

FLEXIBLE OR FLAWED?

NEW CO-OP LAWS PROVIDE OPTIONS,
PROVOKE DISAGREEMENT

SECURING adequate capital from members as well as external sources is a primary cooperative challenge. The importance of capital often is not well recognized in these democratic organizations, founded to meet member needs.

In order to retain their member-driven purpose, cooperative businesses are based on the democratic control of capital—however little that fundamental element is understood. (For an excellent discussion, see the June 2010 paper by Tom Webb, et al., “Cooperative Capital: What It Is and Why Our World Needs It,” <http://s.coop.3qi>.)

Recognizing the challenges of capital is essential to understanding much of cooperative history, as well as recent controversial legislative changes. Offering contrasting perspectives, this section of *Cooperative Grocer* discusses legal statutes that allow a stronger role for nonmember investors. A few consumer co-ops, especially startup efforts, are examining these issues. And it is likely that the inherent questions concerning

cooperative purpose and democratic control of capital will, one way or another, impact more co-ops in the future.

Over the past several years, new legislation has opened up legal territory that extends or contravenes historic limits to the role of investors in cooperatives. The **Uniform Limited Cooperative Association Act**

(ULCAA) is a proposed or “model” statutory structure that has been recommended for adoption by individual states—supplementing existing cooperative law, not replacing it. Under such new legislation, which offers a combination of cooperative

and limited-liability corporation features, investors may be granted voting rights and a stake in co-op governance.

By 2008, five states—Wyoming, Iowa, Wisconsin, Minnesota, Tennessee—had passed legislation of similar content. (The original ULCAA document, thick with legalese, is available online as a pdf: <http://s.coop.3qj>.) A reader-friendly summary of the ULCAA, written by Lynn Pitman, was issued as a staff report for the University of Wisconsin Center for Cooperatives in April 2008. This report,

excerpted on page 22, may be viewed in full on the UWCC website, <http://s.coop.3qk>. The full UWCC report also appends a state-by-state listing of cooperatives incorporated under the new laws, with a brief description of each business.

Following the excerpted ULCAA summary is a review of fundamental questions posed by these cooperative governance and investment options, written by attorney and CDS Consulting Co-op member Thane Joyal. Her overview is followed by a report from Stuart Reid on the St. Peter Food Co-op’s strategy for expansion, which included reincorporation under the new co-op law in Minnesota. In the section’s final piece, attorney Laddie Lushin condemns the new co-op laws and argues that they violate co-op principles and historic practices.

These new laws were discussed and recommended in *Cooperative Grocer* last year by attorney Joel Dahlgren, which prompted a dissenting opinion by attorney Don Kreis and a response by Dahlgren: “Explore the New Legal Flexibility,” *CG* #141, March–April 2009 at (www.grocer.coop/node/955); and “Letters: Co-op Capital and New Co-op Laws,” *CG* #142, May–June 2009 (www.grocer.coop/node/1447).

Co-op principles and co-op capital are both essential to the future of cooperatives, and the conflicting perspectives here address necessary and important questions.

—Dave Gutknecht



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