

South Dakota Cooperative Associations Act

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This research is intended to provide detailed information on specific provisions of the South Dakota Cooperative Associations Act. The table of contents provides a list of provision topics addressed. The descriptions of the statute provisions include legal citations to the specific part of the statute where the topic is addressed so users can easily look at the statute language. A URL for the statute is also provided.

This research has been provided by private individuals and does not represent official policy of the U.S. Department of Agriculture or any other government agency. The research is presented only to provide summary information to persons interested in the state statutory treatment of South Dakota cooperatives. Individuals considering organizing a cooperative are advised to seek professional advice from an expert on cooperative law who is familiar with the specifics of the individual's situation.

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1. Cooperative Statute

1.1. State and Statute Title. Please name the state and the title of the cooperative organization law. Provide a nickname for the cooperative law using the state abbreviation hyphenated with a brief statute descriptor

- SD-Gen; South Dakota Cooperative Associations Act

1.2. Statute Nickname, Legal Citation, and URL. Please provide a full legal citation to the statute and, if available, a uniform resource locator (URL) address where the statute may be accessed for free.

- SD-Gen; S.D. Codified Laws §§ 47-15-47-20 (West 2007);
http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Statute=47&Type=Statute

1.3. Application of General Law. Briefly describe whether general corporate law or general limited liability company law applies to cooperatives organized under the statute.

- SD-Gen §§ 47-15-1, 47-15-3: General corporate law applies.

1.4. Conflict of Laws. Briefly describe any provisions addressing any conflict between the cooperative statute and general corporate or general limited liability company law.

- SD-Gen § 47-15: NA.

1.5. Construction of Law. Briefly describe any reference to how the statute should be construed.

- SD-Gen § 47-15: NA.

1.6. Declaration of Statutory Policy. Briefly state any broad declaration of statutory policy (i.e., description of conditions in agriculture or in the economy prompting the enactment of the cooperative statute).

- SD-Gen § 47-15: NA.

1.7. Statutory Qualification as a Cooperative. Briefly describe any statement indicating that a cooperative is an entity that qualifies under this particular statute.

- SD-Gen § 47-15-1(2): "Cooperative" is defined as "a cooperative corporation which is subject to the provisions of chapter 47-15 to 47-20, inclusive."

1.8. Cooperative Operational Description. Briefly describe any provision that gives a general, operational description of a cooperative.

- SD-Gen § 47-15: NA.

1.9. "Nonprofit" Nature of Cooperative. Briefly describe any reference to the "nonprofit" nature of the cooperative inasmuch as it is organized to pass margins to users rather than to make profit for itself.

- SD-Gen § 47-16-46: None of the net proceeds can be recorded as income but should be distributed to patrons, whether members or not.

1.10. Cooperative Purpose. List any specific purpose(s) of the cooperative.

- SD-Gen § 47-15-2: Cooperatives may be organized for any lawful purpose except banking and insurance.

1,11. Perpetual Duration and Succession. Does a cooperative have perpetual duration and succession?

- SD-Gen § 47-15-27: A cooperative may exist perpetually.

1.12. **General Powers.** State briefly any general power mentioned (e.g., the power to do all things necessary or convenient to carry out the cooperative's business).

- SD-Gen § 47-15-39: A cooperative may exercise all powers necessary or convenient to effect its purposes.

1.13. **Specific Powers.** Please list any specific powers mentioned (e.g. buy, sell, produce, process products, handle byproducts, make purchases for members, manufacture, enter contracts, act as agent, own property, sue and be sued, develop and own patents, trademarks, and copyrights, borrow and lend money, invest, etc.).

- SD-Gen §§ 47-15-28-47-15-38: Can sue and be sued; have a seal; make contracts, incur liabilities, and borrow money; issue certificates representing indebtedness or equity interest in its assets; acquire property; dispose of, mortgage, pledge, lease, or otherwise use in any manner any of its property, or any interest therein; purchase, hold, vote, use, sell and otherwise use and deal in shares of other business or government entities; invest its funds, lend money and hold property as security for repayment; conduct business in the United States or a foreign country; elect officers and appoint agents, make and alter bylaws; make donations; indemnify current and former officers and agents; and cease its activities.

1.14. **Inter-Association Agreements.** Briefly describe any provision that permits activities between or among two or more cooperatives.

- SD-Gen § 47-15: NA.

1.15. **Prohibited Powers.** State briefly (list) powers denied to the cooperative.

- SD-Gen § 47-15-2: Cooperatives may not be organized for banking or insurance purposes.

1.16. **Prohibited Lines of Business.** State briefly (list) prohibited lines of business.

- SD-Gen § 47-15-2: Cooperatives may not be organized for banking or insurance purposes.

1.17. Emergency Powers. State briefly any emergency powers.

- SD-Gen § 47-15: NA.

1.18. Ultra Vires. Briefly describe any provision addressing when a cooperative exceeds its legal purpose.

- SD-Gen § 47-15: NA.

1.19. Quo Warranto Proceeding. Describe briefly any provision addressing any inquiry into the legitimacy of an association's operation as a cooperative.

- SD-Gen § 47-20-2: Any member or stockholder, with notice, can examine any books or records of the cooperative.

1.20. Miscellaneous. Describe any other provision(s) that address cooperative powers or their limits.

- SD-Gen § 47-15-43: May obtain an injunction against unlawful use of the term "cooperative" without showing damage to itself.

2. Cooperative Association Formation

2.1. Specific Cooperative Forms. Name any specific cooperative forms mentioned by the statute (e.g., worker cooperative, agricultural cooperative, value-added producer cooperative, etc.).

- SD-Gen § 47-15: NA.

2.2. Number of Organizers. Is a minimum number of organizers required?

- SD-Gen § 47-15-3: Three.

2.3. Requirements for Organizers. Are there any other requirements for organizers (e.g. an organizer must be a "person," a "natural person," an "association," must be a state resident, must be a certain age, must produce agricultural products, etc.)?

- SD-Gen § 47-15-3: Natural persons of legal age, one of whom must be a resident.

2.4. Promoter Activities, Expenses. Briefly describe any provisions that address the activities and or expenses of individuals ("promoters") engaged in assisting in the organization of the cooperative.

- SD-Gen § 47-15: NA.

2.5. State Filing Requirements. Briefly state where and how to file the articles of incorporation or organization.

- SD-Gen § 47-15-6: Must be delivered to the secretary of state.

2.6. State Fees. State the fee amount for starting a cooperative.

- SD-Gen § 47-20-13: General corporate filing fees apply. \$125.

2.7. Start of Legal Existence. When does the cooperative's legal existence begin?

- SD-Gen § 47-15-6: When the articles are delivered to the secretary of state.

2.8. Cooperative Name. Is "cooperative" or another term of art required as part of the association's name?

- SD-Gen § 47-15-41: No.

2.9. Additional Name Requirements. Is the cooperative's name required to be unique?

- SD-Gen § 47-15: NA.

2.10. Permitted Businesses. Are there restrictions on types of business entities that can be called a cooperative?

- SD-Gen § 47-15-42: Only lawfully organized cooperatives may use the term.

2.11. Nonstock Cooperatives. Are nonstock cooperatives permitted?

- SD-Gen § 47-15-4(4): Yes.

2.12. Stock Cooperatives. Are stock cooperatives permitted?

- SD-Gen § 47-15-4(4): Yes.

2.13. Prerequisites to Formation. State briefly any special prerequisites to forming a cooperative (e.g. requirement of certain percentage of capital paid prior to organization incorporation or requirement that a permit be obtained).

- SD-Gen § 47-15: NA.

2.14. Annual Renewal. Is an annual renewal of the organization or incorporation required?

- SD-Gen § 47-15: NA.

2.15. Annual Report. Is an annual report required?

- SD-Gen § 47-20-4: Yes.

2.16. Annual Report Content. Briefly describe any provisions stating the required content in the annual report.

- SD-Gen § 47-20-4: Assets and liabilities and proceeds or loss for the preceding fiscal year.

2.17. Failure to File. Briefly describe any provision that addresses consequences for failure to file an annual report.

- SD-Gen § 47-20: NA.

2.18. State Assistance. Briefly describe any provision that allows for state assistance to individuals contemplating forming a cooperative.

- SD-Gen § 47-15: NA.

2.19. Foreign Cooperatives. Briefly describe any provisions on permission for an out-of-state cooperative to do business in the state.

- SD-Gen § 47-19-1: May do business in the state after issuance of a certificate of authority to do so by the secretary of state.

2.20. Domestic Cooperatives. Briefly describe any provision allowing a domestic cooperative to do business in another state.

- SD-Gen § 47-15: NA.

2.21. Miscellaneous. Briefly describe any other provision addressing the start of a cooperative that was not addressed by the previous questions.

- SD-Gen § 47-15: NA.

3. Cooperative Articles of Association

3.1. Signatures and Acknowledgment. Briefly describe any provision that requires that the articles be signed, subscribed, acknowledged, or notarized.

- SD-Gen § 47-15-3: Must sign, acknowledge, file, and record the articles.

3.2. Cooperative Name. Do the organizing documents or articles of incorporation require the cooperative's name?

- SD-Gen § 47-15-4(1): Yes.

3.3. Cooperative Purpose. Are the organizing documents or articles required to state a purpose for the cooperative?

- SD-Gen § 47-15-4(3): Yes.

3.4. Place of Business. Is the place of business required?

- SD-Gen § 47-15-4(11): Yes.

3.5. Term of Existence. Briefly describe any provision requiring that the term of existence of the organization be required in the articles.

- SD-Gen § 47-15-4(2): Must state the period of existence, unless perpetual.

3.6. Incorporators, Subscribers. Briefly describe any provision that requires that the names and addresses of incorporators and or subscribers be identified in the articles.

- SD-Gen § 47-15-4(13): Name and address of each incorporator required.

3.7. Number of Directors. Briefly describe any provision requiring a statement in the articles of the number and of directors.

- SD-Gen § 47-15-4(12): Must state the number of directors, or that the number of directors will be stated in the bylaws.

3.8. Director Term. Briefly describe any provision requiring that the term of the directors be specified in the articles.

- SD-Gen § 47-15-4: NA.

3.9. Please Registered Agent. Is the name of a registered agent required?

- SD-Gen § 47-15-4: NA.

3.10. Limitations of Power. Briefly describe any required or permitted provisions in the organizing document limiting the powers of the cooperative, its board, and or its members.

- SD-Gen § 47-15-4: NA.

3.11. Limitations of Liability. Briefly describe any required or permitted organizing document provision(s) regarding limitation of liability with respect to the organizers or incorporators, officers, members, and or shareholders.

- SD-Gen § 47-15-4: NA.

3.12. Membership Definition. Briefly describe any statutory reference to defining membership in the organizing document.

- SD-Gen § 47-15-4(5): Articles must state the designation of classes of members, if more than one.

3.13. Member Classes. Is a description of member classes required or permitted?

- SD-Gen § 47-15-4(5): Articles must state the designation of classes of members, if more than one.

3.14. Member Property Rights. Is a description required or permitted regarding member property rights?

- SD-Gen § 47-15-4: NA.

3.15. Member Voting Rights. Is a description required or permitted regarding member voting rights?

- SD-Gen § 47-15-4: NA.

3.16. Membership Certificates. Is a statement required or permitted on whether the cooperative is organized with membership certificates?

- SD-Gen § 47-15-4: NA.

3.17. Capital Stock. Is a statement required or permitted that the cooperative is organized with capital stock?

- SD-Gen § 47-15-4(4): Yes, required.

3.18. Amount of Capital Stock. Is a description of the amount of capital stock required or permitted?

- SD-Gen § 47-15-4(6): Yes, required.

3.19. Par Value. Is a statement of par value required or permitted?

- SD-Gen § 47-15-4(6): Yes, required.

3.20. Authorized Classes of Stock. Is a description of other authorized classes of stock required or permitted?

- SD-Gen § 47-15-4(6): Yes, required.

3.21. Par Value of Authorized Classes of Stock. Is a statement of par value required or permitted for other authorized classes of stock?

- SD-Gen § 47-15-4(6): Yes, required.

3.22. Acquire or Recall Stock. Is a statement of a reservation of right for the cooperative to acquire or recall stock required or permitted?

- SD-Gen § 47-15-4(9): Yes, required.

3.23. Voting Rules. State briefly if a description of voting rules is required or permitted.

- SD-Gen § 47-15-4: NA.

3.24. Distributions or Apportionments. Is a description of distribution or apportionment of dividends, earnings, and losses required or permitted?

- SD-Gen § 47-15-4(8): For each class of stock, the rate of dividend that may be fixed by the board, or that no dividend will be paid.

3.25. Capital Accounts. Is a description of a cooperative's capital account(s) required or permitted?

- SD-Gen § 47-15-4: NA.

3.26. Asset Distribution on Liquidation. Is a statement on distribution of assets on liquidation required or permitted?

- SD-Gen § 47-15-4(10): Yes, required.

3.27. Miscellaneous Provisions. Briefly describe any additional important provisions.

- SD-Gen § 47-15-4(14): Names and addresses of at least three incorporators who will act as the temporary board and will serve until the first annual meeting of members or stockholders required.

3.28. Amendment Initiation. Briefly describe the initiation of an amendment to the organizing document.

- SD-Gen § 47-15-8: A statement of the proposed amendment must be included in the notice for the member meeting and is adopted if approved by a majority of any quorum of members voting.

3.28. Notice of Amendment. Briefly describe notice requirements regarding an amendment to the organizing document.

- SD-Gen § 47-15-8: Statement of the proposed amendment must be in the notice for a member meeting.

3.30. When Amendments Occur. Briefly describe any requirement regarding when the amendments must be made (e.g. during the annual membership meeting).

- SD-Gen § 47-15-8: During any member meeting with proper notice.

3.31. Quorum Requirements. Briefly describe any quorum requirements for an amendment.

- SD-Gen § 47-15-8: Amendment must be approved by a majority of any quorum of members voting.

3.32. Margin Required for Approval. State briefly whether a majority or supermajority is required for approval of an amendment and state amount (e.g., 51 percent, 2/3 majority, etc.).

- SD-Gen § 47-15-8: Majority.

3.33. Voting Members. List types of members who can vote on the amendment.

- SD-Gen § 47-15-8: Members voting thereon at the meeting.

3.34. Board Authority. Describe briefly any authority of the board of directors to make amendments.

- SD-Gen § 47-15-8: NA.

3.35. Filing of Amendment. Describe briefly how an amendment is executed and filed.

- SD-Gen §§ 47-15-9, 47-15-10: The president and secretary prepare and sign in duplicate a certificate describing the amendment and voting process. One copy is retained by the cooperative and the other is filed and recorded with the secretary of state who then issues a certificate of amendment.

3.36. Restrictions on Amendment. Describe briefly any restrictions on changes to the articles of organization or incorporation other than supermajority requirements.

- SD-Gen § 47-15-11: Amendment cannot affect any existing cause of action or proceeding to which the cooperative is a party or existing rights of persons other than members or stockholders.

3.37. Miscellaneous Rules. Describe briefly any miscellaneous rules regarding amendments to the articles of organization.

- SD-Gen § 47-15: NA.

4. Cooperative Definitions

4.1. Cooperatives Defined in Statute. Please list specific types of cooperatives defined in the statute (e.g., worker cooperative, consumer cooperative, producer cooperative).

- SD-Gen: NA.

4.2. Agricultural Cooperative Definition. Please provide a brief summary of any definition of an agricultural cooperative.

- SD-Gen: NA.

4.3. Worker Cooperative Definition. Please describe briefly any worker cooperative definition.

SD-Gen: NA.

4.4. Other Cooperative Definitions. Please describe briefly any other definitions of types of cooperatives.

- SD-Gen: "Rural Electric Cooperatives" have their own set of statutes: Chapter 47-21. "Any area certified to a rural electric cooperative under the provisions of chapter 49-34A, or an area in which it is permitted to serve under the provisions of chapter 49-34A."

4.5. Agricultural Products Definitions. Please list any agricultural products defined.

- SD-Gen: NA.

4.6. Other Definitions. Please describe briefly any unique or unusual definitions unlikely to be addressed in other parts of the surveys.

- SD-Gen: "Rural Electric Cooperatives" have their own set of statutes: SD-Gen: 47-21.

5. Cooperative Bylaws

5.1. Bylaw Requirement. Briefly describe any provisions addressing whether a cooperative is required to adopt bylaws.

- SD-Gen 47-15-5: Does not explicitly require cooperative to adopt bylaws, but the statute's use of language stating "shall exist in the bylaws" implies a bylaw requirement.

5.2. Adoption Time Requirements. Describe any time requirements regarding adoption of the bylaws.

- SD-Gen: NA

5.3. Adoption Approval. Briefly describe any provisions addressing the approval of the bylaws by vote or written assent including the margin of approval required.

- SD-Gen 47-15-17: Majority vote by members (providing quorum is met per SD-Gen 47-16).

5.4. Who May Adopt Bylaws. Briefly describe who may adopt the bylaws (e.g., members, stockholders, organizing members).

- SD-Gen 47-15-16: Bylaws may be adopted and amended only by the members, unless the members adopt a bylaw which permits the board to make and amend specified bylaws. 47-15-16

5.5. Filing Bylaws. Briefly describe any requirements regarding filing and or where bylaws must be kept.

- SD-Gen 47-15-16: Any bylaw adopted or amended by the board shall be reported at the next regular member meeting.

5.6. Bylaw Purposes. Briefly describe any statutory statements regarding the purpose of the bylaws.

- SD-Gen: NA.

5.7. Bylaw Contents. Briefly describe any general statutory statement regarding the contents of the bylaws.

- SD-Gen 47-15-35: Unless otherwise provided by its articles, a cooperative may make and alter bylaws, consistent with its articles and the laws of this state, for the administration and regulation of its affairs.

5.8. Member Admission. Briefly describe permitted or mandated bylaw provisions regarding conditions for member admission.

- SD-Gen 47-16-1: Provisions for qualifications, requirements, method of acceptance, terms, conditions, termination, and other incidents of membership shall be set forth in the bylaws.

5.9. **Membership Rights.** Briefly describe permitted or mandated bylaw provisions regarding a description of membership rights.

- SD-Gen 47-16-1: Provisions for qualifications, requirements, method of acceptance, terms, conditions, termination, and other incidents of membership shall be set forth in the bylaws.

5.10. **Fees, Service Charges.** Briefly describe permitted or mandated bylaw provisions regarding fees and service charges by the cooperative.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for fees service charges.

5.11. **Membership Suspension or Cessation.** Describe any provisions in the bylaws regarding suspension or cessation of membership.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for membership suspension or cessation.

5.12. **Membership Termination Interests.** Please describe any bylaw requirements regarding membership interests at termination.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for membership termination interests.

5.13. **Meeting Requirements.** Briefly describe whether the bylaws are required to state meeting requirements.

- SD-Gen: Not required.

5.14. **Annual Meetings.** Briefly describe whether the bylaws are required to provide for annual meetings.

- SD-Gen 47-16-2: Not required, but bylaws may provide for annual meetings.

5.15. **Special Meetings.** Briefly describe whether the bylaws are required to provide for special meetings.

- SD-Gen: Not required.

5.16. **Meeting Location.** Describe briefly whether a meeting location is required to be stated in the bylaws.

- SD-Gen: Not required.

5.17. **Quorum.** Describe briefly bylaw provisions permitted or mandated regarding quorum requirements.

- SD-Gen 47-16-7: The sufficiency or requirement of a quorum for the transaction of business at a district meeting of members shall be established in the bylaws. However, the quorum may not be less than five members.

5.18. **Mailing and Proxies.** Describe briefly bylaw provisions permitted or mandated regarding mailing and proxies, including any rules regarding electronic delivery of proxies.

- SD-Gen 47-16-13: Bylaws may provide for representation of members by delegates apportioned territorially.

5.19. **Videoconferences.** Describe briefly bylaw provisions that permit or mandate electronic options for meetings (e.g., videoconferences).

- SD-Gen: Not required.

5.20. **District Elections.** Describe briefly bylaw provisions permitting or mandating director election by district.

- SD-Gen 47-17-4: If the bylaws provide that directors be from specified territorial districts, the articles may limit voting for any director to members from within the territorial district from which such director is to be elected. The bylaws may provide that directors may be elected at district director election meetings held for said purpose.

5.21. Director Qualifications. Briefly list required or mandated bylaw provisions regarding directors' qualifications.

- SD-Gen: 47-17-1: The business and affairs of a cooperative shall be managed by a board of directors. Every director shall be a member or a representative of a member who is other than a natural person. The bylaws shall prescribe any other qualifications for directors and may provide that directors be from specified territorial districts.

5.22. Special Interest Directors. Briefly describe permitted or mandatory bylaw provisions regarding the appointment of directors that represent special interests or expertise

(e.g., the interests of the general public, "investor members," or a specific area of expertise).

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for special interest directors.

5.23. Director Duties. Briefly list director duties required or permitted to be described in the bylaws.

- SD-Gen: There are no specific director duties given or implied.

5.24. Term of Office. Briefly describe permitted or mandated bylaw provisions on a director's term of office.

- SD-Gen 47-17-4: Unless the bylaws provide otherwise, a director's term of office shall be one year.

5.25. Director's Quorum. Briefly describe permitted or mandated bylaw provisions on what constitutes a directors' quorum.

- SD-Gen 47-17-9: Unless a greater number is required in the bylaws of a cooperative, a majority of the directors in office shall constitute a quorum for transaction of business. Unless a greater number is required in the bylaws, an act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board.

5.26. Board Committees. Briefly describe permitted or mandated bylaw provisions regarding board committees.

- SD-Gen: There are no required bylaw provisions for board committees. SD-Gen 47-17-12 references an "executive committee" and it can be implied that it is a permitted board committee.

5.27. Officer Qualifications, Duties. Briefly describe permitted or mandated bylaw provisions related to the qualifications and duties of cooperative officers.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for officer qualification.

5.28. Service Charges. Briefly describe permitted or mandated bylaw provisions regarding service charges.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for service charges.

5.29. Marketing Contracts. Briefly describe permitted or mandated bylaw provisions regarding marketing contracts including provisions allowing liquidated damages for breach.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for marketing contracts.

5.30. Net Margin Distributions. Briefly describe permitted or mandated bylaw provisions regarding net margins distributions.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for net margin distributions.

5.31. Reserves. Briefly describe permitted or mandated bylaw provisions regarding investment of reserves.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for investment of reserves.

5.32. Stock Ownership Limits. Describe permitted or mandated bylaw provisions regarding stock ownership limits.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for stock ownership limits.

5.33. Stock or Membership Restrictions. Describe permitted or mandated bylaw provisions regarding stock or membership restrictions.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for stock or membership restrictions.

5.34. Stock Dividends. Describe permitted or mandated bylaw provisions regarding stock dividends.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for stock dividends.

5.35. Membership Cessation. Describe permitted or mandated bylaw provisions regarding cessation of membership.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions.

5.36. Membership Suspension. Describe permitted or mandated bylaw provisions regarding suspension of membership.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for membership suspension.

5.37. Interests at Termination. Describe permitted or mandated bylaw provisions regarding member interests at termination of the cooperative.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for interests at termination.

5.38. **Bylaw Amendments.** Describe how the bylaws may be amended.

- SD-Gen 47-15-16: Bylaws may be adopted and amended only by the members, unless the members adopt a bylaw which permits the board to make and amend specified bylaws. Any bylaw adopted or amended by the board shall be reported at the next regular member meeting. Any such bylaw shall be at any time subject to amendment or repeal by the members.

5.39. **Bylaw Violations.** Describe mandated or permitted bylaw terms that address penalties for bylaw violations.

- SD-Gen: There are no explicit permitted or mandated bylaw provisions for bylaw violations.

5.40. **Miscellaneous.** Describe any other mandated or permitted bylaw terms.

- SD-Gen: NA.

6. Cooperative Members

6.1. **Member Identified.** List who may be a member (e.g., person, corporation, partnership, association, trust, executor, administrator, receiver, political subdivision, producer, tenant, etc.).

- SD-Gen 47-16-1: Any person, including a partnership, a firm, an unincorporated association, a cooperative, a corporation, or a body politic, may become a member in accordance with the bylaws.

6.2. **Farmer Membership.** Describe briefly any provisions defining members as agricultural producers.

- SD-Gen: NA.

6.3. **Tenant Member.** Briefly describe any provisions defining a member as a tenant of land used for agricultural production.

- SD-Gen: NA.

6.4. **Worker Member.** Briefly describe any provision defining a member as a worker.

- SD-Gen: NA.

6.5. **Non-Patron Members.** Describe briefly any provisions allowing non-patron members (e.g., an "investor member," etc.)?

- SD-Gen: NA.

6.6. **Nonmember Interests.** Briefly describe any definition(s) of (a) nonmember(s) who may hold shares or proprietary interests in the cooperatives.

- SD Gen 47-16-49: There shall be no distinction between the persons entitled to reserves and distributions under §§ 47-16-47 and 47-16-48, but such reserves and distribution may be based upon business done with particular departments or in particular commodities, supplies, or services, or upon classification of business according to the type or nature thereof.

6.7. **Other Membership Definitions.** Briefly describe any other membership definitions.

- SD-Gen: NA.

6.8. **Fostering Membership.** Describe any provision that allows the cooperative to foster membership by advertising, education, or other lawful means.

- SD-Gen: NA

6.9. **Membership Fee.** Briefly describe any provision that addresses the membership fees.

- SD-Gen 47-16-17: Voting rights conditioned upon membership payment. A person who has not fully paid for his membership may not vote except as expressly permitted in the bylaws.

6.10. New Members. Briefly describe provisions on the admission of new members.

- SD-Gen: NA

6.11. Membership Limitations. Briefly describe any limitation on the number of members.

- SD-Gen: NA

6.12. Membership Transfers. Briefly describe any restrictions on membership transfers.

- SD-Gen 47-16-22: The articles of a cooperative may require that members own one or more shares of membership stock. Such stock shall be issued or transferred only to a person eligible to become a member, and only when such person satisfies other requisites for membership. Unless restricted by the articles, stock other than membership stock may be issued or transferred to any person.

6.13. Membership Contribution. Describe briefly any provision that addresses ongoing membership contributions.

- SD-Gen: NA.

6.14. Member Distribution Rights. Briefly describe any provision addressing a member's distribution rights.

- SD-Gen 47-16-40: At least once annually the directors of a cooperative shall determine and distribute net proceeds as provided by §§ 47-16-41 to 47-16-53, inclusive.

6.15. Stock or Membership Certificates. Briefly describe any provisions addressing how membership is evidenced (e.g., by stock or membership certificates).

- SD-Gen 47-16-27. No stock certificate may be issued by a cooperative except upon payment of the par value of the stock it represents. No cooperative shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void.

6.16. **Certificate Information.** Describe briefly if any provision that addresses whether any particular information is required to appear on the stock or membership certificates.

- SD-Gen 47-16-28. Lists the statements required on stock certificates.

6.17. **Member Property or Equity Rights.** Briefly describe any provisions addressing a member's property or equity rights in the cooperative.

- SD-Gen: NA.

6.18. **Non-Patron Equity.** Briefly describe any provision addressing equity rights of a non-patron.

- SD-Gen: NA.

6.19. **Voting.** Briefly describe any statutory reference to "one member, one vote."

- SD-Gen 47-16-10: At any member meeting of a cooperative composed of individual members and member cooperative corporations, each such individual member or corporate member shall be entitled to only one vote.

6.20. **Patronage Voting.** Briefly describe whether the cooperative statute permits or requires patronage voting.

- SD-Gen: NA.

6.21. **Director Elections.** Briefly describe any statutory requirements regarding the election of directors by patron members.

- SD-Gen: NA.

6.22. **Investor Members.** Briefly describe any limitations on voting by non-patron equity stakeholders or "investor members."

- SD-Gen: NA.

6.23. Patronage Dividends. Briefly describe member rights to receive patronage dividends.

- SD-Gen 47-16-51. If the articles or bylaws of a cooperative so provide, none of the remainder of the net proceeds after credits pursuant to § 47-16-50 shall constitute income to the cooperative, but all thereof shall be distributed and paid in accordance with the ratio which individual patronage bears to total patronage, either to all patrons, to member patrons only, or to all patrons with nonmembers receiving a lower proportion than members, as the bylaws may provide. There shall be no other distinction between members and nonmembers, but distribution may be based on business done with particular departments, or in particular commodities, supplies, or services, or upon classification of business according to type or nature thereof.

6.24. Retained Allocations. Briefly describe member rights to receive per-unit retained allocations.

- SD-Gen: NA.

6.25. Nonmember Rights. Briefly describe a nonmember's right to receive patronage dividends and or per-unit retained allocations.

- SD-Gen 47-16-46: Unless the articles or bylaws of a cooperative otherwise expressly provide, none of the remainder of the net proceeds after distributions and payments pursuant to §§ 47-16-44 and 47-16-45 shall constitute income of the cooperative but all thereof shall be distributed and paid to patrons, whether members or not, as provided by §§ 47-16-47 to 47-16-49, inclusive.

6.26. Nonmember Limitations. Briefly describe any limitations on the cooperative's business with nonmembers (including how the limitations are measured).

- SD-Gen: NA.

6.27. Allocations. Briefly describe any required rules regarding the allocation of profits and losses among patron and non-patron members.

- SD-Gen 47-16-46: There is nothing explicit about losses, only profit. Unless the articles or bylaws of a cooperative otherwise expressly provide, none of the remainder of the net proceeds after distributions and payments pursuant to §§ 47-16-44 and 47-16-45 shall constitute income of the cooperative but all thereof shall be distributed and paid to patrons, whether members or not, as provided by §§ 47-16-47 to 47-16-49, inclusive.

6.28. Derivative Suit. Briefly describe any provision addressing whether a member has the right to bring a derivative action.

- SD-Gen 47-16-35: Actions by stockholders or members--Allegations respecting ownership. No action may be instituted or maintained in the right of any association by a member or stockholder unless he alleges in his complaint that he was a member or registered stockholder when any part of the transaction of which he complains took place, or that his stock thereafter devolved upon him by operation of law from a stockholder at such time.
- SD-Gen 47-16-36: Actions by stockholders or members--Additional allegations. No action may be instituted or maintained in the right of any association by any member or stockholder unless he alleges in his complaint with particularity his efforts to secure from the board of directors such action as he desires. He shall allege further that he has either informed the corporation or board in writing of the ultimate facts of each cause of action against each director or that he has delivered to the cooperative or board a copy of the complaint which he proposes to file. He shall state the reasons for his failure to obtain such action or the reasons for not making such effort.

6.29. Liability Limitation. Briefly describe any limitation on a member's liability.

- SD-Gen 47-16-30: Except for debts lawfully contracted between the member and the cooperative, no member or patron is liable for the debts of the cooperative to an amount exceeding the sum remaining unpaid on his subscription for shares of the cooperative, and the sum unpaid on such member's membership fees, if such fee is required by the cooperative.

6.30. Records Inspection. Briefly describe a member's right to inspect cooperative records and or audits.

- SD-Gen 47-20-2: Inspection of books and records. At any reasonable time, any member or stockholder of a cooperative, or his agent or attorney, upon written notice stating the purposes thereof, delivered or sent to the cooperative at least one week in advance, may examine for a proper purpose any books or records pertinent to the purpose specified in such notice.

6.31. Membership Suspension. Briefly describe any provisions regarding membership suspension.

- SD-Gen: NA.

6.32. Membership Termination. Briefly describe any provisions regarding when membership terminates (e.g., expulsion, death, withdrawal).

- SD-Gen: NA.

6.33. Termination Procedure. Briefly describe any procedural requirements regarding membership termination.

- SD-Gen: NA

6.34. Member Termination Rights. Briefly describe a former member's rights on termination.

- SD-Gen: NA

6.35. Membership Valuation. Briefly describe any provisions regarding membership valuation.

- SD-Gen: NA

6.36. Miscellaneous. Please address any issues related to this section that have not been addressed by the previous questions.

- SD-Gen 47-17-17: There are no sections on member termination. There is a section on director or board member termination (See SD-Gen 47-17- 17).

7. Cooperative Association Control and Voting

7.1. Voting Definition. Briefly describe any provisions defining "voting."

- SD-Gen: NA.

7.2. Voting Rights. Briefly describe any statutory requirements regarding individual member voting rights including whether there is one vote per member or equal voting required.

- SD-Gen §§ 47-16-10, 47-16-11: Each member is entitled to only one vote, but if the cooperative is composed only of member cooperative corporations, the articles may permit a member to cast additional votes not exceeding a number equal to its membership.

7.3. Patronage Voting. Briefly describe provisions regarding voting based on member patronage.

- SD-Gen § 47-16-11: If the cooperative is composed only of member cooperative corporations, the articles may permit a cooperative whose member-patrons include other cooperative corporations to base voting in whole or in part on a patronage basis.

7.4. Patronage Voting Exceptions. If there is voting based on the amount of a member's patronage, describe any exceptions or limitations.

- SD-Gen: NA.

7.5. Equity Voting. Is voting permitted based on the amount of a member's equity?

- SD-Gen § 47-16-12: No, a member owning membership stock of a cooperative gains no additional vote thereby.

7.6. Membership Classes. Briefly describe any provisions listing more than one membership class.

- SD-Gen § 47-16-1: A cooperative may have one or more classes of members.

7.7. Class Voting. If there is more than one class of members, briefly describe the voting rights of each class.

- SD-Gen: NA.

7.8. Entity Voting. Briefly describe whether the statute allows for voting by "non-natural" persons (e.g., partnerships, limited liability companies, corporations, other cooperative associations including federated cooperatives).

- SD-Gen §§ 47-16-1, 47-16-10: Any person, including a partnership, a firm, an unincorporated association, a cooperative, a corporation, or a body politic, may become a member, and each such individual member or corporate member shall be entitled to vote.

7.9. Federated Voting. Briefly describe statutory provisions on voting by federated cooperatives.

- SD-Gen: NA.

7.10. Federated Conflicts. Briefly describe any provisions that address conflicts of interest with respect to federated cooperatives.

- SD-Gen: NA.

7.11. Proxy Voting. Briefly describe provisions allowing for proxy voting.

- SD-Gen § 47-16-13: Voting by proxy shall not be allowed, except that the bylaws may provide for representation of members by delegates apportioned territorially.

7.12. Mailing Ballots. Briefly describe provisions permitting voting by mail.

- SD-Gen § 47-16-14: An absent member may submit a signed vote if he has been previously notified in writing of the exact motion or resolution upon which the vote is taken.

7.13. Electronic Voting. Briefly describe any telecommunications permitted in the voting process including electronic transmission of votes.

- SD-Gen: NA.

7.14. Liens. Briefly describe any provisions that address voting when there is a lien on a member's stock.

- SD-Gen: NA.

7.15. Subscriber Voting. Describe briefly if voting is permitted by subscribers who have committed to buying stock but have not purchased it yet.

- SD-Gen § 47-16-17: A person who has not fully paid for his membership may not vote except as expressly permitted in the bylaws.

7.16. Cumulative Voting. Briefly describe any cumulative voting permitted.

- SD-Gen: NA.

7.17. District Voting. Briefly describe any rules regarding voting by district or region.

- SD-Gen: NA.

7.18. Miscellaneous Voting. Briefly describe any other rules regarding voting.

- SD-Gen: NA.

7.19. Membership Meetings. Briefly describe any requirements that the cooperative have membership meetings.

- SD-Gen § 47-16-2: An annual member meeting of a cooperative must be held.

7.20. First Meeting. Briefly describe any statutory requirements regarding the first meeting.

- SD-Gen: NA.

7.21. Special Meetings. Briefly describe any provisions on special meetings.

- SD-Gen § 47-16-3: Special member meetings may be called by the president, board of directors, or members having one-fifth of the votes entitled to be cast at such meeting.

7.22. Attendance Rules. Briefly describe meeting attendance rules for different classes of membership.

- SD-Gen: NA.

7.23. Notice Requirements. Briefly describe any meeting notice requirements.

- SD-Gen §§ 47-16-5, 47-15-47: Written notice (either given personally or by mail), stating the place, day and hour (and in case of a special member meeting, stating the purposes for which the meeting is called), shall be given not less than ten nor more than thirty days before the meeting.

7.24. Notice Requirement Termination. Briefly describe any rules addressing when notice is no longer required (e.g., after several delivery failures).

- SD-Gen: NA.

7.25. Meeting Location. Briefly describe provisions that mandate a particular location for meetings.

- SD-Gen § 47-16-4: Unless the bylaws provide otherwise, meetings of a cooperative shall be held at the principal office or such other place as the board of directors may determine.

7.26. Teleconferences. Can meetings occur by electronic transmission (teleconferencing)?

- SD-Gen: NA.

7.27. District Meetings. Are meetings permitted by geographic district?

- SD-Gen § 47-16-7: Yes, and a quorum for the transaction of business at a district meeting of members shall be established in the bylaws (but can never be less than 5 members).

7.28. Quorum Requirements. Briefly describe quorum requirements for meetings.

- SD-Gen § 47-16-7: A quorum shall be 10% of the first 100 members plus 5% of additional members, present in person or represented by delegate, and unless the bylaws fix a larger number, a quorum may never be more than 50 members nor less than 5 members, or a majority of all members, whichever is smaller.

7.29. Referendum Requirements. Briefly describe requirements regarding any referendum.

- SD-Gen: NA.

7.30. Miscellaneous Meeting Rules. Describe any other provision regarding meetings.

- SD-Gen: NA.

7.31. Miscellaneous Voting and Control. Please describe any other provision that relates to this section that has not been addressed by the previous questions.

- SD-Gen: NA.

8. Cooperative Directors

8.1. Director Number. Briefly describe whether a particular number of directors is required.

- SD-Gen § 47-17-3: The number of directors shall not be less than 5, except that in a cooperative with less than 50 members, the number of directors shall not be less than 3.

8.2. Office Term. Briefly describe any requirements regarding a director's term of office.

- SD-Gen § 47-17-4: Unless the bylaws provide otherwise, a director's term of office shall be one year.

8.3. Director Qualifications. Briefly describe any qualification requirements for directors (e.g., must be a member of the cooperative, must be a natural person).

- SD-Gen § 47-17-1: Every director shall be a member or a representative of a member who is other than a natural person.

8.4. Special Directors. Are any special categories of directors permitted (e.g., nonmember initial directors, "investor-members," members who represent community interests, or who have special expertise).

- SD-Gen: NA.

8.5. Director Voting Restrictions. Are there any restrictions with respect to voting imposed on any category of director?

- SD-Gen: NA.

8.6. **Elector Qualifications.** Briefly describe any qualification requirements for a person electing any director(s).

- SD-Gen: NA.

8.7. **Election Rules.** Briefly describe any rules on how elections occur.

- SD-Gen § 47-17-4: Directors shall be elected by a majority of the members present at a duly called meeting of the members in the manner and for the terms provided in the bylaws.

8.8. **District Elections.** Briefly describe if elections may be conducted by district and whether the director must come from that district.

- SD-Gen § 47-17-4: If the bylaws provide that directors be from specified territorial districts, the articles may limit voting for any director to members from within the territorial district from which such director is to be elected.

8.9. **Delegate Elections.** Briefly describe if delegates may be elected to choose directors.

- SD-Gen: NA.

8.10. **Director Remuneration.** Briefly describe any provisions addressing whether a director is entitled to remuneration for services.

- SD-Gen § 47-17-2: Unless the bylaws of a cooperative provide otherwise, only the members may establish compensation or other benefits for a director.

8.11. **Director Reimbursement.** Briefly describe any provisions that address whether directors may be reimbursed for expenses.

- SD-Gen: NA.

8.12. Director Insurance. Briefly describe any provisions addressing reimbursement for director insurance.

- SD-Gen: NA.

8.13. Miscellaneous. Briefly describe any other provision addressing director compensation.

- SD-Gen: NA.

8.14. Director Responsibilities. Briefly describe any provisions that address a director's responsibilities.

- SD-Gen: NA.

8.15. Director Powers. Briefly describe any provisions addressing director powers.

- SD-Gen: NA.

8.16. Special Committees. Briefly describe whether directors may create special purpose committees.

- SD-Gen: NA.

8.17. Committee Restrictions. Briefly describe any restrictions on special committee membership (e.g., to individuals who are directors, etc.).

- SD-Gen: NA.

8.18. Meeting Notice. Briefly describe any provisions addressing notice requirements for director meetings.

- SD-Gen § 47-17-10: A signed waiver of notice of a meeting of the board of directors is equivalent to personal notice.

8.19. Quorum Requirements. Briefly describe any provisions addressing quorum requirements for director meetings.

- SD-Gen § 47-17-9: Unless a greater number is required in the bylaws, a majority of the directors in office shall constitute a quorum for transaction of business.

8.20. Director Voting. Briefly describe any provisions addressing director voting.

- SD-Gen § 47-17-9: Unless a greater number is required in the bylaws, an act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board.

8.21. Videoconferencing. Briefly describe any provisions that address electronic meetings (videoconferencing).

- SD-Gen § 47-17-8: Unless restricted by the articles of incorporation or bylaws, members of the board of directors may participate in a meeting of such board by means of teleconference or similar communications equipment which allows all persons participating to hear each other at the same time.

8.22. Special Director Action. Briefly describe any provisions that address director action without a meeting.

- SD-Gen § 47-17-13: Any action which may be taken at a meeting of the directors may be taken without a meeting if a writing setting forth and approving the action taken shall be signed by all of the directors entitled to vote on such action.

8.23. Miscellaneous Meeting Provisions. Describe briefly any meeting provision not addressed in the prior questions.

- SD-Gen: NA.

8.24. Director Vacancy. Briefly describe any provisions that address filling a director vacancy.

- SD-Gen § 47-17-6: Unless the bylaws provide otherwise, any vacancy existing in the board of directors may be filled until the next annual meeting by appointment by a majority vote of the directors then in office.

8.25. Director Removal. Briefly describe any provision that addresses the removal of a director.

- SD-Gen § 47-17-5: Unless the bylaws provide otherwise, a director may be removed upon a majority vote of all members.

8.26. Removal Procedure. Briefly describe any procedural requirements regarding the removal of a director (e.g., the requirement of a hearing, the requirement that a vote occur at a meeting).

- SD-Gen § 47-17-5: Unless the bylaws provide otherwise, a director may be removed upon a majority vote of all members.

8.27. Director Replacement. Briefly describe any provisions that address replacing the removed director.

- SD-Gen: NA.

8.28. Miscellaneous Director Removal. Briefly describe any other provision addressing director removal that has not been addressed by the prior questions.

- SD-Gen: NA.

8.29. Miscellaneous. Please describe any provisions not addressed by the previous questions.

- SD-Gen: NA

9. Cooperative Officers

9.1. Offices. List any offices statutorily required to be filled (including if one person can hold more than one office or if more than one office can be combined).

- SD-Gen §§ 47-17-14, 47-17-15: The principal officers of a cooperative are a president, one or more vice-presidents as prescribed in the bylaws, a secretary and a treasurer, and the offices of secretary and treasurer may be combined.

9.2. Officer Qualifications. Briefly describe any qualifications required to be an officer.

- SD-Gen § 47-17-14: Each principal officer except the secretary and the treasurer must be a director of the cooperative.

9.3. Bank Treasurer. May a bank be the treasurer or other officer?

- SD-Gen: NA.

9.4. Bonding. Briefly describe any bonding requirements for officers.

- SD-Gen: NA.

9.5. Selection. Briefly describe any provisions stating how officers are selected.

- SD-Gen §§ 47-17-14, 47-17-15: The principal officers shall be elected annually by the board of directors at such time and in such manner as the bylaws provide, and any other officer may be chosen by the board of directors or as provided in the bylaws.

9.6. Compensation. Briefly describe any requirements regarding compensation.

- SD-Gen § 47-17-18: Unless the bylaws provide otherwise, for prior or future services of any officer or employee, the board of directors may provide reasonable compensation, pension, bonuses or other benefits to such officer or employee, and pension or other benefits to a member of his family or his beneficiaries, and no officer or employee who is a director may take part in the vote on his salary.

9.7. Responsibilities. Briefly describe any requirements regarding responsibilities.

- SD-Gen § 47-17-16: All officers of a cooperative shall have such authority and perform such duties as the bylaws provide, or as the board of directors may determine not inconsistent with the bylaws.

9.8. Officer Removal. Briefly describe any provisions that address officer removal.

- SD-Gen § 47-17-17: Any officer of a cooperative may be removed by the board of directors whenever in its judgment the best interests of the cooperative will be served thereby.

9.9. Removal Procedures. Briefly describe any procedural requirements regarding officer removal.

- SD-Gen § 47-17-17: Any officer of a cooperative may be removed by the board of directors whenever in its judgment the best interests of the cooperative will be served thereby.

9.10. Miscellaneous. Please describe any other provisions regarding officers that have not been addressed by prior questions.

- SD-Gen: NA.

10. Fiduciary Duties of Cooperative Directors and Officers

10.1. Duty of Care. Briefly describe any provisions that address duty of care requirements that apply for directors and officers.

- SD-Gen: NA.

10.2. Professional Counsel. List professionals that directors and officers can rely upon (e.g. a board committee, legal counsel, public accountants, and individuals the director or officer reasonably believes to be acting within their professional competence).

- SD-Gen § 47-17-7.1: Directors may rely on financial statements or accountant's representation.

10.3. Cooperative Interests. Briefly describe any guidance or factors statutorily provided to help directors and officers to make decisions in the cooperative's best interest (e.g., full disclosure, fairness to the cooperative, or a provision stating that the officers and directors may consider the interests of the members, employees, suppliers, creditors, the economy, the long- and short-term interests of the cooperative, etc.).

- SD-Gen: NA.

10.4. Contracts. List the circumstances when a cooperative and a director may enter a contract (e.g., when there is disclosure, when a "fair and reasonable" standard is followed, when the contract is ratified in good faith by the board, when the director recuses him- or herself). Please provide the applicable provision section(s).

- SD-Gen: NA.

10.5. Director Compensation. Briefly describe any rules regarding director approval of their own compensation.

- SD-Gen § 47-17-2: Unless the bylaws of a cooperative provide otherwise, only the members may establish compensation or other benefits for a director.

10.6. Conflict of Interest. Briefly describe any provisions that address conflict of interest situations when a director has a material financial interest.

- SD-Gen § 47-17-22: A cooperative may not indemnify a director, officer, agent, or employee in connection with any proceeding with respect to conduct for which the director, officer, agent, or employee was adjudged liable on the basis that the director, officer, agent, or employee received a financial benefit to which the director, officer, agent, or employee was not entitled.

10.7. Duty of Obedience. Briefly describe any provisions that address the duty of obedience.

- SD-Gen: NA.

10.8. Liability Limitations. Briefly describe any provisions that address limitations on civil liability for officers and directors.

- SD-Gen § 47-17-7.1: A director shall not be liable for any unauthorized dividend or distribution of assets if he relied and acted in good faith upon financial statements of the cooperative represented to him to be correct by the president or the officer of the cooperative having charge of his books of account, or stated in a written report by a certified public accountant failing to reflect the financial condition of the cooperative, nor shall he be so liable if he considered the assets to be of their book value in good faith.

10.9. Articles and Bylaws. Briefly describe any provisions that allow liability limitations to be included in the articles or bylaws.

- SD-Gen: NA.

10.10. Indemnification or Payments. Briefly describe any provisions that indemnify directors and or officers and or allow payment by the cooperative of litigation, judgment, settlement, or other costs on their behalf.

- SD-Gen § 47-17-23: A cooperative shall indemnify a director, officer, agent, or employee who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director, officer, agent, or employee was a party by reason of being a director, officer, agent, or employee of the cooperative, against reasonable expenses incurred in connection with the proceeding.
- SD-Gen § 47-17-21: A cooperative may indemnify a director, officer, agent, or employee if that individual (i) acted in good faith, (ii) in the case of official conduct, reasonably believed the conduct was in the best interests of the cooperative, (iii) in the all other instances, reasonably believed that the conduct was not opposed to the best interests of the corporation, and (iv) in the case of any criminal proceeding, had no reasonable cause to believe the conduct was unlawful.

10.11. Insurance Coverage. Briefly describe any provisions that address insurance coverage for director and or officer liability.

- SD-Gen: NA.

10.12. Derivative Actions. Describe any provisions regarding derivative actions including any statute of limitations.

- SD-Gen §§ 47-16-35, 47-16-36: No action may be instituted or maintained in the right of any association by a member or stockholder unless he alleges in his complaint that he was a member or registered stockholder when any part of the transaction of which he complains took place or that his stock thereafter devolved upon him by operation of law at such time, and he alleges in his complaint with particularity his efforts to secure from the board of directors such action as he desires.

10.13. Miscellaneous. Describe any other provisions that address fiduciary issues related to directors and officers.

- SD-Gen: NA.