

SENATE BILL 524

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2001 Regular Session  
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By: **Senator Middleton**

Introduced and read first time: February 2, 2001

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Electric Cooperatives - Services and Governance**

3 FOR the purpose of authorizing electric cooperatives to supply certain services to  
4 certain persons or entities under certain circumstances; authorizing certain  
5 entities to become electric cooperatives; authorizing electric cooperatives to  
6 form, organize, acquire, hold, dispose of, and operate an interest in certain  
7 entities under certain circumstances; requiring an electric cooperative to comply  
8 with certain orders of the Public Service Commission; requiring an electric  
9 cooperative to provide a certain education program under a certain  
10 circumstance; altering the types of officers and duties of officers of electric  
11 cooperatives; providing for the election and duties of a chairman and vice  
12 chairman of the board of directors of electric cooperatives; altering the  
13 requirements for membership in an electric cooperative; altering certain  
14 requirements for annual and special meetings of the members of electric  
15 cooperatives; modifying the filing fees for electric cooperative documents at the  
16 State Department of Assessments and Taxation; repealing certain provisions of  
17 law providing for the protection of an electric cooperative's territory; altering a  
18 limitation on refunds to persons not members of an electric cooperative; defining  
19 a certain term; making stylistic changes; requiring the Department of  
20 Legislative Services to prepare certain draft legislation; and generally relating  
21 to electric cooperatives.

22 BY repealing and reenacting, with amendments,  
23 Chapter 179 of the Acts of the General Assembly of 1976  
24 Section 1

25 BY repealing and reenacting, without amendments,  
26 Chapter 179 of the Acts of the General Assembly of 1976  
27 Section 2

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
29 MARYLAND, That the Laws of Maryland read as follows:

1

**Chapter 179 of the Acts of 1976**

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That Sections 379 through 411, inclusive, of Article 23 - Corporations of  
4 the Annotated Code of Maryland (1973 Replacement Volume and 1975 Supplement),  
5 be and they are hereby repealed and reenacted with amendments and transferred  
6 from the Annotated Code of Maryland to the Session Laws, to read as follows:

7

**Article 23 - Corporations**

8 1. Short title.

9 This act may be cited as the "Electric Cooperative Act."

10 2. Purpose.

11 Cooperative, nonprofit, membership corporations may be organized under this  
12 act for the purpose of [supply] SUPPLYING electric energy and promoting and  
13 extending the use thereof.

14 3. Definitions.

15 In this act:

16 (a) "COMMISSION" MEANS THE MARYLAND PUBLIC SERVICE COMMISSION.

17 (B) "Cooperative" means any corporation organized under this act or which  
18 becomes subject to this act in the manner hereinafter provided; [and]

19 (C) "MEMBER" MEANS A PERSON OR HOUSEHOLD THAT HAS BEEN QUALIFIED  
20 AND ACCEPTED FOR MEMBERSHIP IN A COOPERATIVE ACCORDING TO ITS BYLAWS;  
21 AND

22 [(b)] (D) "Person" means any natural person, firm, association, corporation,  
23 LIMITED LIABILITY COMPANY, business trust, partnership, LIMITED LIABILITY  
24 PARTNERSHIP, federal agency, State or political subdivision or agency thereof, or any  
25 body politic.

26 4. Powers.

27 A cooperative shall have power:

28 (a) To sue and be sued in its corporate name;

29 (b) To have perpetual existence;

30 (c) To adopt a corporate seal and alter the same;

31 (d) To generate, manufacture, purchase, acquire, accumulate and transmit  
32 electric energy, and to distribute, sell, supply and dispose of electric energy to its  
33 members, to governmental agencies and political subdivisions, and to other persons

1 not in excess of ten per centum of the number of its members, provided, however, that  
2 the furnishing by a cooperative of electric cold storage or processing plant service  
3 shall not be deemed to be distributing, selling, supplying or disposing of electric  
4 energy;

5 (e) To assist persons to whom electric energy is or will be supplied by the  
6 cooperative in wiring their premises and in acquiring and installing electrical and  
7 plumbing appliances, equipment, fixtures and apparatus by the financing thereof, or  
8 otherwise, and in connection therewith to wire, or cause to be wired, such premises,  
9 and to purchase, acquire, lease as lessor or lessee, sell, distribute, install and repair  
10 such electric and plumbing appliances, equipment, fixtures and apparatus;

11 (f) To assist persons to whom electric energy is or will be supplied by the  
12 cooperative in constructing, equipping, maintaining and operating electric cold  
13 storage or processing plants, by the financing thereof or otherwise;

14 (g) To construct, purchase, lease as lessee, or otherwise acquire, and to equip,  
15 maintain, and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge, or  
16 otherwise dispose of or encumber, electric transmission and distribution lines or  
17 systems, electric generating plants, electric cold storage or processing plants, lands,  
18 buildings, structures, dams, plants and equipment, and any other real or personal  
19 property, tangible or intangible, which shall be deemed necessary, convenient or  
20 appropriate to accomplish the purpose for which the cooperative is organized;

21 (h) To purchase, lease as lessee, or otherwise acquire, and to use, and exercise  
22 and to sell, assign, convey, mortgage, pledge or otherwise dispose of or encumber,  
23 franchises, rights, privileges, licenses and easements;

24 (i) To borrow money and otherwise contract indebtedness, and to issue notes,  
25 bonds, and other evidences of indebtedness, and to secure the payment thereof by  
26 mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of its  
27 then owned or after-acquired real or personal property, assets, franchises, revenues  
28 or income;

29 (j) To construct, maintain and operate electric transmission and distribution  
30 lines along, upon, under and across publicly owned lands and public thoroughfares,  
31 including, without limitation, all roads, highways, streets, alleys, bridges and  
32 causeways, after first securing the proper assent of the municipal authorities of the  
33 city or town, or of the county commissioners or county council of the county in which  
34 such electric lines are proposed to be constructed, under such reasonable and proper  
35 regulations and conditions as may be prescribed in such assent;

36 (k) To exercise the power of eminent domain in the manner provided by the  
37 laws of this State for the exercise of such power by other corporations constructing or  
38 operating electric transmission and distribution lines or systems;

39 (l) To become a member of other cooperatives or corporations or to own stock  
40 therein;

1 (m) To conduct its business and exercise its powers within or without this  
2 State;

3 (n) To adopt, amend and repeal bylaws; and

4 (o) To do and perform any other acts and things, and to have and exercise any  
5 other powers which may be necessary, convenient or appropriate to accomplish the  
6 purpose for which the cooperative is organized.

7 5. Name.

8 The name of a cooperative shall include the words "electric" and "cooperative,"  
9 and the abbreviation "Inc.," unless, in an affidavit made by its [president or  
10 vice-president,] CHAIRMAN OR VICE-CHAIRMAN and filed with the STATE  
11 Department of Assessments and Taxation or in an affidavit made by a person signing  
12 articles of incorporation, consolidation, merger or conversion, which relate to such  
13 cooperative, and filed, together with any such articles, with the STATE Department of  
14 Assessments and Taxation, it shall appear that the cooperative desires to do business  
15 in another state and is or would be precluded therefrom by reason of the inclusion of  
16 such words or either thereof in its name. The name of a cooperative shall be distinct  
17 from the name of any other cooperative or corporation organized under the laws of, or  
18 authorized to do business in, this State. Only a cooperative or corporation doing  
19 business in this State pursuant to this act shall use both the words "electric" and  
20 "cooperative" in its name.

21 6. Incorporators.

22 Five or more natural persons, or [two] ONE or more cooperatives, may organize  
23 a cooperative in the manner hereinafter provided.

24 7. Articles of incorporation.

25 Articles of incorporation of a cooperative shall recite that they are executed  
26 pursuant to this act and shall state: (1) The name of the cooperative; (2) the address  
27 of its principal office and the name and address of its resident agent; (3) the names  
28 and addresses of the incorporators; and (4) the names and addresses of its directors;  
29 and may contain any provisions not inconsistent with this act deemed necessary or  
30 advisable for the conduct of its business. Such articles shall be signed by each  
31 incorporator and acknowledged by at least two of the incorporators, or on their behalf,  
32 if they are cooperatives. It shall not be necessary to recite in the articles of  
33 incorporation of a cooperative the purpose for which it is organized or any of its  
34 corporate powers.

35 8. Bylaws.

36 The board of directors shall adopt the first bylaws of a cooperative to be adopted  
37 following an incorporation, conversion, merger or consolidation. Thereafter the  
38 members shall adopt, amend or repeal the bylaws by the affirmative vote of a  
39 majority of those members voting thereon at a meeting of the members. The bylaws  
40 shall set forth the rights and duties of members and directors and may contain other

1 provisions for the regulation and management of the affairs of the cooperative not  
2 inconsistent with this act or with its articles of incorporation.

3 9. Members.

4 [Each incorporator of a cooperative shall be a member thereof, but no other  
5 person may become a member thereof unless such other person agrees to use electric  
6 energy or other services furnished by the cooperative when they are made available  
7 through its facilities. Any member of a cooperative who agrees to use electric energy  
8 shall cease to be a member if he does not use electric energy supplied by the  
9 cooperative within six months after it is made available to him or if electric energy is  
10 not made available to him by the cooperative within two years after he becomes a  
11 member, or such lesser period as the bylaws of the cooperative may provide. A  
12 husband and wife may hold a joint membership in a cooperative.] A PERSON SHALL  
13 BE ELIGIBLE FOR MEMBERSHIP IN A COOPERATIVE IF THE QUALIFICATIONS FOR  
14 MEMBERSHIP AS SET FORTH IN THE BYLAWS HAVE BEEN MET. Membership in a  
15 cooperative shall not be transferable, except as provided in the bylaws. [The bylaws  
16 may prescribe additional qualifications and limitations in respect of membership.]

17 10. Meetings.

18 (a) Annual meeting. -- An annual meeting of the members of a cooperative  
19 shall be held at such time and place as shall be provided in the bylaws.

20 (b) Special meetings. -- Special meetings of the members may be called by the  
21 [president,] CHAIRMAN, by A MAJORITY OF the board of directors, [by any three  
22 directors,] or by not less than ten percentum of the members.

23 (c) Notice. -- Except as otherwise provided in this act, [written or printed]  
24 notice stating the time and place of each meeting of the members and, in the case of  
25 a special meeting, the purpose or purposes for which the meeting is called, shall be  
26 [given] MAILED to each member[, either personally or by mail,] not less than ten  
27 days nor more than [twenty] NINETY days before the date of meeting. [If mailed,  
28 such notice shall be deemed to be given when deposited in the United States mail  
29 with postage prepaid addressed to the member at his address as it appears on the  
30 records of the cooperative.]

31 (d) Quorum. -- Unless the bylaws prescribe the presence of a greater  
32 percentage or number of the members for a quorum, a quorum for the transaction of  
33 business at all meetings of the members of a cooperative having not more than 1,000  
34 members, shall be five percentum of all members, present in person, and of a  
35 cooperative having more than 1,000 members, shall be fifty members, present in  
36 person. If less than a quorum is present at any meeting, a majority of those present in  
37 person may adjourn the meeting from time to time without further notice.

38 (e) Each member entitled to one vote; voting by proxy or mail. -- Each  
39 member shall be entitled to one vote on each matter submitted to a vote at a meeting  
40 of the members. Voting shall be in person, but, if the bylaws so provide, may also be  
41 by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they  
42 shall also prescribe the conditions under which such voting shall be permitted. No

1 person shall vote by proxy for more than three members at any meeting of the  
2 members.

3 11. Waiver of notice.

4 Any person entitled to notice of a meeting may waive such notice in writing  
5 either before or after such meeting. If any such person shall attend such meeting,  
6 such attendance shall constitute a waiver of notice of such meeting, unless such  
7 person participate therein solely to object to the transaction of any business because  
8 the meeting has not been legally called or convened.

9 12. Board of directors.

10 (a) In general. -- The business of a cooperative shall be managed by a board of  
11 not less than five directors, each of whom shall be a member of the cooperative or of  
12 another cooperative which is a member thereof. The bylaws shall prescribe the  
13 number of directors, their qualifications, other than those prescribed in this act, the  
14 manner of holding meetings of the board of directors and of electing successors to  
15 directors who shall resign, die, or otherwise be incapable of acting. The bylaws may  
16 also provide for the removal of directors from office and for the election of their  
17 successors. Directors shall not receive any salaries for their services as directors and,  
18 except in emergencies, shall not be employed by the cooperative in any capacity  
19 involving compensation without the approval of the members. The bylaws may  
20 provide that a fixed fee and expenses of attendance may be allowed to each director  
21 for attendance at each meeting of the board of directors.

22 (b) Terms of office in general. -- The directors of a cooperative named in any  
23 articles of incorporation, consolidation, merger or conversion, shall hold office until  
24 the next annual meeting of the members and until their successors are elected and  
25 qualified. At each annual meeting or, in case of failure to hold the annual meeting as  
26 specified in the bylaws, at a special meeting called for that purpose, the members  
27 shall elect directors to hold office until the next annual meeting of the members,  
28 except as otherwise provided in this act. Each director shall hold office for the term  
29 for which he is elected and until his successor is elected and qualifies.

30 (c) Staggering terms of office; filling of vacancy. -- Instead of electing all the  
31 directors annually, the bylaws may provide that the directors shall be divided into  
32 three classes, each class to be as nearly equal in number as possible, with the term of  
33 office of the directors of the first class to expire at the next succeeding annual  
34 meeting, and the term of the second class to expire at the second succeeding annual  
35 meeting and the term of the third class to expire at the third succeeding annual  
36 meeting. At each annual meeting after such classification a number of directors,  
37 equal to the number of the class whose term expires at the time of such meeting, shall  
38 be elected to hold office for three years or until the third succeeding annual meeting.  
39 If a vacancy occurs in the board of directors, the remaining directors shall elect a  
40 director to fill the vacancy for the remainder of the term for which the vacating  
41 director was elected.

42 (d) Quorum. -- A majority of the board of directors shall constitute a quorum.

1 (e) Spouses holding joint membership. -- If a husband and wife hold a joint  
2 membership in a cooperative, either one, but not both, may be elected a director.

3 (f) Powers. -- The board of directors may exercise all of the powers of a  
4 cooperative not conferred upon the members by this act or its articles of incorporation  
5 or bylaws.

6 13. Districts.

7 The bylaws may provide for the division of the territory served or to be served by  
8 a cooperative into two or more districts for any purpose, including, without limitation,  
9 the nomination and election of directors. In such case the bylaws shall prescribe the  
10 boundaries of the districts, or the manner of establishing such boundaries, and the  
11 manner of changing such boundaries, and the manner in which such districts shall  
12 function. No member at any district meeting shall vote by proxy or by mail.

13 14. Officers.

14 The directors shall elect annually from their own number a [president]  
15 CHAIRMAN and one or more [vice-presidents] VICE-CHAIRMEN. They shall also elect  
16 a secretary and a treasurer, who need not be directors or members and they may  
17 combine the two latter offices and designate the combined office as  
18 secretary-treasurer. The board of directors may also elect or appoint such other  
19 officers, agents, or employees as it deems necessary or advisable and shall prescribe  
20 their powers and duties. Any officer may be removed from office and his successor  
21 elected in the manner prescribed in the bylaws.

22 15. Amendment of articles of incorporation.

23 A cooperative may amend its articles of incorporation by complying with the  
24 following requirements: The proposed amendment shall be presented to a meeting of  
25 the members, the notice of which shall set forth or have attached thereto the proposed  
26 amendment. If the proposed amendment, with any changes, is approved by the  
27 affirmative vote of not less than two-thirds of those members voting thereon at such  
28 meeting, articles of amendment shall be executed and acknowledged on behalf of the  
29 cooperative by its [president or vice-president] CHAIRMAN OR VICE-CHAIRMAN and  
30 its seal shall be affixed thereto and attested by its secretary. The articles of  
31 amendment shall recite that they are executed pursuant to this act and shall state:  
32 (1) the name of the cooperative; (2) the address of its principal office; and (3) the  
33 amendment to its articles of incorporation. The [president or vice-president]  
34 CHAIRMAN OR VICE-CHAIRMAN executing such articles of amendment shall make  
35 and annex thereto an affidavit stating that the provisions of this section in respect of  
36 the amendment set forth in such articles were duly complied with.

37 16. Change of location of principal office or name or address of resident agent.

38 A cooperative may, upon authorization of its board of directors or its members,  
39 change the location of its principal office or make any change in the name or address  
40 of its resident agent by filing a certificate reciting such change, executed and  
41 acknowledged by its [president or vice-president] CHAIRMAN OR VICE-CHAIRMAN

1 under its seal attested by its secretary, in the office of the STATE Department of  
2 Assessments and Taxation.

3 17. Consolidation in general.

4 Any two or more cooperatives (each of which is hereinafter designated a  
5 "consolidating cooperative"), may consolidate into a new cooperative (hereinafter  
6 designated the "new cooperative"), by complying with the following requirements:

7 (a) Submission to members. -- The proposition for the consolidation of the  
8 consolidating cooperatives into the new cooperative and proposed articles of  
9 consolidation to give effect thereto shall be submitted to a meeting of the members of  
10 each consolidating cooperative, the notice of which shall have attached thereto a copy  
11 of the proposed articles of consolidation;

12 (b) Articles of consolidation. -- If the proposed consolidation and the proposed  
13 articles of consolidation, with any amendments, are approved by the affirmative vote  
14 of not less than two-thirds of those members of each consolidating cooperative voting  
15 thereon at each such meeting, articles of consolidation in the form approved shall be  
16 executed and acknowledged on behalf of each consolidating cooperative by its  
17 [president or vice-president] CHAIRMAN AND VICE-CHAIRMAN and its seal shall be  
18 affixed thereto and attested by its secretary. The articles of consolidation shall recite  
19 that they are executed pursuant to this act and shall state: (1) the name of each  
20 consolidating cooperative and the address of its principal office; (2) the name of the  
21 new cooperative, the address of its principal office and the name and address of its  
22 resident agent; (3) a statement that each consolidating cooperative agrees to the  
23 consolidation; (4) the names and addresses of the directors of the new cooperative;  
24 and (5) the terms and conditions of the consolidation and the mode of carrying the  
25 same into effect, including the manner in which members of the consolidating  
26 cooperatives may or shall become members of the new cooperative; and may contain  
27 any provisions not inconsistent with this act deemed necessary or advisable for the  
28 conduct of the business of the new cooperative. The [president or vice-president]  
29 CHAIRMAN OR VICE-CHAIRMAN of each consolidating cooperative executing such  
30 articles of consolidation shall make and annex thereto an affidavit stating that the  
31 provisions of this section in respect of such articles were duly complied with by such  
32 cooperative.

33 18. Merger in general.

34 Any one or more cooperatives (each of which is hereinafter designated a  
35 "merging cooperative") may merge into another cooperative (hereinafter designated  
36 the "surviving cooperative"), by complying with the following requirements:

37 (a) Submission to members. -- The proposition for the merger of the merging  
38 cooperatives into the surviving cooperative and proposed articles of merger to give  
39 effect thereto shall be submitted to a meeting of the members of each merging  
40 cooperative and of the surviving cooperative, the notice of which shall have attached  
41 thereto a copy of the proposed articles of merger;



1 (b) Articles of merger. -- If the proposed merger and the proposed articles of  
2 merger, with any amendments, are approved by the affirmative vote of not less than  
3 two-thirds of those members of each cooperative voting thereon at each such meeting,  
4 articles of merger in the form approved shall be executed and acknowledged on behalf  
5 of each such cooperative by its [president or vice-president] CHAIRMAN OR  
6 VICE-CHAIRMAN and its seal shall be affixed thereto and attested by its secretary.  
7 The articles of merger shall recite that they are executed pursuant to this act and  
8 shall state: (1) the name of each merging cooperative and the address of its principal  
9 office; (2) the name of the surviving cooperative, the address of its principal office, and  
10 the name and address of its resident agent; (3) a statement that each merging  
11 cooperative and the surviving cooperative agree to the merger; (4) the names and  
12 addresses of the directors of the surviving cooperative; and (5) the terms and  
13 conditions of the merger and the mode of carrying the same into effect, including the  
14 manner in which the members of the merging cooperatives may or shall become  
15 members of the surviving cooperative; and may contain any provisions not  
16 inconsistent with this act deemed necessary or advisable for the conduct of the  
17 business of the surviving cooperative. The [president or vice-president] CHAIRMAN  
18 OR VICE-CHAIRMAN of each cooperative executing such articles of merger shall make  
19 and annex thereto an affidavit stating that the provisions of this section in respect of  
20 such articles were duly complied with by such cooperative.

21 19. Effect of consolidation or merger.

22 (a) Articles of consolidation deemed articles of incorporation of new  
23 cooperative. -- In the case of a consolidation the existence of the consolidating  
24 cooperatives shall cease and the articles of consolidation shall be deemed to be the  
25 articles of incorporation of the new cooperative; and in the case of a merger the  
26 separate existence of the cooperatives shall cease and the articles of incorporation of  
27 the surviving cooperative shall be deemed to be amended to the extent, if any, that  
28 changes therein are provided for in the articles of merger;

29 (b) Transfer of rights, etc. -- All the rights, privileges, immunities and  
30 franchises and all property, real and personal, including without limitation  
31 applications for membership, all debts due on whatever account and all other choses  
32 in action, of each of the consolidating or merging cooperatives shall be deemed to be  
33 transferred to and vested in the new [of] OR surviving cooperative without further  
34 act or deed;

35 (c) Liabilities. -- The new or surviving cooperative shall be responsible and  
36 liable for all the liabilities and obligations of each of the consolidating or merging  
37 cooperatives and any claim existing or action or proceeding pending by or against any  
38 of the consolidating or merging cooperatives may be prosecuted as if the consolidation  
39 or merger had not taken place, but the new or surviving cooperative may be  
40 substituted in its place; and

41 (d) Rights of creditors and liens upon property not affected. -- Neither the  
42 rights of creditors nor any liens upon the property of any of such cooperatives shall be  
43 impaired by such consolidation or merger.

1 20. Conversion of existing corporations into cooperatives.

2 Any corporation organized under the laws of this State and supplying or  
3 authorized to supply electric energy may be converted into a cooperative by complying  
4 with the following requirements and shall thereupon become subject to this act with  
5 the same effect as if originally organized under this act:

6 (a) Submission to members or shareholders. -- The proposition for the  
7 conversion of such corporation into a cooperative and proposed articles of conversion  
8 to give effect thereto shall be submitted to a meeting of the members or stockholders  
9 of such corporation, the notice of which shall have attached thereto a copy of the  
10 proposed articles of conversion;

11 (b) Articles of conversion. -- If the proposition for the conversion of such  
12 corporation into a cooperative and the proposed articles of conversion, with any  
13 amendments, are approved by the affirmative vote of not less than two-thirds of  
14 those members of such corporation voting thereon at such meeting, or, if such  
15 corporation is a stock corporation, by the affirmative vote of the holders of not less  
16 than two-thirds of those shares of the capital stock of such corporation represented at  
17 such meeting and voting thereon, articles of conversion in the form approved shall be  
18 executed and acknowledged on behalf of such corporation by its [president or  
19 vice-president] CHAIRMAN OR VICE-CHAIRMAN and its seal shall be affixed thereto  
20 and attested by its secretary. The articles of conversion shall recite that they are  
21 executed pursuant to this act and shall state: (1) The name of the corporation and the  
22 address of its principal office prior to its conversion into a cooperative; (2) the statute  
23 or statutes under which it was organized; (3) a statement that such corporation elects  
24 to become a cooperative, nonprofit, membership corporation subject to this act; (4) its  
25 name as a cooperative; (5) the address of the principal office and the name and  
26 address of the resident agent of the cooperative; (6) the names and addresses of the  
27 directors of the cooperative; and (7) the manner in which members or stockholders of  
28 such corporation may or shall become members of the cooperative; and may contain  
29 any provisions not inconsistent with this act deemed necessary or advisable for the  
30 conduct of the business of the cooperative. The [president or vice-president]  
31 CHAIRMAN OR VICE-CHAIRMAN executing such articles of conversion shall make and  
32 annex thereto an affidavit stating that the provisions of this section were duly  
33 complied with in respect of such articles. The articles of conversion shall be deemed to  
34 be the articles of incorporation of the cooperative.

35 21. Dissolution.

36 (a) Cooperatives which have not commenced business. -- A cooperative which  
37 has not commenced business may be dissolved by delivering to the STATE Department  
38 of Assessments and Taxation articles of dissolution which shall be executed and  
39 acknowledged on behalf of the cooperative by a majority of the incorporators and  
40 which shall state: (1) the name of the cooperative; (2) the address of its principal  
41 office; (3) that the cooperative has not commenced business; (4) that any sums  
42 received by the cooperative, less any part thereof disbursed for expenses of the  
43 cooperative, have been returned or paid to those entitled thereto; (5) that no debt of

1 the cooperative is unpaid; and (6) that a majority of the incorporators elect that the  
2 cooperative be dissolved.

3 (b) Cooperatives which have commenced business. -- A cooperative which has  
4 commenced business may be dissolved in the following manner: The members at any  
5 meeting shall approve, by the affirmative vote of not less than two-thirds of those  
6 members voting thereon at such meeting, a proposal that the cooperative be  
7 dissolved. Upon such approval, a certificate of election to dissolve (hereinafter  
8 designated the "certificate"), executed and acknowledged on behalf of the cooperative  
9 by its [president or vice-president] CHAIRMAN OR VICE-CHAIRMAN under its seal,  
10 attested by its secretary, and stating: (1) the name of the cooperative; (2) the address  
11 of its principal office; and (3) that the members of the cooperative have duly voted  
12 that the cooperative be dissolved, shall, together with an affidavit made by its  
13 [president or vice-president] CHAIRMAN OR VICE-CHAIRMAN executing the  
14 certificate, stating that the statements in the certificate are true, be submitted to the  
15 STATE Department of Assessments and Taxation for filing. Upon the filing of the  
16 certificate and affidavit by the STATE Department of Assessments and Taxation, the  
17 cooperative shall cease to carry on its business except to the extent necessary for the  
18 winding up thereof, but its corporate existence shall continue until articles of  
19 dissolution have been filed by the STATE Department of Assessments and Taxation.  
20 The board of directors shall immediately cause notice of the dissolution proceedings to  
21 be mailed to each known creditor of and claimant against the cooperative and to be  
22 published once a week for two successive weeks in a newspaper of general circulation  
23 in the county in which the principal office of the cooperative is located. The board of  
24 directors shall wind up and settle the affairs of the cooperative, collect sums owing to  
25 it, liquidate its property and assets, pay and discharge its debts, obligations and  
26 liabilities, and do all other things required to wind up its business, and after paying  
27 or discharging or adequately providing for the payment or discharge of all its debts,  
28 obligations and liabilities, shall distribute any remaining sums among its members  
29 and former members in proportion to the patronage of the respective members or  
30 former members during the seven years next preceding the date of the filing of the  
31 certificate by the STATE Department of Assessments and Taxation, or if the  
32 cooperative has not been in existence for such period then during the period of its  
33 existence prior to such filing. The board of directors shall thereupon authorize the  
34 execution of articles of dissolution, which shall be executed and acknowledged on  
35 behalf of the cooperative by its [president or vice-president] CHAIRMAN OR  
36 VICE-CHAIRMAN, and its seal shall be affixed thereto and attested by its secretary.  
37 The articles of dissolution shall recite that they are executed pursuant to this act and  
38 shall state: (1) the name of the cooperative; (2) the address of its principal office; (3)  
39 the date on which the certificate of election to dissolve was filed by the STATE  
40 Department of Assessments and Taxation; (4) that there are no actions or suits  
41 pending against the cooperative; (5) that all debts, obligations and liabilities of the  
42 cooperative have been paid and discharged or that adequate provision has been made  
43 therefor; and (6) that the preceding provisions of this subsection have been duly  
44 complied with. The [president or vice-president] CHAIRMAN OR VICE-CHAIRMAN  
45 executing the articles of dissolution shall make and annex thereto an affidavit stating  
46 that the statements made therein are true.

1 22. Filing of articles.

2 Articles of incorporation, amendment, consolidation, merger, conversion, or  
3 dissolution, when executed and acknowledged and accompanied by such affidavits as  
4 may be required by applicable provisions of this act, shall be presented to the STATE  
5 Department of Assessments and Taxation for filing in the records of its office. If the  
6 STATE Department of Assessments and Taxation shall find that the articles presented  
7 conform to the requirements of this act, it shall, upon the payment of the fees as in  
8 this act provided, file such articles in the records of its office and upon such filing the  
9 incorporation, amendment, consolidation, merger, conversion, or dissolution provided  
10 for therein shall be in effect. The provisions of this section shall also apply to  
11 certificates of election to dissolve and affidavits executed in connection therewith  
12 pursuant to [§ 21(b)] § 22(B) of this act.

13 23. Refunds [to members].

14 (A) [Revenues] FOR EACH FISCAL YEAR, THE REVENUES of a cooperative [for  
15 any fiscal year in excess of the amount thereof necessary:] IN EXCESS OF THE  
16 AMOUNT NECESSARY TO PROVIDE FOR THE ITEMS CONTAINED IN SUBSECTION (C)  
17 OF THIS SECTION SHALL BE ALLOCATED BY THE COOPERATIVE TO ITS MEMBERS  
18 AND TO OTHER PERSONS TO WHOM THE COOPERATIVE SUPPLIES ELECTRIC ENERGY  
19 OR OTHER SERVICES IN THE FORM OF PATRONAGE CREDITS, UNLESS OTHERWISE  
20 DETERMINED BY A VOTE OF THE MEMBERS.

21 (B) FOR EACH FISCAL YEAR, THE PATRONAGE CREDITS SHALL BE PRORATED  
22 TO A MEMBER OR OTHER PERSONS IN ACCORDANCE WITH THE PATRONAGE OF THE  
23 COOPERATIVE BY THE MEMBER OR OTHER PERSONS PAID FOR DURING THAT FISCAL  
24 YEAR.

25 (C) REVENUES OF A COOPERATIVE MAY BE USED:

26 [(a)] (1) To defray the expenses of the operation and maintenance of the  
27 facilities of the cooperative during [such] A fiscal year;

28 [(b)] (2) To pay interest and principal obligations of the cooperative coming  
29 due in [such] A fiscal year;

30 [(c)] (3) To finance, or to provide a reserve for the financing of, the  
31 construction or acquisition by the cooperative of additional facilities to the extent  
32 determined by the board of directors;

33 [(d)] (4) To provide a reasonable reserve for working capital;

34 [(e)] (5) To provide a reserve for the payment of indebtedness of the  
35 cooperative in an amount not less than the total of the interest and principal  
36 payments in respect thereof required to be made during the next [following] fiscal  
37 year; [and]

38 [(f)] (6) To provide [a fund (hereinafter designated the "education fund")] for  
39 education in cooperation and for the dissemination of information concerning the

1 effective use of electric energy and other services made available by the cooperative[,  
2 shall unless otherwise determined by a vote of the members, be distributed by the  
3 cooperative to its members and to other persons to whom the cooperative supplies  
4 electric energy or other services, as patronage refunds prorated in accordance with  
5 the patronage of the cooperative by the respective members and such other persons,  
6 paid for during such fiscal year; provided, however, that such distribution shall not be  
7 made to any such other person until he has become a member of the cooperative. If  
8 such other person does not become a member of the cooperative within one year after  
9 the amount of his distributive share or accumulated distributive shares equals the  
10 membership fee required by the bylaws of the cooperative, or, if no membership fee is  
11 required, within two years after the declaration of any such patronage refund, he  
12 shall cease to be entitled to such share or shares, which shall in such case, be paid  
13 into the education fund of the cooperative.]; AND

14 (D) Nothing [herein contained] IN THIS SECTION shall be construed to  
15 prohibit the payment by a cooperative of all or any part of its indebtedness prior to  
16 the date when the same shall become due.

17 24. Disposition of property.

18 (a) Execution of mortgages, deeds of trust or pledges. -- The board of directors  
19 of a cooperative shall have full power and authority, without authorization by the  
20 members thereof, to authorize the execution and delivery of a mortgage or mortgages  
21 or a deed or deeds of trust of, or the pledging or encumbering of, any or all of the  
22 property, assets, rights, privileges, licenses, franchises and permits of the cooperative,  
23 whether acquired or to be acquired, and wherever situated, as well as the revenues  
24 and income therefrom, all upon such conditions as the board of directors shall  
25 determine, to secure any indebtedness of the cooperative to the United States of  
26 America, to any agency or instrumentality thereof, to a national financing institution,  
27 organized on a cooperative plan for the purpose of financing its members' programs,  
28 projects and undertakings, in which the cooperative holds membership, or to any  
29 other financing institution, and provided further that such loans shall not be subject  
30 to the provisions of § 4-106(b) of the Real Property Article of the Code.

31 (b) Authority of members. -- A cooperative may not otherwise sell, lease or  
32 otherwise dispose of all or a substantial portion of its property unless such sale, lease  
33 or other disposition is authorized at a meeting of the members thereof by the  
34 affirmative vote of not less than a majority of all the members of the cooperative; and  
35 unless the notice of such proposed sale, lease or other disposition shall have been  
36 contained in the notice of the meeting; provided, however, that notwithstanding any  
37 other provisions of this act, or any other provision of law, the board of directors may,  
38 upon the authorization of a majority of those members of the cooperative present at a  
39 meeting of the members thereof, sell, lease or otherwise dispose of all or a substantial  
40 portion of its property to another cooperative or a foreign corporation doing business  
41 in this State pursuant to this act or to the holder or holders of any notes, bonds or  
42 other evidences of indebtedness of the cooperative issued to the United States of  
43 America or any agency or instrumentality thereof.

1 25. Nonliability of members for debts of cooperative.

2 No member shall be liable or responsible for any debts of the cooperative and the  
3 property of the members shall not be subject to execution therefor.

4 26. Recordation of mortgages, deeds of trust or other instruments.

5 Any mortgage, deed of trust or other instrument executed by a cooperative or  
6 foreign corporation doing business in this State pursuant to this act which affects real  
7 and personal property and which is recorded in the real property records in any  
8 county in which such property is located or is to be located, shall have the same force  
9 and effect as if the mortgage, deed of trust or other instrument were also recorded,  
10 filed or indexed as provided by law in the proper office in such county as a mortgage  
11 of personal property. All after-acquired property of such cooperative or foreign  
12 corporation described or referred to as being mortgaged or pledged in any such  
13 mortgage, deed of trust or other instrument, shall become subject to the lien thereof  
14 immediately upon the acquisition of such property by such cooperative or foreign  
15 corporation, whether or not such property was in existence at the time of the  
16 execution of such mortgage, deed of trust or other instrument. Recordation of any  
17 such mortgage, deed of trust or other instrument shall constitute notice and  
18 otherwise have the same effect with respect to such after-acquired property as it has  
19 under the laws relating to recordation, with respect to property owned by such  
20 cooperative or foreign corporation at the time of the execution of such mortgage, deed  
21 of trust or other instrument and therein described or referred to as being mortgaged  
22 or pledged thereby. The lien upon personal property of any such mortgage, deed of  
23 trust or other instrument shall, after recordation thereof, continue in existence and of  
24 record for the period of time specified therein without the re-filing thereof or the filing  
25 of any removal certificate, affidavit or other supplemental information required by  
26 the laws relating to the renewal, maintenance or extension of liens upon personal  
27 property.

28 27. Directors, officers and members not disqualified to take acknowledgements.

29 No person who is authorized to take acknowledgments under the laws of this  
30 State shall be disqualified from taking acknowledgments of instruments executed in  
31 favor of a cooperative or to which it is a party, by reason of being an officer, director or  
32 member of such cooperative.

33 28. Filing fees.

34 The STATE Department of Assessments and Taxation shall charge and collect  
35 [for:

- 36 (a) Filing articles of incorporation, ten dollars (\$10);
- 37 (b) Filing articles of amendment, ten dollars (\$10);
- 38 (c) Filing articles of consolidation or merger, ten dollars (\$10);
- 39 (d) Filing articles of conversion, ten dollars (\$10);

1 (e) Filing certificates of election to dissolve, ten dollars (\$10);

2 (f) Filing articles of dissolution, ten dollars (\$10); and

3 (g) Filing certificates of change of principal office, or of name or address of  
4 resident agent, two dollars (\$2).] FEES FOR RECORDING AND FILING CORPORATE  
5 DOCUMENTS AS PROVIDED IN § 1-203 OF THE CORPORATIONS AND ASSOCIATIONS  
6 ARTICLE.

7 29. License fees; exemption from excise and income taxes.

8 Each cooperative and each foreign corporation doing business in this State  
9 pursuant to this act shall pay annually, on or before the first day of July, to the STATE  
10 Department of Assessments and Taxation, a fee of ten dollars (\$10), but shall be  
11 exempt from all other excise and income taxes whatsoever.

12 [30. Protection of cooperative's territory.

13 (a) On temporary organization. -- Whenever a cooperative or a group of  
14 persons which has formed a temporary organization with the intention of forming a  
15 cooperative or a foreign corporation transacting business in this State pursuant to  
16 this act, (herein called the "filing corporation"), shall file with the Maryland Public  
17 Service Commission (hereinafter called the "Commission") a map or maps indicating  
18 the area or areas in which the operations of said filing corporation are intended to be  
19 conducted, together with a statement verified by oath or affirmation to the effect that  
20 a majority of the potential users of electric energy, not then receiving central station  
21 electric service in said area or areas, have signified in writing their willingness to  
22 take service from the proposed system of said filing corporation it shall be unlawful  
23 for an electric utility, power and light company, person or corporation, after receipt of  
24 any notice as hereafter provided by the filing of said map or maps and statement, to  
25 begin the construction of any electric distribution lines within said area or areas or to  
26 solicit customers for electric service therein or in any manner to conflict, interfere or  
27 compete with the proposed system of said filing corporation, until after the expiration  
28 of six months from the date of said filing of said map or maps and statement. The  
29 words area or areas as used herein in connection with the maps to be filed by said  
30 filing corporation shall be deemed to mean the areas which may be served in normal  
31 practice by secondary voltage extensions from the primary voltage lines indicated in  
32 said maps, which in any event shall not be less than a distance of fifteen hundred feet  
33 from either side of said primary lines.

34 (b) Entry into loan agreement with federal agency. -- In the event that said  
35 filing corporation within said six months period shall enter into any loan agreement  
36 with any federal agency for the financing of its proposed electric system, and shall file  
37 a written notice thereof with the Commission, together with a copy of said loan  
38 agreement, no such electric utility, power and light company, person or corporation  
39 after receipt of such loan agreement shall begin the construction of any electric  
40 distribution lines within said area or areas or solicit customers for electric service  
41 therein until after the expiration of twelve months from the date of filing said notice  
42 of said loan agreement.

1 (c) Commission to give notice. -- It shall be the duty of the Commission to  
2 give notice in writing of the filing of said map or maps and statement and said loan  
3 agreement to each electric utility and power and light company having any electric  
4 transmission or distribution lines or system within, or within ten miles of, any area  
5 shown in said map where said filing corporation intends to operate its proposed  
6 system. There shall be attached to said notices blueprint copies of said maps, a copy of  
7 said statement, and a copy of the notice of said loan agreement in the event that such  
8 an agreement shall have been entered into, sufficient copies for the purpose of such  
9 notices shall be furnished to the Commission by and at the expense of the filing  
10 corporation. The filing corporation may give the notices required by subsections (a)  
11 and (b) hereof and such notices shall be effectual for the purposes of this act  
12 notwithstanding any failure of the Commission to give the notices herein provided for.  
13 Any notice shall be deemed to have been given within the requirements of this act  
14 when its has been deposited in the mails with postage prepaid and addressed to the  
15 principal office of any said electric utility, power and light company, person or  
16 corporation.

17 (d) Rules of Commission to carry out provisions. -- The Commission is hereby  
18 authorized to make and promulgate reasonable rules and regulations to carry out the  
19 provisions of this section and to take appropriate action for the enforcement thereof,  
20 including proceedings for injunctions against violation thereof, instigated in the name  
21 of the Commission and upon its own motion; provided that these powers and remedies  
22 shall be in addition to all other remedies provided herein or that may exist under  
23 general provisions or rules of law.

24 (e) Injunction against violation of section. -- Any filing corporation may  
25 institute proceedings to enjoin any violations of this section in the circuit court for any  
26 county where said filing corporation may have its principal place of business or where  
27 any such violations are alleged to take place, or to be threatened, and such  
28 proceedings may be on the relation of the Attorney General or the State's attorney of  
29 any county in which any portion of the proposed collective system of said filing  
30 corporation may be located. It shall be the duty of said officers to prosecute and to  
31 assist in the prosecution of said proceedings. For the enforcement of this section the  
32 said circuit court, or the circuit judge in vacation, may exercise all the powers now or  
33 hereafter existing under the laws of this State in proceedings for injunctive relief,  
34 including temporary restraining orders. In any proceedings instituted by the  
35 Commission on its own motion or by petition signed by the Attorney General or any  
36 State's attorney, as herein provided, no bond shall be required as a condition of the  
37 issuance of any restraining order or injunction.

38 (f) Copy of statement as evidence. -- In any proceeding for the enforcement of  
39 this section a certified copy of the statement mentioned in subsection (a) hereof shall  
40 be admitted in evidence and shall be presumed to be prima facie proof of the verity  
41 and accuracy of all statements therein required by the provisions of said subsection  
42 (a) and the burden of proof shall be upon any defendant in any such proceeding to  
43 rebut said presumption by a clear preponderance of the evidence.

44 (g) Right to require supply of electric energy suspended. -- During the periods  
45 of six and twelve months respectively as provided in subsections (a) and (b) hereof, no



1 person, firm, association or corporation shall have the right to require any electric  
2 utility or electric light and power company to supply electric energy within the area or  
3 areas indicated upon said maps within which the filing corporation proposes to  
4 operate and no action shall be brought or maintained in any court for damages for  
5 failure to supply such electric energy within said periods of six and twelve months  
6 respectively or within a reasonable time thereafter; provided that the provisions of  
7 this section shall not be deemed to apply to any valid and enforceable contracts in  
8 writing for electric service subsisting at the time of receipt by any party to such  
9 contracts of any notice of filing said maps and statements provided for in subsection  
10 (a) hereof.

11 (h) Not applicable to furnishing electric energy to certain enterprises. -- This  
12 section shall not apply to the furnishing of electric energy to manufacturing,  
13 processing or industrial enterprises or to buildings necessary and appropriate to the  
14 operation of said enterprise, including residences, nor to the solicitation of such  
15 electric service, nor to the construction of through high voltage transmission lines not  
16 intended to serve individual rural customers in the area or areas shown on said maps;  
17 provided that nothing in this section contained shall be construed as restricting the  
18 right of a filing corporation to serve manufacturing, processing or industrial  
19 enterprises.]

20 30. Exemption of evidences of indebtedness, membership certificates and other  
21 securities from registration provisions.

22 The provisions of [ §§ 11-301 and 11-401 through 11-404 ] § 11-501 of the  
23 corporations and associations article shall not apply to any note, bond or other  
24 evidence of indebtedness issued by any cooperative or foreign corporation doing  
25 business in this State pursuant to this act to the United States of America or any  
26 agency or instrumentality thereof, or to any mortgage, deed of trust or other  
27 instrument executed to secure the same. The provisions of said sections shall not  
28 apply to the issuance of membership certificates by any cooperative or any such  
29 foreign corporation.

30 31. Construction of act.

31 This act shall be construed liberally. The enumeration of any object, purpose,  
32 power, manner, method, or thing shall not be deemed to exclude like or similar  
33 objects, purposes, powers, manners, methods or things.

34 REVISOR'S NOTE: The Commission to revise the Annotated Code proposes  
35 that the "Electric Cooperative Act," present Article 23, §§ 379 through 411,  
36 be decodified and transferred to the Session Laws. This proposal is made  
37 after research revealed that:

38 1. There are only two Maryland electric cooperatives organized under  
39 the Act and two foreign electric cooperatives doing business in  
40 Maryland. Together they account for less than 3 percent of the total  
41 electricity in this State.

1           2.       Historically, the electric cooperative was a response to the Federal  
2 Rural Electrification Act of 1936, authorizing 2 percent loans to those  
3 who would provide electricity to rural areas not already electrified.  
4 However, since Maryland is now divided into service areas by the  
5 Public Service Commission and since every area is served by an  
6 electric company, there appears to be no likelihood of a further  
7 electric cooperative forming in Maryland.

8           3.       Since passage of the Electric Cooperative Act in 1941, there have  
9 been only two amendments to the Act, both to § 402, dealing with  
10 deeds of trust and investments. Other than these amendments, the  
11 Act has remained untouched for 34 years.

12           The Maryland Public Service Commission and STATE Department of  
13 Assessments and Taxation agreed to the decodification, and the attorneys  
14 for the two Maryland electric cooperatives also expressed no objections to  
15 the Act's decodification.

16       SECTION 2. AND BE IT FURTHER ENACTED, That the Revisor's Note  
17 contained in this Act is not law and may not be considered to have been enacted as  
18 part of this Act.

19       SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1,  
20 2002, the Department of Legislative Services shall prepare draft legislation that  
21 provides a nonsubstantive revision of Chapter 179 of the Acts of the General  
22 Assembly of 1976, and transfers Chapter 179 of the Acts of the General Assembly of  
23 1976 from the Session Laws to the Annotated Code of Maryland.

24       SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
25 take effect October 1, 2001.

26       SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
27 Section 3 of this Act, this Act shall take effect June 1, 2001.