

# MAINE STATE LEGISLATURE

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NINETY - SECOND      LEGISLATURE

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**Legislative Document**

**No. 897**

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S. P. 343

In Senate, February 15, 1945.

Transmitted by revisor of statutes pursuant to joint order

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Washburn of Washington.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-FIVE

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**AN ACT Concerning Agricultural Cooperative Associations.**

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Be it enacted by the People of the State of Maine, as follows:

R. S., c. 31, repealed and replaced. Chapter 31 of the revised statutes is hereby repealed and replaced to read as follows:

**'Chapter 31.**

**Uniform Agricultural Cooperative Association Act.**

Sec. 1. Declaration of policy. It is the declared policy of this state, as one means of improving the economic position of agriculture, to encourage the organization of producers of agricultural products into effective associations under the control of such producers, and to that end this chapter should be liberally construed.

Sec. 2. Definitions. As used in this chapter, unless the context or subject matter requires otherwise:

I. "Agricultural products" include floricultural, horticultural, viticultural, forestry, nut, dairy, livestock, poultry, bee and any farm products.

II. "Association" means a corporation organized under the provisions of this chapter, or a similar domestic corporation, or a foreign association

or corporation if authorized to do business in this state, organized under any general or special act as a cooperative association for the mutual benefit of its members, as agricultural producers, and which confines its operations to purposes authorized by this chapter and restricts the return on the stock or membership capital and the amount of its business with non-members to the limits placed thereon by this chapter for associations organized hereunder.

III. "Domestic association" means an association or corporation formed under the laws of this state.

IV. "Foreign association" means an association or corporation not formed under the laws of this state.

V. "This chapter" means the "Uniform Agricultural Cooperative Association Act".

VI. Associations shall be classified as an deemed to be non-profit corporations, inasmuch as their primary object is not to pay dividends on invested capital, but to render service and provide means and facilities by or through which the producers of agricultural products may market those products, obtain farm supplies, and other services.

VII. "Member" includes the holder of a membership in an association without capital stock and the holder of common stock in an association organized with capital stock.

VIII. "Person" includes an individual, a partnership, a corporation and an association.

IX. "Board" means the board of directors.

X. "Articles" means the articles of incorporation.

Sec. 3. Qualification of incorporators. Five or more adult persons, engaged in agriculture as bona fide producers of agricultural products, or two or more associations of such producers, may form an association, with or without capital stock.

Sec. 4. Purposes. Such association may be organized for the purpose of engaging in any cooperative activity for producers of agricultural products in connection with:

I. Producing, assembling, marketing, buying or selling agricultural products, or harvesting, preserving, drying, processing, manufacturing, blending, canning, packing, ginning, grading, storing, warehousing,

handling, shipping or utilizing such products, or manufacturing or marketing the by-products thereof;

II. Manufacturing, buying for or supplying to its members and other patrons, machinery, equipment, feed, fertilizer, fuel, seeds and other agricultural and household supplies;

III. Performing or furnishing business or educational services, on a cooperative basis, for or to its members and other patrons;

IV. Financing any of the above enumerated activities for its members, subject to the limitations of section 3 of chapter 55.

Sec. 5. Articles of incorporation. Articles of incorporation shall be signed, in quadruplicate, by each of the incorporators and acknowledged by at least 3 of them if natural persons, and by the president and secretary if associations, before an officer authorized to take acknowledgments, and shall state:

I. The name of the association which may or may not include the word "cooperative";

II. Its purposes;

III. Its duration;

IV. The location and post office address of its registered office in this state;

V. The name and post office address of the incorporators, and if organized with capital stock, a statement of the number of shares subscribed by each, which shall not be less than one, and the class of shares for which each subscribes;

VI. The names of the first directors and their post office addresses;

VII. Whether organized with or without capital stock; and if organized with capital stock the total authorized number of par value shares and the par value of each share, and if any of its shares have no par value, the authorized number of such shares; and if more than one class of stock is authorized, a description of the classes of shares, the number of shares in each class, the relative rights, preferences and restrictions granted to or imposed upon the shares of each class, and the dividends to which each class shall be entitled;

VIII. If organized without capital stock, whether the property rights and interests of each member are equal or unequal; if unequal, the rule by which such rights and interests shall be determined;

IX. The articles may also contain any other provisions, consistent with law for regulating the association's business or the conduct of its affairs, the establishment of voting districts, the election of delegates to represent such districts and the members residing therein, for voting by proxy, and issuance, retirement and transfer of memberships and stock.

Sec. 6. Filing and recording articles of incorporation; issuing certificate of incorporation. Before commencing business, the president, treasurer, and a majority of the directors or trustees of every corporation organized under the provisions of the foregoing sections shall prepare a certificate setting forth the name and purposes of the corporation, the town where located, the number and names of the officers, and shall sign and make oath to it; and after it has been examined by the attorney-general, and been by him certified to be properly drawn and signed and to be conformable to the constitution and laws, it shall be recorded in the registry of deeds in the county where said corporation is located, in a book kept for that purpose, and within 60 days after the day of the meeting at which such corporation is organized, a copy thereof certified by such register shall be filed in the office of the secretary of state, who shall enter the date of filing thereon, and on the original certificate to be kept by the corporation, and shall record said copy in a book kept for that purpose. A fee of \$5 shall be paid to the attorney-general and secretary of state respectively, and registers of deeds shall receive for recording such certificate a fee of \$5.

Sec. 7. Amendments of articles of incorporation.

I. An association may amend its articles of incorporation by the affirmative vote of two-thirds of the members voting thereon at any regular meeting, or at a special meeting called for the purpose, or if the association permits its members to vote on the basis of patronage, by the affirmative vote of a majority of the members representing two-thirds of the membership patronage, voting thereon. A written or printed notice of the proposed amendment and of the time and place of holding such meetings shall be delivered to each member, or mailed to his last known address as shown by the books of the association, at least 30 days prior to any such meetings. No amendment affecting the preferential rights of any outstanding stock shall be adopted until the written consent of the holders of two-thirds of the outstanding preference shares has been obtained.

II. After an amendment has been adopted, articles of amendment shall be prepared, in quadruplicate, setting forth the amendment and the adoption thereof, and shall be signed and sworn to by the president or vice

president and by the treasurer or secretary or assistant secretary, and filed, recorded and indorsed as in the case of original articles of incorporation. For filing or recording an amendment to the articles, the association shall pay to the registers of deeds a fee of \$5, and a fee of \$5 shall be paid to the attorney-general and secretary of state respectively.

Sec. 8. By-laws. The members of the association, within 30 days after its incorporation, shall adopt by-laws not inconsistent with law or the articles, and they may alter and amend the same from time to time. The by-laws must be adopted by a majority of the members voting thereon, or if the association permits its members to vote on the basis of patronage then by a majority of members and a majority of the patronage, voting thereon. The by-laws may also provide for:

I. The time, place and manner of calling and conducting meetings of the members, and the number of members that shall constitute a quorum;

II. The manner of voting and the condition upon which members may vote at general and special meetings and by mail or by delegates elected by district groups or other associations, and the voting power of votes based on patronage;

III. Subject to any provision thereon in the articles and in this chapter, the number, qualifications, compensation, duties and terms of office of directors and officers; the time of their election and the mode and manner of giving notice thereof;

IV. The time, place and manner for calling and holding meetings of the directors and executive committee, and the number that shall constitute a quorum;

V. Rules consistent with law and the articles for the management of the association, the establishment of voting districts, the making of contracts, the issuance, retirement and transfer of stock, and the relative rights, interests and preferences of members and shareholders;

VI. Penalties for violation of the by-laws.

Sec. 9. Powers.

I. An association formed under the provisions of this chapter, or an association which might be formed under said provisions and which existed at the time this act took effect, shall have the capacity to act possessed by natural persons, but such association shall have authority to perform only such acts as are necessary or proper to accomplish the purposes as set forth in its articles and which are not repugnant to law.

II. Without limiting or enlarging the grant of authority contained in subsection I of this section, it is hereby specifically provided that every such association shall have authority:

A. To act as agent, broker or attorney in fact for its members and other patrons, and for any subsidiary or affiliated association, and otherwise to assist or join with associations engaged in any one or more of the activities authorized by its articles, and to hold title for its members and other patrons and for subsidiary and affiliated associations to property handled or managed by the association on their behalf.

B. To make contracts, and to exercise by its board or duly authorized officers or agents, all such incidental powers as may be necessary, suitable or proper for the accomplishment of the purposes of the association and not inconsistent with law or its articles, and that may be conducive to or expedient for the interest or benefit of the association.

C. To make loans or advances to members or producer-patrons against products delivered or to be delivered to the association, or to the members of an association which is itself a member or subsidiary thereof; to purchase, otherwise acquire, indorse, discount or sell any evidence of debt, obligation or security, but it shall not engage in banking.

D. To establish and accumulate reserves.

E. To own and hold membership in or shares of the capital stock of other associations and corporations and the bonds or other obligations thereof, engaged in any related activity; or, in producing, warehousing or marketing or purchasing any of the products handled by the association; or, in financing its activities, and while the owner thereof, to exercise all the rights of ownership, including the right to vote thereon.

F. To acquire, hold, sell, dispose of, pledge or mortgage any property which its purposes may require, subject to any limitation prescribed by law or its articles.

G. To borrow money and to give its notes, bonds, or other obligations therefor and secure the payment thereof by mortgage or pledge.

H. To deal in products of, and handle machinery, equipment, supplies and perform services for non-members to an amount not greater in annual value than such as are dealt in, handled or performed for or

on behalf of its members, but the value of the annual purchases made for persons who are neither members nor producers shall not exceed 15% of the value of all its purchases.

I. To have a corporate seal and to alter the same at pleasure.

J. To continue as a corporation for the time limited in its articles, and if no time limit is specified, then perpetually.

K. To sue and be sued in its corporate name.

L. To conduct business in this state and elsewhere as may be permitted by law.

M. To dissolve and settle its affairs.

#### Sec. 10. Members.

I. An association may admit as members only bona fide producers of agricultural products, including tenants and landlords receiving a share of the crop, and cooperative associations of such producers. The incorporators named in the articles are thereby made members of the association, and they shall pay for their membership or stock the same amount and in the same manner as may be required in the case of other members.

II. The articles may limit the amount of common stock which a member may own.

III. Under the terms and conditions prescribed in the by-laws, a member shall lose his vote if he ceases to belong to the class eligible to membership under the provisions of this section, but he shall remain subject to any liability incurred by him while a member of the association.

IV. No member shall be personally liable for any debt or liability of the association.

V. Unless the articles otherwise provide, no member shall have more than 1 vote.

VI. In agricultural associations organized under this chapter the term "member" in associations without capital stock may, by provision of the by-laws, include any agricultural producer, either corporate or individual, with whom the association shall do business, either directly or through a member cooperative association, amounting to at least \$100 during any fiscal year, and may, by provision of the by-laws, include employees.

Sec. 11. Membership or stock certificates, transfers, dividends, preferred stock.



I. No certificate for membership or stock shall be issued until fully paid for, but by-laws may provide that a member may vote and hold office prior to payment in full for his membership or stock.

II. Dividends in excess of 8% on the actual cash value of the consideration received by the association shall not be paid on common or preferred stock or membership capital, but dividends may be cumulative.

III. Net income in excess of dividends and additions to reserves shall be distributed on the basis of patronage, and the books of the association shall show the interest of patrons in the reserves. The by-laws may provide that any distribution to a non-member, eligible for membership, may be credited to such non-member until the amount thereof equals the value of a membership certificate or a share of the association's common stock. The distribution credited to the account of a non-member may be transferred to the reserve fund at the option of the board if, after 6 years, the amount is less than the value of the membership certificate or a share of common stock.

IV. The by-laws shall fix a time within which a member shall receive from the association, after he has notified the association of his withdrawal, or after the adoption of a resolution by the board terminating his membership, the value in money of his membership interest in the association as appraised by the board of directors. If the board of directors shall approve the member's designation of a transferee of his membership interest, the association shall be under no obligation to pay him the value of his interest.

V. An association may issue preferred stock to members and non-members. Preferred stock may be redeemed or retired by the association on such terms and conditions as may be provided in the articles and printed on the stock certificate. Preferred stockholders shall not be entitled to vote, but no change in their priority or preference rights shall be effective until the written consent of the holders of two-thirds of the preferred stock has been obtained. Payment for preferred stock may be made in cash, services or property on the basis of the fair value of the stock, services and property as determined by the board.

Sec. 12. General and special meetings, how called. Within 30 days after the incorporation of an association, the members thereof shall hold an organization meeting at a time and place fixed by the temporary board of directors. Not less than 10 days' written notice thereof shall be given to each member. An association may provide in its by-laws for one or more regular meetings each year, which may be held within or without the state at the time and place designated in the by-laws. Special meetings

of the members may be called by the board of directors, and it shall be their duty to call such meetings when 10% of the members file with the secretary a petition demanding a special meeting and specifying the business to be considered at such meeting. Notice of all meetings, except as otherwise provided by law, or the articles or by-laws, shall be mailed to each member at least 10 days prior to the meeting, and in case of special meetings the notice shall state the purposes for which it is called, but the by-laws may require that all notices, except of proposed amendments to the articles shall be given by publication in a periodical published by or for the association, to which substantially all its members are subscribers, or in a newspaper or newspapers whose combined circulation is general in the territory in which the association operates.

### Sec. 13. Directors.

I. The business of the association shall be managed by a board of not less than 3 directors; at least two-thirds of the directors shall be members of the association or officers, directors or members of a member association. A director shall hold office for the term for which he was named or elected and until his successor is elected and qualified.

II. The names of the first directors shall be stated in the articles. Their successors shall be elected by the members at the first meeting of the members held after the incorporation of the association.

III. The number, qualifications, terms of office, manner of election, time and place of meeting and the powers and duties of the directors may, subject to the provisions of this chapter, be prescribed by the articles or by-laws.

IV. The by-laws may provide, if not restricted by the articles, that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts, either directly or by district delegates elected by the members in that district. In such case, the by-laws shall specify, or vest in the board of directors authority to determine the number of directors to be elected by each district and the manner and method of apportioning the directors and of districting and redistricting the territory covered by the association. The by-laws may provide that primary elections shall be held in each district to nominate the directors apportioned thereto and that the result of all such primary elections may be ratified by the next regular meeting of the association or may be considered as a final election.

V. The by-laws may provide for an executive committee to be elected

by the board of directors from their number and may allot to such committee all the functions and powers of the board subject to its general direction and control.

Sec. 14. Removal of director. Any member may ask for the removal of a director by filing charges with the secretary or president of the association, together with a petition signed by 5% of the members requesting the removal of the director in question. The removal shall be voted upon at the next meeting of the members, and by two-thirds of the voting power voting thereon the association may remove the director. The director whose removal is requested shall be served with a copy of the charges not less than 10 days prior to the meeting and shall have an opportunity at the meeting to be heard in person and by counsel and to present evidence; and the persons requesting the removal shall have the same opportunity. In case the by-laws provide for election of directors by districts, then the petition for removal of a director must be signed by 20% of the members residing in the district from which he was elected. The board must call a special meeting of the members residing in that district to consider the removal of the director; and by two-thirds of the voting power of the members of that district voting thereon the director in question shall be removed from office.

Sec. 15. Officers. The board shall elect a president, a secretary and a treasurer, and may elect one or more vice presidents, and such other officers as may be authorized in the by-laws. The president and at least one of the vice presidents must be members and directors, but a vice president who is not a director cannot succeed to or fill the office of president. Any two of the offices of vice president, secretary and treasurer may be combined in 1 person.

Sec. 16. Removal of officer. Any member may bring charges of misconduct or incompetency against an officer by filing them with the secretary or president of the association, together with a petition signed by 10% of the members requesting the removal of the officer in question. The directors shall vote upon the removal of the officer at the first meeting of the board held after the hearing on the charges, and the officer may be removed by a majority vote, notwithstanding any contract the officer may have with the association, which shall terminate upon his removal, anything in the contract to the contrary notwithstanding. The officer against whom such charges are made shall be served with a copy of the charges not less than 10 days prior to the meeting, and shall have an opportunity at the meeting to be heard in person and by counsel, and to present evi-

dence, and the persons making the charges shall have the same opportunity.

Sec. 17. Referendum. The articles or by-laws may provide that upon demand of two-fifths of all the directors, any matter of policy that has been approved or passed by the board must be referred to the members for their approval before it becomes effective. No referendum shall be allowed unless it is demanded by the required number of directors at the meeting at which the matter of policy in question is adopted.

Sec. 18. Misdemeanor to induce breach of marketing contract to cooperative association; spreading false reports about the management or finances thereof. Any person or any corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association to violate his marketing contract with the association, or who maliciously and knowingly spreads false reports about the finances or management thereof, shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$100 nor more than \$1,000 for each such offense; and shall be liable to the association aggrieved in a civil suit in the penal sum of \$500 for each such offense.

Sec. 19. Associations are not in restraint of trade.

I. No association complying with the terms hereof shall be deemed to be a conspiracy, or a combination in restraint of trade, or an illegal monopoly; or be deemed to have been formed for the purpose of lessening competition or fixing prices arbitrarily, nor shall the contracts between the association and its members, or any agreements authorized in this chapter, be construed as an unlawful restraint of trade, or as part of a conspiracy or combination to accomplish an improper or illegal purpose or act.

II. An association may acquire, exchange, interpret and disseminate to its members, to other cooperative associations, and otherwise, past, present and prospective crop, market, statistical, economic and other similar information relating to the business of the association, either directly or through an agent created or selected by it or by other associations acting in conjunction with it.

III. An association may advise its members in respect to the adjustment of their current and prospective production of agricultural commodities and its relation to the prospective volume of consumption, selling prices and existing or potential surplus, to the end that every market may be served from the most convenient productive areas under a program of

orderly marketing that will assure adequate supplies without undue enhancement of prices or the accumulation of any undue surplus.

Sec. 20. Consolidation of associations. Any two or more associations organized with or without capital stock and existing under the provisions of this chapter may consolidate into a single association which may be either one or any one of said associations, or a new association under the provisions of this chapter to be formed by means of such consolidation. Such a consolidation may be effected by a vote of the directors, trustees or managing board however designated of each of said associations at a legal meeting thereof ratifying a proposed agreement of consolidation and approved by the affirmative vote of two-thirds of the members of each of said associations voting thereon at any regular meeting or at a special meeting called for the purpose, which agreement shall then be submitted to the attorney-general for his certification as conformable to the laws of this state and when certified by him shall then be recorded in the registry of deeds in the county where the consolidated association is located and in the county or counties where each of the constituent associations is located and a copy thereof certified by the register of deeds shall be filed in the office of the secretary of state. When said agreement is so certified, recorded, and filed, the separate existence of all of the constituent associations, or all of such constituent associations except the one into which such constituent associations shall have been consolidated, shall cease and the constituent associations, whether consolidated into a new association or merged into one of such constituent associations, as the case may be, shall become the consolidated association by the name provided in said agreement, possessing all the rights, privileges, powers, franchises, and immunities as well of a public as of a private nature, and being subject to all the liabilities, restrictions, and duties of each of such associations so consolidated and all and singular the rights, privileges, powers, franchises, and immunities of each of said associations, and all property, real, personal, and mixed, and all debts due to any of said constituent associations on whatever account, and all other things in action of or belonging to each of said associations, shall be vested in the consolidated association; and all property, rights, privileges, powers, franchises, and immunities, and all and every other interest shall be thereafter as effectually the property of the consolidated association as they were of the several and respective constituent associations, and the title to any real estate, whether by deed or otherwise, under the laws of this state, vested in any of such constituent associations, shall not revert or be in any way impaired by reason thereof; provided that all rights of creditors and all liens upon the property of any of said constituent associations shall be preserved unimpaired, limited

to the property affected by such liens at the time of the consolidation, and all debts, liabilities, and duties of the respective constituent associations shall henceforth attach to said consolidated association and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it.

Sec. 21. Voluntary dissolution.

I.

A. The members of an association may at any regular meeting, or any special meeting called for the purpose, upon 30 days' notice of the time, place and object of the meeting having been given as prescribed in the by-laws, by  $\frac{2}{3}$  of the voting power voting thereon, discontinue the operations of the association and direct that the association be dissolved and its affairs settled. The meeting shall by like vote designate a committee of 3 members who, as trustees on behalf of the association and within the time fixed in their designation or any extension thereof, shall liquidate its assets, pay its debts, and divide any remainder among the members or other patrons in accordance with their respective rights and interests under their contracts with the association and the articles and by-laws. Upon final settlement by such trustees, the association shall be deemed dissolved and shall cease to exist. The trustees shall make a report, in quadruplicate, of the proceedings had under the provisions of this section, which shall be signed and sworn to and filed as required for the filing of the articles of incorporation.

B. The trustees may bring and defend all actions by them deemed necessary to protect and enforce the rights of the association.

C. Any vacancies in the trusteeship may be filled by the remaining trustees.

II. In the case of an association dissolving pursuant to the provisions of this section, the superior or supreme judicial court, upon the petition of the trustees or a majority of them, or a proper case upon the petition of a creditor or member, or upon the petition of the attorney-general, upon notice to all of the trustees and to such other interested persons as the court may specify, from time to time may order and adjudge in respect to the following matters:

A. The giving of notice by publication or otherwise of the time and place for the presentation of all claims and demands against the association, which notice may require all creditors of and claimants against

the association to present in writing and in detail at the place specified in their respective accounts and demands to the trustees by a day therein specified, which shall not be less than 40 days from the service or first publication of such notice;

B. The payment or satisfaction in whole or in part of claims and demands against the association, or the retention of moneys for such purpose;

C. The presentation and filing of intermediate and final accounts of the trustees, the hearing thereon, the allowance or disallowance thereof, and the discharge of the trustees, or any of them, from their duties and liabilities;

D. The administration of any trust or the disposition of any property held in trust by or for the association;

E. The sale and disposition of any remaining property of the association and the distribution or division of such property or its proceeds among the members or persons entitled thereto;

F. Such matters as justice may require.

III. All orders and judgments shall be binding upon the association, its property and assets, its trustees, members, creditors and all claimants against it.

IV. This section shall apply to all associations heretofore or hereafter incorporated in this state.

Sec. 22. Application to existing associations. Except where otherwise expressly stated herein, this chapter shall be applicable to any existing association formed under any law of this state providing for the incorporation of agricultural cooperative associations, for a purpose for which an association may be formed under the provisions of this chapter.

Sec. 23. Saving clause. The provisions of this chapter shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed.

Sec. 24. Limitations of the use of the word "cooperative." No person, firm, corporation or association, domestic or foreign, hereafter commencing business in this state shall use the word "cooperative" as a part of its

corporate or business name unless it has complied with the provisions of this chapter or some other statute of this state relating to cooperative associations. A foreign association organized under and complying with the cooperative law of the state of such association's creation shall be entitled to use the term "cooperative" in this state if it has obtained the privilege of doing business in this state.

Sec. 25. Foreign associations. A foreign corporation that can qualify as an association, as defined in section 2, may be authorized to do business in this state under the provisions of this chapter by complying with the laws relating to foreign corporations doing business in the state. It shall pay the same fees and charges as domestic associations. Upon such compliance it shall have all the rights and privileges of like domestic associations.

Sec. 26. License fees. Domestic associations and foreign associations admitted to do business in this state shall pay an annual license fee of \$10, which shall be in lieu of all other corporation and franchise taxes.

Sec. 27. Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 28. Short title. This chapter may be cited as the "Uniform Agricultural Cooperative Association Act."