

1 HOUSE BILL NO. 805
2 INTRODUCED BY R. FITZGERALD, J. WINDY BOY, F. SMITH, M. BERTOGLIO, K. WALSH, D. LOGE, J.
3 BERGSTROM, M. CUFFE, W. SALES, M. LANG, C. SPRUNGER, R. MINER, P. TUSS, N. DURAM
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO COOPERATIVE ASSOCIATIONS
6 AND COOPERATIVE AGRICULTURAL MARKETING; PROHIBITING USE OF THE TERM "COOPERATIVE"
7 WITH EXCEPTIONS; AND AMENDING SECTIONS 2-15-401, 35-15-201, 35-15-203, 35-15-302, 35-15-411,
8 35-15-503, ~~35-17-103, 35-17-104,~~ AND 35-17-305, MCA."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11

12 **Section 1.** Section 2-15-401, MCA, is amended to read:

13 **"2-15-401. Duties of secretary of state -- authority.** (1) In addition to the duties prescribed by the
14 constitution, the secretary of state shall:

15 (a) attend at every session of the legislature for the purpose of receiving bills and resolutions and
16 to perform other duties as may be devolved upon ~~upon~~ the secretary of state by resolution of the two houses or
17 either of them;

18 (b) keep a register of and attest the official acts of the governor, including all appointments made
19 by the governor, with date of commission and names of appointees and predecessors;

20 (c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and other
21 public instruments to which the official signature of the governor is required;

22 (d) record in proper books all articles of incorporation filed in the secretary of state's office;

23 (e) take and file receipts for all books distributed by the secretary of state and direct the county
24 clerk of each county to take and file receipts for all books distributed by the county clerk;

25 (f) certify to the governor the names of those persons who have received at any election the
26 highest number of votes for any office, the incumbent of which is commissioned by the governor;

27 (g) furnish, on demand, to any person paying the fees, a certified copy of all or any part of any law,

Amendment - 2nd Reading/2nd House-tan - Requested by: Willis Curdy - (S) Committee of Whole

- 2023

68th Legislature 2023

Drafter: Jason Mohr, 406-444-1640

HB0805.002.001

1 apportion the earnings of the association by first paying dividends on the paid-up capital stock, not exceeding
2 ~~6% per annum on the par value thereof~~ 8% a year; from the remaining funds, if any, accessible for dividend
3 purposes, not less than 5% of the net profits for a reserve fund until an amount has accumulated in ~~said the~~
4 reserve fund amounting to 30% of the paid-up capital stock; and from the balance, if any, 5% for an educational
5 fund to be used for teaching cooperation; and the remaining ~~of said profits~~, if any, by uniform dividends ~~upon on~~
6 the amount of purchases of patrons and ~~upon on~~ the wages and for salaries of employees, the amount of such
7 uniform dividends on the amount of their purchases, which may be credited to the account of ~~such~~ patrons on
8 account of capital stock of the association; but in production associations such as creameries, canneries,
9 elevators, factories, and the like, dividends shall must be on raw material delivered instead of on goods
10 purchased. In case the association is both a selling and a productive concern, the dividends may be on both
11 raw material delivered and on goods purchased by patrons."
12

13 **Section 6.** Section 35-15-503, MCA, is amended to read:

14 **"35-15-503. Meeting to consider plan -- notice.** (1) Notice of the proposed plan and, in the case of
15 consolidation, of the proposed new articles shall must be mailed or sent by electronic means to each
16 stockholder of the associations to be affected ~~thereby~~ by the proposed plan or the proposed new articles.

17 (2) The notice shall must advise the stockholders of each association of the time and place each
18 association shall meet, at which time the proposal shall must be considered and voted ~~upon on~~ by each
19 association. The meetings shall must be held not less than 30 or more than 60 days after the mailing of notice.
20 The plan shall must be considered adopted if a quorum is present and two-thirds of those voting vote in its
21 favor."
22

23 **Section 7.** ~~Section 35-17-103, MCA, is amended to read:~~

24 ~~**"35-17-103. Definitions and associations as nonprofit entities.** (1) The term "agricultural products"~~
25 ~~includes horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and any farm products.~~

26 ~~(2) The term "association" means any corporation organized under this chapter.~~

27 ~~(3) The term "member" means a person who has been qualified and accepted for membership in~~

Amendment - 2nd Reading/2nd House-tan - Requested by: Willis Curdy - (S) Committee of Whole

- 2023

68th Legislature 2023

Drafter: Jason Mohr, 406-444-1640

HB0805.002.001

1 ~~an association.~~

2 ~~(4) — The term "person" includes individuals, firms, partnerships, corporations, and associations.~~

3 ~~(5) — Associations organized under this chapter must be considered nonprofit because they are not~~
4 ~~organized to make profits for themselves or for their members, but only for their members as producers may be~~
5 ~~considered nonprofit if an association is recognized by the internal revenue service as tax-exempt under~~
6 ~~section 521 of the Internal Revenue Code, 26 U.S.C. 521.~~

7

8 **Section 8.** Section 35-17-104, MCA, is amended to read:

9 ~~**"35-17-104. Who may organize.** Five or more persons engaged in the production of agricultural~~
10 ~~products may form a nonprofit cooperative association that may be recognized as tax-exempt under section~~
11 ~~521 of the Internal Revenue Code, 26 U.S.C. 521, with or without capital stock, under the provisions of this~~
12 ~~chapter."~~

13

14 **Section 7.** Section 35-17-305, MCA, is amended to read:

15 **"35-17-305. Meetings of members -- general and special -- how called -- notice -- one vote per**
16 **for each member.** (1) In its bylaws each association shall provide for one or more regular meetings annually.

17 (2) The board of directors ~~shall~~must have the right to call a special meeting at any time, and 10%
18 of the members or stockholders may file a petition stating the specific business to be brought before the
19 association and demand a special meeting at any time. ~~Such~~The meeting must ~~thereupon~~then be called by
20 the directors.

21 (3) Notice of all meetings, together with a statement of the purposes thereof of the meetings, shall
22 must be mailed or sent by electronic means to each member at least 10 days prior to the meeting. However,
23 the bylaws may require instead that ~~such~~the notice may be given by publication in a newspaper of general
24 circulation published at the principal place of business of the association.

25 (4) No member or stockholder ~~shall~~may be entitled to more than one vote."

26

- END -