

# NOTES

## INTRODUCTION

1. Cal. Corp. Code §§ 12200–12704.
2. Id. §§ 12202, 12690–12704.
3. Id. § 12692(a).
4. Id. § 12691(c).
5. Id. § 12222.
6. Id. § 12351(a)(8).
7. Id. § 12224. In certain situations beyond the scope of this discussion (e.g., in cases of dissolution), co-op law may require the affirmative vote of a majority of all members for approval. Id. §§ 12223, 12630.
8. Id. § 12256.
9. Id. § 12314, 12484.
10. Id. § 12461(i), 12463(e).
11. Id. § 12215.
12. Id. § 12219.
13. Id. § 12220.
14. Id. § 12245.

## Chapter 1. CHOICE OF ENTITY FOR DOING BUSINESS

1. See chapter 12 of this publication.
2. Cal. Corp. Code §§ 12201, 12451.
3. Id. § 25100(r).
4. Id. § 12440.
5. Id. § 12310.
6. Id. § 7111.
7. Id. § 7411.
8. Id. § 7130.
9. Id. §§ 7140(g), 7312.
10. Id. § 7411.
11. The permit process is described in slightly more detail in chapter 9 of this publication.
12. Cal. Corp. Code §§ 20001, 21301.
13. See the “check-the-box” Treasury Regulation § 301.7701-3.
14. Cal. Corp. Code § 21100.
15. Such law is codified in §§ 20000–24007 of the California Corporations Code.

## Chapter 2. PRE-OPERATIONAL MATTERS

1. Cal. Corp. Code § 12311(a).
2. Id. § 12302(d).
3. Id. § 12331(a).
4. Id. § 12360(c).
5. Id. § 12401(b).

6. Id. § 12401(e).
7. Id. § 25100(r).
8. Id. § 12300(b).
9. Id. § 12214(a).
10. Id. § 12300(c).
11. Id. § 12591.
12. Id. § 12590(a)(3).

## CHAPTER 4. ARTICLES OF INCORPORATION

1. Cal. Corp. Code §§ 12310, 12314.
  2. Id. § 12313(a).
  3. Id. §§ 12312–12313.
  4. Id. § 12691–12692.
  5. Id. § 12500(a).
  6. Id. § 12692(a).
  7. Id. § 12500(b).
  8. Id. § 12501.
  9. Id. § 12502(a).
  10. Id. § 12502(b). In addition, if the co-op was organized before August 14, 1929, the board alone may vote to extend the co-op’s existence or make it perpetual.
  11. Id. § 12502(c).
  12. Id. § 12503.
  13. Id. § 12504.
  14. Id. § 12505(a). In the event of an amendment related to a merger, § 12535 of the California Corporations Code applies instead. Id. § 12505(b).
  15. Id. § 12506.
  16. Id. § 12251.
  17. Id. § 12506.
  18. Id. § 12507.
  19. Id. § 12508.
  20. Id. § 12509.
  21. Id. § 12510.
  22. Id. § 12311(a).
  23. Id. § 12310(b).
  24. Id. § 12312.
  25. Id. § 12310(c).
  26. Id. § 12570(b).
  27. Id. § 12214(a).
  28. Id. §§ 12256, 12480.
  29. Id. § 12313(c)(1).
  30. Id. §§ 12221(b), 12300(b), 12313(c)(1).
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## Chapter 5. BYLAWS

1. E.g., Cal. Corp. Code § 12313(c)(4).
2. Cal. Corp. Code § 12331(a).
3. Id. §§ 12331(c)–(g), 12332–12333.
4. Id. § 12330(a),(c).
5. Id. § 12330(b).
6. The article or bylaw provision authorizing cumulative voting may require the vote of a super-majority vote of the members (or of the members of any class) for its repeal. Id. § 12484(a).
7. Id. § 12330(a).
8. Id. § 12331(b).
9. Id. § 12360(a),(d).
10. Id. § 12364(a).
11. Id. § 12462(a).
12. Id. § 12484(a).
13. Id. § 12330(a),(b).
14. Id. § 12331(e).

## Chapter 6. MEMBER-RELATED DOCUMENTS

1. Id. § 12401(a).
2. Id. §§ 12240, 12248.
3. Id. § 12401(a).
4. Id. § 12401(c),(d),(f).
5. Id. § 12401(e).
6. Id. § 12402.
7. Id. § 12401(b).
8. Id.
9. Id. § 12401(b)(1)–(7).
10. Id. § 12401(b)(8).
11. Id.
12. Id. § 12401(e).

## Chapter 7. THE BOARD OF DIRECTORS

1. Id. § 12233.
2. Id. § 12350.
3. Id.
4. Id. § 12360(a).
5. Id.
6. Id. §§ 12331(b), 12360(a).
7. Id. § 12331(a).
8. Id. § 12360(b).
9. Id. § 12362(e).
10. Id. § 12360(d).
11. Id. §§ 12360(d), 12361, 12362(f).
12. Id. § 12364(c).
13. Id. § 12361.
14. Id. § 12362(a).
15. Id.

16. Id. § 12362(d).
17. Id. § 12362(b).
18. Id.
19. Id. § 12362(c).
20. Id. § 12362(g).
21. Id. § 12250.
22. Id. § 12364(a).
23. Id.
24. Id. § 12364(b).
25. Id. § 12362(f)(1).
26. Id. § 12362(f)(2).
27. Id. § 12470.
28. Id.
29. Id. § 12360(c).
30. Id. § 12473.
31. Id. § 12474.
32. Id.
33. Id. § 12475.
34. Id. § 12476.
35. Id. § 12484(d).
36. Id. § 12484(c).
37. Id. § 12484(a),(b),(c).
38. Id. § 12351(a).
39. Id. § 12351(a)(1).
40. Id. § 12351(a)(2),(6).
41. Id. § 12351(a)(2),(3).
42. Id. § 12219.
43. Id. § 12351(a)(7).
44. Id. § 12351(a)(4).
45. Id. §§ 12222, 12351(a)(8).
46. Id. § 12351(b).
47. Id. §§ 12352(a),(c), 12331(c)(4).
48. Id. § 12352(a).
49. Id. § 12355.
50. Id. §§ 12371–12372.
51. Id. § 12373.
52. Id. § 12374.
53. Id. § 12375.
54. Id. §§ 12450, 12452–12453, 12371, 12376(a),(b).
55. Id. §§ 12671–12676.
56. Id. § 12331(a).

## Chapter 8. CORPORATE OFFICERS

1. Id. § 12353(a).
  2. Id. § 12353(b).
  3. Id. § 12353(a).
  4. Id.
  5. Id. § 12353(b).
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6. Id. § 12354.
7. The duties and responsibilities listed are generally taken from 1 Cal. Legal Forms: Transaction Guide 4.
8. Cal. Corp Code §§ 12671, 12673–12676.

**Chapter 9. MEMBERS AND MEMBERSHIPS: IN GENERAL**

1. Id. §§ 12245, 12238(a),(b),(d).
2. Id. § 12239.
3. Id. § 12403.
4. Id. § 12400.
5. Id. § 12404.
6. For example, even members of a nonvoting membership class must be allowed to vote for an amendment to the articles of incorporation establishing a new membership class. Cal. Corp. Code § 12503(f).
7. Id. § 25100(r).
8. Id. § 12405.
9. Id. § 12314.
10. Id. § 12410.
11. Id. §§ 12230, 12247, 12420–12421.
12. Id. § 12430.
13. Id. § 12431.
14. Id. § 12422.
15. Id.
16. Id. § 12453.
17. Id. § 12454.
18. Id. § 12455.
19. Id. § 12445(a).
20. Id. § 12445(b).
21. Id. § 12441.
22. Id.
23. Id.
24. Id. §§ 12320(f), 12401(a).
25. Id. § 12481(d).
26. Id.
27. Id.

**Chapter 10. MEMBERSHIP MEETINGS AND VOTING**

1. Id. § 12460(a),(b),(e).
2. Id. § 12461(a).
3. Id.
4. Id.
5. Id. § 12481(1).
6. Id. § 12461(a).
7. Id.
8. Id. § 12461(f).

9. Id. § 12462(b).
  10. Id. § 12461(a).
  11. Id. § 12461(b).
  12. Id.
  13. Id.
  14. Id. § 12461(c).
  15. Id. § 12461(d).
  16. Id. § 12461(e).
  17. Id.
  18. Id.
  19. Id.
  20. Id.
  21. Id. § 12461(f).
  22. Id. § 12461(e).
  23. Id. § 12461(h).
  24. Id.
  25. Id.
  26. Id.
  27. Id. § 12461(i).
  28. Id.
  29. Id. § 12463 (a)–(c).
  30. Id. § 12463(d).
  31. Id. § 12463(e).
  32. Id. §§ 12461(h), 12463(c). The use of electronic balloting (e.g., by e-mail) is not provided for in co-op law, at least at the time this publication was in production (2004).
  33. Id. § 12464(a).
  34. Id. § 12464(b).
  35. Id. § 12463(f).
  36. Id. §§ 12216, 12462.
  37. Id. § 12480.
  38. Id. § 12482.
  39. Id. §§ 12256, 12314.
  40. Id. § 12405.
  41. Id. § 12483(a).
  42. Id.
  43. Id.
  44. Id. § 12483(b).
  45. Id. § 12483(c).
  46. Id.
  47. Id. § 12224.
  48. Id. § 12223.
  49. Id.
  50. Id. § 12481(b).
  51. Id.
  52. Id.
  53. Id. § 12481(c).
  54. Id.
  55. Id.
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56. Id. § 12332.
57. Id.
58. Id.
59. Id.
60. Id.
61. Id. § 12333.
62. Id. § 12238(c).
63. Id. § 12355.

### Chapter 11. RAISING CAPITAL: MEMBERSHIPS, SHARES, AND LOANS

1. Id. § 12239.
2. Id. §§ 12313(c)(3), 12331(c)(1). Co-op law requires that any differences in the voting power or proprietary interests be described in the articles or bylaws (Id. § 12310(d)).
3. Because generally only one vote is allowed per member, it may be assumed that a member would own only one membership of a class having voting rights.
4. Cal Corp. Code § 12400.
5. Id. § 12310(d).
6. Dividends may be prohibited by the articles or bylaws. Id. § 12454.
7. Id. § 12247.
8. Id. § 12320(d).
9. Id. § 25019. In California, “securities” are broadly defined.
10. Cal Corp. Code §§ 25110, 25113(a),(b).
11. Id. § 25132.
12. Id. § 25608(e).
13. Id. §§ 25141, 25148.
14. Id. § 25146.
15. 10 Cal. Admin. Code § 260.613(c).
16. Cal Corp. Code § 25145.
17. Id. § 25100(r).
18. Id.
19. Id. § 25102(e).
20. Id. § 25102(f).
21. 10 Cal. Admin. Code § 260.102.14(a), pursuant to Cal. Corp. Code § 25102(f)(4).
22. Cal. Corp. Code § 25102(n).
23. Id. §§ 12201, 12235, 12451, 12453–12454.

### Chapter 12. DISTRIBUTIONS AND PATRONAGE REFUNDS

1. Id. § 12235.
2. Id. § 12454.
3. Id.
4. Id. §§ 12376, 12453–12454.

5. Id. § 12445.
6. Id. § 12331(c)(9).
7. Id. § 12243.
8. Id. § 12201.
9. Id.
10. Treas. Reg. § 1.1388-1(a)(1).
11. Such allocation would most likely be upheld where mandated by a bylaw provision, especially since California law prohibits refunds in situations where a co-op is potentially insolvent (Cal. Corp. Code § 12453).
12. The Internal Revenue Code, Treasury Regulations, Revenue Rulings, and various legal interpretations and decisions must be reviewed for a comprehensive understanding of tax-deductible patronage refunds.
13. The procedures listed assume that the cooperative will distribute “qualified” tax-deductible refunds. Other options are available, however, and the Internal Revenue Code should be consulted.
14. I.R.C. § 1388(a)(2).
15. Id.
16. Id.
17. Id. §§ 1382(d); Treas. Reg. § 1.1388-1(c)(1)(ii).
18. I.R.C. § 1382(b)(1).

### Chapter 13. UNCLAIMED MEMBERSHIP INTERESTS

1. Cal. Code of Civil Proc. §§ 1510, 1516, 1520.
2. Id. § 1510(a).
3. Id. § 1300(c).
4. Id. §§ 1516, 1520.
5. Id. § 1521.
6. Id. § 1520(a).
7. Id. § 1516(b).
8. Id. § 1516(c).
9. Id. § 1530(a).
10. Id. § 1530(b).
11. Id. § 1530(b)(1). The “threshold” amount is amended from time to time by the state legislature.
12. Id. § 1530(b)(4). The “threshold” amount is amended from time to time by the state legislature.
13. Id. § 1530(b)(5).
14. Id. § 1530(b)(6).
15. Id. § 1530(d).
16. 2 Cal. Admin. Code § 1175.
17. Cal. Code of Civ. Proc. § 1530(e).

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18. Id. §§ 1516(b), 1532(a),(b).
19. Cal. Corp. Code § 12401(e).
20. Cal. Code of Civ. Proc. § 1516(d).
21. Id.
22. Id. § 1560(a).
23. Id. § 1560(b),(c).
24. Id. § 1560(d).
25. Id. § 1571(a).
26. Id. § 1572(a).
27. Id. § 1576(a). These amounts are changed from time to time by legislative amendments.
28. Id. § 1576(b). These amounts are changed from time to time by legislative amendments.
29. Id. § 1577.
30. E.g., *Screen Actors Guild, Inc. v. Cory*, 91 Cal. App. 3d 111, 154 Cal. Rptr. 77 (1979); *Blue Cross of Northern California v. Cory*, 120 Cal. App. 3d 723, 174 Cal. Rptr. 901 (1981).
31. *Westlake Community Hospital v. Superior Court*, 17 Cal.3d 465, 131 Cal. Rptr. 90 (1976). See also Cal. Civ. Code § 1668.
32. *State v. Pacific Far East Line, Inc.*, 261 Cal. App. 2d 609, 68 Cal. Rptr. 67 (1968).
33. *Screen Actors*, *supra*, at 116, 154 Cal. Rptr. At 80.
34. Cal. Corp. Code § 12446.
35. Id. § 12446(b).

### Chapter 14. RECORDS, REPORTS, AND INSPECTION RIGHTS

1. Cal. Corp. Code § 12580.
2. Id. § 12581.
3. Id.
4. Id. § 12582.
5. Id. § 12583.
6. Id. § 12590(a).
7. Id. § 12590(b).
8. Id.
9. Id. § 12591(c).
10. Id. § 12591(a).
11. Id.
12. Id.

13. Id. §§12218, 12591(a),(b).
14. Id. § 12217.
15. Id. § 12218.
16. Id. § 12592(a).
17. Id.
18. Id. § 12592(b).
19. Id.
20. Id. § 12592(c).
21. Id. § 12592(d). As to the second requirement, if a partnership is involved in the transaction, only the interest of the partnership needs to be stated.
22. Id. § 12592(e).
23. Id.
24. Id. § 12600(a).
25. Id. § 12600(b).
26. Id.
27. Id. § 12600(c).
28. Id.
29. See id. §§ 12601–12602.
30. Cal. Corp. Code § 12603.
31. Id.
32. Id. § 12604.
33. Id. § 12340.
34. Id. § 12608.

### Chapter 15. FILINGS WITH THE SECRETARY OF STATE

1. Cal. Corp. Code § 12214(a).
  2. Id. § 12214(b).
  3. Id. § 12214(c).
  4. Id. § 12570(a),(b).
  5. Id. §§ 12505, 12570(b).
  6. Id. § 12570(c).
  7. Id. § 12570(d).
  8. Id.
  9. Id. § 12571. (Id. § 12221 defines an acknowledgment.)
  10. Id § 12572.
  11. Id. § 12670(a),(b).
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