

CHAPTER 15.

AN ACT

[S. B. 7]

To provide for the organization and operation of Cooperative Associations to be termed "Cooperative Marketing Associations" and to define their powers; and an emergency is hereby declared.

Be it enacted by the Legislature of the Territory of Alaska:

1. DECLARATION OF POLICY. In order to promote, foster and encourage the intelligent and orderly marketing of agricultural and aquatic products through cooperation; and to eliminate speculation and waste; and to make the distribution of agricultural and aquatic products between producer and consumer as direct as can be efficiently done; and to stabilize the marketing of agricultural and aquatic products, this Act is passed.

Cooperative
Marketing
Corporation
provided for.

2. DEFINITIONS. As used in this Act,

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

Agricultural
products
defined.

(b) The term "aquatic products" shall include salmon, halibut, herring, cod, crab, shrimp and all other aquatic animals and the products thereof, including fish meal, fertilizer and fish oil.

Aquatic pro-
ducts defined.

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

Member defined.

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

Association
defined.

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

Person defined.

Associations deemed "nonprofit."

Associations organized hereunder shall be deemed "nonprofit," inasmuch as they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.

(f) For the purposes of brevity and convenience this Act may be indexed, referred to and cited as "The Cooperative Marketing Act."

Who may incorporate.

3. WHO MAY ORGANIZE. Fifty (50) or more persons, a majority of whom are residents of this Territory, engaged in the production of agricultural or aquatic products, may form a nonprofit, cooperative association, with or without capital stock, under the provisions of this Act.

Purposes.

4. PURPOSES. An Association may be organized to engage in any activity in connection with the marketing or selling of the agricultural or aquatic products of its members, or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping, or utilization thereof, or 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.

Powers.

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

(a) To engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any agricultural or aquatic products produced or delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or any activity 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 one or more of the

activities specified in this section. No association, however, shall handle the agricultural or aquatic products of any nonmember.

(b) To borrow money without limitation as to amount of corporate indebtedness or liability; 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, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing or 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 in 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 conduct 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 subjects 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 Territory to ordinary corporations, except such as are inconsistent with the express provisions of this Act; and to do any such thing anywhere.

Who may be
members—
Defining.

6. MEMBERS. (a) Under the terms and conditions prescribed in the by-laws adopted by it, an association may admit as members, or issue common stock to persons only engaged in the production of the agricultural or aquatic 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 all or part of the crop raised on the leased premises.

(b) If a member of a nonstock association be other than a natural person, such member may be represented by any individual, associate, officer, or manager 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.

Contents of
articles of
incorporation.

7. 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.

Directors.

(e) The number of directors thereof, which must be not less than five (5) and may be any number in excess thereof; the term of office of such directors; and the names and addresses of those who are to serve

as incorporating directors for the first term, or until election and qualification of their successors.

(f) If organized without capital stock, where the property rights and interests of each member shall be equal or unequal; and if unequal, 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 provision for the admission of 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 or paragraph of the articles of incorporation shall not be altered, amended, or repealed except by the written consent or 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 definite extent of the preference and privileges granted to each.

(h) The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this Territory 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 Territory; and when so filed the said articles of incorporation, or certified copies thereof, shall be received in all the courts of this Territory and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association.

Requirements if organized without capital stock.

Requirements if organized with capital stock.

Manner of execution and acknowledgment of articles—What constitutes prima facie evidence of facts contained in articles and of due incorporation.

Power to alter and amend articles.

8. AMENDMENTS TO ARTICLES OF INCORPORATION. The articles of incorporation may be altered or amended at any regular meeting or 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 Territory.

By-laws to be adopted within sixty days.

9. BY-LAWS. Each association incorporated under this Act must, within sixty (60) 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 provide for any or all of the following matters:

By majority vote.

Powers that association may authorize under by-laws.

(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 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 the 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 col-

lection 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 the 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 the mode, manner, and effect of the expulsion of a member; the 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, the purchase at a price fixed 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.

10. GENERAL AND SPECIAL MEETINGS—HOW CALLED. In its by-laws each association shall provide General and special meetings.

for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time; and 40 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 30 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.

Directors and elections.

11. 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, either director or by district delegates elected by the members in that district. 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 shall be held in each district to elect the directors apportioned to such districts and that the result of all such primary elections may be ratified by the next regular meeting of the association or may be considered final as to the association.

An association may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the service of the members of its executive committee. 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 others, or differing from terms generally current in that district.

The by-laws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

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.

12. 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 a treasurer, who need not be directors or members of the association; and they may combine the two latter offices and designate the combined office as secretary-treasurer; or unite both functions and titles in one person. 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 and where authorized by the board of directors.

13. STOCK — MEMBERSHIP CERTIFICATE—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.

Officers and their duties.

Stock—Membership certificate—Voting Stock Liability, and limitations on transfer.

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 member's right to vote.

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 on any promissory notes given in payment thereof.

No stockholder of a cooperative association shall own more than one-twentieth ($1/20$) 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 ($1/20$) of the common stock.

No member or stockholder shall be entitled to more than one vote, regardless of the number of shares of common stock owned by him.

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 or aquatic products handled by the association; and such restrictions must be printed upon every certificate of stock subject thereto.

The association may, at any time, as specified in the by-laws, except when the debts of the association

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

14. 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 25 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.

Officers and directors may be removed for cause.

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 five (25) 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; and by a vote of the majority of the members of that district the director in question shall be removed from office.

15. REFERENDUM. Upon demand of two-fifths of the entire board of directors, any matter that has been approved or passed by the board must be referred to the entire membership of the stockholders for decision at the next special or regular meeting: PROVID-

Actions of directors may be passed upon by membership at regular or special meetings.

ED, HOWEVER, That a special meeting may be called for the purpose.

Marketing contracts—
Power to contract and limitations thereon.

16. **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 10 years all or any specified part of their agricultural or aquatic products or specified commodities exclusively to or through the association, or any facilities to be created by the association. If they contract a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly, except for recorded liens, to the association upon delivery; or at any other specified time if expressly and definitely agreed in the said contract. The contract may provide that the association may sell or resell the products delivered by 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 (8) per cent per annum, and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight (8) per cent per annum upon common stock.

Remedies for breach of contract.

17. **REMEDIES FOR BREACH OF CONTRACT.**
(a) The by-laws or 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 Territory; and such clauses providing for liquidated dam-

ages shall be enforceable as such and shall not be regarded as penalties.

(b) 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.

(c) In any action upon such marketing agreements, it shall be conclusively presumed that a landowner or landlord or lessor is able to control the delivery of products produced on his land by tenants or others, whose tenancy or possession or work on such land or the terms of whose tenancy or possession or labor thereon were created or changed after execution by the landowner or landlord or lessor, of such marketing agreement; and in such actions, the foregoing remedies for nondelivery or breach shall lie and be enforceable against such landowner, landlord or lessor.

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, with the consent of the seller or vendor, 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 the 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

May purchase business of other persons, firms or corporations.

be equivalent to payment in cash for the shares of stock issued.

Annual report required.

19. ANNUAL REPORTS. Each association formed under this Act shall prepare and make out an annual report 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 nonstock association; the total expenses of operations; the amount of its indebtedness or liabilities, and its balance sheets.

Conflicting laws not to apply.

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.

Exemptions to follow products.

Any exemptions under any and all existing laws applying to agricultural or aquatic products in the possession or under the control of the individual producer, shall apply similarly and completely to such products delivered by its members, in the possession or under the control of the association.

Limitations of use of term cooperative.

21. LIMITATIONS OF THE USE OF TERM "CO-OPERATIVE." No person, firm, corporation, or association, hereafter organized or doing business in this Territory shall be entitled to use the word "cooperative" as part of its corporate or other business name or title for producers' cooperative marketing activities, unless it has complied with the provisions of this Act.

Any person, firm, corporation, or association now organized and existing, or doing a producers' cooperative marketing business in this Territory and embodying the word "cooperative" as part of its corporate or other business name or title, and which is not organized in compliance with the provisions of this Act, 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, which are engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling of the agricultural or aquatic products handled by the association, or the by-products thereof. ^{May hold interest in other corporations.}

If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association against the commodities delivered by it, or to any other person and such legal warehouse receipts shall be considered as adequate collateral to the extent of the usual and current value of the commodity represented thereby. In case such warehouse is licensed or licensed and bonded under the laws of this Territory or the United States, its warehouse receipt delivered to the association on commodities of the association or its members, or delivered by the association or its members, 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 Territory or in any of the United States, for the cooperative and more economical carrying on of its business or any part of [or] parts thereof. Any two ^{Powers to contract.}

or more associations may, by agreement between them unite in employing and using or may separately employ and use the same personnel, methods, means, and agencies for carrying on and conducting their respective businesses.

Associations heretofore formed how entitled to benefit under this act.

24. ASSOCIATIONS HERETOFORE ORGANIZED MAY ADOPT THE PROVISIONS OF THIS ACT. Any corporation or association, organized under previously 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 a statement signed and sworn to by its directors 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 and has authorized all changes accordingly. Articles of incorporation, shall be filed as required in section 8, except that they shall be signed by the members of the then board of directors. The filing fee shall be the same as for filing an amendment to articles of incorporation.

Prohibiting attempts to induce a breach of contract and providing penalty therefore.

25. MISDEMEANOR TO INDUCE 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 induce or attempt to induce any member or stockholder of an association organized hereunder to breach his marketing contract with the association, or who maliciously spreads false reports about the finances or management thereof, shall be guilty of a misdemeanor and be subject to a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1000) for each such offense; and shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred dollars (\$500) for each such offense.

26. WAREHOUSEMEN LIABLE FOR DAMAGES FOR ENCOURAGING OR PERMITTING DELIVERY OF PRODUCTS IN VIOLATION OF MARKETING AGREEMENTS. Any person, firm, or corporation conducting a warehouse within this Territory who solicits or persuades or knowingly permits any member of any association organized hereunder to breach his marketing contract with the association by accepting or receiving such member's products for sale or for auction or for display for sale, contrary to the terms of any marketing agreement of which said person or any member of the said firm or any active office or manager of the said corporation has knowledge or notice, shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred dollars (\$500) for each such offense; and such association shall be entitled to an injunction against such warehouseman to prevent further breaches and a multiplicity of action thereon. In addition, said warehousemen shall pay to the association a reasonable attorney's fee and all costs involved in any such litigation or proceedings at law.

Warehousemen liable for breach of marketing contract under certain conditions.

This section is enacted in order to give marketing associations an adequate remedy in the courts against those who encourage violations of cooperative contracts.

27. ASSOCIATIONS ARE NOT IN RESTRAINT OF TRADE. Any association organized hereunder shall be deemed not to be a conspiracy nor a combination in restraint of trade nor an illegal monopoly; nor an attempt to lessen competition or to fix prices arbitrarily or to create a combination or pool in violation of any law of this Territory; and the marketing contracts and agreements between the association and its members and any agreements authorized in this Act shall be considered not to be illegal nor in restraint of trade nor contrary to the provisions of any statute enacted against pooling or combinations.

Associations not in restraint of trade or monopoly or conspiracy.

Saving clause. 28. CONSTITUTIONALITY. If any section of this Act shall be declared unconstitutional for any reason the remainder of the Act shall not be affected thereby.

Application of general corporation laws. 29. APPLICATION OF GENERAL CORPORATION LAWS. The provisions of the general corporation laws of this Territory 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.

Taxation. 30. TAXATION. The shares of corporations organized under this Act shall be taxable as against the owner thereof as of the period of assessment of other personal property for taxation in this Territory.

Such shares will represent in the aggregate all the property held or owned by such corporation, and when taxed as against the individual owner all of the property in the name of said association will thereby be taxed.

Filing fees. 31. FILING FEES. For filing articles or [of] incorporation or amendments of articles of incorporation, or the filing of the annual report, an association organized hereunder shall pay the same fees provided by law in the case of other business corporations.

Emergency. This Act shall become effective immediately upon its passage and approval as required by law.

Approved March 4, 1935.