

AMENDMENTS TO LB 848

Introduced by Erdman, 47.

1           1. Insert the following new sections:

2           Sec. 3. Section 21-2910, Revised Statutes Supplement,  
3 2007, is amended to read:

4           21-2910 A limited cooperative association shall maintain  
5 in a record at its principal office the following information:

6           (1) A current list showing the full name and last-known  
7 street address, mailing address, and term of office of each  
8 director and officer;

9           (2) A copy of the initial articles of organization and  
10 all amendments to and restatement of the articles, together with  
11 signed copies of any powers of attorney under which any articles,  
12 amendments, or restatement has been signed;

13           (3) A copy of the initial bylaws and all amendments to or  
14 restatement of the bylaws;

15           (4) A copy of any filed articles of merger or  
16 consolidation;

17           (5) A copy of any audited financial statements;

18           (6) A copy of the minutes of meetings of members and  
19 records of all actions taken by members without a meeting for the  
20 three most recent years;

21           (7) A current list showing the full name and last-known  
22 street and mailing addresses, separately identifying the patron  
23 members, in alphabetical order, and the investor members, in

1 alphabetical order;

2 (8) A copy of the minutes of directors' meetings and  
3 records of all actions taken by directors without a meeting for the  
4 three most recent years;

5 (9) A record stating:

6 (a) The amount of cash contributed and agreed to be  
7 contributed by each member;

8 (b) A description and statement of the agreed value of  
9 other benefits contributed and agreed to be contributed by each  
10 member;

11 (c) The times at which, or events on the happening of  
12 which, any additional contributions agreed to be made by each  
13 member are to be made; and

14 (d) For a person that is both a patron member and an  
15 investor member, a specification of the interest the person owns in  
16 each capacity; and

17 (10) A copy of all communications in a record to members  
18 as a group or to any class of members as a group for the three most  
19 recent years.

20 Sec. 6. Section 21-2930, Revised Statutes Supplement,  
21 2007, is amended to read:

22 21-2930 A person becomes a member:

23 (1) As provided in the articles of organization and  
24 bylaws;

25 (2) As the result of merger or consolidation under  
26 section 21-29,122; or ~~or 21-29,128; or~~

27 (3) With the consent of all the members.

1           Sec. 24. Section 21-2982, Revised Statutes Supplement,  
2 2007, is amended to read:

3           21-2982 (1) A member does not have a right to withdraw as  
4 a member of a limited cooperative association but has the power to  
5 withdraw.

6           (2) Unless otherwise provided by the articles of  
7 organization or bylaws, a member is dissociated from a limited  
8 cooperative association upon the occurrence of any of the following  
9 events:

10           (a) The limited cooperative association's having notice  
11 in a record of the person's express will to withdraw as a member or  
12 to withdraw on a later date specified by the person;

13           (b) An event provided in the articles of organization or  
14 bylaws as causing the person's dissociation as a member;

15           (c) The person's expulsion as a member pursuant to the  
16 articles of organization or bylaws;

17           (d) The person's expulsion as a member by the board of  
18 directors if:

19           (i) It is unlawful to carry on the limited cooperative  
20 association's activities with the person as a member;

21           (ii) Subject to section 21-2947, there has been a  
22 transfer of all of the person's financial rights in the limited  
23 cooperative association;

24           (iii) The person is a corporation or association whether  
25 or not organized under the Nebraska Limited Cooperative Association  
26 Act; and:

27           (A) The limited cooperative association notifies the

1 person that it will be expelled as a member because it has filed a  
2 statement of intent to dissolve or articles of dissolution, it has  
3 been administratively or judicially dissolved, its charter has been  
4 revoked, or its right to conduct business has been suspended by the  
5 jurisdiction of its organization; and

6 (B) Within ninety days after the person receives the  
7 notification described in subdivision (2)(d)(iii)(A) of this  
8 section, there is no revocation of the certificate of dissolution  
9 or no reinstatement of its charter or its right to conduct  
10 business; or

11 (iv) The person is a limited liability company,  
12 association, whether or not organized under the act, or partnership  
13 that has been dissolved and whose business is being wound up;

14 (e) In the case of a person who is an individual, the  
15 person's death;

16 (f) In the case of a person that is a trust, distribution  
17 of the trust's entire financial rights in the limited cooperative  
18 association, but not merely by the substitution of a successor  
19 trustee;

20 (g) In the case of a person that is an estate,  
21 distribution of the estate's entire financial interest in the  
22 limited cooperative association, but not merely by the substitution  
23 of a successor personal representative;

24 (h) Termination of a member that is not an individual,  
25 partnership, limited liability company, limited cooperative  
26 association, whether or not organized under the act, corporation,  
27 trust, or estate; or

1           (i) The limited cooperative association's participation  
2 in a merger or consolidation, if, under the plan of merger or  
3 consolidation as approved under section 21-29,122, the person  
4 ceases to be a member.

5           Sec. 28. Section 21-29,122, Revised Statutes Supplement,  
6 2007, is amended to read:

7           21-29,122 ~~(1) A limited cooperative association may merge~~  
8 ~~with one or more other constituent organizations pursuant to this~~  
9 ~~section and a plan of merger, if:~~

10           ~~(a) The governing statute of each of the other~~  
11 ~~organizations authorizes the merger;~~

12           ~~(b) The merger is not prohibited by the law of a~~  
13 ~~jurisdiction that enacted any of those governing statutes; and~~

14           ~~(c) Each of the other organizations complies with its~~  
15 ~~governing statute in effecting the merger.~~

16           (1) Any one or more limited cooperative associations  
17 may merge or consolidate with or into any one or more limited  
18 cooperative associations, limited liability companies, general  
19 partnerships, limited partnerships, cooperatives, or corporations,  
20 and any one or more limited liability companies, general  
21 partnerships, limited partnerships, cooperatives, or corporations  
22 may merge or consolidate with or into any one or more limited  
23 cooperative associations.

24           (2) A plan of merger or consolidation shall be in a  
25 record and shall include:

26           (a) The name and form of each constituent organization;

27           (b) The name and form of the surviving organization and,

1 if the surviving organization is to be created by the merger or  
2 consolidation, a statement to that effect;

3 (c) The terms and conditions of the merger or  
4 consolidation, including the manner and basis for converting the  
5 interests in each constituent organization into any combination  
6 of money, interests in the surviving organization, and other  
7 consideration;

8 (d) If the surviving organization is to be created  
9 by the merger or consolidation, the surviving organization's  
10 organizational documents;

11 (e) If the surviving organization is not to be created  
12 by the merger or consolidation, any amendments to be made  
13 by the merger or consolidation to the surviving organization's  
14 organizational documents; and

15 (f) If a member of a constituent limited cooperative  
16 association will have personal liability with respect to a  
17 surviving organization, the identity by descriptive class or other  
18 reasonable manner of the member.

19 Sec. 29. Section 21-29,123, Revised Statutes Supplement,  
20 2007, is amended to read:

21 21-29,123 (1) Unless otherwise provided in the articles  
22 of organization or bylaws, the plan of merger or consolidation  
23 shall be approved by a majority vote of the board of directors.

24 (2) The board of directors shall mail or otherwise  
25 transmit or deliver in a record to each member:

26 (a) The plan of merger or consolidation;

27 (b) A recommendation that the members approve the plan

1 of merger or consolidation unless the board makes a determination  
2 because of conflicts of interest or other special circumstances  
3 that it should not make such a recommendation;

4 (c) If the board makes no recommendation, the basis for  
5 that decision;

6 (d) Any condition of its submission of the plan of merger  
7 or consolidation to the members; and

8 (e) Notice of the meeting in the same manner as a special  
9 members' meeting.

10 Sec. 30. Section 21-29,124, Revised Statutes Supplement,  
11 2007, is amended to read:

12 21-29,124 (1) Unless the articles of organization or  
13 bylaws provide for a greater quorum and subject to section 21-2939,  
14 a plan of merger or consolidation shall be approved by at least a  
15 two-thirds vote of patron members voting under section 21-2939 and  
16 by at least a two-thirds vote of investor members, if any, voting  
17 under section 21-2942.

18 (2) Subject to any contractual rights, after a merger  
19 or consolidation is approved, and at any time before a filing is  
20 made under section 21-29,126, a constituent limited cooperative  
21 association may amend the plan of merger or consolidation or  
22 abandon the planned merger or consolidation:

23 (a) As provided in the plan; and

24 (b) Except as prohibited by the plan, with the same  
25 consent as was required to approve the plan.

26 Sec. 32. Section 21-29,126, Revised Statutes Supplement,  
27 2007, is amended to read:

1                   21-29,126 (1) After each constituent organization has  
2 approved a merger or consolidation, articles of merger or  
3 consolidation shall be signed on behalf of each other preexisting  
4 constituent organization by an authorized representative.

5                   (2) The articles of merger or consolidation shall  
6 include:

7                   (a) The name and form of each constituent organization  
8 and the jurisdiction of its governing statute;

9                   (b) The name and form of the surviving organization,  
10 the jurisdiction of its governing statute, and, if the surviving  
11 organization is created by the merger or consolidation, a statement  
12 to that effect;

13                   (c) The date the merger or consolidation is effective  
14 under the governing statute of the surviving organization;

15                   (d) If the surviving organization is to be created by the  
16 merger or consolidation:

17                   (i) If it will be a limited cooperative association, the  
18 limited cooperative association's articles of organization; or

19                   (ii) If it will be an organization other than a limited  
20 cooperative association, the organizational document that creates  
21 the organization;

22                   (e) If the surviving organization preexists the merger or  
23 consolidation, any amendments provided for in the plan of merger  
24 or consolidation for the organizational document that created the  
25 organization;

26                   (f) A statement as to each constituent organization  
27 that the merger or consolidation was approved as required by the

1 organization's governing statute;

2 (g) If the surviving organization is a foreign  
3 organization not authorized to transact business in this state, the  
4 street and mailing addresses of an office which the Secretary of  
5 State may use for the purposes of service of process; and

6 (h) Any additional information required by the governing  
7 statute of any constituent organization.

8 (3) Each constituent limited cooperative association  
9 shall deliver the articles of merger or consolidation for filing in  
10 the office of the Secretary of State.

11 (4) A merger or consolidation becomes effective under  
12 this section:

13 (a) If the surviving organization is a limited  
14 cooperative association, upon the later of:

15 (i) Compliance with subsection (3) of this section; or

16 (ii) Subject to section 21-2919, as specified in the  
17 articles of merger or consolidation; or

18 (b) If the surviving organization is not a limited  
19 cooperative association, as provided by the governing statute of  
20 the surviving organization.

21 Sec. 33. Section 21-29,127, Revised Statutes Supplement,  
22 2007, is amended to read:

23 21-29,127 When a merger or consolidation becomes  
24 effective:

25 (1) The surviving organization continues or comes into  
26 existence;

27 (2) Each constituent organization that merges or

1 consolidates into the surviving organization ceases to exist as a  
2 separate entity;

3 (3) All property owned by each constituent organization  
4 that ceases to exist vests in the surviving organization;

5 (4) All debts, liabilities, and other obligations of  
6 each constituent organization that ceases to exist continue as  
7 obligations of the surviving organization;

8 (5) An action or proceeding pending by or against any  
9 constituent organization that ceases to exist may be continued as  
10 if the merger or consolidation had not occurred;

11 (6) Except as prohibited by other law, all of the  
12 rights, privileges, immunities, powers, and purposes of each  
13 constituent organization that ceases to exist vest in the surviving  
14 organization;

15 (7) Except as otherwise provided in the plan of merger or  
16 consolidation, the terms and conditions of the plan take effect;

17 (8) Except as otherwise agreed, if a constituent  
18 limited cooperative association ceases to exist, the merger or  
19 consolidation does not dissolve the limited cooperative association  
20 for purposes of section 21-2987;

21 (9) If the surviving organization is created by the  
22 merger or consolidation:

23 (a) If it is a limited cooperative association, the  
24 articles of organization become effective; or

25 (b) If it is an organization other than a limited  
26 cooperative association, the organizational document that creates  
27 the organization becomes effective; and

1           (10) If the surviving organization exists before the  
2 merger or consolidation, any amendments provided for in the  
3 articles of merger or consolidation for the organizational document  
4 that created the organization become effective.

5           Sec. 35. The following sections are outright repealed:  
6 Sections 21-29,118, 21-29,119, 21-29,120, 21-29,121, and 21-29,128,  
7 Revised Statutes Supplement, 2007.

8           2. On page 2, lines 3 and 4, strike "19 to 21" and insert  
9 "21 to 23".

10          3. On page 23, lines 5 and 9, strike "20" and insert  
11 "22".

12          4. On page 26, line 3, strike "21-29,128", show as  
13 stricken, and insert "21-29,127"; in lines 5 and 7 after "merger"  
14 insert "or consolidation"; in line 6 after the second occurrence  
15 of "organization" insert ", other than a limited cooperative  
16 association,"; strike lines 8 through 14 and show as stricken;  
17 in line 15 strike "(6)"; show as stricken, and insert "(3)"; in  
18 line 17 strike "(7)", show as stricken, and insert "(4)"; in line  
19 19 strike the new matter; in line 22 after the comma insert "a  
20 cooperative,"; and in line 25 strike "(8)", show as stricken, and  
21 insert "(5)".

22          5. On page 27, line 13, strike "(9)", show as  
23 stricken, and insert "(6)"; in line 14 after "merged" insert  
24 "or consolidated"; in lines 15 and 16 after "merger" insert "or  
25 consolidation"; in line 20 strike the last "the" and show as  
26 stricken; and in line 24 after "merge" insert "or consolidate".

27          6. On page 28, lines 2 and 4, after each occurrence

1 of "merger" insert "or consolidation"; in line 5 after "21-2903,"  
2 insert "21-2910,"; in line 6 after "21-2929," insert "21-2930,";  
3 and in line 8 after "21-2980," insert "21-2982," and strike "and  
4 21-29,125" and insert "21-29,122, 21-29,123, 21-29,124, 21-29,125,  
5 21-29,126, and 21-29,127".

6 7. Renumber the remaining sections accordingly.