

2017 -- S 0676 SUBSTITUTE A

LC002141/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- WORKERS'
COOPERATIVES

Introduced By: Senators Nesselbush, Crowley, Metts, Quezada, and Calkin

Date Introduced: March 29, 2017

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 7 of the General Laws entitled "CORPORATIONS,
2 ASSOCIATIONS, AND PARTNERSHIPS" is hereby amended by adding thereto the following
3 chapter:

4 CHAPTER 6.2

5 WORKERS' COOPERATIVES

6 **7-6.2-1. Legislative purpose.**

7 The purpose of this chapter is to promote the creation of workers' cooperatives by
8 incentivizing workers to create enterprises that are democratically controlled and operated by
9 their own workers.

10 **7-6.2-2. Definitions.**

11 As used in this chapter, the following words and terms have the following meaning:

12 (1) "Member" means a natural person who has been accepted in and owns a membership
13 share issued by a workers' cooperative.

14 (2) "Paid-in capital" means money or other property contributed by a member to a
15 workers' cooperative that is exclusive of any membership fee.

16 (3) "Patronage" means the amount of work performed as a member of a workers'
17 cooperative that is measured in accordance with the certificate of incorporation and bylaws.

18 (4) "Person" means an individual, a partnership, a corporation, an association, or two (2)

1 or more persons having a joint or common interest.

2 (5) "Workers' cooperative" means a corporation that has elected to be governed by the
3 provisions of this chapter.

4 (6) "Written notice of allocation" means the amount of work performed as a member of a
5 workers' cooperative that is measured in accordance with the certificate of incorporation and
6 bylaws.

7 **7-6.2-3. Corporations organized under general corporation law; election to be**
8 **governed as workers' cooperative.**

9 Any corporation organized under chapter 1.2 of title 7 may elect to be governed as a
10 workers' cooperative under the provisions of this chapter, by so stating in its certificate of
11 incorporation filed in accordance with §§7-1.2-201 and 7-1.2-202 of the Rhode Island business
12 corporation act, or amendments to its certificate of incorporation filed in accordance with §§7-
13 1.2-901 through 7-1.2-907.

14 **7-6.2-4. Application of general corporation law.**

15 (a) The provisions of chapter 1.2 of title 7 are applicable to workers' cooperatives.

16 (b) All workers' cooperatives shall enjoy the powers and privileges, and be subject to the
17 duties, restrictions, and liabilities of other corporations organized under chapter 1.2 of title 7,
18 except where inconsistent with the intent and purpose of this chapter.

19 (c) This chapter takes precedence in the event of a conflict with the provisions of chapter
20 1.2 of title 7.

21 (d) All workers' cooperatives shall be subject to the provisions of chapter 11 of title 44
22 dealing with the taxation of corporations.

23 **7-6.2-5. Revocation of election.**

24 A workers' cooperative may revoke its election under this chapter by a vote of two-thirds
25 (2/3) of the members and through articles of amendment filed in accordance with §§7-1.2-901
26 through 7-1.2- 907.

27 **7-6.2-6. Members; membership shares; fees; rights and responsibilities.**

28 (a) The certificate of incorporation or the bylaws shall establish qualifications and the
29 method of acceptance and termination of members. Upon completion of their probationary period
30 all regular full-time or part-time employees shall be offered membership in the workers'
31 cooperative. Acceptance as a member in a workers' cooperative shall be evidenced by a
32 membership share, which shall be issued for a fee, to be paid in such terms and conditions as are
33 provided in the bylaws.

34 (b) A workers' cooperative shall issue a class of voting stock designated as "membership

1 shares." Each member shall own only one membership share, and only members may own
2 membership shares.

3 (c) Membership shares shall be issued for a fee as shall be determined from time to time
4 by the directors. No certificate for a membership share shall be issued until its fee has been paid
5 in full. Each member is entitled to a certificate for their membership share upon fulfilling the
6 requirements in the cooperative's articles of incorporation and bylaws.

7 (d) Members of a workers' cooperative shall have all the rights and responsibilities of
8 stockholders of a corporation organized under the provisions of chapter 1.2 of title 7, except as
9 otherwise provided in this chapter.

10 **7-6.2-7. Voting shares; bylaws; amendment of certificate of incorporation.**

11 (a) No capital stock other than membership shares shall be given voting power in a
12 workers' cooperative, except as otherwise provided in this chapter.

13 (b) Notwithstanding the provisions of §§7-1.2-201 and 7-1.2-202 and §§7-1.21-901
14 through 7-1.2-907, the power to amend or repeal bylaws of a workers' cooperative shall be vested
15 in the members only, except to the extent that directors are authorized to amend or repeal the
16 bylaws in accordance with the certificate of incorporation.

17 (c) The provisions of §§7-1.2-901 through 7-1.2-907 shall be construed to limit voting on
18 any amendment of the certificate of incorporation of a workers' cooperative to the members,
19 except that nonmember stockholders shall participate in such voting in accordance with §7-1.2-
20 903 where a proposed amendment would adversely affect the rights of such nonmember
21 stockholders as provided in §7-1.2-904.

22 **7-6.2-8. Net earnings or losses; apportionment, distribution, and payment.**

23 (a) The net retained proceeds or losses of a workers' cooperative shall be apportioned and
24 distributed at such times and in such manner as the certificate of incorporation or bylaws shall
25 specify. Net retained proceeds declared as patronage allocations with respect to a period of time,
26 and paid or credited to members, shall be apportioned among the members in accordance with the
27 ratio which each member's patronage during the period involved bears to patronage by all
28 members during that period. As used in this section, "patronage" means the amount of work
29 performed as a member of a workers' cooperative, measured in accordance with the certificate of
30 incorporation and bylaws.

31 (b) The apportionment, distribution, and payment of net retained proceeds required by
32 subsection (a) of this section may be in cash credits, written notices of allocation, or capital stock
33 issued by the workers' cooperative. If the distribution and payment of net-retained proceeds is
34 made in cash credits, such distribution and payments shall be subject to pass-through withholding

1 [under §44-11-2.2.](#)

2 **7-6.2-9. Directors; officers.**

3 [\(a\) The bylaws of a workers' cooperative shall provide for the election, terms,](#)
4 [classifications, if any, and removal of directors and officers in accordance with the provisions of](#)
5 [this chapter or the provisions of chapter 1.2 of title 7.](#)

6 [\(b\) In the absence of any bylaw, provision, elections, terms, classifications, and removal](#)
7 [procedures shall be governed by the provisions of chapter 1.2 of title 7.](#)

8 [\(c\) Nonmembers may serve as directors or officers of a workers' cooperative, but at no](#)
9 [time shall there be a majority of nonmember directors.](#)

10 [\(d\) Vacancies in director positions resulting from death, resignation, or removal shall be](#)
11 [filled by a vote of the member directors.](#)

12 **7-6.2-10. Application of payroll tax withholding laws and workers' compensation**
13 **insurance requirement.**

14 [Nothing in this chapter creating workers' cooperatives shall prevent the application of](#)
15 [payroll tax withholding laws, including, but not limited to, payroll taxes relating to temporary](#)
16 [disability insurance and unemployment insurance, or the provisions relating to the requirements](#)
17 [to obtain workers' compensation insurance.](#)

18 **7-6.2-11. Internal capital accounts; recall or redemption of shares; interest;**
19 **collective reserve account.**

20 [\(a\) Any workers' cooperative may establish through its certificate of incorporation or](#)
21 [bylaws a system of internal capital accounts, to reflect the book value and to determine the](#)
22 [redemption price of membership shares, capital stock, and written notices of allocation. As used](#)
23 [in this section, "written notice of allocation" means a written instrument which discloses to a](#)
24 [member the stated dollar amount of the member's patronage allocation, and the terms for a](#)
25 [payment amount by the workers' cooperative.](#)

26 [\(b\) The certificate of incorporation or bylaws of a worker cooperative may permit the](#)
27 [periodic redemption of written notices of allocation and capital stock, and must provide for recall](#)
28 [and redemption of the membership share upon termination of membership in the cooperative. No](#)
29 [redemption shall be made if the redemption would result in the liability of any director or officer](#)
30 [of the worker cooperative under §§7-1.2-801 through 7-1.2- 814.](#)

31 [\(c\) The certificate of incorporation or bylaws may authorize assignment of a portion of](#)
32 [net retained proceeds and net losses to a collective reserve account. Net retained proceeds](#)
33 [assigned to the collective reserve account may be used for any and all corporate purposes as](#)
34 [determined by the board of directors.](#)

1 **7-6.2-12. Conversion of membership shares and internal capital accounts upon**
2 **revocation of election; consolidation or merger.**

3 When any workers' cooperative revokes its election in accordance with §7-6.2-5, an
4 amendment of the certificate of incorporation shall provide for the conversion of membership
5 shares and internal capital accounts, or their conversion to securities or other property in a manner
6 consistent with the provisions of chapter 1.2 of title 7.

7 **7-6.2-13. Severability.**

8 If any provision of this chapter or any rule or regulation created under this chapter, or the
9 application of any provision of this chapter to any person or circumstance shall be held invalid in
10 any court of competent jurisdiction, the remainder of the chapter, rule, or regulation and the
11 application of such provision to other persons or circumstances shall not be affected thereby. The
12 invalidity of any section or sections of this chapter and to this end the provisions of the chapter
13 are declared to be severable.

14 SECTION 2. This act shall take effect on January 1, 2018.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- WORKERS'
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1 This act would create a statutory vehicle for the creation and functioning of workers'
2 cooperatives which are corporations that are owned and democratically governed by their
3 members. The act would also allow any corporation to elect to become a workers' cooperative by
4 so stating in its certificate of incorporation, or in its amendments to its certificate of
5 incorporation.

6 This act would take effect on January 1, 2018.

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