

LWCA Template Coop Agreement

BOARD

Board of Directors Basics

- The Board consists of a group of individuals who serve as the governing body of the cooperative
- The Board makes important decisions regarding how to run the cooperative and achieve the cooperative goals
- The Board should be accountable to the rest of the members through the holding of elections, asking for worker feedback, distributing meeting minutes, and other acts that allow for more transparency and communication with the other members.

Board of Directors Basics Part II

- The cooperative must either have:
 1. A board of directors; or
 2. A collective worker cooperative
- A **collective worker cooperative** means the limited cooperative association has only one class of members consisting of worker-members who manage all of the affairs of the limited cooperative association
- Some considerations in deciding between board versus collective:
 - Whether the cooperative wants all of its members to help manage or to allow for a smaller group to provide oversight
 - How big the cooperative will be (smaller cooperatives may not need a Board)

Requirements

- The board shall consist of at least 3 individuals, provided the LCA is not a collective worker cooperative.
- The directors shall be elected by a majority vote of the assembly for each term.
- A term shall mean _____.

Duties

- The board shall manage the affairs of the limited cooperative association.
- The board may delegate its managerial responsibilities to the assembly of the limited cooperative association.
- The board may adopt policies and procedures that do not conflict with the articles, bylaws, or the IL LWCA.
- A director is not personally liable, directly or indirectly, for an obligation of this association solely by reason of being a director.
- The directors may set up a time for the assembly to hold its annual meeting, provided it is not inconsistent with the articles and bylaws
- The board may adopt a plan of conversion for the limited cooperative association to convert into any form of entity. This plan must be voted on by the assembly.

Assembly - Basics

- The assembly shall consist of the voting members of the cooperative.
- One is not an agent to make decisions on behalf of the cooperative just by being a part of the assembly
- A voting member is not personally liable, directly or indirectly, for any debt, obligation or other liability of the limited cooperative association solely by reason of being a voting member

Assembly - Voting

- DISSOLUTION

A limited cooperative association may be dissolved by either

(a) $\frac{2}{3}$ vote of the assembly

(b) a vote of the assembly of a supermajority threshold stated in the bylaws that is more than $\frac{2}{3}$

- CONVERSION

Once the board votes on a plan of conversion for the limited cooperative association into another entity, the assembly may adopt this plan with a $\frac{2}{3}$ vote.

MEETINGS

Meetings to be Held

1. Annual Meeting
2. Organizational Meeting**
3. Meeting of the Initial Directors**
4. Member Meetings

****Notes:**

- This may not be applicable depending on whether initial directors are named in the article.
- Initial directors need not be members but serve until a successor is elected and qualified at a members' meeting or the director is removed, resigns, is adjudged incompetent, or dies.

Annual Meeting

- The assembly should meet at a time provided herein, set in the articles, or set by the board of directors
 - Must not be inconsistent with the bylaws or articles
 - **The assembly of the limited cooperative association** means the total voting membership
- Failure to hold a meeting does not affect the validity of any action by the limited cooperative association

Other Meetings

- If initial directors are named in the articles, the initial directors shall hold an organizational meeting to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association
- If initial directors are not named in the articles, the organizers shall designate the initial directors and call a meeting of the initial directors to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association.

Member Meetings

1. The limited cooperative association shall notify each member of the time, date, and place of a members' meeting at least 10 and not more than 60 days before the meeting
2. If notice of a meeting is in one or more districts or classes of members, the notice shall be given only to members in those districts or classes

FINANCES

Taxation

The LWCA will be taxed as a **[S corporation, C corporation, Limited Liability Company, or Partnership]**

If the LWCA is taxed as a corporation or is a farmer cooperative taxed under Section 521 add the following language: “and it issues patronage dividends to members as defined by Subchapter T of the Internal Revenue Code. Members acknowledge that they are responsible for reporting those patronage dividends on their personal tax returns.”

The fiscal year of the LWCA will **[follow the calendar year or will start on ADD DATE and end on ADD DATE]**.

Allocation of Earnings and Losses - Members

At **[the end of the fiscal year and any other time the board decides]** the LWCA will allocate, and may distribute, net earnings to each member in proportion to the member's patronage, which is measured **[by number of hours worked] or [according to another method approved by the Board]**.

Income from non-patrons will not be allocated to members.

Losses will be allocated in any manner the Board determines to be fair and equitable, considering the circumstances leading and contributing to the loss.

Member Account

Each member will have a member account.

When the member joins, the member's account balance will equal the member's capital contribution.

Any income, losses, and distributions of the LWCA will either be recorded in the member's account, paid out as a distribution, or recorded in the collective account as a reserve.

When a Membership Ends

When a member leaves the LWCA the member will receive:

1. The **member's share of any undistributed allocations**; and
2. The balance in the member's member account.

If the LWCA does not have enough cash to pay out the departing member, the Board may approve a payment plan that allows the Board to pay the amount in **[quarterly installments]** for a period that does not exceed **[5 years]**.

When the Cooperative Ends

If the cooperative is dissolved or sold, or if substantially all of its assets are transferred, any proceeds remaining after creditors are paid will be distributed:

1. First to current members to pay their Member Account balances;
2. Next to current and living former members that the cooperative can find with reasonable effort, in proportion to their lifetime patronage of the cooperative.

OR

2. To a charitable organization the members approve by a **[majority vote]**.

Members

Membership

Membership. Membership in the Cooperative shall be open to all persons interested in the Cooperative's purposes.

Membership Dues. The Board may establish such other criteria for Membership such as a schedule of dues as it deems appropriate.

Classes of Membership. The Cooperative shall have one class of Members.

Meetings

- The annual meeting of the Members (the "Annual Meeting of the Members") for the election of Directors and for the transaction of such other business as may come before the Members, including the delivery of a financial statement shall be held each year at the place, time, and date, in the month of [MONTH], as may be fixed by the Board, or, if not so fixed, as may be determined by the President of the Board. Special meetings of the Members shall be held whenever called by resolution of the Board, the Executive Director, if any, or by a written demand to the Secretary of ten percent (10%) of the Members eligible to vote.
- The Secretary upon receiving written demand or resolution shall promptly give notice of such meeting as provided in Section 3.05, or if the Secretary fails to do so within five (5) business days thereafter, any Member signing such demand may give such notice.
- The President of the Cooperative shall preside at the meetings of the Members, or in the absence of the President, an acting President shall be chosen by the Members present. The Secretary of the Cooperative shall act as Secretary at all meetings of the Members, or in the absence of the Secretary, an acting Secretary shall be chosen by the Members present.

Notice of Meetings

- Written notice of the place, date, and hour of any meeting shall be given to each Member entitled to vote at such meeting by mailing the notice by first class mail with postage prepaid, personal delivery, fax, or email not less than ten (10) nor more than fifty (50) days before the date of the meeting. Notice of any meeting other than the Annual Meeting of the Members shall indicate the person or persons calling the meeting, and notice of any special meeting shall also indicate the purpose for which it is called.
- [Notice may be served by publishing a notice in a newspaper published in the county in which the Cooperative's principal office is located at least once a week for three successive weeks before the meeting and by prominently displaying the notice on the Cooperative's webpage from the date of publication through the date of the meeting.]

Quorum

- At all meetings of Members, ten percent (10%) of the Members eligible to vote or one hundred (100) Members eligible to vote, whichever is less, present in person or by proxy, shall constitute a quorum for the transaction of business. In the absence of a quorum, the Members present in person shall adjourn the meeting from that time until a quorum is present.
- Notice of the new meeting is not required if the time and place for the new meeting is announced at the meeting at which the adjournment is taken, and at the new meeting any business may be transacted which might have been transacted at the meeting as originally called.

Proxy

- Every member entitled to vote at a meeting of Members or to express consent or dissent without a meeting may authorize another person or persons to act for such Member by proxy.
- Every proxy must be in writing and signed by the Member or the Member's duly authorized officer, director, employee, or agent, or by email setting forth information from which it can be reasonably determined that the proxy was authorized by such Member.
- No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided by law. For the purposes of conducting meetings, all proxies shall be delivered to the Secretary of the Cooperative or, upon the absence of a Secretary, the presiding Member appointed to act as secretary of the meeting.

Action Without a Meeting

- Action may be taken without a meeting on written consent, setting forth the action to be taken, signed by all the Members.
- Such consent may be written or electronic.
- If consent is electronic it must be able to be reasonably determined to have been sent by the Member.

By-Laws

- The by-laws shall be adopted at a Special Meeting of the Members or at the Annual Meeting of Members.
- Prior to the adoption, the proposed by-laws are to be circulated to the Members no later than [NUMBER] days prior to the meeting to adopt the by-laws.
- A majority of the votes cast at the meeting of Members to adopt the by-laws shall be the act of the Members.

Actions Requiring Vote of Members.

The following corporate actions may not be taken without the approval of the Members:

- a. A plurality of the votes cast at a meeting of the Members is required for the election of Directors of the Cooperative.
- b. A majority of the votes cast at a meeting of the Members is required for:
 - i. Any amendment of the Certificate of Incorporation, or
 - ii. A petition for judicial dissolution.
- c. Two-thirds of the votes cast at a meeting of the Members is required for:
 - i. Disposing of all, or substantially all, of the assets of the Cooperative,
 - ii. Approval of a plan of merger,
 - iii. Authorization of a plan of non-judicial dissolution, or
 - iv. Revocation of a voluntary dissolution proceeding.

provided, however, that the affirmative votes cast in favor of any action described in this subsection (c) shall be at least equal to the minimum votes necessary to constitute a quorum. Abstentions from voting or blank votes cast by ballot shall not be counted toward the number of votes.

ADMINISTRATION

Recordkeeping – Members and Other Investors

Record	How and Where to Keep It
Name and personal address of each current and past member	Keep them as permanent records in the primary office of the LWCA.
Annual patronage of each current and past member and their patron or non-patron membership interests	Keep them as permanent records in the primary office of the LWCA.
Name and personal address of each current and past outside investor	Keep them as permanent records in the primary office of the LWCA.

Recordkeeping – Board & General

Record	How and Where to Keep It
Contact information for current board members and officers	Create a document including their names and business contact information and keep it at the primary office of the LWCA.
Minutes and agendas of all member meetings and board meetings, and all waivers of notices of meetings by members and/or directors	Keep them as permanent records in the primary office of the LWCA.
All actions taken by the members or board without a meeting	Keep them as permanent records in the primary office of the LWCA.
All governing documents (Bylaws, Articles of Organization, and any amendments and restatements)	Keep them as permanent records in the primary office of the LWCA.

Recordkeeping – Financial

Record	How and Where to Keep It
Complete and accurate financial records (interim financial statements and year-end financial statements along with supporting documents)	Keep physical and electronic records for [3 years] from the date they were prepared. OR Keep physical copies for [3 years] and electronic copies [indefinitely] .
Tax Returns	Keep physical and electronic records for 3 years from the date the original return was filed or 2 years from the date the tax was paid, whichever is later

Access to Records

Members **[may submit a written request]** to receive a copy of the records mentioned above.

OR

Members will be given a copy of the records mentioned above **[within X days of joining the LWCA]**.

AND

The board may implement policies that require records to be kept confidential as well as policies that limit sharing the records within the LWCA.

Worker Designation

Election to be organized as a worker cooperative does not create a presumption that workers are employees of the corporation for any purposes.

Binding the LWCA

A member may not act for or bind the LWCA unless **[the member is acting as the LWCA's President or Board Chair]**. The Board may designate **[other individuals or officers, directors, staff]** engaged in the LWCA to bind the LWCA.

Notice of Member Meetings

Who: each member, unless the meeting pertains to one or more districts or a class—only to the pertinent district or class.

Contents: notice must contain the time, date, and place.

When: at least 10 days before the meeting, but not more than 60 days before the meeting.

Changing the Articles

The LWCA's Articles of Organization may be changed by:

1. Having a **[majority]** of the board members vote to pass the change;
2. Sending the proposed change to all the members along with notice of the members' meeting;
3. Having a **[quorum]** of members present;
4. Receiving a **[majority vote]** to pass the proposed change; and
5. Having an authorized officer or director file the articles of amendment with the Illinois Secretary of State.

Changing the Bylaws

The LWCA's bylaws may be changed by:

1. Sending the proposed change to all the members along with notice of the members' meeting;
2. Having a [**quorum**] of members present; and
3. Receiving a [**majority vote**] to pass the proposed change.

Conversion

The LWCA may convert into any other permitted entity if:

- 1) the board of directors adopts a plan of conversion, and
- 2) the assembly adopts the plan by a 2/3 majority vote.

How to End (Dissolve) the LWCA

1. Vote Required

- a) 2/3 vote of the assembly or
- b) Supermajority vote of the assembly as stated in the by-laws, if it requires more than 2/3

2. Follow the Limited Liability Company Act procedures for winding up the business and activities