



Cooperative Maine

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building a democratic economy rooted in community

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Dear Fellow Cooperator,

I have a few questions on cooperative laws - some general, some specific.

(pages 2-5)

I know you are not a lawyer & neither am I.

I hope to initiate a conversation around cooperative laws.

Maybe, they are fine! That would be fine!

Maybe they are a wreck! We would have some work to do!

Maybe they need a little work here & there ... I guess I'll find out!

Thank you for your service toward a more cooperative planet!

Cooperatively Yours,

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A Few Questions on Cooperative Laws

MAINE | GENERAL QUESTIONS

In general, over the years, I have heard various criticisms of the Maine cooperative laws. ...some from CPAs ...some from lawyers ...

Q1.0 | *What are your general impressions of Maine cooperative law?*

Q2.0 | *Do you think it would be worthwhile to explore a Maine Model Cooperative Law Project?*

US | GENERAL QUESTIONS

Q3.0 | *Is there a state or states which could serve as a set of model cooperative laws?*

Q4.0 | *Have you heard of any other such discussion?*

Q5.0 | *Do you think it would be worthwhile to explore a National Model Cooperative Law Project?*

MAINE | SPECIFIC QUESTIONS

Maine Revised Statutes

Title 13: CORPORATIONS | Part 2: CORPORATIONS WITHOUT CAPITAL

Chapter 85: COOPERATIVES

[<http://legislature.maine.gov/statutes/13/title13ch85sec0.html>]

Subchapter 2: AGRICULTURAL MARKETING AND BARGAINING

Article 1: GENERAL PROVISIONS

Q6.0 | *Subchapter 2 | This seems to be mainly about fair bargaining, and, in the event of unfair bargaining, dispute resolution. Is it possible to be an agricultural cooperative in Maine and not organize under this Sub-Chapter?* **Q6.1** | *If so, how so?*

§1771. Short title

This subchapter may be cited as the "Uniform Agricultural Cooperative Association Act".

[<http://legislature.maine.gov/statutes/13/title13sec1772.html>]

§1772. Policy

It is the declared policy of this State, as one means of improving the economic position of agriculture, to encourage the organization of producers of agricultural products into effective associations under the control of such producers, and to that end this subchapter should be liberally construed.

[<http://legislature.maine.gov/statutes/13/title13sec1781.html>]

§1781. Nonprofit associations

An association is deemed "nonprofit," as the association is not organized to make a profit for that association or for its members, but only for its members as producers of agricultural products.

Q7 | §1781 | "nonprofit" for state law? for federal law? what would a CPA say for tax purposes?

§1776. Use of word "cooperative"

No person, firm, corporation or association, domestic or foreign, hereafter commencing business in this State shall use the word "cooperative" as a part of its corporate or business name unless it has complied with this subchapter or some other statute of this State relating to cooperative associations. A foreign association organized under and complying with the cooperative law of the state of such association's creation shall be entitled to use the term "cooperative" in this State if it has obtained the privilege of doing business in this State.

Article 6: MAINE AGRICULTURAL MARKETING AND BARGAINING ACT OF 1973 [<http://legislature.maine.gov/statutes/13/title13sec1953.html>]

§1953. Legislative findings and purpose

Because agricultural products are produced by numerous individual farmers, the marketing and bargaining position of individual farmers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Furthermore, membership by a farmer in a cooperative organization can only be meaningful, if a handler of agricultural products is required to bargain in good faith with an agricultural cooperative organization as the representative of the members of such organization who have had a previous course of dealing with such handler. The purpose of this Article is to provide standards for the qualification of agricultural cooperative organizations for bargaining purposes, to define the mutual obligation of handlers and agricultural cooperative organizations to bargain with respect to the production, sale and marketing of agricultural products and to provide for the enforcement of such obligation.

§1957. Qualification of associations of producers

1. Qualification. Only those associations of producers that have been qualified in accordance with this section shall be entitled to the benefits provided by this Article.
2. Petition. An association of producers desiring qualification shall file with the board a petition for qualification. The petition shall contain such information and be accompanied by such documents as shall be required by the regulations of the board.
3. Hearing. The board shall provide notice and opportunity for a hearing, provided in a manner consistent with the provisions as to adjudicatory proceedings of the Maine Administrative Procedure Act. The board shall qualify such association, if based upon the evidence at such hearing, the board finds: ...

Q8 | §1957 | *Potential benefits aside, this seems like an awfully high-level of barriers, bureaucracy, obstacles ... what am I missing? What are the benefits/avoided-risk which outweigh the costs of time, paperwork, and organizational capacity required to remain in compliance with this law?*

I will leave it there for now - except to "whistle past the graveyard" of the associated, "Rule Chapters for the Department of Agriculture, Conservation and Forestry", for God's sake whatever you do: DON'T LOOK DOWN THERE!

THANK YOU!

State of Maine [<http://www.maine.gov/sos/cec/rules/01/chaps01.htm>]
**Rule Chapters for the
Department of Agriculture, Conservation and Forestry**

Chapters available for downloading are highlighted. All chapters for this Department are formatted in Microsoft Word unless otherwise indicated.

WARNING: While we have taken care with the accuracy of the files accessible here, they are not "official" state rules in the sense that they can be used before a court. Anyone who needs a certified copy of a rule chapter should contact the APA Office.

We also offer advice if you're having trouble trying to view these chapters.

[BEWARE! ...last chance!]

[<http://www.maine.gov/sos/cec/rules/01/chaps01.htm#020>]

01 020 Maine Agricultural Bargaining Board

- Ch. 1 Rules of the Agricultural Bargaining Board
- Ch. 2 Conduct of Public Hearings
- Ch. 3 Rules of Procedure for the Maine Agricultural Bargaining Board