

may be endangered by such neglect or refusal, shall be held and considered a separate offense, severally liable to the penalties aforesaid.

§ 3. PENALTY.] Any contractor or other person having charge of the erection, construction, repairing, alteration, removal or painting of any building, bridge, viaduct, steel tank, standpipe or other structure, within the provisions of the two preceding sections, shall comply with the terms thereof, and any such contractor or other person violating any of the provisions of the two preceding sections shall, upon conviction thereof, be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than thirty days nor more than one year, or both such fine or imprisonment, in the discretion of the Court. In addition to the penalties (sic) herein provided, in the refusal or neglect of any person, firm or corporation, or his, or its agents, to comply with the provisions of the two preceding sections, the use of any such scaffold, hoist, crane, stays, ladder, support, or other mechanical contrivance, or the erection, repairing, alteration, removal or painting of any building, bridge, viaduct, steel tank or other structure, may be prohibited by the labor commissioner, or inspector deputed by him, and a notice to that effect shall be posted upon the premises. Such notice shall not be removed until such scaffold, hoist, crane, stays, ladder, support or other mechanical contrivance or temporary floorings are properly and safely constructed.

Approved March 9, 1921.

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## CORPORATIONS

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### CHAPTER 43.

(H. B. No. 192—Anderson of Burleigh, Shipley, Heaton, Bratsburg, Opland and Harding.)

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#### COOPERATIVE ASSOCIATIONS.

AN ACT to Amend and Re-enact Chapter 97 of the Session Laws of 1917 as Amended by Chapter 99 of the Session Laws of 1919 and by Chapter 29 of the Special Session Laws of 1919, Relating to Cooperative Associations and to Repeal Chapter 13, of the Civil Code of the Compiled Laws of 1913, Chapter 92 of the Session Laws of 1915 and Chapters 95 and 96 of the Session Laws of 1917.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

That Chapter 97 of the Session Laws of 1917 as amended by Chapter 99 of the Session Laws of 1919 and by Chapter 29 of the Special Session Laws of 1919 be amended and re-enacted to read as follows:

§ 1. DEFINITIONS.] For the purposes of this Act, the words, "company," "corporation," or "association" shall be construed to mean the same, and a cooperative company, corporation or association is defined to mean a company, corporation or association which authorized the distribution of its earnings in part or wholly, on the basis of, or in proportion to the amount of property bought from or sold to members, or to members and to other customers or of labor performed, or other services rendered to the association.

§ 2. HOW FORMED. PURPOSES.] A cooperative association may be formed for the purpose of conducting any one or more of the following lines of business: Agricultural, Grain Elevators, Dairy, Mercantile, Mining, Manufacturing, Mechanical, Telephone; upon complying with the provisions of this Act, and the provisions of Chapter 12 of the Civil Code, Compiled Laws 1913 and Acts amendatory thereof and supplementary thereto; except as herein otherwise provided, and except as to provisions thereof inconsistent with the provisions of this Act.

§ 3. ARTICLES OF INCORPORATION.] Any number of persons, not less than 15, may form a cooperative association. They shall make and subscribe written articles of incorporation in duplicate, and acknowledge the same before any officer authorized to take the acknowledgement of deeds.

One copy shall be retained for the records of the association, the other copy shall be filed with and recorded by the secretary of state. The secretary of state shall issue a certificate of incorporation, upon receipt of the articles of incorporation and the payment of the fees provided.

§ 4. FEES.] For filing and recording articles of incorporation and issuing certificate of filing and acceptance, there shall be paid to the secretary of state \$10; for issuing certificate of incorporation \$3; for filing and recording an amendment \$3; for issuing certificate of amendment \$3.

§ 5. DIRECTORS, ELECTION, DUTIES, ELECTION OF OFFICERS.] Every such association shall be managed by a board of not less than five directors and may be any number in excess thereof. The directors shall be elected by and from the stockholders of the association at such time and for such term of office as the by-laws may prescribe, and shall hold office for time for which elected and until their successors are elected and shall enter upon the discharge of their duties; but a majority of the stockholders shall have the power at any regular or special stockholders meeting, legally called, to remove any director or officer for cause, and fill the vacancy, and thereupon the director, or officer so removed shall cease to be a director or officer of said association. The officers of every such association shall be a president, one or more vice presidents, a secretary, and a treasurer, who shall be elected annually by the directors, and each of said officers must be a director of the association. The office of secretary and treasurer may be combined, and when so combined the person filling the office shall be secretary-treasurer.

§ 6. AMENDMENTS.] The association may amend its articles of incorporation by a majority vote of its stockholders at any regular stockholders meeting or at any special stockholders meeting called for that purpose on 30 days written notice, such notice to be served personally on each stockholder of record or by registered letter mailed to each stockholder's last known post office address.

Said power to amend shall include the power to renew the term of corporate existence and to diminish the amount of capital stock and the number of shares; provided, the amount of capital stock shall not be diminished below the amount of paid up capital at the time the amendment is adopted.

A certificate must be made in duplicate, signed and acknowledged by the chairman and secretary of the meeting and a majority of the directors showing a compliance with the requirements of this section, the articles to be amended or changed, the entire number of stockholders, and the vote by which the object was accomplished.

One copy of such certificate shall be retained in the records of the association, one copy shall be filed and recorded in the office of the secretary of state.

The written assent of a majority of the stockholders shall be as effectual to authorize the change or amendment of the articles of incorporation as if a meeting of the stockholders, as prescribed by this section was called and held, and upon such written assent the directors may proceed to make the certificate as herein provided.

§ 7. INCREASE OF CAPITAL STOCK.] The association may increase its capital stock at a meeting called for that purpose by the directors as follows:

Notice of the time and place of the meeting stating its object and the amount to which it is proposed to increase the capital stock must be served personally on each stockholder of record, or by registered letter mailed to each stockholder's last known post office address, sixty days prior to the time of such meeting.

A majority of the stockholders and the persons holding the larger amount in value of the stock must be represented by the vote in favor of the increase.

A certificate must be made, filed and recorded in the manner prescribed in Section 6 of this Act.

§ 8. STOCK. VOTE. CERTIFICATES.] No stockholder in any such association shall be entitled to more than one vote.

Certificates of stock shall not be issued to any subscriber until fully paid, but the by-laws of the association may allow subscribers to vote as stockholders; provided, part of the stock subscribed has been paid in cash.

§ 9. SUBSCRIPTIONS OF STOCK IN OTHER ASSOCIATIONS.] At any regular meeting, or any regularly called special meeting at which at least a majority of all its stockholders shall be present, or represented, an association organized under this act may by majority vote of stock-

holders subscribed for shares and invest its reserve fund, not to exceed twenty-five per cent of its capital, in the capital stock of any other co-operative association.

§ 10. PURCHASING BUSINESS OF OTHER ASSOCIATION. PAYMENT. STOCK ISSUE.] Whenever an association created under this act, shall purchase the business of another association, person or persons, it may pay for the same in whole or in part by issuing to the selling association or person shares of its capital stock to an amount, which at par value would equal the fair market value of the business so purchased, and in such case the transfer to the association of such business at such valuation shall be equivalent to payment in cash for the shares of stock so issued.

§ 11. STOCK. TRANSFERS. COMMISSIONS.] The association may provide in the articles of incorporation or in the by-laws, the terms and limitations of stock ownership, not inconsistent with this act.

The full par value of all stock sold shall be covered into the association treasury, and no commission or expenses shall be paid on the sale of such stock in excess of 10 per cent of the par value thereof, such commission or expense to be added to the selling price of the stock.

§ 12. STOCKHOLDERS MAY VOTE BY MAIL.] 1. At any regularly called general or special meeting of stockholders a written vote received by mail from any absent stockholder and signed by him may be read in such meeting, and shall be equivalent to a vote of such stockholder so signing; provided, he has been previously notified in writing through the mail of the exact motion or resolution upon which vote is taken and copy of same is forwarded with and attached to the vote so mailed by him.

2. Any association created under this act or which has adopted the provisions of this act, as herein provided, and which has more than twenty-five hundred stockholders may, by by-law, herein called the "principal-by-law," adopted by a vote of not less than two-thirds of the shareholders of the association at a general or special stockholders meeting, duly called to consider said by-law, enact that the stockholders of the company and those who thereafter become stockholders shall be grouped in local units or societies formed upon the basis of territorial area, or such other basis as may be determined in said by-law or by resolution or action of the directors as hereinafter provided.

3. The association shall enact by said principal by-law that said societies or units shall be formed by the directors of the association at the first directors' meeting following the annual election and that the directors shall then determine the territorial limits or other basis from or upon which each society or unit and membership therein is drawn or formed, which territorial limits or other basis shall remain the same until after the next annual election of directors.

4. Each of said societies or units shall be entitled to be represented at the annual or other stockholders' meeting of the association by a dele-

gate chosen by each society or unit from its members. Each delegate shall have the same power at all such meetings as the shareholders of the association would have had if said principal by-law had not been adopted. Provided that each delegate shall have and be entitled to cast but one vote on each question for each member of the society or unit which he represents who is not present and voting, in person or by proxy. Every question proposed for a consideration of the association shall be subject to the provisions herein contained.

5. The directors of the association shall have the power to do all things needful, whether by by-law, rule or otherwise, necessary to give effect to this section, and all rules or by-laws passed hereunder, including the power to fix the time and place and rules of conduct for the holding of meetings by said local societies or units for the selection of delegates and the doing by said societies or units of all things needful to insure the representation of said societies or units at meetings of the association, and the transaction by said societies or units of business proper or needful to be dealt with by them to carry out the objects of this act. Upon the enactment of said by-law with these provisions, or any of them, the directors shall be vested with the powers therein provided for.

6. The societies or units shall have power to do all things necessary to give effect to this section and any rules or by-laws adopted hereunder.

§ 13. EARNINGS. APPORTIONMENT.] The directors subject to revision by the association at any regular or special meeting shall apportion the net earnings as follows:

1. By paying dividends upon the paid up capital stock which shall not exceed eight per cent per annum.

2. They may set aside not more than ten per cent of the net profits per annum for a reserve fund, until an amount has accumulated in said reserve fund equal to the paid up capital stock.

3. They may set aside not more than five per cent of the net profits per annum as an educational fund to be used in teaching cooperation.

The remainder, if any, shall be pro-rated by a dividend upon the amount of purchases or sales of raw material or both of shareholders or upon the above and either or both of the following items:

1. Wages and salaries of employees:

2. Purchases or sales of raw material or both of non-shareholders which shall be credited to such non-shareholders on account as payment or partial payment on the capital stock of the association. In productive associations such as creameries, canneries, elevators, factories and the like, dividends shall be on raw material, delivered instead of on goods purchased. In case the association is both selling goods and buying raw products, the dividends may be on both raw material and on goods purchased. No dividends or purchases or sales of raw material or both need be paid or credited unless the dividend claimants keep and surrender the sales slip, coupon, or receipt record of such purchases or sales.

§ 14. DISTRIBUTION OF DIVIDENDS.] The profits or net earnings of such association shall be pro-rated to those entitled thereto, at such time as the by-laws shall prescribe, which shall be as often as once in twelve months.

§ 15. ANNUAL REPORT.] Every association shall annually, within thirty days of the close of its fiscal year make a report to the secretary of state.

Said report shall be filed between July 1st and August 1st unless prior to July 1st such corporation has notified the secretary of state in writing that its fiscal year closes at some other time.

Such report shall contain the name of the association, its principal place of business, nature of business transacted, names, addresses, and salaries of its officers and directors and the date of the expiration of their terms of office, date of expiration of charter, number of stockholders, capital stock, authorized, subscribed and paid in, the amount of stock sold during the year and the commissions paid thereon, a general statement of its business showing amount of business transacted, total expenses of operation, profits and losses, amount of dividends paid and how apportioned and a detailed statement of its assets and liabilities.

Said report shall be signed and sworn to by the president, secretary, treasurer or manager of the corporation, or in case said corporation is in the hands of an assignee or receiver, then such report shall be signed and sworn to by such assignee or receiver, which said report together with a fee of two dollars and a half for filing the same shall be sent to the secretary of state in whose office it shall be filed.

Any person who shall subscribe or make oath or affirmation to any such report containing any false statement, known to such person to be false, shall upon conviction thereof be fined not exceeding \$5,000, or imprisoned not exceeding five years or both.

Failure to make said report and pay said fee shall be prima facie evidence that said corporation is out of business, and it is made the duty of the secretary of state to notify such corporation by registered letter, of its default, and unless such corporation shall within sixty days thereafter file such report and pay such fee, he shall enter upon the records of his office the cancellation of the charter of such corporation.

Such corporation may be reinstated in the manner provided by Chapter 4, Special Session Laws of 1918, but if not so reinstated within one year after cancellation, such corporation shall be dissolved and its affairs wound up in the manner provided by section 4567 of the Compiled Laws of 1913.

§ 16. COOPERATIVE ASSOCIATIONS AND OTHER CORPORATIONS HERETOFORE ORGANIZED, MAY ADOPT PROVISIONS OF THIS ACT.] All cooperative corporations, companies, or associations heretofore organized and doing business under prior statutes, or which have attempted to so organize and do business, under prior statutes, shall have the benefit of all the provisions of this act, and be bound thereby on filing with the

Secretary of State a written declaration signed and sworn to by the President and Secretary to the effect that said cooperative company or association has, by a majority vote of its stockholders, decided to adopt the benefits of and be bound by the provisions of this act. Any corporation organized under the laws of this state and having not less than fifteen stockholders, which shall by the unanimous vote of its stockholders amend its articles of incorporation so that they provide for the cooperative distribution of net earnings in compliance with the provisions of this Act shall have the benefit of and be bound by all the provisions of this Act, upon filing with the Secretary of State an affidavit of the president and secretary setting forth such amended articles of incorporation and stating that the same has been adopted by the unanimous vote of the stockholders.

§ 17. USE OF TERM "COOPERATIVE" LIMITED TO CORPORATIONS UNDER THIS ACT.] No corporation or association hereafter organized or doing business for profit in this state shall be entitled to use the term "cooperative" as part of its corporate or other business name or title, unless it has complied with the provisions of this act; and any corporation or association violating the provisions of this section may be enjoined from doing business under such name at the instance of any stockholder or any association legally organized hereunder.

§ 18. REPEAL.] Chapter 13 of the Civil Code of the Compiled Laws of 1913, Chapter 92 of the Session Laws of 1915 and Chapters 95 and 96 of the Session Laws of 1917 are hereby repealed, but no existing corporation shall be thereby dissolved, nor shall the powers specified in its charter or certificate or articles of incorporation be thereby impaired or limited in any way, and nothing herein contained shall impair or annul, divert or disturb any vested rights, privileges or powers actually exercised and enjoyed in or by any corporation under any law hereby repealed.

Approved March 9, 1921.

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## CHAPTER 44.

(S. B. NO. 66—Church.)

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### COOPERATIVE MARKETING ASSOCIATIONS.

An Act to Promote, Foster and Encourage the proper marketing of Agricultural Products and By-products, and for the creation of a co-operative marketing association and providing for license fees.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

#### 1. DECLARATION OF POLICY.

In order to promote, foster and encourage the intelligent and orderly marketing of agricultural products through co-operation and to

eliminate speculation and waste; and to make the distribution of agricultural products as direct as can be efficiently done between producer and consumer; and to stabilize the marketing problems of agricultural products, this Act is passed.

2. DEFINITIONS.

As used in this Act.

(a) The term "agricultural products" shall include horticultural, viticultural, forestry, dairy, livestock, poultry, bee and any farm products.

(b) The term "member" shall include actual members of associations without capital stock and holders of common stock in associations organized with capital stock;

(c) The term "association" means any corporation organized under this Act; and

(d) The term "person" shall include individuals, firms, partnerships, corporations and associations.

Associations organized hereunder shall be deemed non-profit inasmuch as they are not organized to make profits for themselves, as such, or for their members, as such, but only for their members as producers. This Act shall be referred to as the "Cooperative Marketing Act."

3. WHO MAY ORGANIZE.

Five (5) or more persons engaged in the production of agricultural products may form a non-profit, cooperative association, with or without capital stock, under the provisions of this Act.

4. PURPOSES.

An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, canning, packing, storing, handling, shipping, or utilization thereof; of the manufacturing or marketing of the by-products thereof; or in connection with the manufacturing, selling or supplying to its members of machinery, equipment or supplies; or in the financing of the above enumerated activities; or in any one or more of the activities specified herein.

5. PRELIMINARY INVESTIGATION.

Every group of persons contemplating the organization of an association under this Act, is urged to communicate with the Dean of the State Agricultural College, who will inform it whatever a survey of the marketing conditions affecting the commodities to be handled by the proposed association indicates regarding probable success.

6. POWERS.

Each association incorporated under this Act shall have the following powers:

(a) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling, or utilization of any agricultural products produced or



delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring, or use by its members of supplies, machinery or equipment; or in the financing of any such activities, or in any or more of the activities specified in this section. No association, however, shall handle the agricultural products of any non-member.

(b) To borrow money and to make advances to members.

(c) To act as the agent or representative of any member or members in any of the above mentioned activities.

(d) To purchase or otherwise acquire, and to hold, own, and exercise all rights of ownership in, and to sell, transfer, or pledge shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association.

(e) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the by-laws.

(f) To buy, hold and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conducting and operation of any of the business of the association or incidental thereto.

(g) To do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and in addition to exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and in addition, any other rights, powers and privileges granted by the laws of this State to ordinary corporations, except such as are inconsistent with the express provisions of this Act; and to do any such thing anywhere.

#### 7. MEMBERS:

(a) Under the terms and conditions prescribed in its by-laws, an association may admit as members, or issue common stock, only to persons engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent part of the crop raised on the leased premises.

(b) If a member of a non-stock association be other than a natural person, such member may be represented by any individual, associate, officer or member thereof, duly authorized in writing.

(c) One association organized hereunder may become a member or stockholder of any other association or associations, organized hereunder.

#### 8. ARTICLES OF INCORPORATION.

Each association formed under this Act must prepare and file

Articles of Incorporation, setting forth:

- (a) The name of the association.
- (b) The purposes for which it is formed.
- (c) The place where its principal business will be transacted.
- (d) The term for which it is to exist, not exceeding fifty (50) years.

(e) The number of Directors thereof, which must not be less than five (5) and may be any number in excess thereof, and the term of office of such directors.

(f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests respectively, of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision of the Articles of Incorporation shall not be altered, amended, or repealed except by the written consent or the vote of three-fourths of the members.

(g) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof. The capital stock may be divided into preferred and common stock. If so divided, the Articles of Incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each.

The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this State to take and certify acknowledgements of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this State; and when so filed the said Articles of Incorporation, or certified copies thereof, shall be received in all the Courts of this State, and other places, as prima facie evidence of the facts contained therein, and of the due incorporation of such association. A certified copy of the Articles of Incorporation shall also be filed with the Dean of the State College of Agriculture.

#### 9. AMENDMENTS TO ARTICLES OF INCORPORATION.

The Articles of Incorporation may be altered or amended at any regular meeting or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing a majority of all the members of the association. Amendments to the Articles of Incorporation when so adopted shall be filed in accordance with the provisions of the general corporation law of this State.

#### 10. BY-LAWS.

Each association incorporated under this Act must, within thirty

(30) days after its incorporation, adopt for its government and management, a code of By-Laws, not inconsistent with the powers granted by this Act. A majority vote of the members or stockholders, or their written assent, is necessary to adopt such By-Laws. Each association under its By-Laws may also provide for any or all of the following matters:

(a) The time, place and manner of calling and conducting its meetings.

(b) The number of stockholders or members constituting a quorum.

(c) The right of members or stockholders to vote by proxy or by mail or by both, and the conditions, manner, form, and effects of such votes.

(d) The number of directors constituting a quorum.

(e) The qualifications, compensation and duties and term of office of directors and officers; time of their election and mode and manner of giving notice thereof.

(f) Penalties for violations of the By-Laws.

(g) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same, and the purposes for which they may be used.

(h) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign.

(i) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and of the shares of common stock; the conditions upon which, and time when membership of any member shall cease. The automatic suspension of the rights of a member when he ceases to be eligible to membership in the association, and mode, manner and effect of the expulsion of a member; manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member or forfeiture of his membership, or, at the option of the association, by conclusive appraisal by the Board of Directors. In case of the withdrawal or expulsion of a member the board of directors shall equitably and conclusively appraise his property interests in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion or withdrawal.

#### 11. GENERAL AND SPECIAL MEETINGS—HOW CALLED.

In its By-Laws each association shall provide for one or more regular meetings annually. The Board of Directors shall have the right to call a special meeting at any time, and ten per cent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting; provided, however, that the by-laws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

12. DIRECTORS—ELECTION.

The affairs of the association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own number. The By-Laws may provide 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. In such a case the By-Laws shall specify the number of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association. The By-Laws may provide that primary elections should be held in each district to elect the directors apportioned to such districts and the result of all such primary elections must be ratified by the next regular meeting of the association.

The By-Laws may provide that one or more directors may be appointed by the Dean of the College of Agriculture or any other public official or commission. The Director or Directors so appointed need not be members or stockholders of the association, but shall have the same powers and rights as other directors.

An association may provide a fair remuneration for the time actually spent by its officers and directors in its service. No Director, during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association, or to any other kind of contract differing from terms generally current in that district.

When a vacancy on the Board of Directors occurs, other than by expiration of term, the remaining members of the Board by a majority vote, shall fill the vacancy, unless the By-Laws provide for an election of directors by district. In such a case the Board of Directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

13. ELECTION OF OFFICERS.

The Directors shall elect from their number a President and one or more Vice Presidents. They shall also elect a Secretary and Treasurer, who need not be directors, and they may combine the two latter

officers and designate the combined office as secretary-treasurer. The Treasurer may be a bank or any depository, and as such shall not be considered as an officer but as a function of the Board of Directors. In such case the Secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as authorized by the Board of Directors.

14. STOCK-MEMBERSHIP CERTIFICATES—WHEN ISSUED—VOTING—LIABILITY—LIMITATIONS ON TRANSFER AND OWNERSHIP.

When a member of an association established without capital stock, has paid his membership fee in full, he shall receive a certificate of membership. No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note but such retention as security shall not affect the members' right to vote.

Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance or any promissory notes given in payment thereof.

No stockholder of a cooperative association shall own more than 1-20 of the common stock of the association; and an association, in its By-Laws, may limit the amount of common stock which one member may own to any amount less than one-twentieth of the common stock.

No member or stockholder shall be entitled to more than one vote.

Any association organized with stock under this Act may issue preferred stock, with or without the right to vote. Such stock may be redeemable or retirable by the association on such terms and conditions as may be provided for by the Articles of Incorporation and printed on the face of the Certificate.

The By-Laws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions must be printed upon every certificate of stock subject thereto.

The association may at any time, except when the debts of the association exceed fifty per cent (50%) of the assets thereof, buy in or purchase its common stock at book value thereof as conclusively determined by the board of directors and pay for it in cash within one (1) year thereafter.

15. REMOVAL OF OFFICER OR DIRECTOR.

Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by ten per cent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or

director and fill the vacancy. The director or officer against whom such charges have been brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; and the person or persons bringing the charges against him shall have the same opportunity.

In case the By-Laws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by twenty per cent of the members residing in the district from which he was elected. The Board of Directors must call a special meeting of the members residing in that district to consider the removal of the director. By a vote of the majority of the members of that district, the director in question shall be removed from office.

16. REFERENDUM.

Upon demand of one-third of the entire board of directors, any matter that has been approved or passed by the board must be referred to the entire membership or the stockholders for decision at the next special or regular meeting; provided, however, that a special meeting may be called for the purpose.

17. MARKETING CONTRACT.

The association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over five years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. The contract may provide that the association may sell or re-sell the products of its members, with or without taking title thereto; and pay over to its members the resale price, after deducting all necessary selling, overhead and other costs and expenses, including interest on preferred stock, not exceeding eight per cent per annum, and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight per cent per annum upon common stock.

The By-Laws and the marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the courts of this State.

In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened

breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

**18. PURCHASING BUSINESS OF OTHER ASSOCIATIONS, PERSONS—FIRMS OR CORPORATIONS—PAYMENT—STOCK ISSUED.**

Whenever an association organized hereunder with preferred capital stock, shall purchase the stock or any property, or any interest in any property of any person, firm, or corporation or association, it may discharge the obligations so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred capital stock to an amount which at par value would equal a fair market value of the stock or interest so purchased, as determined by the Board of Directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued.

**19. ANNUAL REPORTS.**

Each association formed under this Act shall prepare and make out an annual report on forms furnished by the Commissioner of Agriculture; (The State College of Agriculture; corporation commissioner; or the Director of Markets), containing the name of the association, its principal place of business and a general statement of its business operations during the fiscal year, showing the amount of capital stock paid up and the number of stockholders of a stock association or the number of members and amount of membership fees received, if a non-stock association; the total expenses of operations; the amount of its indebtedness, or liability and its balance sheets.

**20. CONFLICTING LAWS NOT TO APPLY.**

Any provisions of law which are in conflict with this Act shall not be construed as applying to the associations herein provided for.

**21. LIMITATION OF USE OF TERM "CO-OPERATIVE."**

No person, firm, corporation or association, hereafter organized or doing business in this State, shall be entitled to use the word "Cooperative" as part of its corporate or other business name or title unless it is in fact a cooperative association or corporation.

Any person, firm, corporation or association now organized and existing, or doing business in this State, and embodying the word "Cooperative" as part of its corporate or other business name or title, and which is not in fact a cooperative association or corporation, must, within six months from the date at which this Act goes into effect eliminate the word "Cooperative" from its said corporate or other business name or title.

**22. INTEREST IN OTHER CORPORATIONS OR ASSOCIATIONS.**

An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock, and engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling the agricultural products

handled by the association, or the by-products thereof. If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association or to any other person and such legal warehouse receipts shall be considered as adequate collateral to the extent of the current value of the commodity represented thereby. In case such warehouse is licensed or licensed and bonded under the laws of this or any other State or the United State, its warehouse receipt shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association.

**23. CONTRACTS AND AGREEMENTS WITH OTHER ASSOCIATIONS.**

Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts, and agreements and make all necessary and proper stipulations, agreements and contracts and arrangements with any other cooperative corporation, association or associations, formed in this or in any other State, for the cooperative and more economical carrying on of its business, or any part or parts thereof. Any two or more associations may, by agreement between them, unite in employing and using or may separately employ and use the same methods, means and agencies for carrying on and conducting their respective businesses.

**24. ASSOCIATION HERETOFORE ORGANIZED MAY ADOPT THE PROVISIONS OF THIS ACT.**

Any corporation or association organized under previous existing statutes, may by a majority vote of its stockholders or members be brought under the provisions of this Act by limiting its membership and adopting the other restrictions as provided herein. It shall make out in duplicate a statement signed and sworn to by its directors, upon forms supplied by the corporation commissioner, to the effect that the corporation or association has by a majority vote of its stockholders or members decided to accept the benefits and be bound by the provisions of this Act. Articles of Incorporation shall be filed as required in Section 8, except that they shall be signed by the members of the Board of Directors. The filing fee shall be the same as for filing an amendment to Articles of Incorporation.

**25. MISDEMEANOR—BREACH OF MARKETING CONTRACT OF COOPERATIVE ASSOCIATION; SPREADING FALSE REPORTS ABOUT THE FINANCES OR MANAGEMENT THEREOF.**

Any person or persons or any corporation whose officers or employees knowingly induces or attempts to induce any member or stockholder of an association organized hereunder to breach 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 subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00), for such offense and shall be liable to the association ag-



grieved in a civil suit in the penal sum of Five Hundred Dollars (\$500.00), for each such offense.

26. ASSOCIATION NOT IN RESTRAINT OF TRADE.

No association organized hereunder shall be deemed to be a combination in restraint of trade or an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily; nor shall the marketing contracts or agreements between the association and its members or any agreements authorized in this Act be considered illegal or in restraint of trade.

27. CONSTITUTIONALITY.

If any Section of this Act shall be declared unconstitutional for any reason, the remainder of the Act shall not be affected thereby.

28. APPLICATION OF GENERAL CORPORATION LAWS.

The provisions of the general corporation laws of this State, and all powers and rights thereunder, shall apply to the associations organized hereunder, except where such provisions are in conflict with or inconsistent with the express provisions of this act.

29. ANNUAL LICENSE FEES.

Each association organized hereunder shall pay an annual license of Ten Dollars (\$10.00) but shall be exempt from all franchise or license taxes.

30. FILING FEES.

For filing Articles of Incorporation, and association organized hereunder shall pay Ten Dollars (\$10.00), and for filing an amendment to the articles, Two and 50-100 Dollars (\$2.50).

Approved March 10, 1921.

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## CHAPTER 45.

(S. B. NO. 37—Baird)

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### FOREIGN CORPORATIONS

An Act Entitled an Act to Cure Defects in the Title of Real Estate Caused by Failure of Foreign Corporations to Comply with Section 5238, Compiled Laws, 1913.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

(1) Any corporation organized otherwise than under the laws of this state, having acquired, or attempted to acquire, or to convey legal title by deed, or lease to any real property in this state, before complying with the terms of Section 5238 Compiled Laws of 1913, and which has therefore, and before the passage and approval of this Act, complied with said Section, shall be and is hereby relieved from any disability provided in said Section or prohibition therein contained, so far

as said statute relates to the acquisition and holding of the property so acquired, or attempted to be acquired, and the title so acquired, or attempted to be acquired, is hereby confirmed.

(2) Any person claiming that the legal title of any corporation or of any person claiming by, through, or under such corporation, to any real property acquired, or attempted to be acquired, is invalid by reason of the failure of any corporation coming within the terms of subsection 1 of this Act, to comply with the Section above referred to, shall commence an action to recover the property, or to declare the legal title of said corporation void, or interpose a defense on such grounds, within one year from the passage and approval of this Act, and in case of failure to do so his right of action or defense, based upon the failure to comply with said Section by any such corporation, shall be deemed to have expired; provided that this subsection shall not affect any action now pending.

Approved March 4, 1921.

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## CHAPTER 46.

(S. B. NO. 111—Whitman)

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### INCREASE OF CAPITAL STOCK.

An Act to Amend and Re-enact Section 4557 of the Compiled Laws of the State of North Dakota for the Year 1913, Relating to the increasing or Diminishing of the Capital Stock of Corporations.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 4557 of the Compiled Laws of North Dakota, for the year 1913 is hereby amended and re-enacted to read as follows:

§ 4557. POWERS OF CORPORATION. INCREASING OR DIMINISHING STOCK.] Every corporation may increase or diminish its capital stock at a regular or special meeting, called for that purpose, by the directors as follows:

1. Notice of the time and place of the meeting stating its object and the amount to which it is proposed to increase or diminish its capital stock, must be served on each stockholder by depositing and registering the same in the Post Office, postage paid, properly directed to each stockholder at the Post Office of his last known place of residence as shown by the stock register of such corporation and return receipt demanded at least sixty days prior to the time of such meeting; and the notice must be given to stockholders whose place of residence is unknown or who are not residents in the state by the publication of such notice in a newspaper published in the county where the principal office of the

corporation is situated, not less than once a week for thirty days prior to such meeting; provided, that the capital stock of any railway company under the laws of this state may be increased to such an amount as may by its stockholders be deemed necessary for the purchase or construction of any railroad which it may be legally empowered to purchase or construct; for additions to or improvements of its railroad or property; for additional equipment which may be necessary in the operations of its railroad and for real estate that may be needed by said corporations for railway purposes, by a majority vote of all its stock, in person or by proxy at any annual meeting, or at any meeting called by its directors for that purpose, by a notice in writing to each stockholder to be served on him personally or by depositing the same in the Post Office, postage paid, properly directed to him at the Post Office nearest his usual place of residence at least sixty days prior to such meeting. Such notice shall state the time and place of such meeting, its object and the amount to which it is proposed to increase such capital stock. No vote in favor of such increase shall take effect until the proceedings of such meeting, showing the names of all the stockholders voting therefor and the amount of stock owned by each shall be entered upon the records of such corporation. Every such corporation so increasing its capital stock shall file with the Secretary of State, whenever issues of stock shall be made under this section, a report showing the amount issued and the purposes to which it has been, or is to be, devoted, which report shall be verified by the oath of the president or the general manager thereof and of the chief engineer.

2. The capital stock must in no case be diminished to an amount less than the indebtedness of the corporation, or the estimated cost of the works which it may be the purpose of the corporation to construct.

3. At least two-thirds of the entire capital stock except as hereinbefore provided, must be represented by the vote in favor of the increase or diminution before it can be effected.

4. A certificate must be signed by the chairman and the secretary of the meeting and a majority of the directors, showing a compliance with the requirements of this section the amount to which the capital stock has been increased or diminished, the amount of stock represented at the meeting and the vote by which the object was accomplished.

5. The certificate must be filed in the office of the Secretary of State, there to be recorded in the book of corporations, and thereupon the capital stock shall be so increased or diminished.

Approved March 11, 1921.

## CHAPTER 47.

(S. B. No. 200.—Rusch.)

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## RENEWAL OF CORPORATE EXISTENCE.

An Act Authorizing the Renewal of the Period of Corporate Existence of Certain Corporations whose Period of Duration has Expired Without the Renewal thereof, and Legalizing Acts and Contracts of such Corporation made or done and Performed Subsequent to the Expiration of the Original Period of Existence of such Corporation.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. RENEWAL OF CORPORATE EXISTENCE.] Any corporation heretofore organized under the laws of this state, whose period of duration has expired and the same has not been renewed and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding twenty (20) years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its term of existence, by taking the same proceedings and by paying into the state treasury twenty-five dollars in addition to the fees as now provided by law for the renewal of the corporate existence of such corporations in cases where such renewal is made before the end of its period of duration.

§ 2. ONE YEAR LIMITATION.] Such proceedings to obtain such extension shall be taken within one (1) year after the taking effect of this act.

§ 3. ORIGINAL ACTS DECLARED VALID.] When such steps are taken within such period, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid.

§ 4. APPLICATION.] This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state, nor to any corporation as to which there is any action or proceeding pending in any of the courts in this state for the forfeiture of its charter, nor to any corporation whose directors have acted as trustees under the provisions of Section 4567, Compiled Laws of 1913.

Approved March 9, 1921.