

# VIRGINIA ACTS OF ASSEMBLY -- 2001 RECONVENED SESSION

## CHAPTER 838

*An Act to amend and reenact § 13.1-322 of the Code of Virginia, relating to agricultural cooperative associations; forfeiture of membership or patronage equity.*

[S 950]

Approved April 5, 2001

**Be it enacted by the General Assembly of Virginia:**

**1. That § 13.1-322 of the Code of Virginia is amended and reenacted as follows:**

§ 13.1-322. Membership or voting stock certificates; transfers; dividends; nonvoting stock.

(a) A. No certificate for membership or stock shall be issued until fully paid for, but promissory notes may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but such retention as security shall not affect the member's right to vote and hold office.

Fractional shares may be issued by capital stock associations. Certificates representing shares and certificates of membership or other evidence of the patron's equity in any fund, capital investment or other assets of the association shall be signed by the president or a vice-president or treasurer or assistant treasurer and the secretary or an assistant secretary of the association, or by facsimiles of their signatures, and may be sealed with the seal of the association, or a facsimile thereof.

(b) B. Certificates of membership of a nonstock association shall not be transferred without the consent of the association's board of directors.

(c) C. Voting stock in capital stock associations shall not be transferable to persons not eligible to membership in the association and such restrictions must be set forth in the bylaws of each capital stock association and printed on every stock certificate subject thereto.

(d) D. The board of directors of an association, from time to time, may declare and the association may pay dividends on the stock or membership capital except when the declaration or payment thereof would be contrary to any restrictions contained in the articles of incorporation.

(e) E. Net savings (which are hereby defined as being the excess of receipts over costs and expenses for each year of operations) in excess of dividends on outstanding stock or membership capital and additions to reserves shall be distributed on the basis of patronage, and the books of the association shall provide the basis for determining the interest of members and other patrons in the reserves. The distribution of patronage refunds may be restricted to members or be made at the same or a different rate for members and nonmembers. The bylaws may provide that any distribution to a nonmember, eligible for membership may be credited to such nonmember, until the amount thereof equals the value of a membership certificate or a share of the association's voting stock.

(f) F. After a member has notified the association of his withdrawal, or after the adoption of a resolution by the board terminating his membership, the board shall appraise the value in money of his membership interest in the association and shall determine and fix the time when the association shall pay him the value of his interest, unless the member, with the consent of the board, transfers his certificate of membership.

(g) G. An association may issue nonvoting stock to members and nonmembers. Nonvoting stock may be redeemed or retired by the association on such terms and conditions as may be provided in the articles of incorporation or bylaws and printed on the stock certificates. Payment for nonvoting stock may be made in cash, services or property as determined by the board.

Voting stock may be issued only for money or notes or in payment of patronage refunds at par.

(h) H. Except when its debts exceed fifty per centum of its assets, an association may purchase for cash its voting stock at book value or par value, whichever is less, and may call such stock for redemption on the same basis pursuant to a plan for rotating ownership of such stock set forth in its articles of incorporation or in its bylaws. The determination of book value by the board of directors shall be incontestable except for fraud.

(i) I. The association may from time to time issue to each patron a certificate or other evidence of the patron's equity in any fund, capital investment or other assets of the association. Such certificate or other evidence of such equity may be transferred only to the association, or to such other purchaser as may be approved by the board of directors, upon such terms and conditions as shall be provided in the bylaws and printed thereon.

J. Notwithstanding any other provision of law, when there is held by any association any membership or patronage equity, including but not limited to membership stock, patronage refunds, patronage refund allocations, or any credit or distribution attributable to business done with or for patrons, to the credit of a person who has not had a current address on file with the association for a period of not less than three consecutive years, then the bylaws or member agreements of the

*association may provide that such equity shall be deemed to have been transferred by forfeiture to the association and shall thereafter be the property of the association; however, such membership or patronage equity shall be deemed forfeited to the association only if (i) the association publishes conspicuous notice of such pending forfeiture in its regular member publication, if any, and a publication of general circulation and (ii) such equity is not claimed by such person or, if such person is deceased, such person's next of kin within 180 days of such publication or such longer period as set out in the bylaws or member agreements of the association. If there is no such provision in the association's bylaws or member agreements, or if there is no publication, then any unclaimed membership or patronage equity shall be treated in accordance with the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.).*

(j) K. Any association organized with capital stock under this article may accept registrations of such stock in the names of two or more persons, payable to any one of them, or to any one of them or the survivor; and any person so named, whether the others be living or not, may accept dividend payments and withdraw from the association and receive the amount payable on withdrawal in the same manner and on the same terms as are allowed by law and the articles of incorporation and bylaws in case of any other member or stockholder and the receipt or acceptance of dividends or amounts payable on withdrawal by the person so paid shall be a valid and sufficient release and discharge of the association for any payment so made.

**2. Any transfer by forfeiture of membership or patronage equity, including but not limited to membership stock, patronage refunds, patronage refund allocations, or any credit or distribution attributable to business done with or for patrons, which an association subject to this act has completed prior to July 1, 2001, shall be effective if such transfer was in compliance with the bylaws or member agreements of the association in effect at the time of such transfer, without regard to the publication requirements set forth in this act, and such transfer shall not be subject to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.).**