

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 870

(Senator M. Washington)

Judicial Proceedings

**Corporations and Associations - Limited Worker Cooperative Associations -
Authorization (Maryland Limited Worker Cooperative Association Act)**

This bill establishes the Maryland Limited Worker Cooperative Association Act, which provides for the formation, operation, and dissolution of a limited worker cooperative association (LWCA). The bill applies the Maryland Limited Liability Company (LLC) Act to an LWCA, defined as an unincorporated business organization organized under the bill's provisions, unless the LLC Act expressly exempts cooperatives or is contrary to or inconsistent with the provisions of the bill.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$278,400 in FY 2024 for one-time State Department of Assessments and Taxation (SDAT) programming costs. Potential minimal increase in filing fee revenues.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	278,400	0	0	0	0
Net Effect	(\$278,400)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Select Definitions

“Investor member” means a member of an LWCA who (1) holds a financial interest in the cooperative and (2) is not required or is not allowed under the articles of organization or the cooperative agreement to conduct patronage with the cooperative in the member’s capacity as an investor member in order to receive or retain the member’s interest.

“Member” means any person who, under the articles of organization or the cooperative agreement of an LWCA (1) has the right to vote for the election of a member of the board of managers or (2) possesses any proprietary interest in the cooperative.

“Patron member” means a member of a limited worker cooperative who is required or allowed by the articles of organization or the cooperative agreement of the LWCA to conduct patronage with the cooperative in the member’s capacity as a patron member.

“Worker member” means a patron member of an LWCA who is a natural person and whose patronage consists of labor contributed to or other work performed for the cooperative.

Purpose and Formation

The bill specifies that an LWCA:

- may be organized for any lawful purpose, whether or not for profit;
- is an entity distinct from its members;
- does not create a presumption that workers are employees of the cooperative for any purposes; and
- must comply with specified name requirements.

One or more organizers may form an LWCA by executing and filing articles of organization for record with SDAT in accordance with Title 4A, Subtitle 2 of the Corporations and Associations Article. An organizer is not required to be a member of the cooperative.

The bill requires the articles of organization to (1) include a statement that the association is a worker cooperative or a collective worker cooperative, if applicable and (2) be signed by the organizers or organizers. A “worker cooperative” and “collective worker

cooperative” as defined in the bill, are LWCAs that differ based on membership, as specified.

Initial Organization

After formation, the initial managers or managing members must hold an organizational meeting to adopt an initial cooperative agreement and carry out any other necessary business, as specified. The bill includes additional provisions regarding the designation and service of initial managers or managing members.

Cooperative Agreement

The bill requires an LWCA cooperative agreement to include information related to the:

- capital structure of the cooperative;
- classes or other types of members’ interests in the cooperative;
- relative rights, preferences, privileges, and restrictions for each class or other type of members’ interest, as specified;
- method for admitting members;
- conditions upon which a member’s interest is or is not transferrable;
- manner in which persons who are not members but conduct business with the cooperative may or may not be allowed to share in the allocation of profits and losses and receive distributions;
- number and terms of directors or managers, as specified; and
- contributions of members.

An LWCA cooperative agreement may include any other provision necessary or appropriate to manage and regulate the affairs of the cooperative. The bill includes additional provisions regarding the effective date and impact of cooperative agreements.

Membership, Assembly, and Voting Power

An LWCA may include multiple classes of patron members whose rights and proprietary interests are determined by the cooperative agreement. To begin business, a cooperative must have at least three members, unless the sole member is a cooperative. A person becomes a member as provided in the cooperative agreement; as the result of a merger or a conversion, as specified; or with the consent of all current members.

Among other provisions, the bill also (1) specifies limitations of membership; (2) addresses debt, obligation, or other liability of a cooperative; (3) establishes requirements for an annual meeting; and (4) specifies requirements related to the voting power of members.

Board of Managers

An LWCA (other than a collective worker cooperative) must have a board of managers consisting of at least three members. Unless the board of managers delegates authority to the assembly, the board must manage the affairs of the cooperative and may adopt policies and procedures that do not conflict with the cooperative agreement or the bill's provisions. An individual is not an agent of a cooperative solely by virtue of being a member of the board of managers.

Additional Provisions

Among other provisions, the bill also:

- requires an LWCA to apportion and distribute its net earnings and losses, as specified;
- allows an LWCA or a collective worker cooperative to convert to a limited liability company or any other entity under specified circumstances; and
- allows a LWCA to *dissolve* by a two-thirds vote of the assembly, or as otherwise specified.

The bill also incorporates LWCAs in other provisions of the Corporations and Associations Article, including those related to the definition of a governing document and required filing fees.

Current Law: State law authorizes five types of cooperatives (agricultural, consumer, electric, transportation, and housing) to do business in the State, which are generally subject to the Maryland general corporation laws. For example, a consumer cooperative is a corporation (stock or nonstock) that is formed to engage in any lawful business to acquire, produce, manufacture, furnish, or distribute any goods and services on a cooperative basis for the mutual benefit of its members and patrons or the members and patrons of any member cooperative, or both. Any five or more adult individuals, or two or more entities operating on a cooperative basis, may incorporate as a consumer cooperative. Consumer cooperatives are governed by Title 5, Subtitle 5A of the Corporations and Associations Article.

Small Business Effect: The bill may have a meaningful impact on small businesses by allowing the formation of worker cooperatives.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

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