

# The Farmer's Cooperative Yardstick: Guidelines for Writing Cooperative Bylaws

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**By:**

**Lionel Williamson**

University of Kentucky  
Department of Agricultural Economics  
400 Charles E. Barnhart Bldg.  
Lexington, KY 40546-0276

Phone: 859-257-5762

Fax: 859-323-1913

<http://www.uky.edu/Ag/AgEcon/>

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## Guidelines for Writing Cooperative Bylaws

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Kentucky Revised Statutes requires that each association, within 30 days after its incorporation, adopt a code of bylaws. These bylaws should be adopted by at least two-thirds of the members present and voting at a meeting for which they had reasonable advance notice that bylaws would be discussed (272.151).

The bylaws' specific content will vary depending on what function(s) the co-op will perform. For example, requirements for membership in a marketing co-op will differ from those in a supply or service co-op. In addition, membership requirements will vary depending on whether the co-op is organized with or without capital stock. Therefore, it is impossible to provide a sample set of bylaws tailored specifically to any one type of co-op. Instead, the following guidelines should suggest items to consider as you draft bylaws for your co-op. You should consult an attorney in refining your draft bylaws to fit your co-op's specific needs and requirements.

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### Bylaws

#### Article I- Purpose

State your co-op's specific objectives. Kentucky Revised Statutes (Section 272.131) allows the articles of incorporation to specify the association's purposes. If your co-op's purpose has been adequately addressed in the Articles of Incorporation, you may want to exclude this article from your bylaws.

#### Article II- Membership

##### Section 1. Qualifications.

According to Kentucky Statutes (Section 272.191),

*"An association may admit as members (or issue voting stock to) only persons engaged in the production of agricultural products, including tenants and landlords who receive any part of the crop raised on the leased premises, or one or more association of producers."*

The statutes further stipulates that (1) if any member of an association organized or brought here under other than a natural person, such member may be represented by an individual, delegate, associate, officer, or member thereof, duly authorized in writing and (2) associations organized under the Kentucky Statutes may become members of other associations.

##### Section 2. Associate Member.

Your co-op may want to admit as associate members (non-voting) any agricultural, industrial or business firm interested in your co-op's objective.

##### Section 3. Evidence of Membership.

If the association is formed with capital stock, this section might read:

*"Each member of this association shall be the holder of one fully paid share of the cooperative's common stock."*

If the association is formed without capital stock, this section might read:

*"Each member of this association who has paid his membership in full shall receive notice of such membership by a certificate of membership, letter or some other instrument recognized by the cooperative."*

#### **Section 4. Dues.**

Your co-op may wish to collect dues to finance its annual operational expenses. If so, this section might read:

*"An annual membership fee of \$\_\_\_\_\_ will be collected from each regular member or an annual membership fee of \$\_\_\_\_\_ will be collected from each associate member on a calendar year basis. The co-op will only sell the products (or supply inputs or services) of those members whose dues are paid in full."*

#### **Section 5. Cancellation or Refusal of Membership.**

At any time, the board of directors, by majority vote, may cancel any member's membership or may refuse membership to any person or organization, when in their judgment the association's welfare justifies such action. Failure to pay annual dues will result in cancellation of membership. Any member may withdraw by written notice to the secretary. A member who withdraws shall not be entitled to any share or part of the association's assets or property or may not have any dues rebated.

### **Article III- Meetings of Members**

#### **Section 1. Annual Meeting.**

The annual meeting of the members of the association shall be held in \_\_\_\_\_, State of \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M., on the \_\_\_\_\_ day of \_\_\_\_\_ each year, or on any date which the board shall designate at least 30 days in advance of the date specified above.

#### **Section 2. Special Meetings.**

The board of directors may call special meetings of the members at any time upon written request of at least 10% of the members. The request shall state the time, place and purpose of the meeting. (*KY Statutes 272 -Section 272.161*).

#### **Section 3. Notice of Meetings.**

Written or printed notice of all meetings, except the one specified above, shall be prepared and mailed to each member's last known address not less than 10 days before the meeting.

The co-op's bylaws may provide that all notices, except those proposed amendments to the articles of incorporation, appear in a periodical, if one is published by or for the association, and if most members receive it. Or notices can be put in newspapers with general circulation in the territory where the association operates.

#### **Section 4. Voting.**

Each member is entitled to only one vote on each matter submitted for vote at a members' meeting. Voting by proxy shall not (shall) be permitted.

#### **Section 5. Quorum.**

As long as the total number of members does not exceed hundred, 10 members or 10% of the total number of members present, whichever is larger, shall constitute a quorum. If less than a quorum is present at any meeting, a majority of those present may adjourn the meeting without further notice.

#### **Section 6. Order of Business.**

The order of business at the annual meeting is:

1. Determination of quorum
2. Proof of due notice of meeting
3. Reading and disposition of minutes
4. Annual reports of officers and committees
5. Unfinished business
6. New business
7. Election of directors
8. Adjournment

### **Article IV - Directors and Officers**

#### **Section 1. Number and Qualifications of Directors.**

The association shall have a board of at least 5 directors. Each director must be a member of this association. No person is eligible to be a director if he is in competition with, or is affiliated with any enterprise in competition with, the association.

## **Section 2. Election of Directors.**

At the members' first annual meeting, directors are elected to succeed the incorporating directors. \_\_\_\_\_ directors are elected for 2 years, and \_\_ directors for 3 years. Thereafter, each director shall be elected for three years. All directors are elected by secret ballot and the nominee receiving the greatest number of votes is elected.

If the co-op draws from a wide geographic area so that membership comes from several locations in a county, several counties or several states, then districts may need to be defined. If the association wishes to select directors by districts, then Article IV, Section 2 might read as follows:

### **Section 2. Election of Directors.**

*The incorporating directors serve until the first annual meeting of the members or until their successors are elected and qualified. The incorporating directors divide the territory served by the association into \_\_ districts based on geographic areas in which the number of members or the volume of business done with the association is approximately the same*

*Each year the board shall establish a redistricting committee composed of one member other than the director from each district. The redistricting committee meets at least 120 days before the annual meeting and may redistrict the territory as needed. A map and description of the current districts should be maintained in the association's office.*

*The board determines the time and place within each district for meetings to nominate directors. District meetings should be held no less than 30 days nor more than 90 days before the annual meeting. District members should receive notice of meetings in their district 10 days before the meeting. The members present should constitute a quorum. Not more than two nominees should be chosen. The chairman, selected by the members present, should notify the association's secretary within 5 days of the nominations.*

## **Section 3. Election of Officers.**

The board shall meet within days after the first election and within days after each annual election and shall elect by ballot a president, vice president, secretary and treasurer (or

secretary-treasurer), each of whom shall hold office until a successor is elected and qualified, unless earlier removed by death, resignation, or for cause. Only the president and vice president need be members of the board.

## **Section 4. Vacancies.**

Whenever a vacancy occurs in the board, other than the expiration of an officer's term, the remaining directors appoint a member to fill the vacancy until the next regular meeting of the members.

## **Section 5. Board Meetings.**

In addition to the meetings mentioned above, regular board meetings are held (monthly, quarterly or semi-annually) or when and where the board determines.

## **Section 6. Special Meetings.**

A special board meeting shall be held whenever the president or a majority of the directors calls one. Any and all business may be transacted at a special meeting. Each call for a special meeting shall be in writing, signed by the person or persons making the call, addressed and delivered to the secretary. It shall state the time and place of the meeting. If a majority of the board signs a waiver of meeting notice, a board meeting may be held at any time.

## **Article V - Duties of Directors**

### **Section 1. General Powers.**

The board shall direct the association's business and shall exercise all of the association's powers except those reserved to members by law, by the articles of incorporation or by these bylaws.

### **Section 2. Employment of Manager.**

The board shall have power to employ a manager, define his duties and fix his compensation.

### **Section 3. Bonds and Insurance.**

Anyone who has custody of the association's funds or property should be bonded. This group includes the manager and appropriate officers, agents and employees. The bonding company

should be approved by the board and the association should pay its costs.

#### **Section 4. Accounting System and Audit.**

The board should install and maintain an adequate system of accounting and records. At least once each \_\_\_\_\_ the board hires a competent and disinterested public auditor or accountant to audit the association's books and accounts. The audit is reported in writing and is presented at the annual meeting.

### **Article VI - Duties of Officers and Manager**

#### **Section 1. Duties of President.**

The president

- presides over all meetings of the association and the board of directors,
- calls special meetings of the board of directors,
- performs all acts and duties usually performed by an executive and presiding officer, and
- signs all membership cards and such other papers of the association as he may be authorized or directed to sign any or all checks, contracts, and other instruments in writing on behalf of the association.
- The president performs such other duties as may be prescribed by the board of directors.

#### **Section 2. Duties of Vice President.**

In the absence or disability of the president, the vice president performs the president's duties. The vice president acts as ex-officer member of all committees.

#### **Section 3. Duties of Secretary.**

The secretary keeps a complete record of all association and board meetings and has general charge and supervision of the association's books and records. He signs all papers pertaining to the association as the board authorizes him. He sends all notices required by law and by these bylaws and makes a full report at the annual meeting about all business pertaining to his office. He keeps the corporate seal and all books of blank certificates; he completes and countersigns all

certificates issued and affixes the corporate seal to all papers requiring a seal. He keeps complete membership records. He acts as secretary of the executive committee, makes all reports required by law and performs other duties as the corporation or board require. Upon his successor's election, the secretary turns over all books and other property belonging to the association that he may have in his possession.

#### **Section 4. Duties of Treasurer.**

The treasurer performs duties with respect to the association's finances as the board prescribes.

#### **Section 5. Duties of Manager.**

The manager performs the duties and exercises the authority vested in him by the board from time to time. Under the board's general supervision the manager has general charge of the association's usual business including purchasing, marketing and handling of all products and supplies handled by the association. He employs, supervises and dismisses all association employees.

### **Article VII - Committees**

#### **Section 1. Executive Committee.**

The board of directors may appoint an executive committee from its own membership. The board determines their tenure of office and their power and duties. The board may allot to the executive committee all or any stated portion of the board's functions and powers, subject to the board's general direction, approval and control. Copies of the minutes of any executive committee meeting shall be mailed to all directors within 7 days.

#### **Section 2. Other Committees.**

The board may appoint other committees as necessary.

### **Article VIII - Capital Stock**

#### **Section 1. Operating Costs.**

To provide for the expenses of operating the association, the association is hereby authorized to charge an annual membership fee to each producer- member of \_\_\_\_\_. All other

members will be charged an annual membership fee not to exceed \_\_\_\_\_.

### **Section 2. Capital Stock.**

The capital stock of the association shall consist of \_\_\_\_\_ shares, divided into \_\_\_\_\_ shares of common stock of the par value of \$\_\_\_\_\_ per shares and \_\_\_\_\_ shares of preferred stock of par value of \$\_\_\_\_\_ per share, resulting in a total capitalization of \$\_\_\_\_\_.

### **Section 3. Common Stock.**

The common stock of this association may be purchased, owned, or held only by producers (1) who patronize the association in accordance with uniform terms and conditions prescribed by it, (2) who have been approved by the board of directors.

### **Section 4. Preferred Stock.**

The preferred stock of the association may be issued to any person, corporation, partnership or other organization. It shall carry no voting rights. Noncumulative dividends of not-to-exceed \_\_\_\_\_ ( ) percent per annum may be paid on such preferred stock when, and as declared by the board of directors.

## **Article IX- Fiscal Year**

The fiscal year of this association shall commence on the first day of January each year and shall end on the last day of December of that year.

## **Article X - Membership Cards**

The board of directors shall cause appropriate cards of membership to be issued.

## **Article XI- Seal**

The association's seal shall contain words and figures, for example, "Montgomery County Hay Marketing Association, Inc., 1986, Kentucky," in circular form.

## **Article XII - Dissolution**

Upon the dissolution of this association, all its debts and liabilities shall first be paid according to their respective priorities.

## **Article XIII - Amendments**

These bylaws may be amended, changed or altered at any time by the affirmative vote of the members of the board of directors present and voting at any regular or special meeting of the board duly called and held.

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## **Other Publications about Cooperatives**

The organization and operation of a successful cooperative requires detailed information, above average managers and informed, concerned decision makers. To help your cooperative succeed, the Kentucky Cooperative Extension Service publications will be available through your local Extension office.

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