

Professional Cooperatives in the State of **California**



Worker cooperatives are an increasingly popular solution to strengthen companies, reward workers, and prevent job loss. This growing business model allows entrepreneurs to benefit directly from the value that they create, while also fostering a company culture of transparency, engagement and trust. California constitutes around 20% of the nation's total known worker cooperatives.

The Problem

Licensed professionals cannot incorporate using California's Cooperative Corporation Statute (CORP §12200-12704). Currently, the only way for a professional organization in California to be a cooperative is to 1) incorporate outside of CA, using another state's cooperative corporation entity, or 2) incorporate as another entity type and use modified bylaws. Plenty of professionals - including architects, social workers, and MFTs - are eager to organize as worker-cooperatives.

These workarounds have some flaws. Registering as a foreign entity is a time and logistics burden and is subject to discretionary review with professional licensing bodies. Businesses registered in multiple states can face legal action in their state of incorporation and their state of business, opening them up to additional risk. Additionally, professionals are already limited to certain entity types (cannot use LLC, for example). There are some legal contradictions between certain entity types and cooperative ethos. For example, S Corporations do not allow the business to retain reserves, only allow for one type of stock, cannot use "cooperative" in the business name, and only US citizens are allowed to be owners.

The Opportunity

The California Cooperative Corporation Statute would benefit professional organizations because:

- Entity's default rules uphold cooperative values
 - If challenged in court, there are clear rules on how to uphold cooperative principles
- Beneficial taxation, especially for small businesses operating on a cooperative basis
 - CA Coop Corps may use Subchapter T (IRC §§1381-1388), the cooperative taxation chapter of the cooperative code. Subchapter T combines double and pass through taxation strategy and provides a lot of flexibility on whether the entity or the owners pay taxes and when
- Reserves are available
 - Reserves allow companies to accrue capital which can help pay for unexpected, unbudgeted expenses (or future investments)
- Allows for community investment
 - Outside capital via community investment as an option for additional revenue
- Annual report required for organizations over 25 people
 - This required transparency is an immense improvement from more traditional opaque wage practices

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What needs to change

- There are a few potential changes available. We are available for consultation on the following:
 - The Business and Professions Code §§13404 could be modified to allow use by professional organizations
 - “A corporation may be formed under the General Corporation Law, or **under the Cooperative Corporation Law**, or pursuant to subdivision (b) of §§ 13406 for the purposes of qualifying as a professional corporation in the manner provided in this part and rendering professional services.” (emphasized text to be added.)
 - A new Professional Cooperative Corporation subchapter could be added to the definition of Professional Corporation §§13400-13410 describing the limitations on the Cooperative Corporation statute for various professions
- The Revenue and Tax Code (§§24404, Rev. & Tax. Code and §§24405, Rev. & Tax. Code) should be clarified to include service professions

More Co-ops in California!

Allowing more industries access to the cooperative corporation statute would generally increase the support and advocacy for cooperatives. Raising awareness of worker co-ops as a viable and sustainable model for business will ensure that California continues to develop infrastructure and assistance for the growing cooperative movement.

Upcoming Coop Legislation Opportunities in CA

- [Employee Ownership](#) initiative
- [WORK Act](#)

Resources

- Cooperative Professionals [Guild](#)
- National Society of [Accountants](#) for Cooperatives
- Taxation Subchapters [Webinar](#) by the SELC
- How LLCs can have retained [earnings](#)

Thank you

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