation or bylaws of a cooperative association may contain the
 561 procedures in subsection (b) or (c), or both, of this Code section for voting by mail or
 562 electronic ballot.

563 (b) With notice of a meeting sent to members of the cooperative association, the secretary
 564 may include a copy of a proposal to be offered at the meeting. If a mail vote is returned
 565 to the cooperative association within the specified number of days, the mail or electronic
 566 ballot vote shall be counted with the votes cast at the meeting.

567 (c) The secretary may send to a member of the cooperative association who is absent from
 568 a meeting an exact copy of the proposal considered at the meeting. If the vote is returned
 569 to the cooperative association within the specified number of days, the mail or electronic
 570 ballot vote is counted with the votes cast at the meeting.

571 (d) The certificate of formation or bylaws may state whether and to what extent mail votes
 572 or electronic ballot are counted in computing a quorum.

573 14-12-607.

574 (a) If a cooperative association has provided for voting by mail, electronic ballot, or by
 575 delegates, a provision of this chapter referring to votes cast by members of the cooperative
 576 association applies to votes cast by mail, electronic ballot, or by delegates.

577 (b) A delegate shall not vote by mail or electronic ballot.

578 ARTICLE 7

579 14-12-701.

580 (a) Except as otherwise provided by the cooperative association's bylaws, an investment
 581 dividend of a cooperative association shall not be cumulative.

582 (b) Total investment dividends of a cooperative association distributed for a fiscal year
 583 shall not exceed 50 percent of the net savings for the period.

584 14-12-702.

585 (a) At least once each year the members or directors of a cooperative association, as
 586 provided by the certificate of formation or bylaws of the cooperative association, shall
 587 apportion the net savings of the cooperative association in the following order:

588 (1) Subject to Code Section 14-12-701, investment dividends payable from the surplus
 589 of the total assets over total liabilities may be paid on invested capital or, if authorized
 590 by the bylaws, may be paid on the membership certificates;

- 591 (2) A portion of the remainder, as determined by the certificate of formation or bylaws,
 592 may be allocated to an educational fund to be used in teaching cooperation;
 593 (3) A portion of the remainder may be allocated to funds for the general welfare of the
 594 members of the cooperative association;
 595 (4) A portion of the remainder may be allocated to retained earnings; and
 596 (5) The remainder shall be allocated at the same uniform rate to each patron of the
 597 cooperative association in proportion to individual patronage as follows:
 598 (A) For a member patron, the proportionate amount of savings returns distributed to
 599 the member may be any combination of cash, property, membership certificates, or
 600 investment certificates; and
 601 (B) For a subscriber patron, the patron's proportionate amount of savings returns as
 602 provided by the certificate of formation or bylaws may be distributed to the subscriber
 603 patron or credited to the subscriber patron's account until the amount of capital
 604 subscribed for has been fully paid.
 605 (b) Nothing in this Code section shall be construed to prevent a cooperative association
 606 engaged in rendering services from disposing of the net savings from the rendering of
 607 services in a manner that lowers the fees charged for services or furthers the common
 608 benefit of the members.
 609 (c) A cooperative association may adopt a system in which:
 610 (1) The payment of savings returns that would otherwise be distributed are deferred for
 611 a fixed period; or
 612 (2) The savings returns distributed are partly in cash or partly in shares, to be retired at
 613 a fixed future date, in the order of the shares' serial numbers or issuance dates.

614 ARTICLE 8

615 14-12-801.

616 A cooperative association shall keep books and records relating to the cooperative
 617 association's business operation in accordance with standard accounting practices.

618 14-12-802.

619 (a) A cooperative association shall submit a written report to its members at the annual
 620 meeting of the cooperative association. The annual report shall contain:

621 (1) A balance sheet;

622 (2) An income and expense statement;

623 (3) The amount and nature of the cooperative association's authorized, subscribed, and
 624 paid-in capital;

- 625 (4) The total number of shareholders;
626 (5) The number of shareholders who were admitted to or withdrew from the association
627 during the year;
628 (6) The par value of the association's shares;
629 (7) The rate at which any investment dividends have been paid; and
630 (8) If the cooperative association does not issue shares:
631 (A) The total number of members;
632 (B) The number of members who were admitted to or withdrew from the association
633 during the year; and
634 (C) The amount of membership fees received.
635 (b) The directors shall appoint a committee composed of members who are not principal
636 bookkeepers, accountants, or employees of the cooperative association to review the
637 cooperative association.
638 (c) The committee appointed under subsection (b) of this Code section shall report on the
639 quality of the annual report required by this Code section and the bookkeeping system of
640 the cooperative association at the annual meeting.

641 ARTICLE 9

642 14-12-901.

- 643 (a) A cooperative association may wind up and terminate its affairs for the cause and in
644 like manner as provided for under Part 1 of Article 14 of Chapter 2 of this title.
645 (b) If a cooperative association is directed to wind up and liquidate its affairs for the
646 grounds and in like manner as provided for under Part 3 or 4 of Article 14 of Chapter 2 of
647 this title, three members of the cooperative association elected by a vote of at least a
648 majority of the members voting shall be designated as trustees on behalf of the cooperative
649 association to:
650 (1) Pay debts;
651 (2) Liquidate the cooperative association's assets within the time set in the trustees'
652 designation or any extension of time; and
653 (3) Distribute the cooperative association's assets in the manner provided by Code
654 Section 14-12-903.

655 14-12-902.

- 656 An officer of a cooperative association or one or more of the persons designated as a
657 liquidating trustee under Code Section 14-12-901 shall execute the certificate of
658 termination on behalf of the cooperative association.

659 14-12-903.

660 The trustees designated under Code Section 14-12-901 shall distribute the cooperative
 661 association's assets in the following order:

662 (1) By returning the par value of the investors' capital to investors;

663 (2) By returning the amounts paid on subscriptions to subscribers for invested capital;

664 (3) By returning the amount of patronage dividends credited to patrons' accounts to the
 665 patrons;

666 (4) By returning to members their membership capital; and

667 (5) By distributing any surplus in the manner provided by the certificate of formation:

668 (A) Among the patrons who have been members or subscribers of the cooperative
 669 association during the six years preceding the date of termination, on the basis of
 670 patronage during that period;

671 (B) As a gift to any cooperative association or other nonprofit enterprise designated in
 672 the certificate of formation; or

673 (C) By a combination of both methods of distribution.

674 14-12-904.

675 A suit for involuntary termination of a cooperative association organized under this chapter
 676 may be instituted for the grounds and prosecuted in the manner provided by Article 14 of
 677 Chapter 2 of this title. The assets of a cooperative association that is involuntarily
 678 terminated shall be distributed in accordance with Code Section 14-12-903.

679 ARTICLE 10

680 14-12-1001.

681 Only a cooperative association governed by this chapter, a group organized on a
 682 cooperative basis under another law of this state, or a foreign entity operating on a
 683 cooperative basis and authorized to do business in this state may use the term 'cooperative'
 684 or any abbreviation or derivation of the term 'cooperative' as part of its business name or
 685 represent itself, in advertising or otherwise, as conducting business on a cooperative basis."

686 **SECTION 2.**

687 All laws and parts of laws in conflict with this Act are repealed.