

SENATE BILL 524

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2001 Regular Session
11r1721
CF 11r1399

By: **Senator Middleton**
Introduced and read first time: February 2, 2001
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 21, 2001

CHAPTER _____

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

1 Section 2

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

4 **Chapter 179 of the Acts of 1976**

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8 be and they are hereby repealed and reenacted with amendments and transferred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

10 **Article 23 - Corporations**

11 1. Short title.

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

13 2. Purpose.

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

17 3. Definitions.

18 In this act:

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

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

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

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

29 4. Powers.

30 A cooperative shall have power:

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

32 (b) To have perpetual existence;

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

2 (d) To generate, manufacture, purchase, acquire, accumulate and transmit
3 electric energy, and to distribute, sell, supply and dispose of electric energy to its
4 members, to governmental agencies and political subdivisions, and to other persons
5 not in excess of ten per centum of the number of its members, provided, however, that
6 the furnishing by a cooperative of electric cold storage or processing plant service
7 shall not be deemed to be distributing, selling, supplying or disposing of electric
8 energy;

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

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

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

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

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

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

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

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

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

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

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

9 5. Name.

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

23 6. Incorporators.

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

26 7. Articles of incorporation.

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

37 8. Bylaws.

38 The board of directors shall adopt the first bylaws of a cooperative to be adopted
39 following an incorporation, conversion, merger or consolidation. Thereafter the

1 members shall adopt, amend or repeal the bylaws by the affirmative vote of a
2 majority of those members voting thereon at a meeting of the members. The bylaws
3 shall set forth the rights and duties of members and directors and may contain other
4 provisions for the regulation and management of the affairs of the cooperative not
5 inconsistent with this act or with its articles of incorporation.

6 9. Members.

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

20 10. Meetings.

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

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

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

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

41 (e) Each member entitled to one vote; voting by proxy or mail. -- Each
42 member shall be entitled to one vote on each matter submitted to a vote at a meeting

1 of the members. Voting shall be in person, but, if the bylaws so provide, may also be
2 by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they
3 shall also prescribe the conditions under which such voting shall be permitted. No
4 person shall vote by proxy for more than three members at any meeting of the
5 members.

6 11. Waiver of notice.

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

12 12. Board of directors.

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

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

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

1 director to fill the vacancy for the remainder of the term for which the vacating
2 director was elected.

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

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

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

9 13. Districts.

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

16 14. Officers.

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

25 15. Amendment of articles of incorporation.

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

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

2 A cooperative may, upon authorization of its board of directors or its members,
3 change the location of its principal office or make any change in the name or address
4 of its resident agent by filing a certificate reciting such change, executed and
5 acknowledged by its [president or vice-president] CHAIRMAN OR VICE-CHAIRMAN
6 under its seal attested by its secretary, in the office of the STATE Department of
7 Assessments and Taxation.

8 17. Consolidation in general.

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

12 (a) Submission to members. -- The proposition for the consolidation of the
13 consolidating cooperatives into the new cooperative and proposed articles of
14 consolidation to give effect thereto shall be submitted to a meeting of the members of
15 each consolidating cooperative, the notice of which shall have attached thereto a copy
16 of the proposed articles of consolidation;

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

38 18. Merger in general.

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

1 (a) Submission to members. -- The proposition for the merger of the merging
2 cooperatives into the surviving cooperative and proposed articles of merger to give
3 effect thereto shall be submitted to a meeting of the members of each merging
4 cooperative and of the surviving cooperative, the notice of which shall have attached
5 thereto a copy of the proposed articles of merger;

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

26 19. Effect of consolidation or merger.

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

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

40 (c) Liabilities. -- The new or surviving cooperative shall be responsible and
41 liable for all the liabilities and obligations of each of the consolidating or merging
42 cooperatives and any claim existing or action or proceeding pending by or against any
43 of the consolidating or merging cooperatives may be prosecuted as if the consolidation

1 or merger had not taken place, but the new or surviving cooperative may be
2 substituted in its place; and

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

6 20. Conversion of existing corporations into cooperatives.

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

11 (a) Submission to members or shareholders. -- The proposition for the
12 conversion of such corporation into a cooperative and proposed articles of conversion
13 to give effect thereto shall be submitted to a meeting of the members or stockholders
14 of such corporation, the notice of which shall have attached thereto a copy of the
15 proposed articles of conversion;

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

40 21. Dissolution.

41 (a) Cooperatives which have not commenced business. -- A cooperative which
42 has not commenced business may be dissolved by delivering to the STATE Department

1 of Assessments and Taxation articles of dissolution which shall be executed and
2 acknowledged on behalf of the cooperative by a majority of the incorporators and
3 which shall state: (1) the name of the cooperative; (2) the address of its principal
4 office; (3) that the cooperative has not commenced business; (4) that any sums
5 received by the cooperative, less any part thereof disbursed for expenses of the
6 cooperative, have been returned or paid to those entitled thereto; (5) that no debt of
7 the cooperative is unpaid; and (6) that a majority of the incorporators elect that the
8 cooperative be dissolved.

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

1 therefor; and (6) that the preceding provisions of this subsection have been duly
2 complied with. The [president or vice-president] CHAIRMAN OR VICE-CHAIRMAN
3 executing the articles of dissolution shall make and annex thereto an affidavit stating
4 that the statements made therein are true.

5 22. Filing of articles.

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

17 23. Refunds [to members].

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

25 (B) FOR EACH FISCAL YEAR, THE PATRONAGE CREDITS SHALL BE PRORATED
26 TO A MEMBER OR OTHER PERSONS IN ACCORDANCE WITH THE PATRONAGE OF THE
27 COOPERATIVE BY THE MEMBER OR OTHER PERSONS PAID FOR DURING THAT FISCAL
28 YEAR.

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

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

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

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

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

38 [(e)] (5) To provide a reserve for the payment of indebtedness of the
39 cooperative in an amount not less than the total of the interest and principal

1 payments in respect thereof required to be made during the next [following] fiscal
2 year; [and]

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

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

21 24. Disposition of property.

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

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

1 in this State pursuant to this act or to the holder or holders of any notes, bonds or
2 other evidences of indebtedness of the cooperative issued to the United States of
3 America or any agency or instrumentality thereof.

4 25. Nonliability of members for debts of cooperative.

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

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

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

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

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

36 28. Filing fees.

37 The STATE Department of Assessments and Taxation shall charge and collect
38 [for:

39 (a) Filing articles of incorporation, ten dollars (\$10);

40 (b) Filing articles of amendment, ten dollars (\$10);

- 1 (c) Filing articles of consolidation or merger, ten dollars (\$10);
- 2 (d) Filing articles of conversion, ten dollars (\$10);
- 3 (e) Filing certificates of election to dissolve, ten dollars (\$10);
- 4 (f) Filing articles of dissolution, ten dollars (\$10); and
- 5 (g) Filing certificates of change of principal office, or of name or address of
6 resident agent, two dollars (\$2).] FEES FOR RECORDING AND FILING CORPORATE
7 DOCUMENTS AS PROVIDED IN § 1-203 OF THE CORPORATIONS AND ASSOCIATIONS
8 ARTICLE.

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

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

14 [30. Protection of cooperative's territory.

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

36 (b) Entry into loan agreement with federal agency. -- In the event that said
37 filing corporation within said six months period shall enter into any loan agreement
38 with any federal agency for the financing of its proposed electric system, and shall file
39 a written notice thereof with the Commission, together with a copy of said loan
40 agreement, no such electric utility, power and light company, person or corporation
41 after receipt of such loan agreement shall begin the construction of any electric

1 distribution lines within said area or areas or solicit customers for electric service
2 therein until after the expiration of twelve months from the date of filing said notice
3 of said loan agreement.

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

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

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

41 (f) Copy of statement as evidence. -- In any proceeding for the enforcement of
42 this section a certified copy of the statement mentioned in subsection (a) hereof shall
43 be admitted in evidence and shall be presumed to be prima facie proof of the verity
44 and accuracy of all statements therein required by the provisions of said subsection

1 (a) and the burden of proof shall be upon any defendant in any such proceeding to
2 rebut said presumption by a clear preponderance of the evidence.

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

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

24 30. Exemption of evidences of indebtedness, membership certificates and other
25 securities from registration provisions.

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

34 31. Construction of act.

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

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

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

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

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

16 The Maryland Public Service Commission and STATE Department of
17 Assessments and Taxation agreed to the decodification, and the attorneys
18 for the two Maryland electric cooperatives also expressed no objections to
19 the Act's decodification.

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1,
24 2002, the Department of Legislative Services shall prepare draft legislation that
25 provides a nonsubstantive revision of Chapter 179 of the Acts of the General
26 Assembly of 1976, and transfers Chapter 179 of the Acts of the General Assembly of
27 1976 from the Session Laws to the Annotated Code of Maryland.

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

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