The California Worker Cooperative Law

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Today’s Agenda

• Background on AB 816
• Quick overview of new provisions affecting worker cooperatives
• Discussion on selected provisions
The Old Law

• California Consumer Cooperatives Law (Cal. Corp. Code §§ 12000 et seq.)

• Where it fell short:
  • The name!
  • No guidelines for worker cooperatives
  • Limited securities exemption for worker coops
AB 816 changed the name

• The law is now called the “Cooperative Corporation Law”
  • “This part is intended to apply to the organization and operation of cooperatives, including but not limited to consumer cooperatives, worker cooperatives, and cooperatives formed for the purpose of recycling or treating hazardous wastes, which elect to incorporate under it.”
AB 816 Defined a Worker Cooperative

• A worker cooperative is a corporation:
  • which includes a class of worker-members who are natural persons
  • whose patronage consists of labor contributed to, personal services for, or other work performed for the corporation
Definition of Worker Coop

• Three new categories of people:
  • Worker-member – a member and a patron
  • Worker – a natural person contributing labor
  • Candidate – a “worker” being considered for membership

• Workforce requirements:
  • At least 51% of the workers must be worker-members or candidates. §12253.5 (AB 816).
Patronage in a worker cooperative

- Can be measured by work performed, including—wages earned, number of hours worked, number of jobs created or some combination of these measures. (Sec. 12243(b)(2))
- Patronage can only be distributed to the worker-member class (Sec. 12420 (c))
How to form one

- Amend your Articles of Incorporation
  - “A corporation formed under the Cooperative Corporations Section may elect to be governed as a worker cooperative by stating so in its articles of incorporation or amended articles.”
Collective Board Worker Coops

- A Worker Cooperative can operate under a “collective board” if:
  - All worker-members are on the board
  - There are no other members
- Advantage: No annual meeting requirement for the coop. All meetings are meetings of the board.
Financial Provisions

• A Capital Account Cooperative is one whose entire net book value is reflected in member capital accounts, one for each member, and an unallocated capital account, if any.

• The Unallocated Account shall reflect any paid-in capital, net losses, and retained net earnings not allocated to individual members. Earnings assigned to such unallocated account for any and all corporate purposes as determined by the board of directors.
Indivisible Reserves Account

- Allows worker cooperatives to create a reserve fund that is dedicated to the cooperative movement.
- Can only be filled with “non-patronage sourced income” – to comply with subchapter T tax rules.
- Section 12454.5
Reduced Notice for Worker-Member Meetings

- The old law required a minimum of 10 days notice for member meetings.
- For meetings of worker-members, notice is reduced to 48 hours, **provided that it is given personally to every worker-member.**
End of Life Events

• **Merger**: A worker cooperative that has not revoked its election may only consolidate or merge with another worker cooperative. (S. 12530.5)

• **Dissolution & Demutualization**: Upon dissolution or demutualization, a majority of the unallocated capital account shall be distributed to members on the basis of (1) patronage, (2) capital contributions, or (3) some combination of the above. The worker cooperative is permitted to include patronage provided by past and current members in its distribution of the unallocated account. (S. 12656.5)

• This doesn’t apply to amounts in the indivisible reserve account.
Indivisible Reserves

• An indivisible reserves account is prohibited from being distributed to the members.
• Funds in the account shall, in a manner determined by the articles or bylaws or board, be used as a capital account for the cooperative.
• Upon dissolution of the cooperative, the indivisible reserves account shall be allocated to a cooperative development organization designated in the articles or bylaws. (S. 12656.5(c))
Changes to Securities Law

- Increased securities exemption for all cooperative members from $300 to $1,000.
- Created a new class of members: Community Investors
  - Community investors can invest up to $1,000 each.

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Community Investors – Crowdfunding Exemption

• A special type of crowdfunding exemption only for worker cooperatives.

• Allows the worker cooperative to do a direct public offering to California Residents.

• Must have limited voting rights-- only to approve certain end of life decisions: merger, sale of major assets, reorganization, or dissolution. (S. 12253(c))

• Also have approval rights over changes to the articles of incorporation that will affect them directly (by diluting their ownership interest or voting rights). (S. 12503)
For more information on offering to community investors

• Download Capital-raising for Worker Cooperatives: Using the AB 816 Community Investor Provision
  • Co-published with the Sustainable Economies Law Center
• Contact us here to get the paper: http://www.cooplawgroup.com/contact-1
Questions?

• If you’re interested in converting to a worker cooperative – talk to us!
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