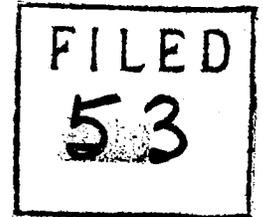


CORPORATIONS: Authority of co-operative corporations organized under Art. 28, Chap. 102, R. S. Mo. 1939, to deal in the buying and selling of agricultural products.

June 18, 1945

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Honorable Harry T. Limerick, Jr.
Representative, Boone County
House of Representatives Post Office
Jefferson City, Missouri

Dear Sir:

Reference is made to your letter dated June 13, 1945, requesting an opinion of this office, and reading as follows:

"The St. Louis Bakers Co-op has approached me to introduce a bill to clarify Section 14406 of the Revised Statutes of Mo. 1939, so as to enable them to associate themselves together as a cooperative association. If allowed to organize under this Act, the co-op would chiefly engage in the business of buying and selling agricultural and dairy products such as flour, eggs, milk, butter, etc.

"I have checked Section 14406 and doubt if the statute needs clarification. I request an opinion as to whether this group of individuals, more than twelve in number, can incorporate under Section 14406 that seems to include 'any agricultural or mercantile business'."

Section 14406, R. S. Mo. 1939, to which you make reference in your letter of inquiry, reads as follows:

"Any number of persons, not less than twelve (12), may associate themselves together as a

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co-operative association, society or exchange, having all the incidents, powers and privileges of corporations, for the purpose of conducting any agricultural or mercantile business on the co-operative plan, including the buying, selling, manufacturing, storage, transportation or other handling or dealing in or with by associations of agriculturists, of agricultural, dairy or similar products, and including the manufacturing transformation of such articles into products derived therefrom, and for the purpose of the purchasing of or selling to all shareholders and others groceries, provisions and all other articles of merchandise. For the purposes of this section the words 'association,' 'company,' 'corporation,' 'society' or 'exchange' shall be construed to mean the same."

We note from your letter of inquiry that the business which the proposed corporation contemplates engaging in will consist of buying and selling agricultural and dairy products such as flour, eggs, milk, butter, etc. We are of the opinion that business of that nature would be permissible under the broad scope of the phraseology employed in Section 14406, R. S. Mo. 1939, under which the proposed corporation would be formed. You will note that provision is made under that statute for any corporation organized thereunder to engage in "any agricultural or mercantile business." The following definitions of these terms, we think, lend support to the opinion that the business to be conducted by the proposed corporation would be within the scope of its corporate powers.

"The word 'agricultural' means pertaining to, connected with or engaged in 'agriculture,' which is the science of cultivating the ground, especially in fields or large quantities including the preparation of the soil, the planting of the seeds, the raising and harvesting of crops, and the rearing, feeding and management of live stock; tillage, husbandry, and farming." 3 Words and Phrases, Perm. Ed., page 36.

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"The term 'mercantile business' is defined to mean the buying and selling of articles of merchandise as an employment." 27 Words and phrases, Perm. Ed., page 61.

The term "merchandise" is defined as follows: "All commodities which merchants usually buy and sell, whether at retail or wholesale; wares and commodities such as are ordinarily the objects of trade and commerce." Black's Law Dictionary.

From the foregoing, it is apparent that flour, eggs, milk, and butter are comprehended within the meaning of the term "agricultural products," as they are each the result of agricultural pursuits.

CONCLUSION

In the premises, we are of the opinion that a corporation organized under the provisions of Article 28 of Chapter 102, R. S. Mo. 1939, can lawfully engage in the business of buying and selling commodities such as flour, eggs, milk, butter, and similar agricultural and dairy products.

It must, of course, be borne in mind that any corporation organized under the provisions of Article 28, Chapter 102, R. S. Mo. 1939, must necessarily comply with all of the provisions of said chapter relating to the internal government of the corporation, the distribution of profits, the necessity for audit of the records, etc.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:HR