

SENATE BILL 129

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2002 Regular Session
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By: **The President (Department of Legislative Services)**

Introduced and read first time: January 11, 2002

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Cooperatives**

3 FOR the purpose of revising, restating, and codifying the laws relating to electric
4 cooperatives; requiring the name of an electric cooperative to be distinguishable
5 on the records of the State Department of Assessments and Taxation from the
6 entity name of an entity organized or authorized to transact business in the
7 State; providing that certain security instruments executed by electric
8 cooperatives or certain foreign corporations are governed by certain provisions
9 of law; providing for the continued validity of certain security instruments
10 entered into or created before the effective date of this Act; providing for the
11 effect, construction, and application of certain provisions of this Act; and
12 generally relating to electric cooperatives.

13 BY renumbering

14 Article - Corporations and Associations
15 Section 5-602; and 11-601(15), respectively
16 to be Section 5-6A-01 to be under the new subtitle "Subtitle 6A. Transportation
17 Cooperatives"; and 11-601(16), respectively
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 2001 Supplement)

20 BY repealing

21 Chapter 179 of the Acts of the General Assembly of 1976, as amended by
22 Chapter 604 of the Acts of the General Assembly of 2001

23 BY repealing

24 Article - Corporations and Associations
25 Section 5-601
26 Annotated Code of Maryland
27 (1999 Replacement Volume and 2001 Supplement)

28 BY adding to

29 Article - Corporations and Associations

1 Section 5-601 through 5-642, inclusive, to be under the amended subtitle
2 "Subtitle 6. Electric Cooperatives"; and 11-601(15)
3 Annotated Code of Maryland
4 (1999 Replacement Volume and 2001 Supplement)

5 BY adding to
6 Article - Public Utility Companies
7 Section 7-104
8 Annotated Code of Maryland
9 (1998 Volume and 2001 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That Section(s) 5-602; and 11-601(15), respectively, of Article -
12 Corporations and Associations of the Annotated Code of Maryland be renumbered to
13 be Section(s) 5-6A-01 to be under the new subtitle "Subtitle 6A. Transportation
14 Cooperatives"; and 11-601(16), respectively.

15 SECTION 2. AND BE IT FURTHER ENACTED, That Chapter(s) 179 of the
16 Acts of the General Assembly of 1976, as amended by Chapter 604 of the Acts of the
17 General Assembly of 2001 be repealed.

18 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
19 read as follows:

20 **Article - Corporations and Associations**

21 Subtitle 6. Electric [and Transportation] Cooperatives.

22 [5-601.

23 (a) Cooperative, nonprofit, membership corporations may be organized to
24 supply, promote, and extend the use of electric energy.

25 (b) Each cooperative organized under this section shall be organized under
26 and governed by Ch. 179, Acts of 1976, the "Electric Cooperative Act".]

27 PART I. DEFINITIONS; GENERAL PROVISIONS.

28 5-601. DEFINITIONS.

29 (A) IN GENERAL.

30 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

31 DRAFTER'S NOTE: This subsection is new language substituted as the
32 standard introductory language to a definition section for the introductory language
33 of former Ch. 179, § 3, Acts of 1976, as amended by Ch. 604, Acts of 2001.

34 (B) COOPERATIVE.

1 "COOPERATIVE" MEANS A CORPORATION THAT:

2 (1) IS ORGANIZED UNDER THIS SUBTITLE; OR

3 (2) BECOMES SUBJECT TO THIS SUBTITLE IN THE MANNER PROVIDED
4 IN THIS SUBTITLE.

5 DRAFTER'S NOTE: This subsection is new language derived without
6 substantive change from former Ch. 179, § 3(b), Acts of 1976, as amended by Ch. 604,
7 Acts of 2001.

8 (C) ELECTRIC PLANT.

9 "ELECTRIC PLANT" MEANS THE MATERIAL, EQUIPMENT, AND PROPERTY
10 OWNED BY A COOPERATIVE AND USED OR TO BE USED FOR OR IN CONNECTION WITH
11 ELECTRIC SERVICE.

12 DRAFTER'S NOTE: This subsection is new language added for brevity and
13 consistency with terminology used in the Public Utility Companies Article.

14 Defined term: "Cooperative" § 5-601

15 (D) MEMBER.

16 "MEMBER" MEANS A PERSON OR HOUSEHOLD THAT HAS BEEN QUALIFIED AND
17 ACCEPTED FOR MEMBERSHIP IN A COOPERATIVE IN ACCORDANCE WITH ITS
18 BYLAWS.

19 DRAFTER'S NOTE: This subsection is new language derived without
20 substantive change from former Ch. 179, § 3(c), Acts of 1976, as amended by Ch. 604,
21 Acts of 2001.

22 Defined terms: "Cooperative" § 5-601

23 "Person" § 5-601

24 (E) PERSON.

25 (1) "PERSON" HAS THE MEANING STATED IN § 1-101 OF THIS ARTICLE.

26 (2) "PERSON" INCLUDES:

27 (I) THE STATE;

28 (II) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL
29 SUBDIVISION OF THE STATE; AND

30 (III) A UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT.

1 DRAFTER'S NOTE: This subsection is new language derived without
2 substantive change from former Ch. 179, § 3(d), Acts of 1976, as amended by Ch. 604,
3 Acts of 2001.

4 The former reference to "any natural person, firm, association, corporation,
5 limited liability company, business trust, partnership, limited liability partnership" is
6 deleted as included in the definition of "person" in § 1-101 of this article.

7 In item (2) of this subsection, the reference to a "county [or] municipal
8 corporation" is added for clarity and specificity.

9 In item (3) of this subsection, the reference to a "unit of federal, State, or local
10 government" is substituted for the former references to a "federal agency", an
11 "agency" of the State or a political subdivision, and "any body politic" for clarity and
12 consistency with terminology used in other revised articles of the Code.

13 Defined terms: "County" § 1-101

14 "Person" § 1-101

15 DRAFTER'S NOTE TO SECTION: Former Ch. 179, § 3(a), Acts of 1976, as
16 amended by Ch. 604, Acts of 2001, which defined "Commission" to mean the
17 Maryland Public Service Commission, is deleted as unnecessary because the word is
18 not used in this subtitle.

19 5-602. RULES OF CONSTRUCTION.

20 (A) LIBERAL CONSTRUCTION.

21 THIS SUBTITLE SHALL BE CONSTRUED LIBERALLY.

22 (B) LISTING NOT EXCLUSIVE.

23 THE LISTING OF ONE THING MAY NOT BE CONSTRUED TO EXCLUDE SIMILAR
24 THINGS.

25 DRAFTER'S NOTE: This section is new language derived without substantive
26 change from former Ch. 179, § 31, Acts of 1976, as amended by Ch. 604, Acts of 2001.

27 In subsection (b) of this section, the former reference to "any object, purpose,
28 power, manner, [or] method" is deleted as included in the reference to a "thing".

1 5-603. RESERVED.

2 5-604. RESERVED.

3

PART II. FORMATION AND POWERS.

4 5-605. PURPOSE.

5 A COOPERATIVE, NONPROFIT, MEMBERSHIP CORPORATION MAY BE ORGANIZED
6 UNDER THIS SUBTITLE FOR THE PURPOSE OF SUPPLYING, PROMOTING, AND
7 EXTENDING THE USE OF ELECTRICITY.

8 DRAFTER'S NOTE: This section is new language derived without substantive
9 change from former Ch. 179, § 2, Acts of 1976, as amended by Ch. 604, Acts of 2001.

10 In this section and throughout this subtitle, the reference to "electricity" is
11 substituted for the former reference to "electric energy" for consistency with
12 terminology used in the Public Utility Companies Article.

13 5-606. FORMATION GENERALLY.

14 FIVE OR MORE INDIVIDUALS OR ONE OR MORE COOPERATIVES MAY ORGANIZE
15 A COOPERATIVE IN THE MANNER PROVIDED IN THIS SUBTITLE.

16 DRAFTER'S NOTE: This section is new language derived without substantive
17 change from former Ch. 179, § 6, Acts of 1976, as amended by Ch. 604, Acts of 2001.

18 Defined term: "Cooperative" § 5-601

19 5-607. POWERS.

20 (A) IN GENERAL.

21 A COOPERATIVE HAS THE POWER TO:

22 (1) SUE AND BE SUED IN ITS CORPORATE NAME;

23 (2) HAVE PERPETUAL EXISTENCE;

24 (3) ADOPT AND ALTER A CORPORATE SEAL;

25 (4) GENERATE, MANUFACTURE, PURCHASE, ACQUIRE, ACCUMULATE,
26 AND TRANSMIT ELECTRICITY;

27 (5) DISTRIBUTE, SELL, SUPPLY, AND DISPOSE OF ELECTRICITY TO:

28 (I) ITS MEMBERS;

29 (II) GOVERNMENTAL AGENCIES AND POLITICAL SUBDIVISIONS;

30 AND

1 (III) OTHER PERSONS NOT EXCEEDING 10% OF THE NUMBER OF ITS
2 MEMBERS;

3 (6) ASSIST PERSONS TO WHOM THE COOPERATIVE SUPPLIES OR WILL
4 SUPPLY ELECTRICITY IN WIRING THEIR PREMISES BY:

5 (I) PROVIDING FINANCING OR OTHER ASSISTANCE; OR

6 (II) WIRING OR CAUSING THE PREMISES TO BE WIRED;

7 (7) ASSIST PERSONS TO WHOM THE COOPERATIVE SUPPLIES OR WILL
8 SUPPLY ELECTRICITY IN ACQUIRING AND INSTALLING ELECTRICAL AND PLUMBING
9 APPLIANCES, EQUIPMENT, FIXTURES, AND APPARATUS BY:

10 (I) PROVIDING FINANCING OR OTHER ASSISTANCE;

11 (II) WIRING OR CAUSING THE PREMISES TO BE WIRED; OR

12 (III) PURCHASING, ACQUIRING, LEASING AS LESSOR OR LESSEE,
13 SELLING, DISTRIBUTING, INSTALLING, AND REPAIRING ELECTRICAL AND PLUMBING
14 APPLIANCES, EQUIPMENT, FIXTURES, AND APPARATUS;

15 (8) ASSIST PERSONS TO WHOM THE COOPERATIVE SUPPLIES OR WILL
16 SUPPLY ELECTRICITY IN CONSTRUCTING, EQUIPPING, MAINTAINING, AND
17 OPERATING ELECTRIC COLD STORAGE OR PROCESSING PLANTS, BY PROVIDING
18 FINANCING OR OTHER ASSISTANCE;

19 (9) CONSTRUCT, PURCHASE, LEASE AS LESSEE, OR OTHERWISE
20 ACQUIRE ELECTRIC TRANSMISSION AND DISTRIBUTION LINES OR SYSTEMS,
21 ELECTRIC GENERATING PLANTS, ELECTRIC COLD STORAGE OR PROCESSING PLANTS,
22 ELECTRIC PLANTS, AND ANY OTHER ASSETS CONSIDERED NECESSARY,
23 CONVENIENT, OR APPROPRIATE TO ACCOMPLISH THE PURPOSE FOR WHICH THE
24 COOPERATIVE IS ORGANIZED;

25 (10) EQUIP, MAINTAIN, AND OPERATE ELECTRIC TRANSMISSION AND
26 DISTRIBUTION LINES OR SYSTEMS, ELECTRIC GENERATING PLANTS, ELECTRIC COLD
27 STORAGE OR PROCESSING PLANTS, ELECTRIC PLANTS, AND ANY OTHER ASSETS
28 CONSIDERED NECESSARY, CONVENIENT, OR APPROPRIATE TO ACCOMPLISH THE
29 PURPOSE FOR WHICH THE COOPERATIVE IS ORGANIZED;

30 (11) SELL, ASSIGN, CONVEY, LEASE AS LESSOR, MORTGAGE, PLEDGE, OR
31 OTHERWISE DISPOSE OF OR ENCUMBER ELECTRIC TRANSMISSION AND
32 DISTRIBUTION LINES OR SYSTEMS, ELECTRIC GENERATING PLANTS, ELECTRIC COLD
33 STORAGE OR PROCESSING PLANTS, ELECTRIC PLANTS, AND ANY OTHER ASSETS
34 CONSIDERED NECESSARY, CONVENIENT, OR APPROPRIATE TO ACCOMPLISH THE
35 PURPOSE FOR WHICH THE COOPERATIVE IS ORGANIZED;

36 (12) PURCHASE, LEASE AS LESSEE, OR OTHERWISE ACQUIRE, USE AND
37 EXERCISE, AND SELL, ASSIGN, CONVEY, MORTGAGE, PLEDGE, OR OTHERWISE

1 DISPOSE OF OR ENCUMBER, FRANCHISES, RIGHTS, PRIVILEGES, LICENSES, AND
2 EASEMENTS;

3 (13) BORROW MONEY AND OTHERWISE CONTRACT INDEBTEDNESS,
4 ISSUE NOTES, BONDS, AND OTHER EVIDENCES OF INDEBTEDNESS, AND SECURE THE
5 PAYMENT OF THOSE INSTRUMENTS BY MORTGAGE, PLEDGE, OR DEED OF TRUST, OR
6 ANY OTHER ENCUMBRANCE ON ANY OF ITS ASSETS, REVENUES, OR INCOME;

7 (14) CONSTRUCT, MAINTAIN, AND OPERATE ELECTRIC TRANSMISSION
8 AND DISTRIBUTION LINES ALONG, ON, UNDER, AND ACROSS PUBLICLY OWNED
9 LANDS, ROADWAYS, AND PUBLIC WAYS, WITH THE PRIOR CONSENT OF THE
10 GOVERNING BODY OF THE MUNICIPAL CORPORATION OR COUNTY IN WHICH THE
11 LINES ARE PROPOSED TO BE CONSTRUCTED AND UNDER ANY REASONABLE
12 REGULATIONS AND CONDITIONS REQUIRED IN THE CONSENT;

13 (15) EXERCISE THE POWER OF CONDEMNATION IN THE MANNER
14 PROVIDED BY THE LAW OF THIS STATE FOR THE EXERCISE OF THAT POWER BY
15 OTHER CORPORATIONS THAT CONSTRUCT OR OPERATE ELECTRIC TRANSMISSION
16 AND DISTRIBUTION LINES OR SYSTEMS;

17 (16) BECOME A MEMBER OF OR OWN STOCK IN OTHER COOPERATIVES OR
18 CORPORATIONS;

19 (17) CONDUCT ITS BUSINESS AND EXERCISE ITS POWERS IN ANY STATE,
20 TERRITORY, DISTRICT, AND POSSESSION OF THE UNITED STATES AND IN ANY
21 FOREIGN COUNTRY;

22 (18) ADOPT, AMEND, AND REPEAL BYLAWS; AND

23 (19) DO ANY OTHER ACT AND EXERCISE ANY OTHER POWER THAT MAY BE
24 NECESSARY, CONVENIENT, OR APPROPRIATE TO ACCOMPLISH THE PURPOSE FOR
25 WHICH THE COOPERATIVE IS ORGANIZED.

26 (B) FURNISHING OF COLD STORAGE OR PROCESSING PLANT SERVICE.

27 A COOPERATIVE THAT FURNISHES ELECTRIC COLD STORAGE OR PROCESSING
28 PLANT SERVICE IS NOT CONSIDERED TO BE DISTRIBUTING, SELLING, SUPPLYING, OR
29 DISPOSING OF ELECTRICITY UNDER SUBSECTION (A)(5)(III) OF THIS SECTION SOLELY
30 ON THAT ACCOUNT.

31 DRAFTER'S NOTE: This section is new language derived without substantive
32 change from former Ch. 179, § 4, Acts of 1976, as amended by Ch. 604, Acts of 2001.

33 In subsection (a)(6) and (7) of this section, the former phrase "and in connection
34 therewith" is deleted as surplusage.

35 In subsection (a)(9), (10), and (11) of this section, the defined terms "electric
36 plants" and "assets" are substituted for the former references to "land, buildings,
37 structures, dams, plants, and equipment" and "real or personal property, tangible or
38 intangible", respectively, for brevity.

1 In subsection (a)(13) of this section, the former references to "real or personal
2 property" and "franchises" are deleted as included in the defined term "assets".

3 Also in subsection (a)(13) of this section, the former phrase "then owned or
4 after-acquired" is deleted as surplusage.

5 In subsection (a)(14) of this section, the reference to "roadways and public ways"
6 is substituted for the former reference to "public thoroughfares" for consistency with
7 terminology used in PUC § 7-103.

8 Also in subsection (a)(14) of this section, the former reference to "roads,
9 highways, streets, alleys, bridges and causeways" is deleted as included in the
10 reference to "roadways and public ways".

11 Also in subsection (a)(14) of this section, the reference to the "governing body of
12 the municipal corporation or county" is substituted for the former reference to "the
13 municipal authorities of the city or town, or of the county commissioners or county
14 council of the county" for brevity and consistency with terminology used in PUC §
15 7-103.

16 In subsection (a)(15) of this section, the reference to "condemnation" is
17 substituted for the former reference to "eminent domain" for consistency with
18 terminology used in PUC Title 5, Subtitle 4.

19 In subsection (a)(17) of this section, the phrase "in any state, territory, district,
20 and possession of the United States and in any foreign country" is substituted for the
21 former phrase "within or without this State" for consistency with similar provisions of
22 the Maryland General Corporation Law. *See, e.g.,* § 2-103(4) of this article.

23 In subsection (b) of this section, the reference to "subsection (a)(5)(iii) of this
24 section" is added for clarity.

25 Defined terms: "Assets" § 1-101

26 "Cooperative" § 5-601

27 "County" § 1-101

28 "Electric plant" § 5-601

29 "Member" § 5-601

30 "Person" § 5-601

31 5-608. ARTICLES OF INCORPORATION.

32 (A) REQUIRED PROVISIONS.

33 THE ARTICLES OF INCORPORATION OF A COOPERATIVE SHALL CONTAIN:

34 (1) THE NAME OF THE COOPERATIVE;

1 (2) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE COOPERATIVE;

2 (3) THE NAME AND ADDRESS OF THE RESIDENT AGENT OF THE
3 COOPERATIVE;

4 (4) THE NAME AND ADDRESS OF EACH INCORPORATOR;

5 (5) THE NAME AND ADDRESS OF EACH DIRECTOR; AND

6 (6) A STATEMENT THAT THE ARTICLES ARE EXECUTED IN ACCORDANCE
7 WITH THIS SUBTITLE.

8 (B) PERMISSIBLE PROVISIONS.

9 THE ARTICLES OF INCORPORATION OF A COOPERATIVE MAY CONTAIN ANY
10 PROVISION THAT:

11 (1) IS CONSISTENT WITH THIS SUBTITLE; AND

12 (2) IS CONSIDERED NECESSARY OR ADVISABLE FOR THE CONDUCT OF
13 THE BUSINESS OF THE COOPERATIVE.

14 (C) UNNECESSARY PROVISIONS.

15 THE ARTICLES OF INCORPORATION NEED NOT STATE THE PURPOSE FOR WHICH
16 THE COOPERATIVE IS ORGANIZED OR ANY OF ITS CORPORATE POWERS.

17 (D) EXECUTION OF ARTICLES.

18 THE ARTICLES OF INCORPORATION SHALL BE SIGNED BY EACH INCORPORATOR
19 AND ACKNOWLEDGED BY AT LEAST TWO OF THE INCORPORATORS, OR ON THEIR
20 BEHALF, IF THEY ARE COOPERATIVES.

21 DRAFTER'S NOTE: This section is new language derived without substantive
22 change from former Ch. 179, § 7, Acts of 1976, as amended by Ch. 604, Acts of 2001.

23 Defined terms: "Cooperative" § 5-601

24 "Director" § 1-101

25 "Principal office" § 1-101

26 "Resident agent" § 1-101

27 5-609. AMENDMENT OF ARTICLES OF INCORPORATION.

28 (A) IN GENERAL.

29 A COOPERATIVE MAY AMEND ITS ARTICLES OF INCORPORATION AS PROVIDED
30 IN THIS SECTION.

1 (B) APPROVAL BY MEMBERS.

2 (1) A PROPOSED AMENDMENT SHALL BE SUBMITTED FOR
3 CONSIDERATION AT AN ANNUAL OR SPECIAL MEETING OF THE MEMBERS OF THE
4 COOPERATIVE.

5 (2) THE PROPOSED AMENDMENT SHALL BE INCLUDED IN OR ATTACHED
6 TO THE NOTICE OF THE MEETING.

7 (3) THE PROPOSED AMENDMENT AND ANY CHANGE TO THE PROPOSED
8 AMENDMENT SHALL BE APPROVED BY THE AFFIRMATIVE VOTE OF NOT LESS THAN
9 TWO-THIRDS OF THE MEMBERS VOTING ON THE MATTER.

10 (C) EXECUTION OF ARTICLES OF AMENDMENT.

11 IF THE PROPOSED AMENDMENT AND ANY CHANGE TO THE PROPOSED
12 AMENDMENT ARE APPROVED BY THE MEMBERS AS PROVIDED IN SUBSECTION (B) OF
13 THIS SECTION:

14 (1) ARTICLES OF AMENDMENT SHALL BE SIGNED AND ACKNOWLEDGED
15 FOR THE COOPERATIVE BY ITS CHAIRMAN OR VICE-CHAIRMAN AND ATTESTED BY
16 ITS SECRETARY; AND

17 (2) THE SEAL OF THE COOPERATIVE SHALL BE AFFIXED TO THE
18 ARTICLES.

19 (D) CONTENTS OF ARTICLES OF AMENDMENT.

20 THE ARTICLES OF AMENDMENT SHALL CONTAIN:

21 (1) THE NAME OF THE COOPERATIVE;

22 (2) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE COOPERATIVE;

23 (3) THE AMENDMENT TO THE ARTICLES OF INCORPORATION; AND

24 (4) A STATEMENT THAT THE ARTICLES ARE EXECUTED IN ACCORDANCE
25 WITH THIS SUBTITLE.

26 (E) AFFIDAVIT OF COMPLIANCE.

27 THE CHAIRMAN OR VICE-CHAIRMAN WHO SIGNS THE ARTICLES OF
28 AMENDMENT FOR THE COOPERATIVE SHALL MAKE AND ATTACH TO THE ARTICLES
29 AN AFFIDAVIT STATING THAT THE COOPERATIVE HAS COMPLIED WITH THE
30 PROVISIONS OF THIS SECTION THAT RELATE TO THE ARTICLES.

31 DRAFTER'S NOTE: This section is new language derived without substantive
32 change from former Ch. 179, § 15, Acts of 1976, as amended by Ch. 604, Acts of 2001.

1 In subsection (a) of this section, the phrase "as provided in this section" is
2 substituted for the former phrase "by complying with the following requirements" to
3 conform to language used elsewhere in this article.

4 In subsection (b)(1) of this section, the requirement to submit a proposed
5 amendment to the articles of incorporation "for consideration at an annual or special
6 meeting" of the members is substituted for the former requirement to submit the
7 proposed amendment "to a meeting" of the members for clarity and consistency with
8 similar provisions of the Maryland General Corporation Law. *See, e.g.*, §§ 3-105(b)(2)
9 and 3-403(b)(2) of this article.

10 Subsection (b)(3) of this section is revised to state expressly that which was only
11 implied in the former law, *i.e.*, that the proposed amendment must be approved by the
12 affirmative vote of at least two-thirds of the members voting on the matter.

13 Also in subsection (b)(3) of this section, the former reference to members voting
14 on the matter "at such meeting" is deleted as unnecessary in light of subsection (b)(1)
15 of this section, which requires the submission of the proposed amendment "for
16 consideration at an annual or special meeting of the members of the cooperative".

17 In subsections (c)(1) and (e) of this section, the references to "sign[ing]" articles
18 of amendment are substituted for the former references to "execut[ing]" articles of
19 amendment to clarify that "signing" the articles is only one of the formalities required
20 for the "execution" of the articles. These substitutions are consistent with the
21 Maryland General Corporation Law, § 1-301 of this article.

22 In subsection (e) of this section, the former reference to an affidavit stating that
23 the cooperative has "duly" complied with certain provisions of this section is deleted
24 as implicit in the word "complied".

25 Defined terms: "Cooperative" § 5-601

26 "Member" § 5-601

27 "Principal office" § 1-101

28 5-610. NAME.

29 (A) REQUIRED WORDS.

30 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
31 NAME OF A COOPERATIVE OR FOREIGN CORPORATION DOING BUSINESS IN THE
32 STATE UNDER THIS SUBTITLE SHALL INCLUDE:

33 (I) THE WORDS "ELECTRIC" AND "COOPERATIVE"; AND

34 (II) THE ABBREVIATION "INC.".

35 (2) A COOPERATIVE NEED NOT USE ANY WORD SPECIFIED UNDER
36 PARAGRAPH (1) OF THIS SUBSECTION IF:

1 (I) THE COOPERATIVE WISHES TO DO BUSINESS IN ANOTHER
2 STATE AND IS OR WOULD BE PRECLUDED FROM DOING BUSINESS IN THAT STATE
3 BECAUSE OF THE INCLUSION OF THE WORD IN ITS NAME; AND

4 (II) AN AFFIDAVIT STATING THE COOPERATIVE'S REASON FOR NOT
5 USING THE WORD IS:

6 1. MADE AND FILED WITH THE DEPARTMENT BY THE
7 COOPERATIVE'S CHAIRMAN OR VICE-CHAIRMAN; OR

8 2. MADE BY A PERSON WHO SIGNS ARTICLES OF
9 INCORPORATION, CONSOLIDATION, MERGER, OR CONVERSION FOR THE
10 COOPERATIVE AND FILED, TOGETHER WITH THE ARTICLES, WITH THE DEPARTMENT.

11 (B) NAME TO BE DISTINGUISHABLE.

12 THE NAME OF A COOPERATIVE SHALL BE DISTINGUISHABLE ON THE RECORDS
13 OF THE DEPARTMENT FROM THE ENTITY NAME OF AN ENTITY ORGANIZED OR
14 AUTHORIZED TO TRANSACT BUSINESS IN THE STATE.

15 DRAFTER'S NOTE: This section is new language derived without substantive
16 change from former Ch. 179, § 5, Acts of 1976, as amended by Ch. 604, Acts of 2001.

17 In subsection (b) of this section, the requirement that the name of a cooperative
18 be "distinguishable on the records of the Department from the entity name of an
19 entity organized or authorized to transact business in the State" is substituted for the
20 former requirement that the name be "distinct from the name of any other
21 cooperative or corporation organized under the laws of, or authorized to do business
22 in, this State" for consistency with entity name requirements under Title 1, Subtitle 5
23 of this article. *See* § 1-504 of this article.

24 Defined terms: "Cooperative" § 5-601

25 "Department" § 1-101

26 "Foreign corporation" § 1-101

27 "Person" § 5-601

28 5-611. BYLAWS.

29 (A) INITIAL BYLAWS.

30 THE BOARD OF DIRECTORS SHALL ADOPT THE INITIAL BYLAWS OF A
31 COOPERATIVE AFTER AN INCORPORATION, CONVERSION, MERGER, OR
32 CONSOLIDATION.

33 (B) AMENDMENT OR REPEAL OF BYLAWS.

1 AFTER ADOPTION OF THE INITIAL BYLAWS, THE MEMBERS SHALL ADOPT,
2 AMEND, OR REPEAL THE BYLAWS BY THE AFFIRMATIVE VOTE OF A MAJORITY OF
3 THE MEMBERS VOTING ON THE MATTER AT A MEETING OF THE MEMBERS.

4 (C) CONTENTS OF BYLAWS.

5 THE BYLAWS:

6 (1) SHALL STATE THE RIGHTS AND DUTIES OF MEMBERS AND
7 DIRECTORS; AND

8 (2) MAY CONTAIN OTHER PROVISIONS FOR THE REGULATION AND
9 MANAGEMENT OF THE AFFAIRS OF THE COOPERATIVE THAT ARE CONSISTENT WITH
10 THIS SUBTITLE AND THE ARTICLES OF INCORPORATION.

11 DRAFTER'S NOTE: This section is new language derived without substantive
12 change from former Ch. 179, § 8, Acts of 1976, as amended by Ch. 604, Acts of 2001.

13 Defined terms: "Cooperative" § 5-601

14 "Director" § 1-101

15 "Member" § 5-601

16 5-612. DISTRICTS.

17 (A) BYLAWS PROVISION.

18 THE BYLAWS MAY PROVIDE FOR THE DIVISION OF THE TERRITORY SERVED OR
19 TO BE SERVED BY A COOPERATIVE INTO TWO OR MORE DISTRICTS FOR ANY
20 PURPOSE, INCLUDING THE NOMINATION AND ELECTION OF DIRECTORS.

21 (B) BOUNDARIES.

22 IF THE BYLAWS PROVIDE FOR DISTRICTS, THE BYLAWS SHALL ESTABLISH:

23 (1) THE BOUNDARIES OF THE DISTRICTS OR THE MANNER OF
24 ESTABLISHING THE BOUNDARIES;

25 (2) THE MANNER OF CHANGING THE BOUNDARIES; AND

26 (3) THE MANNER IN WHICH THE DISTRICTS SHALL FUNCTION.

27 (C) VOTING BY PROXY OR MAIL PROHIBITED AT DISTRICT MEETINGS.

28 A MEMBER MAY NOT VOTE BY PROXY OR BY MAIL AT A DISTRICT MEETING.

29 DRAFTER'S NOTE: This section is new language derived without substantive
30 change from former Ch. 179, § 13, Acts of 1976, as amended by Ch. 604, Acts of 2001.

1 In subsection (a) of this section, the former phrase "without limitation" is
2 deleted as unnecessary in light of Art. 1, § 30, which provides that the term
3 "including" is used "by way of illustration and not by way of limitation".

4 Defined terms: "Cooperative" § 5-601

5 "Director" § 1-101

6 "Member" § 5-601

7 5-613. RESERVED.

8 5-614. RESERVED.

9 PART III. MEMBERS.

10 5-615. MEMBERS.

11 (A) ELIGIBILITY FOR MEMBERSHIP.

12 (1) EACH INCORPORATOR OF A COOPERATIVE SHALL BE A MEMBER OF
13 THE COOPERATIVE.

14 (2) A PERSON OTHER THAN AN INCORPORATOR MAY BECOME A MEMBER
15 OF THE COOPERATIVE IF THE PERSON AGREES TO USE ELECTRICITY OR OTHER
16 SERVICES SUPPLIED BY THE COOPERATIVE WHEN THE ELECTRICITY OR SERVICES
17 ARE MADE AVAILABLE THROUGH THE COOPERATIVE'S FACILITIES.

18 (B) ADDITIONAL QUALIFICATIONS AND LIMITATIONS.

19 THE BYLAWS MAY PROVIDE ADDITIONAL QUALIFICATIONS FOR AND
20 LIMITATIONS ON MEMBERSHIP.

21 (C) TERMINATION OF MEMBERSHIP.

22 THE MEMBERSHIP OF A MEMBER OF A COOPERATIVE WHO AGREES TO USE
23 ELECTRICITY SHALL TERMINATE IF:

24 (1) THE MEMBER DOES NOT USE ELECTRICITY SUPPLIED BY THE
25 COOPERATIVE WITHIN 6 MONTHS AFTER IT IS MADE AVAILABLE TO THE MEMBER; OR

26 (2) THE COOPERATIVE DOES NOT MAKE ELECTRICITY AVAILABLE TO
27 THE MEMBER WITHIN 2 YEARS AFTER THE PERSON BECOMES A MEMBER OR WITHIN
28 ANY SHORTER PERIOD PROVIDED BY THE BYLAWS OF THE COOPERATIVE.

29 (D) JOINT MEMBERSHIP.

30 A HUSBAND AND WIFE MAY HOLD A JOINT MEMBERSHIP IN A COOPERATIVE.

31 (E) MEMBERSHIP NOT TRANSFERABLE.

1 UNLESS THE BYLAWS PROVIDE OTHERWISE, MEMBERSHIP IN A COOPERATIVE
2 IS NOT TRANSFERABLE.

3 (F) LIABILITY OF MEMBERS FOR DEBTS OF COOPERATIVE.

4 (1) A MEMBER OF A COOPERATIVE IS NOT LIABLE FOR THE DEBTS OF
5 THE COOPERATIVE.

6 (2) THE PROPERTY OF A MEMBER OF A COOPERATIVE IS NOT SUBJECT
7 TO EXECUTION FOR THE DEBTS OF THE COOPERATIVE.

8 DRAFTER'S NOTE: This section is new language derived without substantive
9 change from former Ch. 179, §§ 9 and 25, Acts of 1976, as amended by Ch. 604, Acts
10 of 2001.

11 In subsection (f)(1) of this section, the former reference to not being
12 "responsible" for debts of the cooperative is deleted as unnecessary in light of the
13 reference to not being "liable" for those debts.

14 Defined terms: "Cooperative" § 5-601

15 "Member" § 5-601

16 "Person" § 5-601

17 5-616. MEETINGS OF MEMBERS.

18 (A) ANNUAL MEETING.

19 AN ANNUAL MEETING OF THE MEMBERS OF A COOPERATIVE SHALL BE HELD
20 AT THE TIME AND PLACE PROVIDED IN THE BYLAWS.

21 (B) SPECIAL MEETINGS.

22 A SPECIAL MEETING OF THE MEMBERS OF A COOPERATIVE MAY BE CALLED BY:

23 (1) THE CHAIRMAN;

24 (2) A MAJORITY OF THE BOARD OF DIRECTORS; OR

25 (3) NOT LESS THAN 10% OF THE MEMBERS.

26 DRAFTER'S NOTE: This section is new language derived without substantive
27 change from former Ch. 179, § 10(a) and (b), Acts of 1976, as amended by Ch. 604,
28 Acts of 2001.

29 Defined terms: "Cooperative" § 5-601

30 "Director" § 1-101

31 "Member" § 5-601

1 5-617. SAME -- NOTICE.

2 (A) MAILING OF NOTICE; CONTENTS.

3 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, NOTICE OF
4 EACH MEETING OF THE MEMBERS SHALL BE MAILED TO EACH MEMBER NOT LESS
5 THAN 10 DAYS OR MORE THAN 90 DAYS BEFORE THE DATE OF THE MEETING.

6 (2) THE NOTICE SHALL STATE:

7 (I) THE TIME AND PLACE OF THE MEETING; AND

8 (II) IF THE MEETING IS A SPECIAL MEETING, THE PURPOSE OF THE
9 MEETING.

10 (B) WAIVER OF NOTICE.

11 (1) A PERSON ENTITLED TO NOTICE OF A MEETING MAY WAIVE NOTICE
12 IN WRITING EITHER BEFORE OR AFTER THE MEETING.

13 (2) IF A PERSON ENTITLED TO NOTICE OF A MEETING ATTENDS THE
14 MEETING, THE PERSON'S PRESENCE SHALL CONSTITUTE A WAIVER OF NOTICE OF
15 THE MEETING, UNLESS THE PERSON PARTICIPATES IN THE MEETING SOLELY TO
16 OBJECT TO THE TRANSACTION OF ANY BUSINESS BECAUSE THE MEETING HAS NOT
17 BEEN LEGALLY CALLED OR CONVENED.

18 DRAFTER'S NOTE: This section is new language derived without substantive
19 change from former Ch. 179, §§ 10(c) and 11, Acts of 1976, as amended by Ch. 604,
20 Acts of 2001.

21 Defined terms: "Mail" § 1-101

22 "Member" § 5-601

23 "Person" § 5-601

24 5-618. SAME -- QUORUM.

25 (A) IN GENERAL.

26 UNLESS THE BYLAWS REQUIRE THE PRESENCE OF A GREATER PERCENTAGE OR
27 NUMBER OF THE MEMBERS FOR A QUORUM, A QUORUM FOR THE TRANSACTION OF
28 BUSINESS AT ALL MEETINGS OF THE MEMBERS OF A COOPERATIVE SHALL BE:

29 (1) 5% OF ALL MEMBERS, PRESENT IN PERSON, OF A COOPERATIVE THAT
30 HAS NOT MORE THAN 1,000 MEMBERS; AND

31 (2) FIFTY MEMBERS, PRESENT IN PERSON, OF A COOPERATIVE THAT
32 HAS MORE THAN 1,000 MEMBERS.

33 (B) LESS THAN QUORUM.

1 IF LESS THAN A QUORUM IS PRESENT AT ANY MEETING, A MAJORITY OF THOSE
2 PRESENT IN PERSON MAY ADJOURN THE MEETING FROM TIME TO TIME WITHOUT
3 FURTHER NOTICE.

4 DRAFTER'S NOTE: This section is new language derived without substantive
5 change from former Ch. 179, § 10(d), Acts of 1976, as amended by Ch. 604, Acts of
6 2001.

7 Defined terms: "Cooperative" § 5-601

8 "Member" § 5-601

9 5-619. SAME -- VOTING.

10 (A) EACH MEMBER ENTITLED TO ONE VOTE.

11 EACH MEMBER OF A COOPERATIVE IS ENTITLED TO ONE VOTE ON EACH
12 MATTER SUBMITTED TO A VOTE AT A MEETING OF THE MEMBERS.

13 (B) MANNER OF VOTING.

14 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
15 VOTING SHALL BE IN PERSON.

16 (2) (I) IF THE BYLAWS SO PROVIDE, VOTING ALSO MAY BE BY PROXY
17 OR BY MAIL, OR BOTH.

18 (II) IF THE BYLAWS PROVIDE FOR VOTING BY PROXY OR BY MAIL,
19 THEY ALSO SHALL ESTABLISH THE CONDITIONS UNDER WHICH VOTING BY PROXY
20 OR BY MAIL IS ALLOWED.

21 (C) LIMITATION ON VOTING BY PROXY.

22 A PERSON MAY NOT VOTE BY PROXY FOR MORE THAN THREE MEMBERS AT ANY
23 MEETING OF THE MEMBERS.

24 DRAFTER'S NOTE: This section is new language derived without substantive
25 change from former Ch. 179, § 10(e), Acts of 1976, as amended by Ch. 604, Acts of
26 2001.

27 Defined terms: "Cooperative" § 5-601

28 "Member" § 5-601

29 "Person" § 5-601

1 5-620. RESERVED.

2 5-621. RESERVED.

3

PART IV. DIRECTORS AND OFFICERS.

4 5-622. BOARD OF DIRECTORS.

5 (A) MANAGEMENT OF COOPERATIVE; MINIMUM NUMBER OF DIRECTORS.

6 (1) THE BUSINESS OF A COOPERATIVE SHALL BE MANAGED BY A BOARD
7 OF DIRECTORS.

8 (2) EACH COOPERATIVE SHALL HAVE AT LEAST FIVE DIRECTORS.

9 (B) MEMBERSHIP REQUIREMENT.

10 EACH DIRECTOR SHALL BE A MEMBER OF THE COOPERATIVE OR OF A MEMBER
11 COOPERATIVE.

12 (C) BYLAWS PROVISIONS.

13 (1) THE BYLAWS SHALL ESTABLISH:

14 (I) THE NUMBER OF DIRECTORS;

15 (II) THE QUALIFICATIONS OF DIRECTORS OTHER THAN THE
16 QUALIFICATIONS REQUIRED UNDER THIS SUBTITLE;

17 (III) THE MANNER OF HOLDING MEETINGS OF THE BOARD OF
18 DIRECTORS; AND

19 (IV) THE MANNER OF ELECTING SUCCESSORS TO DIRECTORS WHO
20 RESIGN, DIE, OR ARE OTHERWISE INCAPABLE OF ACTING.

21 (2) THE BYLAWS MAY PROVIDE FOR THE REMOVAL OF DIRECTORS FROM
22 OFFICE AND FOR THE ELECTION OF THEIR SUCCESSORS.

23 (C) SPOUSES HOLDING JOINT MEMBERSHIP.

24 IF A HUSBAND AND WIFE HOLD A JOINT MEMBERSHIP IN A COOPERATIVE,
25 EITHER ONE, BUT NOT BOTH, MAY BE ELECTED A DIRECTOR.

26 (D) QUORUM.

27 A MAJORITY OF THE BOARD OF DIRECTORS IS A QUORUM.

28 (E) COMPENSATION.

29 (1) A DIRECTOR MAY NOT RECEIVE A SALARY FOR SERVING AS A
30 DIRECTOR.

1 (2) EXCEPT IN EMERGENCIES, A DIRECTOR MAY NOT BE EMPLOYED BY
2 THE COOPERATIVE IN ANY CAPACITY INVOLVING COMPENSATION WITHOUT THE
3 APPROVAL OF THE MEMBERS.

4 (3) THE BYLAWS MAY AUTHORIZE A FIXED FEE AND EXPENSES TO BE
5 PAID TO EACH DIRECTOR FOR ATTENDING A MEETING OF THE BOARD OF DIRECTORS.

6 (F) POWERS.

7 THE BOARD OF DIRECTORS MAY EXERCISE ALL OF THE POWERS OF A
8 COOPERATIVE NOT CONFERRED ON THE MEMBERS BY THIS SUBTITLE OR THE
9 COOPERATIVE'S ARTICLES OF INCORPORATION OR BYLAWS.

10 DRAFTER'S NOTE: This section is new language derived without substantive
11 change from former Ch. 179, § 12(a), (d), (e), and (f), Acts of 1976, as amended by Ch.
12 604, Acts of 2001.

13 In subsection (b) of this section, the reference to a "member cooperative" is
14 substituted for the former reference to "another cooperative which is a member
15 thereof" for brevity.

16 Defined terms: "Cooperative" § 5-601

17 "Director" § 1-101

18 "Member" § 5-601

19 5-623. SAME -- ELECTION AND TENURE; STAGGERING TERMS OF OFFICE; FILLING
20 VACANCIES.

21 (A) INITIAL DIRECTORS.

22 THE DIRECTORS OF A COOPERATIVE NAMED IN ANY ARTICLES OF
23 INCORPORATION, CONSOLIDATION, MERGER, OR CONVERSION SHALL HOLD OFFICE
24 UNTIL THE NEXT ANNUAL MEETING OF THE MEMBERS AND UNTIL THEIR
25 SUCCESSORS ARE ELECTED AND QUALIFIED.

26 (B) ELECTION BY MEMBERS.

27 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AT EACH ANNUAL
28 MEETING OR, IF THE COOPERATIVE FAILS TO HOLD AN ANNUAL MEETING AS
29 SPECIFIED IN THE BYLAWS, AT A SPECIAL MEETING CALLED FOR THAT PURPOSE,
30 THE MEMBERS SHALL ELECT DIRECTORS TO HOLD OFFICE UNTIL THE NEXT ANNUAL
31 MEETING OF THE MEMBERS.

32 (C) TERM OF OFFICE.

33 EACH DIRECTOR SHALL HOLD OFFICE FOR THE TERM FOR WHICH THE
34 DIRECTOR IS ELECTED AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

35 (D) STAGGERING TERMS OF OFFICE.

1 (1) (I) INSTEAD OF ELECTING ALL THE DIRECTORS ANNUALLY, THE
2 BYLAWS MAY REQUIRE THAT THE DIRECTORS BE DIVIDED INTO THREE CLASSES.

3 (II) EACH CLASS SHALL BE AS NEARLY EQUAL IN NUMBER AS
4 POSSIBLE.

5 (2) (I) IF THE BYLAWS REQUIRE THAT THE DIRECTORS BE DIVIDED
6 INTO THREE CLASSES, THE TERMS OF THE DIRECTORS SHALL BE STAGGERED IN
7 ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH.

8 (II) 1. THE INITIAL TERM OF OFFICE OF THE DIRECTORS OF THE
9 FIRST CLASS SHALL EXPIRE AT THE NEXT SUCCEEDING ANNUAL MEETING.

10 2. THE INITIAL TERM OF THE SECOND CLASS SHALL EXPIRE
11 AT THE SECOND SUCCEEDING ANNUAL MEETING.

12 3. THE INITIAL TERM OF THE THIRD CLASS SHALL EXPIRE
13 AT THE THIRD SUCCEEDING ANNUAL MEETING.

14 (3) AT EACH ANNUAL MEETING AFTER THE INITIAL CLASSIFICATION OF
15 THE DIRECTORS, A NUMBER OF DIRECTORS EQUAL TO THE NUMBER OF THE CLASS
16 WHOSE TERM EXPIRES AT THAT MEETING SHALL BE ELECTED TO HOLD OFFICE FOR
17 3 YEARS OR UNTIL THE THIRD SUCCEEDING ANNUAL MEETING.

18 (E) FILLING VACANCIES.

19 IF A VACANCY OCCURS ON THE BOARD OF DIRECTORS, THE REMAINING
20 DIRECTORS SHALL ELECT A DIRECTOR TO FILL THE VACANCY FOR THE REMAINDER
21 OF THE TERM FOR WHICH THE VACATING DIRECTOR WAS ELECTED.

22 DRAFTER'S NOTE: Subsections (a), (b), (c), (d)(1), (2)(ii), and (3), and (e) of this
23 section are new language derived without substantive change from former Ch. 179, §
24 12(b) and (c), Acts of 1976, as amended by Ch. 604, Acts of 2001.

25 Subsection (d)(2)(i) of this section is new language added for clarity.

26 Defined terms: "Cooperative" § 5-601

27 "Director" § 1-101

28 "Member" § 5-601

29 5-624. OFFICERS.

30 (A) CHAIRMAN AND VICE-CHAIRMEN.

31 THE DIRECTORS SHALL ELECT ANNUALLY FROM AMONG THE DIRECTORS A
32 CHAIRMAN AND ONE OR MORE VICE-CHAIRMEN.

33 (B) SECRETARY AND TREASURER.

1 (1) THE DIRECTORS SHALL ELECT A SECRETARY AND A TREASURER.

2 (2) THE SECRETARY AND TREASURER NEED NOT BE DIRECTORS OR
3 MEMBERS.

4 (3) THE DIRECTORS MAY COMBINE THE OFFICES OF SECRETARY AND
5 TREASURER AND DESIGNATE THE COMBINED OFFICE AS SECRETARY-TREASURER.

6 (C) OTHER OFFICERS.

7 (1) THE BOARD OF DIRECTORS MAY ELECT OR APPOINT ANY OTHER
8 OFFICERS, AGENTS, OR EMPLOYEES IT CONSIDERS NECESSARY OR ADVISABLE.

9 (2) THE BOARD SHALL ESTABLISH THE POWERS AND DUTIES OF EACH
10 OFFICER, AGENT, OR EMPLOYEE IT ELECTS OR APPOINTS.

11 (D) REMOVAL FROM OFFICE.

12 AN OFFICER MAY BE REMOVED FROM OFFICE AND A SUCCESSOR ELECTED IN
13 THE MANNER PROVIDED IN THE BYLAWS.

14 DRAFTER'S NOTE: This section is new language derived without substantive
15 change from former Ch. 179, § 14, Acts of 1976, as amended by Ch. 604, Acts of 2001.

16 Defined terms: "Director" §1-101

17 "Member" § 5-601

18 5-625. RESERVED.

19 5-626. RESERVED.

20 PART V. CONSOLIDATION, MERGER, CONVERSION, AND DISSOLUTION.

21 5-627. CONSOLIDATION.

22 (A) IN GENERAL.

23 A COOPERATIVE MAY CONSOLIDATE WITH ONE OR MORE OTHER
24 COOPERATIVES TO FORM A NEW CONSOLIDATED COOPERATIVE AS PROVIDED IN
25 THIS SECTION.

26 (B) APPROVAL BY MEMBERS.

27 (1) A PROPOSED CONSOLIDATION AND PROPOSED ARTICLES OF
28 CONSOLIDATION THAT EFFECT THE CONSOLIDATION SHALL BE SUBMITTED FOR
29 CONSIDERATION AT AN ANNUAL OR SPECIAL MEETING OF THE MEMBERS OF EACH
30 CONSOLIDATING COOPERATIVE.

31 (2) A COPY OF THE PROPOSED ARTICLES OF CONSOLIDATION SHALL BE
32 ATTACHED TO THE NOTICE OF THE MEETING.

1 (3) THE PROPOSED CONSOLIDATION, PROPOSED ARTICLES OF
2 CONSOLIDATION, AND ANY AMENDMENTS TO THE PROPOSED ARTICLES OF
3 CONSOLIDATION SHALL BE APPROVED BY THE AFFIRMATIVE VOTE OF NOT LESS
4 THAN TWO-THIRDS OF THE MEMBERS OF EACH CONSOLIDATING COOPERATIVE
5 VOTING ON THE MATTER.

6 (C) EXECUTION OF ARTICLES OF CONSOLIDATION.

7 IF THE PROPOSED CONSOLIDATION, PROPOSED ARTICLES OF CONSOLIDATION,
8 AND ANY AMENDMENTS TO THE PROPOSED ARTICLES OF CONSOLIDATION ARE
9 APPROVED BY THE MEMBERS OF EACH CONSOLIDATING COOPERATIVE AS PROVIDED
10 IN SUBSECTION (B) OF THIS SECTION:

11 (1) ARTICLES OF CONSOLIDATION IN THE FORM APPROVED SHALL BE
12 SIGNED AND ACKNOWLEDGED FOR EACH COOPERATIVE BY ITS CHAIRMAN OR
13 VICE-CHAIRMAN AND ATTESTED BY ITS SECRETARY; AND

14 (2) THE SEAL OF EACH COOPERATIVE SHALL BE AFFIXED TO THE
15 ARTICLES.

16 (D) CONTENTS OF ARTICLES OF CONSOLIDATION.

17 (1) THE ARTICLES OF CONSOLIDATION SHALL CONTAIN:

18 (I) THE NAME OF EACH CONSOLIDATING COOPERATIVE AND THE
19 ADDRESS OF ITS PRINCIPAL OFFICE;

20 (II) THE NAME OF THE SUCCESSOR, THE ADDRESS OF ITS
21 PRINCIPAL OFFICE, AND THE NAME AND ADDRESS OF ITS RESIDENT AGENT;

22 (III) A STATEMENT THAT EACH CONSOLIDATING COOPERATIVE
23 AGREES TO THE CONSOLIDATION;

24 (IV) THE NAME AND ADDRESS OF EACH DIRECTOR OF THE
25 SUCCESSOR;

26 (V) THE TERMS AND CONDITIONS OF THE CONSOLIDATION AND
27 THE MANNER OF CARRYING IT INTO EFFECT, INCLUDING THE MANNER IN WHICH
28 MEMBERS OF THE CONSOLIDATING COOPERATIVES MAY OR SHALL BECOME
29 MEMBERS OF THE SUCCESSOR; AND

30 (VI) A STATEMENT THAT THE ARTICLES ARE EXECUTED IN
31 ACCORDANCE WITH THIS SUBTITLE.

32 (2) THE ARTICLES OF CONSOLIDATION MAY CONTAIN ANY PROVISION
33 THAT:

34 (I) IS CONSISTENT WITH THIS SUBTITLE; AND

35 (II) IS CONSIDERED NECESSARY OR ADVISABLE FOR THE CONDUCT
36 OF THE BUSINESS OF THE SUCCESSOR.

1 (E) AFFIDAVIT OF COMPLIANCE.

2 THE CHAIRMAN OR VICE-CHAIRMAN WHO SIGNS THE ARTICLES OF
3 CONSOLIDATION FOR EACH CONSOLIDATING COOPERATIVE SHALL MAKE AND
4 ATTACH TO THE ARTICLES AN AFFIDAVIT STATING THAT THE COOPERATIVE HAS
5 COMPLIED WITH THE PROVISIONS OF THIS SECTION THAT RELATE TO THE ARTICLES.

6 DRAFTER'S NOTE: This section is new language derived without substantive
7 change from former Ch. 179, § 17, Acts of 1976, as amended by Ch. 604, Acts of 2001.

8 In subsection (a) of this section, the reference to forming a new "consolidated"
9 cooperative is added for clarity and consistency with the Maryland General
10 Corporation Law, § 3-102(a)(1) of this article.

11 Also in subsection (a) of this section, the phrase "as provided in this section" is
12 substituted for the former phrase "by complying with the following requirements" to
13 conform to language used elsewhere in this article, and since each requirement for
14 effecting a consolidation is separately stated in this section.

15 Also in subsection (a) of this section, the former parenthetical phrase "(each of
16 which is hereinafter designated a `consolidating cooperative')" is deleted as
17 unnecessary since the meaning of the term "consolidating cooperative" is clear from
18 the context in which it is used.

19 Also in subsection (a) of this section, the former parenthetical phrase
20 "(hereinafter designated the `new cooperative')" is deleted since the term "new
21 cooperative" is not used in this section.

22 In subsection (b)(1) of this section, the reference to a "proposed consolidation" is
23 substituted for the former reference to a "proposition for the consolidation of the
24 consolidating cooperatives into the new cooperative" for brevity.

25 Also in subsection (b)(1) of this section, the requirement to submit a proposed
26 consolidation and proposed articles of consolidation "for consideration at an annual or
27 special meeting" of the members is substituted for the former requirement to submit
28 a proposed consolidation and articles "to a meeting" of the members for clarity and
29 consistency with similar provisions of the Maryland General Corporation Law. *See*,
30 *e.g.*, §§ 3-105(b)(2) and 3-403(b)(2) of this article.

31 Subsection (b)(3) of this section is revised to state expressly that which was only
32 implied in the former law, *i.e.*, that the proposed consolidation, proposed articles of
33 consolidation, and any amendments to the proposed articles of consolidation must be
34 approved by the affirmative vote of at least two-thirds of the members of each
35 consolidating cooperative voting on the matter.

36 In subsection (b)(3) of this section, the former reference to members voting on
37 the matter "at each such meeting" is deleted as unnecessary in light of subsection (b)
38 (1) of this section, which requires the submission of the proposed consolidation and
39 proposed articles of consolidation "for consideration at an annual or special meeting of
40 the members of each consolidating cooperative".

1 In subsections (c)(1) and (e) of this section, the references to "sign[ing]" articles
2 of consolidation are substituted for the former references to "execut[ing]" articles of
3 consolidation to clarify that "signing" the articles is only one of the formalities
4 required for the "execution" of the articles. These substitutions are consistent with
5 the Maryland General Corporation Law, § 1-301 of this article.

6 In subsection (c)(1) of this section, the reference to the chairman "or"
7 vice-chairman signing articles of consolidation is substituted for the former reference
8 to the chairman "and" vice-chairman signing articles of consolidation for consistency
9 with subsection (e) of this section.

10 In subsection (d)(1)(ii), (iv), and (v) and (2)(ii) of this section, the defined term
11 "successor" is substituted for the former references to the "new cooperative" for
12 consistency with the terminology used throughout this article.

13 In subsection (e) of this section, the former reference to an affidavit stating that
14 the cooperative has "duly" complied with certain provisions of this section is deleted
15 as implicit in the word "complied".

16 Defined terms: "Cooperative" § 5-601

17 "Director" § 1-101

18 "Member" § 5-601

19 "Principal office" § 1-101

20 "Resident agent" § 1-101

21 "Successor" § 1-101

22 5-628. MERGER.

23 (A) IN GENERAL.

24 A COOPERATIVE MAY MERGE INTO ANOTHER COOPERATIVE, OR HAVE ONE OR
25 MORE COOPERATIVES MERGED INTO IT, AS PROVIDED IN THIS SECTION.

26 (B) APPROVAL BY MEMBERS.

27 (1) A PROPOSED MERGER AND PROPOSED ARTICLES OF MERGER THAT
28 EFFECT THE MERGER SHALL BE SUBMITTED FOR CONSIDERATION AT AN ANNUAL
29 OR SPECIAL MEETING OF THE MEMBERS OF EACH MERGING COOPERATIVE AND OF
30 THE SUCCESSOR.

31 (2) A COPY OF THE PROPOSED ARTICLES OF MERGER SHALL BE
32 ATTACHED TO THE NOTICE OF THE MEETING.

33 (3) THE PROPOSED MERGER, PROPOSED ARTICLES OF MERGER, AND
34 ANY AMENDMENTS TO THE PROPOSED ARTICLES OF MERGER SHALL BE APPROVED

1 BY THE AFFIRMATIVE VOTE OF NOT LESS THAN TWO-THIRDS OF THE MEMBERS OF
2 EACH MERGING COOPERATIVE AND OF THE SUCCESSOR VOTING ON THE MATTER.

3 (C) EXECUTION OF ARTICLES OF MERGER.

4 IF THE PROPOSED MERGER, PROPOSED ARTICLES OF MERGER, AND ANY
5 AMENDMENTS TO THE PROPOSED ARTICLES OF MERGER ARE APPROVED BY THE
6 MEMBERS OF EACH MERGING COOPERATIVE AND OF THE SUCCESSOR AS PROVIDED
7 IN SUBSECTION (B) OF THIS SECTION:

8 (1) ARTICLES OF MERGER IN THE FORM APPROVED SHALL BE SIGNED
9 AND ACKNOWLEDGED FOR EACH COOPERATIVE BY ITS CHAIRMAN OR
10 VICE-CHAIRMAN AND ATTESTED BY ITS SECRETARY; AND

11 (2) THE SEAL OF EACH COOPERATIVE SHALL BE AFFIXED TO THE
12 ARTICLES.

13 (D) CONTENTS OF ARTICLES OF MERGER.

14 (1) THE ARTICLES OF MERGER SHALL CONTAIN:

15 (I) THE NAME OF EACH MERGING COOPERATIVE AND THE
16 ADDRESS OF ITS PRINCIPAL OFFICE;

17 (II) THE NAME OF THE SUCCESSOR, THE ADDRESS OF ITS
18 PRINCIPAL OFFICE, AND THE NAME AND ADDRESS OF ITS RESIDENT AGENT;

19 (III) A STATEMENT THAT EACH MERGING COOPERATIVE AND THE
20 SUCCESSOR AGREE TO THE MERGER;

21 (IV) THE NAME AND ADDRESS OF EACH DIRECTOR OF THE
22 SUCCESSOR;

23 (V) THE TERMS AND CONDITIONS OF THE MERGER AND THE
24 MANNER OF CARRYING IT INTO EFFECT, INCLUDING THE MANNER IN WHICH
25 MEMBERS OF THE MERGING COOPERATIVES MAY OR SHALL BECOME MEMBERS OF
26 THE SUCCESSOR; AND

27 (VI) A STATEMENT THAT THE ARTICLES ARE EXECUTED IN
28 ACCORDANCE WITH THIS SUBTITLE.

29 (2) THE ARTICLES OF MERGER MAY CONTAIN ANY PROVISION THAT:

30 (I) IS CONSISTENT WITH THIS SUBTITLE; AND

31 (II) IS CONSIDERED NECESSARY OR ADVISABLE FOR THE CONDUCT
32 OF THE BUSINESS OF THE SUCCESSOR.

33 (E) AFFIDAVIT OF COMPLIANCE.

1 THE CHAIRMAN OR VICE-CHAIRMAN WHO SIGNS THE ARTICLES OF MERGER
2 FOR EACH COOPERATIVE SHALL MAKE AND ATTACH TO THE ARTICLES AN AFFIDAVIT
3 STATING THAT THE COOPERATIVE HAS COMPLIED WITH THE PROVISIONS OF THIS
4 SECTION THAT RELATE TO THE ARTICLES.

5 DRAFTER'S NOTE: This section is new language derived without substantive
6 change from former Ch. 179, § 18, Acts of 1976, as amended by Ch. 604, Acts of 2001.

7 In subsection (a) of this section, the authorization for "[a] cooperative [to] merge
8 into another cooperative, or have one or more cooperatives merged into it" is
9 substituted for the former authorization for "[a]ny one or more cooperatives ... [to]
10 merge into another cooperative" for clarity and consistency with the Maryland
11 General Corporation Law, § 3-102(a)(2) of this article.

12 Also in subsection (a) of this section, the phrase "as provided in this section" is
13 substituted for the former phrase "by complying with the following requirements" to
14 conform to language used elsewhere in this article, and since each requirement for
15 effecting a merger is separately stated in this section.

16 Also in subsection (a) of this section, the former parenthetical phrase "(each of
17 which is hereinafter designated a `merging cooperative')" is deleted as unnecessary
18 since the meaning of the term "merging cooperative" is clear from the context in
19 which it is used.

20 Also in subsection (a) of this section, the former parenthetical phrase
21 "(hereinafter designated the `surviving cooperative')" is deleted since the term
22 "surviving cooperative" is not used in this section.

23 In subsection (b)(1) and (3), the introductory language of subsection (c), and
24 subsection (d)(1)(ii), (iii), (iv), and (v) and (2)(ii) of this section, the defined term
25 "successor" is substituted for the former references to the "surviving cooperative" for
26 consistency with the terminology used throughout this article.

27 In subsection (b)(1) of this section, the reference to a "proposed merger" is
28 substituted for the former reference to a "proposition for the merger of the merging
29 cooperatives into the surviving cooperative" for brevity.

30 Also in subsection (b)(1) of this section, the requirement to submit a proposed
31 merger and proposed articles of merger "for consideration at an annual or special
32 meeting" of the members is substituted for the former requirement to submit a
33 proposed merger and articles "to a meeting" of the members for clarity and
34 consistency with similar provisions of the Maryland General Corporation Law. *See,*
35 *e.g.,* §§ 3-105(b)(2) and 3-403(b)(2) of this article.

36 Subsection (b)(3) of this section is revised to state expressly that which was only
37 implied in the former law, *i.e.,* that the proposed merger, proposed articles of merger,
38 and any amendments to the proposed articles of merger must be approved by the
39 affirmative vote of not less than two-thirds of the members of each merging
40 cooperative and of the successor voting on the matter.

1 In subsection (b)(3) of this section, the former reference to members voting on
2 the matter "at each such meeting" is deleted as unnecessary in light of subsection (b)
3 (1) of this section, which requires the submission of the proposed merger and proposed
4 articles of merger "for consideration at an annual or special meeting of the members
5 of each merging cooperative and of the successor".

6 In subsections (c)(1) and (e) of this section, the references to "sign[ing]" articles
7 of merger are substituted for the former references to "execut[ing]" articles of merger
8 to clarify that "signing" the articles is only one of the formalities required for the
9 "execution" of the articles. These substitutions are consistent with the Maryland
10 General Corporation Law, § 1-301 of this article.

11 In subsection (e) of this section, the former reference to an affidavit stating that
12 the cooperative has "duly" complied with certain provisions of this section is deleted
13 as implicit in the word "complied".

14 Defined terms: "Cooperative" § 5-601

15 "Director" § 1-101

16 "Member" § 5-601

17 "Principal office" § 1-101

18 "Resident agent" § 1-101

19 "Successor" § 1-101

20 5-629. EFFECT OF CONSOLIDATION OR MERGER.

21 (A) IN GENERAL.

22 CONSUMMATION OF A CONSOLIDATION OR MERGER HAS THE EFFECTS
23 PROVIDED IN THIS SECTION.

24 (B) CESSATION OF SEPARATE EXISTENCE.

25 THE SEPARATE EXISTENCE OF EACH COOPERATIVE PARTY TO THE ARTICLES
26 OF CONSOLIDATION OR MERGER, EXCEPT THE SUCCESSOR, CEASES.

27 (C) ARTICLES OF INCORPORATION OF SUCCESSOR.

28 (1) IN A CONSOLIDATION, THE ARTICLES OF CONSOLIDATION SHALL BE
29 DEEMED TO BE THE ARTICLES OF INCORPORATION OF THE SUCCESSOR.

30 (2) IN A MERGER, THE ARTICLES OF INCORPORATION OF THE
31 SUCCESSOR SHALL BE DEEMED TO BE AMENDED TO THE EXTENT THAT CHANGES TO
32 THE ARTICLES OF INCORPORATION ARE PROVIDED FOR IN THE ARTICLES OF
33 MERGER.

34 (D) TRANSFER OF RIGHTS, PRIVILEGES, IMMUNITIES, AND ASSETS.

1 THE RIGHTS, PRIVILEGES, IMMUNITIES, AND ASSETS, INCLUDING
2 APPLICATIONS FOR MEMBERSHIP, OF EACH OF THE CONSOLIDATING OR MERGING
3 COOPERATIVES TRANSFER TO AND VEST IN THE SUCCESSOR WITHOUT FURTHER ACT
4 OR DEED.

5 (E) LIABILITY FOR DEBTS, OBLIGATIONS, AND LIABILITIES.

6 (1) THE SUCCESSOR IS LIABLE FOR ALL THE DEBTS, OBLIGATIONS, AND
7 LIABILITIES OF EACH CONSOLIDATING OR MERGING COOPERATIVE.

8 (2) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR
9 AGAINST A CONSOLIDATING OR MERGING COOPERATIVE MAY BE PROSECUTED TO
10 JUDGMENT AS IF THE CONSOLIDATION OR MERGER HAD NOT TAKEN PLACE, OR, ON
11 MOTION OF THE SUCCESSOR OR ANY PARTY, THE SUCCESSOR MAY BE SUBSTITUTED
12 AS A PARTY AND A JUDGMENT AGAINST THE CONSOLIDATING OR MERGING
13 COOPERATIVE CONSTITUTES A LIEN ON THE PROPERTY OF THE SUCCESSOR.

14 (F) RIGHTS OF CREDITORS AND LIENS ON PROPERTY.

15 A CONSOLIDATION OR MERGER DOES NOT IMPAIR THE RIGHTS OF CREDITORS
16 OR ANY LIEN ON THE PROPERTY OF A COOPERATIVE PARTY TO THE ARTICLES OF
17 CONSOLIDATION OR MERGER.

18 DRAFTER'S NOTE: Subsection (a) of this section is new language added for
19 clarity and stylistic consistency with similar provisions of the Maryland General
20 Corporation Law. *See, e.g.*, §§ 3-114(a) and 3-115(a) of this article.

21 Subsections (b) through (f) of this section are new language derived without
22 substantive change from former Ch. 179, § 19, Acts of 1976, as amended by Ch. 604,
23 Acts of 2001.

24 Subsection (b) of this section is revised to conform to similar language used in
25 the Maryland General Corporation Law and elsewhere in this article. *See, e.g.*, §§
26 3-114(b), 4A-709(b), and 10-208(j)(2).

27 In subsection (c)(1) of this section, the defined term "successor" is substituted for
28 the former reference to the "new cooperative" for consistency with the terminology
29 used throughout this article. Similarly, in subsection (c)(2) of this section, the defined
30 term "successor" is substituted for the former reference to the "surviving cooperative",
31 and in subsections (d) and (e)(1) of this section, the defined term "successor" is
32 substituted for the former references to the "new or surviving cooperative".

33 In subsection (d) of this section, the defined term "assets" is substituted for the
34 former reference to "franchises and all property, real and personal, [including] ... all
35 debts due on whatever account and all other choses in action" for brevity.

36 Also in subsection (d) of this section, the former phrase "without limitation" is
37 deleted as unnecessary in light of Art. 1, § 30, which provides that the term
38 "including" is used "by way of illustration and not by way of limitation".

1 In subsection (e)(1) of this section, the reference to the "debts" of each
2 consolidating or merging cooperative is added for consistency with § 5-632(d)(3) and
3 (4)(i) and (f)(5) of this subtitle.

4 Also in subsection (e)(1) of this section, the former reference to being
5 "responsible" for debts, obligations, and liabilities is deleted as unnecessary in light of
6 the reference to being "liable" for debts, obligations, and liabilities.

7 In subsection (e)(2) of this section, the reference to a claim, action, or proceeding
8 being prosecuted "to judgment" is added for clarity and consistency with similar
9 provisions of the Maryland General Corporation Law. *See* § 3-114(e)(1) of this article.
10 Similarly, the phrase "or, on motion of the successor or any party, the successor may
11 be substituted as a party and a judgment against the consolidating or merging
12 cooperative constitutes a lien on the property of the successor" is substituted for the
13 former phrase "but the new or surviving cooperative may be substituted in its place".

14 In subsection (f) of this section, the reference to "a cooperative party to the
15 articles of consolidation or merger" is substituted for the former reference to "any of
16 such cooperatives" for clarity.

17 Defined terms: "Assets" § 1-101

18 "Cooperative" § 5-601

19 "Successor" § 1-101

20 5-630. CONVERSION OF CORPORATION TO COOPERATIVE.

21 (A) IN GENERAL.

22 A MARYLAND CORPORATION THAT SUPPLIES OR IS AUTHORIZED TO SUPPLY
23 ELECTRICITY MAY CONVERT TO A COOPERATIVE AS PROVIDED IN THIS SECTION.

24 (B) EFFECT OF CONVERSION.

25 ON CONVERSION OF A CORPORATION TO A COOPERATIVE, THE CORPORATION IS
26 SUBJECT TO THIS SUBTITLE AS IF IT HAD BEEN ORGANIZED UNDER THIS SUBTITLE.

27 (C) APPROVAL BY MEMBERS OR STOCKHOLDERS.

28 (1) A PROPOSED CONVERSION AND PROPOSED ARTICLES OF
29 CONVERSION THAT EFFECT THE CONVERSION SHALL BE SUBMITTED FOR
30 CONSIDERATION AT AN ANNUAL OR SPECIAL MEETING OF THE MEMBERS OR
31 STOCKHOLDERS OF THE CORPORATION.

32 (2) A COPY OF THE PROPOSED ARTICLES OF CONVERSION SHALL BE
33 ATTACHED TO THE NOTICE OF THE MEETING.

34 (3) THE PROPOSED CONVERSION, PROPOSED ARTICLES OF
35 CONVERSION, AND ANY AMENDMENTS TO THE PROPOSED ARTICLES OF
36 CONVERSION SHALL BE APPROVED:

1 (I) IF THE CONVERTING CORPORATION IS A NONSTOCK
2 CORPORATION, BY THE AFFIRMATIVE VOTE OF NOT LESS THAN TWO-THIRDS OF THE
3 MEMBERS OF THE CORPORATION VOTING ON THE MATTER; OR

4 (II) IF THE CONVERTING CORPORATION IS A STOCK CORPORATION,
5 BY THE AFFIRMATIVE VOTE OF THE HOLDERS OF NOT LESS THAN TWO-THIRDS OF
6 THE SHARES OF THE CAPITAL STOCK OF THE CORPORATION REPRESENTED AT THE
7 MEETING AND VOTING ON THE MATTER.

8 (D) EXECUTION OF ARTICLES OF CONVERSION.

9 IF THE PROPOSED CONVERSION, PROPOSED ARTICLES OF CONVERSION, AND
10 ANY AMENDMENTS TO THE PROPOSED ARTICLES OF CONVERSION ARE APPROVED BY
11 THE MEMBERS OR STOCKHOLDERS OF THE CORPORATION AS PROVIDED IN
12 SUBSECTION (C) OF THIS SECTION:

13 (1) ARTICLES OF CONVERSION IN THE FORM APPROVED SHALL BE
14 SIGNED AND ACKNOWLEDGED FOR THE CORPORATION BY ITS CHAIRMAN OR
15 VICE-CHAIRMAN AND ATTESTED BY ITS SECRETARY; AND

16 (2) THE SEAL OF THE CORPORATION SHALL BE AFFIXED TO THE
17 ARTICLES.

18 (E) CONTENTS OF ARTICLES OF CONVERSION.

19 (1) THE ARTICLES OF CONVERSION SHALL CONTAIN:

20 (I) THE NAME OF THE CORPORATION AND THE ADDRESS OF ITS
21 PRINCIPAL OFFICE BEFORE ITS CONVERSION TO A COOPERATIVE;

22 (II) THE STATUTE UNDER WHICH THE CORPORATION WAS
23 ORGANIZED;

24 (III) A STATEMENT THAT THE CORPORATION ELECTS TO BECOME A
25 COOPERATIVE, NONPROFIT, MEMBERSHIP CORPORATION SUBJECT TO THIS
26 SUBTITLE;

27 (IV) THE NAME OF THE CORPORATION AFTER ITS CONVERSION TO A
28 COOPERATIVE;

29 (V) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE
30 COOPERATIVE AND THE NAME AND ADDRESS OF ITS RESIDENT AGENT;

31 (VI) THE NAME AND ADDRESS OF EACH DIRECTOR OF THE
32 COOPERATIVE;

33 (VII) THE MANNER IN WHICH MEMBERS OR STOCKHOLDERS OF THE
34 CORPORATION MAY OR SHALL BECOME MEMBERS OF THE COOPERATIVE; AND

35 (VIII) A STATEMENT THAT THE ARTICLES ARE EXECUTED IN
36 ACCORDANCE WITH THIS SUBTITLE.

1 (2) THE ARTICLES OF CONVERSION MAY CONTAIN ANY PROVISION
2 THAT:

3 (I) IS CONSISTENT WITH THIS SUBTITLE; AND

4 (II) IS CONSIDERED NECESSARY OR ADVISABLE FOR THE CONDUCT
5 OF THE BUSINESS OF THE COOPERATIVE.

6 (F) AFFIDAVIT OF COMPLIANCE.

7 THE CHAIRMAN OR VICE-CHAIRMAN WHO SIGNS THE ARTICLES OF
8 CONVERSION FOR THE CORPORATION SHALL MAKE AND ATTACH TO THE ARTICLES
9 AN AFFIDAVIT STATING THAT THE PROVISIONS OF THIS SECTION THAT RELATE TO
10 THE ARTICLES HAVE BEEN COMPLIED WITH.

11 (G) ARTICLES OF INCORPORATION OF COOPERATIVE.

12 THE ARTICLES OF CONVERSION SHALL BE DEEMED TO BE THE ARTICLES OF
13 INCORPORATION OF THE COOPERATIVE.

14 DRAFTER'S NOTE: This section is new language derived without substantive
15 change from former Ch. 179, § 20, Acts of 1976, as amended by Ch. 604, Acts of 2001.

16 In subsection (a) of this section, the defined term "Maryland corporation" is
17 substituted for the former reference to a "corporation organized under the laws of this
18 State" for brevity.

19 Also in subsection (a) of this section, the phrase "as provided in this section" is
20 substituted for the former phrase "by complying with the following requirements" to
21 conform to language used elsewhere in this article, and since each requirement for
22 effecting a conversion is separately stated in this section.

23 In subsection (b) of this section, the former reference to a corporation being
24 subject to this subtitle "with the same effect" as if it had been organized under this
25 subtitle is deleted as surplusage.

26 Also in subsection (b) of this section, the former reference to being "originally"
27 organized is deleted as implicit in the term "organized".

28 In subsection (c)(1) and the introductory language of subsection (d) of this
29 section, the references to a "proposed conversion" are substituted for the former
30 references to a "proposition for the conversion of such corporation into a cooperative"
31 for brevity.

32 In subsection (c)(1) of this section, the requirement to submit a proposed
33 conversion and proposed articles of conversion "for consideration at an annual or
34 special meeting" of the members or stockholders is substituted for the former
35 requirement to submit a proposed conversion and articles "to a meeting" of the
36 members or stockholders for clarity and consistency with similar provisions of the

1 Maryland General Corporation Law. *See, e.g.*, §§ 3-105(b)(2) and 3-403(b)(2) of this
2 article.

3 Subsection (c)(3) of this section is revised to state expressly that which was only
4 implied in the former law, *i.e.*, that the proposed conversion, proposed articles of
5 conversion, and any amendments to the proposed articles of conversion must be
6 approved by the affirmative vote of not less than two-thirds of the members or
7 stockholders of the converting corporation voting on the matter.

8 In subsection (c)(3)(i) of this section, the introductory language "[i]f the
9 converting corporation is a nonstock corporation" is added for clarity.

10 Also in subsection (c)(3)(i) of this section, the former reference to members
11 voting on the matter "at such meeting" is deleted as unnecessary in light of subsection
12 (c)(1) of this section, which requires the submission of the proposed conversion and
13 proposed articles of conversion "for consideration at an annual or special meeting of
14 the members ... of the corporation".

15 In subsection (c)(3)(ii) of this section, the reference to "the converting"
16 corporation is substituted for the former reference to "such" corporation for clarity.

17 In subsections (d)(1) and (f) of this section, the references to "sign[ing]" articles
18 of conversion are substituted for the former references to "execut[ing]" articles of
19 conversion to clarify that "signing" the articles is only one of the formalities required
20 for the "execution" of the articles. These substitutions are consistent with the
21 Maryland General Corporation Law, § 1-301 of this article.

22 In subsection (e)(1)(ii) of this section, the former reference to "statutes" is
23 deleted in light of the reference to "statute" and Art. 1, § 8, which provides that the
24 singular generally includes the plural.

25 In subsection (e)(1)(iv) of this section, the reference to "[t]he name of the
26 corporation after its conversion to a cooperative" is substituted for the former
27 reference to "its name as a cooperative" for clarity.

28 In subsection (f) of this section, the former reference to an affidavit stating that
29 certain provisions of this section have been "duly" complied with is deleted as implicit
30 in the word "complied".

31 Defined terms: "Cooperative" § 5-601

32 "Director" § 1-101

33 "Maryland corporation" § 1-101

34 "Member" § 5-601

35 "Principal office" § 1-101

36 "Resident agent" § 1-101

1 5-631. DISSOLUTION - COOPERATIVES THAT HAVE NOT BEGUN DOING BUSINESS.

2 (A) IN GENERAL.

3 A COOPERATIVE THAT HAS NOT BEGUN DOING BUSINESS MAY BE DISSOLVED
4 BY FILING ARTICLES OF DISSOLUTION FOR RECORD WITH THE DEPARTMENT.

5 (B) EXECUTION OF ARTICLES OF DISSOLUTION.

6 THE ARTICLES OF DISSOLUTION SHALL BE SIGNED AND ACKNOWLEDGED FOR
7 THE COOPERATIVE BY A MAJORITY OF THE INCORPORATORS OF THE COOPERATIVE.

8 (C) CONTENTS OF ARTICLES OF DISSOLUTION.

9 THE ARTICLES OF DISSOLUTION SHALL CONTAIN:

10 (1) THE NAME OF THE COOPERATIVE AND THE ADDRESS OF ITS
11 PRINCIPAL OFFICE; AND

12 (2) A STATEMENT THAT:

13 (I) THE COOPERATIVE HAS NOT BEGUN DOING BUSINESS;

14 (II) ANY MONEY RECEIVED BY THE COOPERATIVE, LESS ANY
15 DISBURSEMENTS FOR EXPENSES OF THE COOPERATIVE, HAS BEEN RETURNED OR
16 PAID TO THE PERSONS ENTITLED TO THE MONEY;

17 (III) ALL DEBTS OF THE COOPERATIVE HAVE BEEN PAID; AND

18 (IV) A MAJORITY OF THE INCORPORATORS OF THE COOPERATIVE
19 ELECT THAT THE COOPERATIVE BE DISSOLVED.

20 DRAFTER'S NOTE: This section is new language derived without substantive
21 change from former Ch. 179, § 21(a), Acts of 1976, as amended by Ch. 604, Acts of
22 2001.

23 In subsections (a) and (c)(2)(i) of this section, the references to "doing" business
24 are added for clarity and for consistency with language used elsewhere in this article.

25 In subsection (a) of this section, the reference to "filing" articles of dissolution
26 "for record with" the Department is substituted for the former reference to "delivering
27 to" the Department articles of dissolution for accuracy and consistency with similar
28 provisions of the Maryland General Corporation Law. *See, e.g.*, §§ 3-107 and 3-407(a)
29 of this article.

30 In subsections (b) and (c)(2)(iv) of this section, the references to the
31 incorporators "of the cooperative" are added for clarity.

32 In subsection (b) of this section, the reference to "sign[ing]" articles of
33 dissolution is substituted for the former reference to "execut[ing]" articles of
34 dissolution to clarify that "signing" the articles is only one of the formalities required

1 for the "execution" of the articles. This substitution is consistent with the Maryland
2 General Corporation Law, § 1-301 of this article.

3 In subsection (c)(2)(ii) of this section, the reference to "money" received by the
4 cooperative is substituted for the former reference to "sums" received by the
5 cooperative for clarity. Correspondingly, the reference to "the persons entitled to the
6 money" is substituted for the former reference to "those entitled thereto".

7 Also in subsection (c)(2)(ii) of this section, the reference to any "disbursements"
8 is substituted for the former reference to any "part thereof disbursed" for brevity and
9 clarity.

10 Defined terms: "Cooperative" § 5-601

11 "Department" § 1-101

12 "Person" § 5-601

13 "Principal office" § 1-101

14 5-632. SAME - COOPERATIVES THAT HAVE BEGUN DOING BUSINESS.

15 (A) IN GENERAL.

16 A COOPERATIVE THAT HAS BEGUN DOING BUSINESS MAY BE DISSOLVED AS
17 PROVIDED IN THIS SECTION.

18 (B) APPROVAL BY MEMBERS.

19 A PROPOSED DISSOLUTION SHALL BE APPROVED BY THE AFFIRMATIVE VOTE
20 OF NOT LESS THAN TWO-THIRDS OF THE MEMBERS VOTING ON THE MATTER AT AN
21 ANNUAL OR SPECIAL MEETING OF THE MEMBERS.

22 (C) CERTIFICATE OF ELECTION TO DISSOLVE.

23 (1) ON APPROVAL OF THE PROPOSED DISSOLUTION BY THE MEMBERS
24 OF THE COOPERATIVE AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:

25 (I) A CERTIFICATE OF ELECTION TO DISSOLVE SHALL BE SIGNED
26 AND ACKNOWLEDGED FOR THE COOPERATIVE BY ITS CHAIRMAN OR
27 VICE-CHAIRMAN AND ATTESTED BY ITS SECRETARY; AND

28 (II) THE SEAL OF THE COOPERATIVE SHALL BE AFFIXED TO THE
29 CERTIFICATE.

30 (2) THE CERTIFICATE SHALL STATE:

31 (I) THE NAME OF THE COOPERATIVE AND THE ADDRESS OF ITS
32 PRINCIPAL OFFICE; AND

1 (II) THAT THE MEMBERS OF THE COOPERATIVE HAVE APPROVED
2 THE DISSOLUTION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

3 (3) THE CHAIRMAN OR VICE-CHAIRMAN WHO SIGNS THE CERTIFICATE
4 FOR THE COOPERATIVE SHALL MAKE AND ATTACH TO THE CERTIFICATE AN
5 AFFIDAVIT STATING THAT THE STATEMENTS MADE IN THE CERTIFICATE ARE TRUE.

6 (4) THE CERTIFICATE AND AFFIDAVIT SHALL BE FILED FOR RECORD
7 WITH THE DEPARTMENT.

8 (D) CESSATION OF BUSINESS OF COOPERATIVE AND WINDING UP OF ITS
9 AFFAIRS.

10 (1) (I) ON THE DEPARTMENT'S ACCEPTANCE FOR RECORD OF THE
11 CERTIFICATE OF ELECTION TO DISSOLVE AND AFFIDAVIT, THE COOPERATIVE SHALL
12 CEASE DOING BUSINESS EXCEPT TO THE EXTENT NECESSARY TO WIND UP ITS
13 BUSINESS AND AFFAIRS.

14 (II) THE CORPORATE EXISTENCE OF THE COOPERATIVE SHALL
15 CONTINUE UNTIL ARTICLES OF DISSOLUTION HAVE BEEN ACCEPTED FOR RECORD
16 BY THE DEPARTMENT.

17 (2) THE BOARD OF DIRECTORS IMMEDIATELY SHALL CAUSE NOTICE OF
18 THE DISSOLUTION PROCEEDINGS TO BE:

19 (I) MAILED TO EACH KNOWN CREDITOR OF AND CLAIMANT
20 AGAINST THE COOPERATIVE; AND

21 (II) PUBLISHED ONCE A WEEK FOR 2 SUCCESSIVE WEEKS IN A
22 NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY IN WHICH THE
23 PRINCIPAL OFFICE OF THE COOPERATIVE IS LOCATED.

24 (3) THE BOARD SHALL COLLECT MONEY OWING TO THE COOPERATIVE,
25 LIQUIDATE ITS ASSETS, DISCHARGE ITS DEBTS, OBLIGATIONS, AND LIABILITIES, AND
26 DO ALL OTHER ACTS REQUIRED TO WIND UP THE BUSINESS AND AFFAIRS OF THE
27 COOPERATIVE.

28 (4) (I) AFTER DISCHARGING, OR ADEQUATELY PROVIDING FOR THE
29 DISCHARGE OF, ALL OF THE DEBTS, OBLIGATIONS, AND LIABILITIES OF THE
30 COOPERATIVE, THE BOARD SHALL DISTRIBUTE ANY REMAINING MONEY AMONG THE
31 CURRENT AND FORMER MEMBERS OF THE COOPERATIVE.

32 (II) THE MONEY SHALL BE DISTRIBUTED IN PROPORTION TO THE
33 PATRONAGE OF EACH CURRENT OR FORMER MEMBER:

34 1. DURING THE 7-YEAR PERIOD IMMEDIATELY PRECEDING
35 THE DATE ON WHICH THE CERTIFICATE OF ELECTION TO DISSOLVE IS ACCEPTED
36 FOR RECORD BY THE DEPARTMENT; OR

1 2. IF THE COOPERATIVE HAS BEEN IN EXISTENCE FOR LESS
2 THAN 7 YEARS, DURING THE PERIOD OF ITS EXISTENCE.

3 (E) EXECUTION OF ARTICLES OF DISSOLUTION.

4 (1) AFTER WINDING UP THE BUSINESS AND AFFAIRS OF THE
5 COOPERATIVE AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE BOARD OF
6 DIRECTORS SHALL AUTHORIZE THE EXECUTION OF ARTICLES OF DISSOLUTION.

7 (2) THE ARTICLES OF DISSOLUTION SHALL BE SIGNED AND
8 ACKNOWLEDGED FOR THE COOPERATIVE BY ITS CHAIRMAN OR VICE-CHAIRMAN
9 AND ATTESTED BY ITS SECRETARY, AND THE SEAL OF THE COOPERATIVE SHALL BE
10 AFFIXED TO THE ARTICLES.

11 (F) CONTENTS OF ARTICLES OF DISSOLUTION.

12 THE ARTICLES OF DISSOLUTION SHALL STATE:

13 (1) THE NAME OF THE COOPERATIVE AND THE ADDRESS OF ITS
14 PRINCIPAL OFFICE;

15 (2) THE DATE ON WHICH THE CERTIFICATE OF ELECTION TO DISSOLVE
16 WAS ACCEPTED FOR RECORD BY THE DEPARTMENT;

17 (3) THAT THERE ARE NO ACTIONS PENDING AGAINST THE
18 COOPERATIVE;

19 (4) THAT ALL DEBTS, OBLIGATIONS, AND LIABILITIES OF THE
20 COOPERATIVE HAVE BEEN DISCHARGED, OR THAT ADEQUATE PROVISION HAS BEEN
21 MADE FOR THEIR DISCHARGE;

22 (5) THAT THE ARTICLES ARE EXECUTED IN ACCORDANCE WITH THIS
23 SUBTITLE; AND

24 (6) THAT THE PROVISIONS OF THIS SECTION HAVE BEEN COMPLIED
25 WITH.

26 (G) AFFIDAVIT THAT STATEMENTS ARE TRUE.

27 THE CHAIRMAN OR VICE-CHAIRMAN WHO SIGNS THE ARTICLES OF
28 DISSOLUTION FOR THE COOPERATIVE SHALL MAKE AND ATTACH TO THE ARTICLES
29 AN AFFIDAVIT STATING THAT THE STATEMENTS MADE IN THE ARTICLES ARE TRUE.

30 DRAFTER'S NOTE: This section is new language derived without substantive
31 change from former Ch. 179, § 21(b), Acts of 1976, as amended by Ch. 604, Acts of
32 2001.

33 In subsection (a) of this section, the reference to "doing" business is added for
34 clarity and consistency with language used elsewhere in this article.

1 Also in subsection (a) of this section, the phrase "as provided in this section" is
2 substituted for the former phrase "in the following manner" for consistency within
3 this subtitle and to conform to language used elsewhere in this article.

4 In subsection (b) of this section, the reference to a "proposed dissolution" is
5 substituted for the former reference to a "proposal that the cooperative be dissolved"
6 for brevity.

7 Also in subsection (b) of this section, the reference to "an annual or special"
8 meeting is substituted for the former reference to "any" meeting for clarity and
9 consistency with § 5-616 of this subtitle.

10 Also in subsection (b) of this section, the former reference to members voting on
11 the matter "at such meeting" is deleted as surplusage.

12 In subsection (c)(1) of this section, the introductory language "[o]n approval of
13 the proposed dissolution by the members of the cooperative as provided in subsection
14 (b) of this section" is substituted for the former introductory language "[u]pon such
15 approval" for clarity.

16 In subsection (c)(1)(i) and (3) of this section, the references to "sign[ing]" the
17 certificate of election to dissolve are substituted for the former references to
18 "execut[ing]" the certificate of election to dissolve to clarify that "signing" the
19 certificate is only one of the formalities required for the "execution" of the certificate.
20 Similarly, in subsections (e)(2) and (g) of this section, the references to "sign[ing]"
21 articles of dissolution are substituted for the former references to "execut[ing]" the
22 articles. These substitutions are consistent with the Maryland General Corporation
23 Law, § 1-301 of this article.

24 In subsection (c)(1)(i) of this section, the former parenthetical phrase
25 "(hereinafter designated the `certificate')" is deleted as unnecessary since the
26 meaning of the term "certificate" is clear from the context in which it is used in
27 subsection (c).

28 In subsection (c)(1)(ii) of this section, the requirement that "[t]he seal of the
29 cooperative ... be affixed to the certificate" is substituted for the former phrase "under
30 its seal" for clarity and consistency within this subtitle.

31 In subsection (c)(2)(ii) of this section, the requirement that the certificate state
32 that the members of the cooperative have "approved the dissolution in accordance
33 with subsection (b) of this section" is substituted for the former requirement that the
34 certificate state that the members of the cooperative have "duly voted that the
35 cooperative be dissolved" for clarity and consistency with language used in subsection
36 (b) of this section.

37 In subsection (c)(3) of this section, the requirement to make "and attach" a
38 certain affidavit to the certificate of election to dissolve is added for consistency
39 within this subtitle.

1 In subsection (c)(4) of this section, the requirement that the certificate and
2 affidavit be "filed for record with the Department" is substituted for the former
3 requirement that the certificate and affidavit be "submitted to the ... Department ...
4 for filing" for accuracy and consistency with similar provisions of the Maryland
5 General Corporation Law. *See, e.g.*, §§ 3-107 and 3-407(a) of this article.

6 In subsection (d)(1)(i) of this section, the introductory language "[o]n the
7 Department's acceptance for record of the certificate of election to dissolve and
8 affidavit" is substituted for the former introductory language "[u]pon the filing of the
9 certificate and affidavit by the ... Department" for accuracy and consistency with
10 similar provisions of the Maryland General Corporation Law. *See, e.g.*, §§ 3-113(a)(1),
11 3-208(a), 3-405(a), 3-408(a), and 3-510 of this article. Correspondingly, in
12 subsections (d)(1)(ii) and (f)(2) of this section, the references to certain documents
13 being "accepted for record by" the Department are substituted for the former
14 references to the documents being "filed by" the Department, and in subsection
15 (d)(4)(ii)1 of this section, the reference to the date "on which the certificate of election
16 to dissolve is accepted for record by" the Department is substituted for the former
17 reference to the date "of the filing of the certificate by" the Department.

18 Also in subsection (d)(1)(i) of this section, the requirement to cease "doing
19 business" is substituted for the former requirement to cease "carry[ing] on ...
20 business" for consistency with the language used in subsection (a) of this section and
21 in § 5-631(a) and (c)(2)(i) of this subtitle.

22 Also in subsection (d)(1)(i) of this section, the reference to winding up "its
23 business and affairs" is substituted for the former reference to winding up "thereof"
24 for clarity and consistency within this section.

25 In subsection (d)(2)(ii) of this section, the reference to a newspaper "published"
26 in the county in which the principal office of the cooperative is located is added for
27 clarity.

28 In subsections (d)(3) and (4)(i) and (f)(4) of this section, the former references to
29 "pay[ing]" debts, obligations, and liabilities is deleted as included in the references to
30 "discharg[ing]" debts, obligations, and liabilities.

31 In subsection (d)(3) and (4)(i) of this section, the references to "money" are
32 substituted for the former references to "sums" for clarity.

33 In subsection (d)(3) of this section, the former requirement to "settle" the
34 business and affairs of the cooperative is deleted as unnecessary in light of the
35 requirement to "wind up" the business and affairs of the cooperative.

36 Also in subsection (d)(3) of this section, the former reference to "property" is
37 deleted as included in the defined term "assets", which is defined, in part, to mean
38 "any tangible, intangible, real, or personal property".

39 In subsection (d)(4)(i) and the introductory language of (d)(4)(ii) of this section,
40 the references to "current" members are added for clarity.

1 In subsection (d)(4)(ii)2 of this section, the former reference to the period of its
2 existence "prior to such filing" is deleted as implicit.

3 In subsection (e)(1) of this section, the requirement to authorize the execution of
4 articles of dissolution "[a]fter winding up the business and affairs of the cooperative
5 as provided in subsection (d) of this section" is substituted for the former requirement
6 to authorize the execution of the articles "thereupon" for clarity.

7 In subsection (f)(3) of this section, the former reference to "suits" is deleted as
8 included in the reference to "actions".

9 In subsection (f)(6) of this section, the former requirement that the articles of
10 dissolution state that certain provisions have been "duly" complied with is deleted as
11 implicit in the word "complied".

12 Defined terms: "Assets" § 1-101

13 "Cooperative" § 5-601

14 "County" § 1-101

15 "Department" § 1-101

16 "Director" § 1-101

17 "Member" § 5-601

18 "Principal office" § 1-101

19 5-633. RESERVED.

20 5-634. RESERVED.

21 **PART VI. MISCELLANEOUS PROVISIONS.**

22 5-635. CHANGE OF PRINCIPAL OFFICE, RESIDENT AGENT, OR ADDRESS OF RESIDENT
23 AGENT.

24 (A) IN GENERAL.

25 ON AUTHORIZATION OF ITS BOARD OF DIRECTORS OR MEMBERS, A
26 COOPERATIVE MAY CHANGE ITS PRINCIPAL OFFICE, ITS RESIDENT AGENT, OR THE
27 ADDRESS OF ITS RESIDENT AGENT BY FILING FOR RECORD WITH THE DEPARTMENT
28 A CERTIFICATE THAT STATES THE CHANGE BEING MADE.

29 (B) EXECUTION OF CERTIFICATE.

30 THE CERTIFICATE SHALL BE SIGNED AND ACKNOWLEDGED BY THE CHAIRMAN
31 OR VICE-CHAIRMAN OF THE COOPERATIVE AND ATTESTED BY ITS SECRETARY, AND
32 THE SEAL OF THE COOPERATIVE SHALL BE AFFIXED TO THE CERTIFICATE.

1 DRAFTER'S NOTE: This section is new language derived without substantive
2 change from former Ch. 179, § 16, Acts of 1976, as amended by Ch. 604, Acts of 2001.

3 In subsection (a) of this section, the reference to filing a certificate "for record
4 with" the Department is substituted for the former reference to filing a certificate "in
5 the office of" the Department for accuracy and consistency with similar provisions of
6 the Maryland General Corporation Law. *See, e.g.*, § 2-108(b) of this article.

7 Also in subsection (a) of this section, the former reference to changing "the
8 location of" its principal office is deleted as surplusage.

9 In subsection (b) of this section, the requirement that the certificate be "signed"
10 is substituted for the former requirement that the certificate be "executed" to clarify
11 that "signing" the certificate is only one of the formalities required for the "execution"
12 of the certificate. This substitution is consistent with the Maryland General
13 Corporation Law, § 1-301 of this article.

14 Also in subsection (b) of this section, the requirement that "the seal of the
15 cooperative ... be affixed to the certificate" is substituted for the former phrase "under
16 its seal" for clarity and consistency within this subtitle.

17 Defined terms: "Cooperative" § 5-601

18 "Department" § 1-101

19 "Director" § 1-101

20 "Member" § 5-601

21 "Principal office" § 1-101

22 "Resident agent" § 1-101

23 5-636. FILING OF ARTICLES AND OTHER CORPORATE DOCUMENTS.

24 (A) IN GENERAL.

25 ARTICLES OF INCORPORATION, AMENDMENT, CONSOLIDATION, MERGER,
26 CONVERSION, OR DISSOLUTION, AND CERTIFICATES OF ELECTION TO DISSOLVE,
27 EXECUTED AND ACCOMPANIED BY ANY AFFIDAVITS REQUIRED UNDER THIS
28 SUBTITLE, SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

29 (B) ACCEPTANCE FOR RECORD BY DEPARTMENT.

30 ON PAYMENT OF THE FEES PROVIDED FOR IN § 5-637 OF THIS SUBTITLE, THE
31 DEPARTMENT SHALL ACCEPT FOR RECORD ANY ARTICLES OR CERTIFICATE FILED
32 WITH THE DEPARTMENT UNDER THIS SECTION IF THE DEPARTMENT FINDS THAT
33 THE ARTICLES OR CERTIFICATE CONFORM TO THE REQUIREMENTS OF THIS
34 SUBTITLE.

35 (C) TIME EFFECTIVE.

1 THE INCORPORATION, AMENDMENT, CONSOLIDATION, MERGER, CONVERSION,
2 OR DISSOLUTION PROVIDED FOR IN ARTICLES OF INCORPORATION, AMENDMENT,
3 CONSOLIDATION, MERGER, CONVERSION, OR DISSOLUTION IS EFFECTIVE AS OF THE
4 TIME THE DEPARTMENT ACCEPTS THE ARTICLES FOR RECORD.

5 DRAFTER'S NOTE: This section is new language derived without substantive
6 change from former Ch. 179, § 22, Acts of 1976, as amended by Ch. 604, Acts of 2001.

7 In subsection (a) of this section, the requirement that certain documents be
8 "filed for record with the Department" is substituted for the former requirement that
9 they be "presented to the ... Department ... for filing in the records of its office" for
10 accuracy and consistency with similar provisions of the Maryland General
11 Corporation Law. *See, e.g.*, §§ 3-107 and 3-407(a) of this article.

12 Also in subsection (a) of this section, the former reference to certain documents
13 that are "acknowledged" is deleted as included in the reference to certain documents
14 that are "executed".

15 Also in subsection (a) of this section, the former reference to "affidavits executed
16 in connection therewith pursuant to § 22(b) of this act" is deleted as unnecessary in
17 light of the reference to "any affidavits required under this subtitle".

18 In subsection (b) of this section, the references to articles "or certificate" are
19 added for consistency with subsection (a) of this section.

20 Also in subsection (b) of this section, the reference to the fees "provided for in §
21 5-637 of this subtitle" is substituted for the former reference to the fees "as in this act
22 provided" for clarity.

23 Also in subsection (b) of this section, the requirement that the Department
24 "accept for record" certain documents "filed" with the Department is substituted for
25 the former requirement that the Department "file" certain documents "presented" to
26 the Department "in the records of its office" for accuracy and consistency with
27 subsection (a) of this section and with similar provisions of the Maryland General
28 Corporation Law. *See, e.g.*, §§ 3-113(a)(1), 3-208(a), 3-405(a), 3-408(a), and 3-510 of
29 this article. Correspondingly, in subsection (c) of this section, the reference to certain
30 events being effective "as of the time the Department accepts the articles for record"
31 is substituted for the former reference to the events being effective "upon such filing".

32 Defined term: "Department" § 1-101

33 5-637. FEES; EXEMPTION FROM EXCISE AND INCOME TAXES.

34 (A) FILING AND RECORDING FEES.

35 THE DEPARTMENT SHALL COLLECT FEES FOR FILING AND RECORDING
36 CORPORATE DOCUMENTS AS PROVIDED IN § 1-203 OF THIS ARTICLE.

37 (B) ANNUAL FEES.

1 ON OR BEFORE JULY 1 OF EACH YEAR, EACH COOPERATIVE AND EACH FOREIGN
2 CORPORATION DOING BUSINESS IN THE STATE UNDER THIS SUBTITLE SHALL PAY A
3 FEE OF \$10 TO THE DEPARTMENT.

4 (C) EXEMPTION FROM EXCISE AND INCOME TAXES.

5 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A COOPERATIVE OR
6 A FOREIGN CORPORATION DOING BUSINESS IN THE STATE UNDER THIS SUBTITLE IS
7 NOT SUBJECT TO ANY EXCISE OR INCOME TAX.

8 DRAFTER'S NOTE: This section is new language derived without substantive
9 change from former Ch. 179, §§ 28 and 29, Acts of 1976, as amended by Ch. 604, Acts
10 of 2001.

11 In subsection (a) of this section, the former requirement to "charge" certain fees
12 is deleted as implicit in the requirement to "collect" certain fees.

13 Defined terms: "Cooperative" § 5-601

14 "Department" § 1-101

15 "Foreign corporation" § 1-101

16 5-638. REVENUES OF COOPERATIVE.

17 (A) AUTHORIZED USES.

18 REVENUES OF A COOPERATIVE FOR A FISCAL YEAR MAY BE USED:

19 (1) TO PAY THE EXPENSES OF OPERATING AND MAINTAINING THE
20 FACILITIES OF THE COOPERATIVE DURING THE FISCAL YEAR;

21 (2) TO PAY INTEREST AND PRINCIPAL OBLIGATIONS OF THE
22 COOPERATIVE THAT ARE DUE IN THE FISCAL YEAR;

23 (3) TO THE EXTENT DETERMINED BY THE BOARD OF DIRECTORS, TO
24 FINANCE OR PROVIDE A RESERVE FOR THE FINANCING OF THE CONSTRUCTION OR
25 ACQUISITION BY THE COOPERATIVE OF ADDITIONAL FACILITIES;

26 (4) TO PROVIDE A REASONABLE RESERVE FOR WORKING CAPITAL;

27 (5) TO PROVIDE A RESERVE FOR THE PAYMENT OF THE INDEBTEDNESS
28 OF THE COOPERATIVE IN AN AMOUNT NOT LESS THAN THE TOTAL INTEREST AND
29 PRINCIPAL PAYMENTS THAT ARE DUE DURING THE NEXT FISCAL YEAR;

30 (6) TO PROVIDE FOR EDUCATION ABOUT COOPERATIVES; AND

31 (7) TO PROVIDE FOR THE DISSEMINATION OF INFORMATION ABOUT THE
32 EFFECTIVE USE OF ELECTRICITY AND SERVICES MADE AVAILABLE BY THE
33 COOPERATIVE.

1 (B) ALLOCATION OF EXCESS REVENUES TO MEMBERS AND OTHER PERSONS.

2 (1) UNLESS OTHERWISE DETERMINED BY A VOTE OF THE MEMBERS OF
3 THE COOPERATIVE, FOR EACH FISCAL YEAR, THE REVENUES OF A COOPERATIVE IN
4 EXCESS OF THE AMOUNT NECESSARY TO PROVIDE FOR THE ITEMS DESCRIBED IN
5 SUBSECTION (A) OF THIS SECTION SHALL BE ALLOCATED BY THE COOPERATIVE, IN
6 THE FORM OF PATRONAGE CREDITS, TO:

7 (I) ITS MEMBERS; AND

8 (II) OTHER PERSONS TO WHOM THE COOPERATIVE SUPPLIES
9 ELECTRICITY OR PROVIDES OTHER SERVICES.

10 (2) FOR EACH FISCAL YEAR, THE PATRONAGE CREDITS SHALL BE
11 ALLOCATED TO A MEMBER OR OTHER PERSON IN PROPORTION TO THE PATRONAGE
12 OF THE MEMBER OR OTHER PERSON DURING THE FISCAL YEAR.

13 (C) EFFECT OF SECTION.

14 THIS SECTION DOES NOT PROHIBIT THE PAYMENT BY A COOPERATIVE OF ALL
15 OR PART OF ITS INDEBTEDNESS BEFORE IT BECOMES DUE.

16 DRAFTER'S NOTE: This section is new language derived without substantive
17 change from former Ch. 179, § 23, Acts of 1976, as amended by Ch. 604, Acts of 2001.

18 In the introductory language of subsection (a) of this section, the reference to
19 revenues of a cooperative "for a fiscal year" is added for clarity and consistency with
20 subsection (b) of this section.

21 In subsection (a)(6) of this section, the reference to providing for education
22 "about cooperatives" is substituted for the former reference to providing for education
23 "in cooperation" for clarity.

24 In subsection (b)(1)(ii) of this section, the reference to persons to whom the
25 cooperative supplies electricity or "provides" other services is added for accuracy since
26 other services are not "supplied" by a cooperative.

27 In subsection (b)(2) of this section, the requirement that patronage credits be
28 "allocated ... in proportion to" certain patronage is substituted for the former
29 requirement that patronage credits be "prorated ... in accordance with" certain
30 patronage for clarity and consistency with subsection (b)(1) of this section.

31 Also in subsection (b)(2) of this section, the former reference to the patronage of
32 "the cooperative by" the member or other person "paid for" during the fiscal year is
33 deleted for consistency with the language used in § 5-632(d)(4)(ii) of this subtitle.

34 In subsection (c) of this section, the former reference to payment of indebtedness
35 before "the date when" it becomes due is deleted as surplusage.

36 Defined terms: "Cooperative" § 5-601

1 "Director" § 1-101

2 "Member" § 5-601

3 "Person" § 5-601

4 5-639. DISQUALIFICATION FROM TAKING ACKNOWLEDGMENTS PROHIBITED.

5 A PERSON WHO IS AUTHORIZED TO TAKE ACKNOWLEDGMENTS UNDER THE
6 LAWS OF THE STATE MAY NOT BE DISQUALIFIED FROM TAKING
7 ACKNOWLEDGMENTS OF INSTRUMENTS EXECUTED IN FAVOR OF A COOPERATIVE OR
8 TO WHICH A COOPERATIVE IS A PARTY BECAUSE THE PERSON IS AN OFFICER,
9 DIRECTOR, OR MEMBER OF THE COOPERATIVE.

10 DRAFTER'S NOTE: This section is new language derived without substantive
11 change from former Ch. 179, § 27, Acts of 1976, as amended by Ch. 604, Acts of 2001.

12 Defined terms: "Cooperative" § 5-601

13 "Director" § 1-101

14 "Member" § 5-601

15 "Person" § 5-601

16 5-640. DISPOSITION OF PROPERTY.

17 (A) ENCUMBRANCES ON PROPERTY.

18 (1) WITHOUT AUTHORIZATION BY THE MEMBERS AND ON THE
19 CONDITIONS THE BOARD OF DIRECTORS DETERMINES, THE BOARD OF DIRECTORS
20 OF A COOPERATIVE MAY AUTHORIZE THE EXECUTION AND DELIVERY OF A
21 MORTGAGE OR DEED OF TRUST OF, OR THE PLEDGING OR ENCUMBERING OF, ANY OR
22 ALL OF THE ASSETS OF THE COOPERATIVE, WHETHER ACQUIRED OR TO BE
23 ACQUIRED, AND WHEREVER LOCATED, AND THE REVENUES AND INCOME FROM THE
24 ASSETS, TO SECURE ANY INDEBTEDNESS OF THE COOPERATIVE TO:

25 (I) THE UNITED STATES OR AN AGENCY OR INSTRUMENTALITY OF
26 THE UNITED STATES; OR

27 (II) 1. A NATIONAL FINANCING INSTITUTION THAT IS
28 ORGANIZED ON A COOPERATIVE PLAN FOR THE PURPOSE OF FINANCING ITS
29 MEMBERS' PROGRAMS, PROJECTS, AND UNDERTAKINGS, AND IN WHICH THE
30 COOPERATIVE HOLDS MEMBERSHIP; OR

31 2. ANY OTHER FINANCING INSTITUTION.

32 (2) A LOAN DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS NOT
33 SUBJECT TO § 4-106(B) OF THE REAL PROPERTY ARTICLE.

34 (B) SALE, LEASE, OR DISPOSITION OF PROPERTY.

1 (1) A COOPERATIVE MAY NOT SELL, LEASE, OR OTHERWISE DISPOSE OF
2 ALL OR A SUBSTANTIAL PORTION OF ITS ASSETS UNLESS:

3 (I) THE SALE, LEASE, OR DISPOSITION IS AUTHORIZED AT A
4 MEETING OF THE MEMBERS BY THE AFFIRMATIVE VOTE OF NOT LESS THAN A
5 MAJORITY OF ALL THE MEMBERS OF THE COOPERATIVE; AND

6 (II) THE NOTICE OF THE MEETING CONTAINED NOTICE OF THE
7 PROPOSED SALE, LEASE, OR DISPOSITION.

8 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON THE
9 AUTHORIZATION OF A MAJORITY OF THE MEMBERS OF THE COOPERATIVE PRESENT
10 AT A MEETING OF THE MEMBERS, THE BOARD OF DIRECTORS MAY SELL, LEASE, OR
11 OTHERWISE DISPOSE OF ALL OR A SUBSTANTIAL PORTION OF ITS ASSETS TO:

12 (I) ANOTHER COOPERATIVE OR A FOREIGN CORPORATION DOING
13 BUSINESS IN THE STATE UNDER THIS SUBTITLE; OR

14 (II) THE HOLDER OF ANY NOTE, BOND, OR OTHER EVIDENCE OF
15 INDEBTEDNESS OF THE COOPERATIVE ISSUED TO THE UNITED STATES OR AN
16 AGENCY OR INSTRUMENTALITY OF THE UNITED STATES.

17 DRAFTER'S NOTE: This section is new language derived without substantive
18 change from former Ch. 179, § 24, Acts of 1976, as amended by Ch. 604, Acts of 2001.

19 In subsection (a) of this section, the former references to "property, ... rights,
20 privileges, licenses, franchises and permits" are deleted as included in the defined
21 term "assets".

22 In subsection (b) of this section, the references to "assets" are substituted for the
23 former references to "property" for consistency with terminology used in subsection
24 (a) of this section.

25 In subsection (b)(2) of this section, the former reference to "any other provisions
26 of this act" is deleted as included in the reference to "any other provision of law".

27 Defined terms: "Assets" § 1-101

28 "Cooperative" § 5-601

29 "Director" § 1-101

30 "Foreign corporation" § 1-101

31 "Member" § 5-601

32 5-641. LIENS ON REAL AND PERSONAL PROPERTY.

33 A MORTGAGE, DEED OF TRUST, SECURITY AGREEMENT, OR OTHER SECURITY
34 INSTRUMENT AFFECTING REAL OR PERSONAL PROPERTY, OR BOTH, EXECUTED BY A
35 COOPERATIVE OR FOREIGN CORPORATION DOING BUSINESS IN THE STATE UNDER

1 THIS SUBTITLE IS GOVERNED BY THE REAL PROPERTY ARTICLE OR BY TITLE 9 OF
2 THE MARYLAND UNIFORM COMMERCIAL CODE, OR BOTH, AS APPLICABLE.

3 DRAFTER'S NOTE: This section is new language substituted for former Ch.
4 179, § 26, Acts of 1976, as amended by Ch. 604, Acts of 2001, for consistency with
5 recent revisions to Title 9 of the Maryland Uniform Commercial Code. For
6 transitional provisions relating to the status of liens established before October 1,
7 2002, *see* Ch. ____, § 4, (S.B. ____/H.B. ____) (2lr 571/572) Acts of 2002.

8 Defined terms: "Cooperative" § 5-601

9 "Foreign corporation" § 1-101

10 5-642. SHORT TITLE.

11 THIS SUBTITLE MAY BE CITED AS THE ELECTRIC COOPERATIVE ACT.

12 DRAFTER'S NOTE: This section is new language derived without substantive
13 change from former Ch. 179, § 1, Acts of 1976, as amended by Ch. 604, Acts of 2001.
14 11-601.

15 The following securities are exempted from §§ 11-205 and 11-501 of this title:

16 (15) (I) A NOTE, BOND, OR OTHER EVIDENCE OF INDEBTEDNESS
17 ISSUED TO THE UNITED STATES OR AN AGENCY OR INSTRUMENTALITY OF THE
18 UNITED STATES BY A COOPERATIVE, AS DEFINED IN § 5-601 OF THIS ARTICLE, OR BY
19 A FOREIGN CORPORATION DOING BUSINESS IN THE STATE UNDER TITLE 5, SUBTITLE
20 6 OF THIS ARTICLE;

21 (II) A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT
22 EXECUTED TO SECURE A NOTE, BOND, OR OTHER EVIDENCE OF INDEBTEDNESS
23 DESCRIBED IN ITEM (I) OF THIS ITEM; AND

24 (III) A MEMBERSHIP CERTIFICATE ISSUED BY A COOPERATIVE, AS
25 DEFINED IN § 5-601 OF THIS ARTICLE, OR BY A FOREIGN CORPORATION DOING
26 BUSINESS IN THE STATE UNDER TITLE 5, SUBTITLE 6 OF THIS ARTICLE; AND

27 DRAFTER'S NOTE: This item is new language derived without substantive
28 change from former Ch. 179, § 30, Acts of 1976, as amended by Ch. 604, Acts of 2001.

29 This item is revised as an exemption, under § 11-601 of this article, from the
30 registration requirements of § 11-501 of this article for consistency with the
31 Maryland Securities Act (Title 11 of this article). Section 11-501 requires registration
32 of a security, before it is offered or sold, unless the security is a federal covered
33 security or "[t]he security or transaction is exempted under Subtitle 6 of this title".
34 Since the securities described in this item are not "federal covered securities", they
35 must be exempted under § 11-601 to effectuate the intent of the former law.

1 While the exemptions provided in § 11-601 from both § 11-501 and § 11-205 of
2 this article appear broader than the former law's exemption from § 11-501, according
3 to the Securities Commissioner of the Division of Securities, no substantive change is
4 made since securities exempt from registration would not, as a practical matter, be
5 subject to § 11-205.

6 Defined terms: "Cooperative" § 5-601

7 "Foreign corporation" § 1-101

8 **Article - Public Utility Companies**

9 7-104.

10 THE FORMATION, ORGANIZATION, AND GOVERNANCE OF ELECTRIC
11 COOPERATIVES INCORPORATED IN MARYLAND ARE GOVERNED BY TITLE 5,
12 SUBTITLE 6 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

13 SECTION 4. AND BE IT FURTHER ENACTED, That:

14 (a) A mortgage, deed of trust, security agreement, or other security
15 instrument entered into or created before October 1, 2002 that established a valid lien
16 on personal property in accordance with Ch. 179, § 26, Acts of 1976, as amended by
17 Ch. 604, Act of 2001, remains a valid lien under Title 9 of the Maryland Uniform
18 Commercial Code subject to compliance with Title 9, Subtitle 7 of the Maryland
19 Uniform Commercial Code as modified by subsection (b) of this section.

20 (b) If Title 9, Subtitle 7 of the Maryland Uniform Commercial Code
21 requires action before July 1, 2002 to assure the continuing validity, perfection,
22 priority, or similar status of a security interest, the status of the lien established by a
23 mortgage, deed of trust, security agreement, or other security instrument described in
24 this section will continue if the required action is taken before October 1, 2003.

25 SECTION 5. AND BE IT FURTHER ENACTED, That the Drafter's Notes and
26 catchlines contained in this Act are not law and may not be considered to have been
27 enacted as a part of this Act.

28 SECTION 6. AND BE IT FURTHER ENACTED, That the publisher of the
29 Annotated Code of Maryland, in consultation with and subject to the approval of the
30 Department of Legislative Services, shall correct, with no further action required by
31 the General Assembly, cross-references and terminology rendered incorrect by this
32 Act or by any Act of the General Assembly of 2002 that affects provisions enacted by
33 this Act. The publisher shall adequately describe any such correction in an editor's
34 note following the section affected.

35 SECTION 7. AND BE IT FURTHER ENACTED, That it is the intention of the
36 General Assembly that, except as specifically provided in this Act, this Act shall be
37 construed as a nonsubstantive revision, and may not otherwise be construed to render
38 any substantive change in the law of the State.

1 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2002.