

## CHAPTER 425

## RURAL ELECTRIC COOPERATIVES

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**425.01 Short title.**—This chapter may be cited as the "Rural Electric Cooperative Law."

**History.**—s. 1, ch. 19138, 1939; CGL 1940 Supp. 6494(43).

**425.02 Purpose.**—Cooperative, nonprofit, membership corporations may be organized under this chapter for the purpose of supplying electric energy and promoting and extending the use thereof in rural areas. Corporations organized under this chapter and corporations which become subject to this chapter in the manner hereinafter provided are hereinafter referred to as "cooperatives."

**History.**—s. 2, ch. 19138, 1939; CGL 1940 Supp. 6494(45).

**425.03 Definitions.**—In this chapter, unless the context otherwise requires:

(1) "Rural area" means any area not included within the boundaries of any incorporated or unincorporated city, town, village, or borough having a population in excess of 2,500 persons;

(2) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic; and

(3) "Member" means each incorporator of a cooperative and each person admitted to and retaining membership therein, and shall include a husband and wife admitted to joint membership.

**History.**—s. 29, ch. 19138, 1939; CGL 1940 Supp. 6494(44).

**425.04 Powers.**—A cooperative shall have power:

- (1) To sue and be sued, in its corporate name;
- (2) To have perpetual existence;
- (3) To adopt a corporate seal and alter the same at pleasure;
- (4) To generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply, and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other persons not in excess of 10 percent of the number of its members; to process, treat, sell, and dispose of water and water rights; to purchase, construct, own and operate water systems; to own and operate sanitary sewer systems; and to supply water and sanitary sewer services. However, no cooperative shall distribute or sell any electricity, or electric energy to any person residing within any town, city or area which person is receiving adequate central station service or who at the time of commencing such service, or offer to serve, by a cooperative, is receiving adequate central station service from any utility agency, privately or municipally owned individual partnership or corporation;

(5) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such person in, wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such electric and plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor;

(6) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating electric refrigeration plants;

(7) To become a member in one or more other cooperatives or corporations or to own stock therein;

(8) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized;

(9) To purchase or otherwise acquire; to own, hold, use and exercise; and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easement;

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

(11) To construct, maintain, and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon corporations constructing or operating electric transmission and distribution lines or systems;

(12) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(13) To conduct its business and exercise any or all of its powers within or without this state;

(14) To adopt, amend and repeal bylaws; and

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

**History.**—s. 3, ch. 19138, 1939; CGL 1940 Supp. 6494(46); s. 1, ch. 71–83.

#### **425.045 Meetings of trustees; records.—**

(1) All meetings of any board of trustees of a cooperative organized pursuant to this chapter, or the board of any affiliated company or subsidiary thereof, at which official acts are to be taken, are declared to be meetings open to the membership of such cooperative at all times, and no formal action shall be considered binding except as taken or made at an open meeting. The minutes of a meeting of any such cooperative board or board of any affiliated company or subsidiary thereof shall be promptly recorded, and such records shall be open to inspection by any cooperative member. Reasonable notice of meetings shall be provided to the membership. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any cooperative member.

(2) Every person who has custody of the records of a cooperative organized pursuant to this chapter, or any affiliated company or subsidiary thereof, shall permit the records to be inspected and examined by any member of such cooperative desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the records or his designee. The custodian shall furnish a copy of the records upon payment of the actual cost of duplication of the records. This section shall not apply to records which constitute proprietary confidential business information as defined in s. 366.093.

(3) If any provision of this act or the application thereof to any person or circumstance is held invalid, the

invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

**History.**—s. 17, ch. 89–292; s. 24, ch. 95–144.

**425.05 Name.**—The name of each cooperative shall include the words "electric" and "cooperative" and the abbreviation "inc."; provided, however, such limitation shall not apply if, in an affidavit made by the president or vice president of a cooperative and filed with the Department of State, it shall appear that the cooperative desires to transact business in another state and is precluded therefrom by reason of its name. The name of a cooperative shall distinguish it from the name of any other corporation organized under the laws of, or authorized to transact business in, this state. The words "electric" and "cooperative" shall not both be used in the name of any corporation organized under the laws of, or authorized to transact business in, this state, except a cooperative or a corporation transacting business in this state pursuant to the provisions of this chapter.

**History.**—s. 4, ch. 19138, 1939; CGL 1940 Supp. 6494(47); ss. 10, 35, ch. 69–106.

**425.06 Incorporators.**—Five or more natural persons or two or more cooperatives, may organize a cooperative in the manner hereinafter provided.

**History.**—s. 5, ch. 19138, 1939; CGL 1940 Supp. 6494(48).

#### **425.07 Articles of incorporation.—**

(1) The articles of incorporation of a cooperative shall recite in the caption that they are executed pursuant to this chapter, shall be signed and acknowledged by each of the incorporators, and shall state:

- (a) The name of the cooperative;
- (b) The address of its principal office;
- (c) The names and addresses of the incorporators;
- (d) The names and addresses of the persons who shall constitute its first board of trustees; and
- (e) Any provisions not inconsistent with this chapter deemed necessary or advisable for the conduct of its business and affairs.

It shall not be necessary to set forth in the articles of incorporation of a cooperative the purpose for which it is organized or any of the corporate powers vested in a cooperative under this chapter.

(2) Such articles of incorporation shall be submitted to the Department of State for filing as provided in this chapter.

**History.**—s. 6, ch. 19138, 1939; CGL 1940 Supp. 6494(49); ss. 10, 35, ch. 69–106.

**425.08 Bylaws.**—The original bylaws of a cooperative, and the first bylaws for a corporation after the effective date of the conversion thereof into a cooperative, pursuant to s. 425.17, shall be adopted by its board of trustees. Thereafter, bylaws shall be adopted, amended or repealed by its members. The bylaws shall set forth the rights and duties of members and trustees and may contain other provisions for the regulation and management of the affairs of the cooperative not inconsistent with this chapter or with its articles of incorporation.

**History.**—s. 7, ch. 19138, 1939; CGL 1940 Supp. 6494(50).

**425.09 Members.—**

(1) No person who is not an incorporator shall become a member of a cooperative unless such person agrees to use electric energy furnished by the cooperative when such electric energy is available through its facilities. The bylaws of a cooperative may provide that any person, including an incorporator, shall cease to be a member thereof if he fails or refuses to use electric energy made available by the cooperative or if electric energy is not made available to such person by the cooperative within a specified time after such person has become a member thereof. Membership in the cooperative shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in respect to membership.

(2) An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

(3) Special meeting of the members may be called by the board of trustees, by any three trustees, by not less than 10 percent of the members, or by the president.

(4) Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held in the city or town in which the principal office of the cooperative is located.

(5) Except as hereinafter otherwise provided, written or printed notice stating the time and place of each meeting of members, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than 10 days nor more than 45 days before the date of the meeting.

(6) One percent of all members, present in person, shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. Notwithstanding the requirement that members be present in person in order to be counted in determining a quorum, the bylaws may permit voting by proxy or by mail in an election of trustees, and members so voting shall be counted as present in person for determination of a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

(7) Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised. In any event, no person shall vote as proxy for more than three members at any meeting of the members.

**History.**—s. 8, ch. 19138, 1939; CGL 1940 Supp. 6494(51); s. 1, ch. 75-4; s. 1, ch. 79-51; s. 1, ch. 83-66.

**425.10 Board of trustees.—**

(1) The business and affairs of a cooperative shall be managed by a board of not less than five trustees, each of whom shall be a member of the cooperative or of

another cooperative which shall be a member thereof. The bylaws shall prescribe the number of trustees, their qualifications, other than those provided for in this chapter, the manner of holding meetings of the board of trustees and of the election of successors to trustees who shall resign, die, or otherwise be incapable of acting. The bylaws may also provide for the removal of trustees from office and for the election of their successors. Without approval of the members, trustees shall not receive any salaries for their services as trustees and, except in emergencies, shall not be employed by the cooperative in any capacity involving compensation. The bylaws may, however, provide that a fixed fee and expenses of attendance, if any, may be allowed to each trustee for attendance at each meeting of the board of trustees and that such may be allowed for the performance of other cooperative business, provided it has prior approval of the board of trustees.

(2) The trustees of a cooperative named in any articles of incorporation, consolidation, merger or conversion, as the case may be, shall hold office until the next following annual meeting of the members or until their successors shall have been elected and qualified. At each annual meeting or, in case of failure to hold the annual meeting as specified in the bylaws, at a special meeting called for that purpose, the members shall elect trustees to hold office until the next following annual meeting of the members, except as hereinafter otherwise provided. Each trustee shall hold office for the term for which he is elected or until his successor shall have been elected and qualified.

(3) The bylaws may provide that, in lieu of electing the whole number of trustees annually, the trustees may be divided into three classes at the first or any subsequent annual meeting, each class to be as nearly equal in number as possible, with the term of office of the trustees of the first class to expire at the next succeeding annual meeting and the term of the second class to expire at the second succeeding annual meeting and the term of the third class to expire at the third succeeding annual meeting. At each annual meeting after such classification a number of trustees equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the third succeeding annual meeting.

(4) A majority of the board of trustees shall constitute a quorum.

(5) If a husband and wife hold a joint membership in a cooperative, either one, but not both, may be elected a trustee.

(6) The board of trustees may exercise all of the powers of a cooperative except such as are conferred upon the members by this chapter, or its articles of incorporation or bylaws.

**History.**—s. 9, ch. 19138, 1939; CGL 1940 Supp. 6494(52); s. 1, ch. 28053, 1953; s. 1, ch. 74-33.

**425.11 Voting districts.—**Notwithstanding any other provision of this chapter, the bylaws may provide that the territory in which a cooperative supplies electric energy to its members shall be divided into two or more voting districts and that, in respect of each such voting district:

(1) A designated number of trustees shall be elected by the members residing therein; or

(2) A designated number of delegates shall be elected by such members; or

(3) Both such trustees and delegates shall be elected by such members.

In any such case the bylaws shall prescribe the manner in which such voting districts and the members thereof, and the delegates and trustees, if any, elected therefrom shall function and the powers of the delegates, which may include the power to elect trustees. No member at any voting district meeting and no delegate at any meeting shall vote by proxy or by mail.

**History.**—s. 10, ch. 19138, 1939; CGL 1940 Supp. 6494(53).

**425.12 Officers.**—The officers of a cooperative shall consist of a president, vice president, secretary and treasurer, who shall be elected annually by and from the board of trustees. No person shall continue to hold any of the above offices after he shall have ceased to be a trustee. The offices of secretary and of treasurer may be held by the same person. The board of trustees may also elect or appoint such other officers, agents, or employees as it shall deem necessary or advisable and shall prescribe the powers and duties thereof. Any officer may be removed from office and his successor elected in the manner prescribed in the bylaws.

**History.**—s. 11, ch. 19138, 1939; CGL 1940 Supp. 6494(54).

**425.13 Amendment of articles of incorporation.**—A cooperative may amend its articles of incorporation by complying with the following requirements:

(1) The proposed amendment shall first be approved by the board of trustees and shall then be submitted to a vote of the members at any annual or special meeting thereof, the notice of which shall set forth the proposed amendment. The proposed amendment, with such changes as the members shall choose to make therein, shall be deemed to be approved on the affirmative vote of not less than two-thirds of those members voting thereon at such meeting; and

(2) Upon such approval by the members, articles of amendment shall be executed and acknowledged on behalf of the cooperative by its president or vice president and its corporate seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite in the caption that they are executed pursuant to this chapter and shall state:

- (a) The name of the cooperative;
- (b) The address of its principal office;
- (c) The date of the filing of its articles of incorporation with the Department of State; and
- (d) The amendment to its articles of incorporation.

The president or vice president executing such articles of amendment shall also make and annex thereto an affidavit stating that the provisions of this section were duly complied with. Such articles of amendment and affidavit shall be submitted to the Department of State for filing as provided in this chapter.

(3) A cooperative may, without amending its articles of incorporation, upon authorization of its board of trustees, change the location of its principal office by filing

a certificate of change of principal office executed and acknowledged by its president or vice president under its seal attested by its secretary, with the Department of State and also in each county office in which its articles of incorporation or any prior certificate of change of principal office of such cooperative has been filed. Such cooperative shall also, within 30 days after the filing of such certificate of change of principal office in any county office, file therein certified copies of its articles of incorporation and all amendments thereto, if the same are not already on file therein.

**History.**—s. 12, ch. 19138, 1939; CGL 1940 Supp. 6494(55); ss. 10, 35, ch. 69-106.

**425.14 Consolidation.**—Any two or more cooperatives, each of which is hereinafter designated a "consolidating cooperative," may consolidate into a new cooperative, hereinafter designated the "new cooperative," by complying with the following requirements:

(1) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and proposed articles of consolidation to give effect thereto shall be first approved by the board of trustees of each consolidating cooperative. The proposed articles of consolidation shall recite in the caption that they are executed pursuant to this chapter and shall state:

(a) The name of each consolidating cooperative, the address of its principal office, and the date of the filing of its articles of incorporation with the Department of State;

(b) The name of the new cooperative and the address of its principal office;

(c) The names and addresses of the persons who shall constitute the first board of trustees of the new cooperative;

(d) The terms and conditions of the consolidation and the mode of carrying the same into effect, including the manner and basis of converting membership in each consolidating cooperative into memberships in the new cooperative and the issuance of certificates of membership in respect of such converted memberships; and

(e) Any provisions not inconsistent with this chapter deemed necessary or advisable for the conduct of the business and affairs of the new cooperative;

(2) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and the proposed articles of consolidation approved by the board of trustees of each consolidating cooperative shall then be submitted to a vote of the members thereof at any annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed consolidation. The proposed consolidation and the proposed articles of consolidation shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of each consolidating cooperative voting thereon at such meeting; and

(3) Upon such approval by the members of the respective consolidating cooperatives, articles of consolidation in the form approved shall be executed and acknowledged on behalf of each consolidating cooperative by its president or vice president and its seal shall be affixed thereto and attested by its secretary. The president or vice president of each consolidating cooperative executing such articles of consolidation shall

also make and annex thereto an affidavit stating that the provisions of this section were duly complied with by such cooperative. Such articles of consolidation and affidavits shall be submitted to the Department of State for filing as provided in this chapter.

**History.**—s. 13, ch. 19138, 1939; CGL 1940 Supp. 6494(56); ss. 10, 35, ch. 69–106.

**425.15 Merger.**—Any one or more cooperatives, each of which is hereinafter designated a "merging cooperative," may merge into another cooperative, hereinafter designated the "surviving cooperative," by complying with the following requirements:

(1) The proposition for the merger of the merging cooperatives into the surviving cooperative and proposed articles of merger to give effect thereto shall be first approved by the board of trustees of each merging cooperative and by the board of trustees of the surviving cooperative. The proposed articles of merger shall recite in the caption that they are executed pursuant to this chapter and shall state:

(a) The name of each merging cooperative, the address of its principal office, the date of the filing of its articles of incorporation with the Department of State;

(b) The name of the surviving cooperative and the address of its principal office;

(c) A statement that the merging cooperatives elect to be merged into the surviving cooperative;

(d) The names and addresses of the persons who shall constitute the board of trustees of the surviving cooperative until the next following annual meeting of the members thereof;

(e) The terms and conditions of the merger and the mode of carrying the same into effect, including the manner and basis of converting the memberships in the merging cooperative or cooperatives into memberships in the surviving cooperative and the issuance of certificates of membership in respect of such converted memberships; and

(f) Any provisions not inconsistent with this chapter deemed necessary or advisable for the conduct of the business and affairs of the surviving cooperatives;

(2) The proposition for the merger of the merging cooperatives into the surviving cooperative and the proposed articles of merger approved by the board of trustees of the respective cooperatives, parties to the proposed merger, shall then be submitted to a vote of the members of each such cooperative at any annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed merger. The proposed merger and the proposed articles of merger shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of each cooperative voting thereon at such meeting; and

(3) Upon such approval by the members of the respective cooperatives, parties to the proposed merger, articles of merger in the form approved shall be executed and acknowledged on behalf of each such cooperative by its president or vice president and its seal shall be affixed thereto and attested by its secretary. The president or vice president of each cooperative executing such articles of merger shall also make and annex thereto an affidavit stating that the provisions of this section were duly complied with by such coopera-

tive. Such articles of merger and affidavits shall be submitted to the Department of State for filing as provided in this chapter.

**History.**—s. 14, ch. 19138, 1939; CGL 1940 Supp. 6494(57); ss. 10, 35, ch. 69–106.

**425.16 Effect of consolidation or merger.**—The effect of consolidation or merger shall be as follows:

(1) The several cooperatives, parties to the consolidation or merger, shall be a single cooperative, which, in the case of a consolidation, shall be the new cooperative provided for in the articles of consolidation, and, in the case of a merger, shall be that cooperative designed in the articles of merger as the surviving cooperative, and the separate existence of all cooperatives, parties to the consolidation or merger, except the new or surviving cooperative, shall cease;

(2) Such new or surviving cooperative shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a cooperative organized under the provisions of this chapter, and shall possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, and all property, real and personal, applications for membership, all debts due on whatever account, and all other choses in action, of each of the consolidating or merging cooperatives, and furthermore all and every interest of, or belonging or due to, each of the cooperatives so consolidated or merged, shall be taken and deemed to be transferred to and vested in such new or surviving cooperative without further act or deed; and the title to any real estate, or any interest therein, under the laws of this state vested in any such cooperatives shall not revert or be in any way impaired by reason of such consolidation or merger;

(3) Such new or surviving cooperative shall thenceforth be responsible and liable for all of the liabilities and obligations of each of the cooperatives so consolidated or merged, and any claim existing, or action or proceeding impending, by or against any of such cooperatives may be prosecuted as if such consolidation or merger had not taken place, but such new or surviving cooperative may be substituted in its place;

(4) Neither the rights of creditors nor any liens upon the property of any of such cooperatives shall be impaired by such consolidation or merger; and

(5) In the case of a consolidation, the articles of consolidation shall be deemed to be the articles of incorporation of the new cooperative; and in the case of a merger, the articles of incorporation of the surviving cooperative shall be deemed to be amended to the extent, if any, that changes therein are provided for in the articles of merger.

**History.**—s. 15, ch. 19138, 1939; CGL 1940 Supp. 6494(58).

**425.17 Conversion of existing corporations.**—Any corporation organized under the laws of this state for the purpose, among others, of supplying electric energy in rural areas may be converted into a cooperative and become subject to this chapter with the same effect as if originally organized under this chapter by complying with the following requirements:

(1) The proposition for the conversion of such corporation into a cooperative and proposed articles of conversion to give effect thereto shall be first approved by

the board of trustees or the board of directors as the case may be, of such corporation. The proposed articles of conversion shall recite in the caption that they are executed pursuant to this chapter and shall state:

- (a) The name of the corporation prior to its conversion into a cooperative;
- (b) The address of the principal office of such corporation;
- (c) The date of the filing the articles of incorporation of such corporation with the Department of State;
- (d) The statute under which such corporation was organized;
- (e) The name assumed by such corporation;
- (f) A statement that such corporation elects to become a cooperative, nonprofit, membership corporation subject to this chapter;

(g) The names and addresses of the persons who shall constitute the board of trustees of such corporation after the completion of the conversion thereof until the next following annual meeting of its members;

(h) The manner and basis of converting either memberships in or shares of stock of such corporation into memberships therein after completion of the conversion; and

(i) Any provisions not inconsistent with this chapter deemed necessary or advisable for the conduct of the business and affairs of such corporation;

(2) The proposition for the conversion of such corporation into a cooperative and the proposed articles of conversion approved by the board of trustees or board of directors, as the case may be, of such corporation shall then be submitted to a vote of the members or stockholders, as the case may be, of such corporation at any duly held annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed conversion. The proposition for the conversion of such corporation into a cooperative and the proposed articles of conversion, with such amendments thereto as the members or stockholders of such corporation shall choose to make, shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of such corporation voting thereon at such meeting, or, if such corporation is a stock corporation, upon the affirmative vote of the holders of not less than two-thirds of the capital stock of such corporation represented at such meeting;

(3) Upon such approval by the members or stockholders of such corporation, articles of conversion in the form approved by such members or stockholders shall be executed and acknowledged on behalf of such corporation by its president or vice president and its corporate seal shall be affixed thereto and attested by its secretary. The president or vice president executing such articles of conversion on behalf of such corporation shall also make and annex thereto an affidavit stating that the provisions of this section with respect to the approval of its trustees or directors and its members or stockholders, of the proposition for the conversion of such corporation into a cooperative and such articles of conversion were duly complied with. Such articles of conversion and affidavit shall be submitted to the Department of State for filing as provided in this chapter. The term "articles of incorporation" as used in this chapter shall be

deemed to include the articles of conversion of a converted corporation.

**History.**—s. 16, ch. 19138, 1939; CGL 1940 Supp. 6494(59); ss. 10, 35 ch. 69-106.

**425.18 Initiative by members.**—Notwithstanding any other provision of this chapter, any proposition embodied in a petition signed by not less than 10 percent of the members of a cooperative, together with any document submitted with such petition to give effect to the proposition, shall be submitted to the members of a cooperative, either at a special meeting of the members held within 45 days after the presentation of such petition or, if the date of the next annual meeting of members falls within 90 days after such presentation or if the petition so requests, at such annual meeting. The approval of the board of trustees shall not be required in respect of any proposition or document submitted to the members pursuant to this section and approved by them, but such proposition or document shall be subject to all other applicable provisions of this chapter. Any affidavit or affidavits required to be filed with any such document pursuant to applicable provisions of this chapter shall, in such case, be modified to show compliance with the provisions of this section.

**History.**—s. 17, ch. 19138, 1939; CGL 1940 Supp. 6494(60).

#### **425.19 Dissolution.**—

(1) A cooperative which has not commenced business may dissolve voluntarily by delivering to the Department of State articles of dissolution, executed and acknowledged on behalf of the cooperative by a majority of the incorporators, which shall state:

- (a) The name of the cooperative;
- (b) The address of its principal office;
- (c) The date of its incorporation;
- (d) That the cooperative has not commenced business;

(e) That the amount, if any, actually paid in on account of membership fees, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto and that all easements shall have been released to the grantors;

(f) That no debt of the cooperative remains unpaid; and

(g) That a majority of the incorporators elect that the cooperative be dissolved. Such articles of dissolution shall be submitted to the Department of State for filing as provided in this chapter.

(2) A cooperative which has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

(a) The board of trustees shall first recommend that the cooperative be dissolved voluntarily and thereafter the proposition that the cooperative be dissolved shall be submitted to the members of the cooperative at any annual or special meeting the notice of which shall set forth such proposition. The proposed voluntary dissolution shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members voting thereon at such meeting;

(b) Upon such approval, a certificate of election to dissolve, hereinafter designated the "certificate," shall be executed and acknowledged on behalf of the cooperative by its president or vice president, and its corporate

seal shall be affixed thereto and attested by its secretary. The certificate shall state:

1. The name of the cooperative;
2. The address of its principal office;
3. The names and addresses of its trustees; and
4. The total number of members of the cooperative

and the number of members who voted for and against the voluntary dissolution of the cooperative. The president or vice president executing the certificate shall also make and annex thereto an affidavit stating that the provisions of this subsection were duly complied with. Such certificate and affidavit shall be submitted to the Department of State for filing as provided in this chapter;

(c) Upon the filing of the certificate and affidavit by the Department of State, the cooperative shall cease to carry on its business except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until articles of dissolution have been filed by the Department of State;

(d) After the filing of the certificate and affidavit by the Department of State the board of trustees shall immediately cause notice of the winding up proceedings to be mailed to each known creditor and claimant and to be published once a week for 2 successive weeks in a newspaper of general circulation in the county in which the principal office of the cooperative is located;

(e) The board of trustees shall have full power to wind up and settle the affairs of the cooperative and shall proceed to collect the debts owing to the cooperative, convey and dispose of its property and assets, pay, satisfy, and discharge its debts, obligations, and liabilities, and do all other things required to liquidate its business and affairs, and after paying or adequately providing for the payment of all its debts, obligations and liabilities, shall distribute the remainder of its property and assets among its members in proportion to the aggregate patronage of each such member during the 7 years next preceding the date of such filing of the certificate, or, if the cooperative shall not have been in existence for such period, during the period of its existence; and

(f) When all debts, liabilities and obligations of the cooperative have been paid and discharged or adequate provision shall have been made therefor, and all of the remaining property and assets of the cooperative shall have been distributed to the members pursuant to the provisions of this section, the board of trustees shall authorize the execution of articles of dissolution which shall thereupon be executed and acknowledged on behalf of the cooperative by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. Such articles of dissolution shall recite in the caption that they are executed pursuant to this chapter and shall state:

1. The name of the cooperative;
2. The address of the principal office of the cooperative;
3. That the cooperative has heretofore delivered to the Department of State a certificate of election to dissolve and the date on which the certificate was filed by the Department of State in the records of its office;
4. That all debts, obligations and liabilities of the cooperative have been paid and discharged or that adequate provision has been made therefor;

5. That all the remaining property and assets of the cooperative have been distributed among the members in accordance with the provisions of this section; and

6. That there are no actions or suits pending against the cooperative. The president or vice president executing the articles of dissolution shall also make and annex thereto an affidavit stating that the provisions of this subsection were duly complied with.

Such articles of dissolution and affidavit accompanied by proof of the publication required in this subsection, shall be submitted to the Department of State for filing as provided in this chapter.

**History.**—s. 18, ch. 19138, 1939; CGL 1940 Supp. 6494(61); s. 7, ch. 22858, 1945; ss. 10, 35, ch. 69-106.

**425.20 Filing of articles.**—Articles of incorporation, amendment, consolidation, merger, conversion, or dissolution, as the case may be, when executed and acknowledged and accompanied by such affidavits as may be required by applicable provisions of this chapter, shall be presented to the Department of State for filing in the records of its office. If the Department of State shall find that the articles presented conform to the requirements of this chapter, it shall upon the payment of the fees as in this chapter provided, file the articles so presented in the records of its office and upon such filing the incorporation, amendment, consolidation, merger, conversion, or dissolution provided for therein shall be in effect. The Department of State immediately upon the filing in its office of any articles pursuant to this chapter shall transmit a certified copy thereof to the county clerk of the county in which the principal office of each cooperative or corporation affected by such incorporation, amendment, consolidation, merger, conversion, or dissolution shall be located. The clerk of any county, upon receipt of any such certified copy, shall file and index the same in the records of his office, but the failure of the Department of State or of a clerk of a county to comply with the provisions of this section shall not invalidate such articles. The provisions of this section shall also apply to certificates of election to dissolve and affidavits of compliance executed pursuant to s. 425.19(2)(b).

**History.**—s. 19, ch. 19138, 1939; CGL 1940 Supp. 6494(62); ss. 10, 35, ch. 69-106.

**425.21 Refunds to members.**—Revenues of a cooperative for any fiscal year in excess of the amount thereof necessary:

(1) To defray expenses of the cooperative and of the operation and maintenance of its facilities during such fiscal year;

(2) To pay interest and principal obligations of the cooperative coming due in such fiscal year;

(3) To finance, or to provide a reserve for the financing of, the construction or acquisition by the cooperative of additional facilities to the extent determined by the board of trustees;

(4) To provide a reasonable reserve for working capital;

(5) To provide a reserve for the payment of indebtedness of the cooperative maturing more than 1 year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and prin-

cipal payments in respect thereof required to be made during the next following fiscal year; and

(6) To provide a fund for education in cooperation and for the dissemination of information concerning the effective use of electric energy and other services made available by the cooperative,

shall, unless otherwise determined by a vote of the members, be distributed by the cooperative to its members as patronage refunds in accordance with the patronage of the cooperative by the respective members paid for during such fiscal year. Nothing herein contained shall be construed to prohibit the payment by a cooperative of all or any part of its indebtedness prior to the date when the same shall become due.

**History.**—s. 20, ch. 19138, 1939; CGL 1940 Supp. 6494(63).

**425.22 Disposition of property.**—A cooperative may not sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property unless such sale, mortgage, lease, or other disposition or encumbrance is authorized at a duly held meeting of the members thereof by the affirmative vote of not less than two-thirds of all of the members of the cooperative, and unless the notice of such proposed sale, mortgage, lease or other disposition or encumbrance shall have been contained in the notice of the meeting. However, notwithstanding anything herein contained, or any other provisions of law, the board of trustees of a cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or deed of trust upon, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the board of trustees shall determine, to secure any indebtedness of the cooperative to the United States or any instrumentality or agency thereof or to any bank, financial institution, corporation, or person lending money or credit to such cooperative.

**History.**—s. 21, ch. 19138, 1939; CGL 1940 Supp. 6494(64); s. 1, ch. 70-14; s. 1, ch. 71-37.

**425.23 Nonliability of members for debts of cooperative.**—The private property of the members of a cooperative shall be exempt from execution for the debts of the cooperative and no member shall be liable or responsible for any debts of the cooperative.

**History.**—s. 22, ch. 19138, 1939; CGL 1940 Supp. 6494(65).

**425.24 Recordation of mortgages.**—Any mortgage, deed of trust, or other instrument executed by a cooperative or foreign corporation transacting business in this state pursuant to this chapter, which, by its terms, creates a lien upon real and personal property then owned or after-acquired, and which is recorded as a mortgage of real property in any county in which such property is located or is to be located shall have the same force and effect as if the mortgage, deed of trust or other instrument were also recorded or filed in the proper office of such county as a mortgage on personal property. Recordation of any such mortgage, deed of trust or other instrument shall cause the lien thereof to

attach to all after-acquired property of the mortgagor of the nature therein described as being mortgaged or pledged thereby immediately upon the acquisition of such property by the mortgagor, and such lien shall be superior to all claims of creditors of the mortgagor and purchasers of such property and to all other liens, except liens of prior record and tax liens, affecting such property.

**History.**—s. 23, ch. 19138, 1939; CGL 1940 Supp. 6494(66).

**425.25 Waiver of notice.**—Whenever any notice is required to be given under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of a cooperative, waiver thereof in writing, signed by the person or persons entitled to such notice whether before or after the time fixed for the giving of such notice, shall be deemed equivalent to such notice. If a person or persons entitled to notice of a meeting shall attend such meeting, such attendance shall constitute a waiver of notice of the meeting, except in case the attendance is for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

**History.**—s. 24, ch. 19138, 1939; CGL 1940 Supp. 6494(67).

**425.26 Trustees, officers or members, notaries.**—No person who is authorized to take acknowledgments under the laws of this state shall be disqualified from taking acknowledgments of instruments executed in favor of a cooperative or to which it is a party, by reason of being an officer, director or member of such cooperative.

**History.**—s. 25, ch. 19138, 1939; CGL 1940 Supp. 6494(68).

**425.27 Foreign corporations.**—Any corporation organized under the laws of another state on a nonprofit or a cooperative basis for the purpose of supplying electric energy in rural areas and owning and operating electric transmission or distribution lines in a state adjacent to this state, shall be allowed to transact business in this state and shall have the same rights, powers, and privileges as a cooperative organized under this chapter upon the filing with the Department of State of a certified copy of its charter or articles of incorporation and upon payment of the filing fee in this chapter provided.

**History.**—s. 26, ch. 19138, 1939; CGL 1940 Supp. 6494(69); ss. 10, 35, ch. 69-106.

**425.28 Fees.**—The Department of State shall charge and collect for:

- (1) Filing articles of incorporation, \$17.50;
- (2) Filing articles of amendment, \$8.75;
- (3) Filing articles of consolidation or merger, \$8.75;
- (4) Filing articles of conversion, \$8.75;
- (5) Filing certificate of election to dissolve, \$8.75;
- (6) Filing articles of dissolution, \$8.75;
- (7) Filing certificate of change of principal office, \$3.50;
- (8) Filing certified copy of charter or articles of incorporation of foreign corporation pursuant to s. 425.27, \$17.50.

**History.**—s. 27, ch. 19138, 1939; CGL 1940 Supp. 6494(70); ss. 10, 35, ch. 69-106; s. 58, ch. 90-132.

**425.29 Exemption from Sale of Securities Law.**—The provisions of the Sale of Securities Law shall not



apply to any note, bond or other evidence of indebtedness issued by any cooperative or foreign corporation transacting business in this state pursuant to this chapter to the United States or any agency or instrumentality thereof, to any commercial bank or banking institution chartered by state or national laws, to any financing institution, organized on a cooperative plan for the purpose of financing its members' programs, projects, and

undertakings, in which the cooperative holds membership, or to any mortgage, deed of trust, or other security agreement executed to secure the same. The provisions of said sale of securities law shall not apply to the issuance of membership certificates by any cooperative or any such foreign corporation.

**History.**—s. 28, ch. 19138, 1939; CGL 1940 Supp. 6494(71); s. 2, ch. 71-37.

**Note.**—Section 517.01, the short title for the Sale of Securities Law, was repealed by s. 1, ch. 78-435