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Kansas Grain Commodity Commissions

Kansas Statutes Annotated

Article 30. Grain Commodity Commissions

2-3001. Grain commodity commissions; definitions. As used in this act, unless the context clearly requires otherwise:

(a) "Grower" means any natural person, partnership, association, corporation or other legal entity engaged in the growing of corn, grain sorghum, soybeans, wheat or sunflowers who owns or who shares in the ownership and risk of loss of such corn, grain sorghum, soybeans, wheat or sunflowers, whether as landlord or tenant. For the purposes of being an eligible voter pursuant to K.S.A. [2-3002](#), and amendments thereto, a grower who is a legal entity who owns or who shares in the ownership and risk of loss of such corn, grain sorghum, soybeans, wheat or sunflowers, whether as landlord or tenant, on which there is no individual ownership and risk of loss of such corn, grain sorghum, soybeans, wheat or sunflowers, shall designate a natural person to register to vote for such legal entity;

(b) "first purchaser" means any person, public or private corporation, association or partnership buying or otherwise acquiring after harvest, the property in or to corn, grain sorghum, soybeans, wheat or sunflowers from a grower. A mortgagee, pledgee, lienor or other person, public or private, having a claim against the grower under a nonrecourse loan made against such corn, grain sorghum, soybeans, wheat or sunflowers after harvest thereof shall be deemed a first purchaser hereunder. The term "first purchaser" shall not include a harvesting or threshing lienor;

(c) "commercial channels" means the sale of corn, grain sorghum, soybeans, wheat or sunflowers for use as food, feed, seed or any industrial or chemurgic use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any corn, grain sorghum, soybeans, wheat or sunflowers or product produced from corn, grain sorghum, soybeans, wheat or sunflowers;

(d) "sale" means and includes any pledge or mortgage of corn, grain sorghum, soybeans, wheat or sunflowers, after harvest, to any person, public or private;

(e) "department" means the Kansas department of agriculture; and

(f) "secretary" means the secretary of agriculture or the secretary's authorized representative.

History: L. 1977, ch. 4, § 1; L. 1996, ch. 209, § 13; L. 2000, ch. 116, § 1; L. 2002, ch. 93, § 1; July 1.

2-3002. Creation of Kansas corn, grain sorghum, soybean, wheat and sunflower commissions; membership; election process; terms; vacancies; districts; ex officio members; first purchasers; meetings. (a) There are hereby created five separate and distinct commissions which shall be known as the Kansas corn commission, the Kansas grain sorghum commission, the Kansas soybean commission, the Kansas wheat commission and the Kansas sunflower commission. Each commission will have members elected through an election process as provided in subsection (b) to serve three-year terms, with the exception of transition commissioners, serving from the effective date of this act until elections occur in 2002, 2003 and 2004, to represent a district or districts identified in subsection (b) with the following requirements:

(1) Any person meeting the requirements of K.S.A. [2-3003](#), and amendments thereto, of that commodity may seek election as a commissioner to that commodity's respective commission representing the district of such person's official residence. Only a grower of each specific commodity shall be a member of that specific commission;

(2) no commission shall have less than seven commissioners representing the nine crop reporting districts identified in subsection (h). If a commission has less than nine elected commissioners representing crop reporting districts, any commissioner representing multiple crop reporting districts may only represent commission districts equal to whole and adjoining crop reporting districts that are within the same election cycle;

(3) each commission, by majority approval of the commissions, may appoint two additional at-large commissioners for added representation for producers due to geographical, cropping pattern or other reasonable commodity-specific needs. At-

large commissioners will serve a term determined by the commodity commission not to exceed three-year terms of appointment, be a Kansas resident and must meet the definition of a grower; and

(4) each commission, by majority approval of the commissions, may appoint a first purchaser as an additional at-large commissioner. Any such first purchaser will serve a term determined by the commodity commission not to exceed a three-year term of appointment and must be a Kansas resident.

(b)(1) Prior to the first election as provided by this act, each commodity commission shall notify all growers of its respective commodity of the commission election and all appropriate election procedures.

(2) Any grower of corn, grain sorghum, soybeans, wheat or sunflowers who is a resident of this state, of legal voting age and has been actively engaged in growing corn, grain sorghum, soybeans, wheat or sunflowers within the preceding three years shall become an eligible voter upon registering to vote in a commission election. Registration shall be on a single form allowing registration to any or all commission elections. Forms shall be provided by the commissions and made available at all county extension offices, county conservation district offices and through the office of the secretary. Any grower also shall become registered by signing a petition for a candidate to be placed on the election ballot, upon the filing of such petition. Candidate petition forms shall be provided by the office of the secretary. Registration by internet or other means shall also be allowed upon the approval of the secretary. No grower shall cast more than one ballot for any commission election.

(3) Any person meeting the qualifications to serve as a commissioner may appear on the election ballot for their respective commission district by submitting a petition to be placed on the ballot on or before November 30 in the year immediately preceding the election. The petition shall contain the signatures of 20 eligible voters of that commodity commission election to be a valid petition. However, no more than five petition signatures shall be used to qualify any candidate from any one county.

(4) Commission election ballots shall be mailed to eligible voters by January 15 and shall be returned to the election officer, as provided through the common election procedure required in subsection (e), on or before March 1 in the year of any election. Successful candidates in any election will have received the highest number of the votes cast. Election results will be announced as soon as the election has been determined with successful candidates taking office with terms effective April 1 in the year of the election.

(5) On and after July 1, 2002, any interested person or entity in the agriculture industry, with emphasis on growers of sunflowers, may submit names to the governor for appointment to the Kansas sunflower commission. On or after September 1, 2002, the governor shall appoint nine members to the Kansas sunflower commission from among the names submitted to the governor, if possible, to represent each of the crop reporting districts as provided in this section. The terms of the members appointed by the governor shall be the same as provided in subsection (d) and the same election provisions as provided in this section applicable to the other commissions shall apply to such appointed members, except that the members appointed to represent districts IV, V and VI shall not stand for election in 2002 but rather shall have their initial term of office to run until the election held for such districts in 2005. At such time the same election provisions of this section applicable to the other commissions shall apply to such members.

(c) Upon the effective date of this act, each commission created shall meet as soon as feasible to organize, elect officers and ratify the number of commissioners and representative districts that commission shall maintain. Commissioners currently serving these commissions immediately prior to the effective date of this act are appointed to transition terms as follows: (1) Commissioners whose terms expire in June, 2000, shall have their terms extended until April, 2002; (2) commissioners whose terms expire in June, 2001, shall have their terms extended until April, 2003; and (3) commissioners whose terms expire in June, 2003, shall have their terms extended until April, 2004.

(d) Annual elections for up to three commissioners representing districts shall begin in January and February of 2002. Commissioners elected shall take office April 1 of the year elected and serve a three-year term. Elections will occur as follows and continue on a three-year cycle thereafter: (1) In districts IV, V and VI, the initial election year shall be 2002; (2) in districts I, II and III, the initial election year shall be 2003; and (3) in districts VII, VIII and IX, the initial election year shall be 2004.

(e) The five grain commissions, as provided in this act shall maintain on file a common election procedure with the secretary of agriculture, who will serve as the final arbitrator of any dispute regarding the election procedure.

(f) Any grower who appropriately registers to vote shall be able to do so in an election for any commissioner representing that commodity and district where the grower maintains such grower's official residence.

(g) Any challenge to election results for the position of commodity commissioner representing a district shall be initially reviewed by a panel of commissioners, not standing for election that year, and representing all five grain commissions. If the challenge is not resolved before the panel of commissioners, the secretary shall serve as the final arbitrator of the challenge to the election results.

(h) Vacancies which may occur shall be filled for unexpired terms by appointment by the remaining commissioners.

(i) The dean of the college of agriculture of Kansas state university and the secretary of the Kansas department of agriculture shall be ex officio members, without the right to vote, of each such commission. Districts are the same as crop reporting districts established for Kansas by the U.S. department of agriculture national agricultural statistic service and are as follows:

(j) District I shall consist of the following counties: Cheyenne, Decatur, Graham, Norton, Rawlins, Sheridan, Sherman and Thomas.

District II shall consist of the following counties: Gove, Greeley, Lane, Logan, Ness, Scott, Trego, Wallace and Wichita.

District III shall consist of the following counties: Clark, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Meade, Morton, Seward, Stanton and Stevens.

District IV shall consist of the following counties: Clay, Cloud, Jewell, Mitchell, Osborne, Ottawa, Phillips, Republic, Rooks, Smith and Washington.

District V shall consist of the following counties: Barton, Dickinson, Ellis, Ellsworth, Lincoln, McPherson, Marion, Rice, Rush, Russell and Saline.

District VI shall consist of the following counties: Barber, Comanche, Edwards, Harper, Harvey, Kingman, Kiowa, Pawnee, Pratt, Reno, Sedgwick, Stafford and Sumner.

District VII shall consist of the following counties: Atchison, Brown, Doniphan, Jackson, Jefferson, Leavenworth, Marshall, Nemaha, Pottawatomie, Riley and Wyandotte.

District VIII shall consist of the following counties: Anderson, Chase, Coffey, Douglas, Franklin, Geary, Johnson, Linn, Lyon, Miami, Morris, Osage, Shawnee and Wabaunsee.

District IX shall consist of the following counties: Allen, Bourbon, Butler, Chautauqua, Cherokee, Cowley, Crawford, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson and Woodson.

(k) Meetings and any records of any commission created by this act shall be open to the public to the same extent as is required by law of public boards and commissions pursuant to the open records act and the open meetings act. Records shall include contracts entered into by any commission.

History: L. 1977, ch. 4, § 2; L. 1988, ch. 10, § 1; L. 1996, ch. 209, § 14; L. 2000, ch. 116, § 2; L. 2002, ch. 93, § 2; L. 2004, ch. 101, § 191; L. 2008, ch. 94, § 1; Apr. 24.

2-3002a. Same; transfer of powers, duties and functions to such commissions; successor to department of agriculture; transfer of property to wheat commission. (a) Except for funds necessary to pay payroll expenses incurred through June 30, 2000, and payable in July, 2000, on and after July 1, 2000, the balance of all funds and all liabilities associated with the grain commodities pursuant to K.S.A. [2-2601](#) et seq. as in effect prior to July 1, 2000, and K.S.A. [2-3001](#) et seq., and amendments thereto, shall be paid and liabilities be transferred to each respective commission created by this act. Any remaining funds of the money retained for payroll expenses shall be paid to the respective commission created by this act.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the Kansas department of agriculture with regard to the corn, grain sorghum and soybean commission and the Kansas wheat commission are hereby transferred to and conferred and imposed upon the respective corn, grain sorghum, soybean and wheat commissions established by the act.

(c) Except as otherwise provided by this act, the corn, grain sorghum, soybean and wheat commissions established by this act shall be the successor in every way to the powers, duties and functions of the Kansas department of agriculture with regard to the corn, grain sorghum and soybean commissions and the Kansas wheat commission in which the same were vested prior to July 1, 2000. Every act performed in the exercise of such powers, duties and functions by or under the authority of the Kansas department of agriculture with regard to the corn, grain sorghum and soybean commissions and the Kansas wheat commission established by this act shall be deemed to have the same force and effect as if performed by the respective corn, grain sorghum, soybean and wheat commission, respectively in which such powers, duties and functions were vested prior to July 1, 2000.

(d) Except as otherwise provided by this act, whenever the Kansas department of agriculture with regard to the corn, grain sorghum and soybean commissions and the Kansas wheat commission, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the respective corn, grain sorghum, soybean and wheat commission established by this act.

(e) On the effective date of this act, all property of the Kansas wheat commission prior to July 1, 2000, shall become the property of the wheat commission established by this act.

History: L. 2000, ch. 116, § 10; L. 2004, ch. 101, § 159; July 1.

2-3003. Qualifications of members of commodity commissions. Members of each commission created pursuant to K.S.A. [2-3002](#), and amendments thereto, shall be residents of this state who have been actively engaged in growing corn, grain sorghum, soybeans, wheat or sunflowers, as applicable, in this state for at least five years immediately preceding such member's election. The member of each commission who has been appointed pursuant to K.S.A. [2-3002](#), and amendments thereto, shall be a resident of this state who has been a first purchaser in this state for at least five years preceding such member's appointment.

History: L. 1977, ch. 4, § 3; L. 2000, ch. 116, § 3; L. 2002, ch. 93, § 3; L. 2008, ch. 94, § 2; Apr. 24.

2-3004. Same; organization and meetings. Each commission created pursuant to K.S.A. 2-3002 shall meet as soon as practicable for the purpose of organizing. Each commission shall elect a chairperson from its appointed membership. Each commission may meet at any time deemed necessary and on call of the chairperson, but shall meet at least annually for public discussion of policy with respect to its respective grain commodity.

History: L. 1977, ch. 4, § 4; July 1.

2-3005. Grain commodity commissions; powers and duties; limitations. (a) In the administration of this act, each commission as provided in this act shall have the following duties, authorities and powers:

(1) To conduct a campaign of grain commodity promotion and market development through research, education and information;

(2) to accept grants and donations;

(3) to sue and be sued;

(4) to contract with the secretary for the collection of assessments pursuant to the provisions of this act and to enter into any other such contracts as may be necessary or advisable for the purpose of this act;

(5) to appoint an administrator who is knowledgeable about the grain commodity and fix the compensation. With the approval of the commission, the administrator may appoint such other personnel as needed. The administrator and any other personnel appointed as provided in this subsection shall not be employees of the state of Kansas;

(6) to cooperate or contract with any local, state or national organization or agency, whether voluntary or created by the law of any state, or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and promotion;

(7) to bring any suit or action for the collection of assessments provided under this act;

(8) to establish an office of administrator at any place in this state the commission may select;

(9) to adopt, rescind, modify and amend all necessary and proper orders, resolutions and rules and regulations for the procedure and exercise of its powers and the performance of its duties;

(10) to approve an annual budget and establish a reserve. Each project budgeted and approved by the commission shall include a stated objective and anticipated results; and

(11) to report annually to their respective commodity growers, the secretary and house and senate agriculture committees of the Kansas legislature. Such annual report shall include details of commission projects, programs and supported research including expenditures and the results of an annual audit performed by a person or entity that is a certified public accountant. Any commission year end reserve balance exceeding 125% of the previous five-year rolling average for annual expenditures for such commission also shall be reported.

(b) Each commission as provided in this act shall not engage in lobbying as defined in K.S.A. [46-255](#), and amendments thereto. Nothing in this subsection shall be construed to prohibit any commission from engaging in any action designed to market the respective commodity or products directly to a foreign government or political subdivision thereof.

History: L. 1977, ch. 4, § 5; L. 1991, ch. 6, § 2; L. 1996, ch. 209, § 15; L. 2000, ch. 116, § 4; L. 2008, ch. 94, § 3; Apr. 24.

2-3006. Powers and duties of secretary of agriculture. The secretary shall have the following duties, authorities and powers to:

(1) Hire such clerical and other personnel deemed necessary to carry out the provisions of this act;

(2) establish recordkeeping requirements deemed necessary by the commodity commission affected;

(3) inspect and audit any records required to be kept pursuant to this act; and

(4) contract with the corn, grain sorghum, soybean, wheat and sunflower commissions for the collection of assessment as provided by this act and enter into any other contracts necessary to carry out the provisions of this act.

History: L. 1977, ch. 4, § 6; L. 1991, ch. 6, § 3; L. 1996, ch. 209, § 16; L. 2000, ch. 116, § 5; L. 2002, ch. 93, § 4; July 1.

2-3007. Assessments; refunds and records; liens, priority; limitations on assessment collection. (a) There is hereby levied an assessment upon grain sorghum marketed through commercial channels in the state of Kansas. The grain sorghum commission shall set the assessment at a rate of not more than 10 mills per bushel. There is hereby levied an assessment upon corn marketed through commercial channels in the state of Kansas. The corn commission shall set the assessment at a rate of not more than 10 mills per bushel. There is hereby levied an assessment upon soybeans marketed through commercial channels in the state of Kansas. The soybean commission shall set the assessment at a rate of not more than one-half of 1% of the net market price received by the grower. There is hereby levied an assessment upon wheat marketed through commercial channels in the state of Kansas. The wheat commission shall set the assessment at a rate of not more than 20 mills per bushel. There is hereby levied an assessment upon sunflowers marketed through commercial channels in the state of Kansas. The sunflower commission shall set the assessment at a rate of not more than \$0.06 per cwt. Any commission shall not change the assessment rate, either to increase or reduce, more than once a year. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower. Under the provisions of this act, no corn, grain sorghum, soybeans, wheat or sunflowers shall be subject to the assessment more than once. The commission shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon the payment of such assessment. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such assessment, except a refund shall not be issued unless the amount of the refund is \$5 or more. Within one year after any and all sales during such period the grower may upon submission of a request therefor to the commission, obtain a refund in the amount of the assessments deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the assessments which need not be verified.

(b) The commission shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended by the commission in the administration of this act and for the payment of all claims growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such assessment. In the case of a lien holder who is a first purchaser as defined in this act, the assessment shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the corn, grain sorghum, soybeans, wheat or sunflowers are pledged or mortgaged. The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such corn, grain sorghum, soybeans, wheat or sunflowers. The assessment shall be deducted and paid as provided in this section whether such corn, grain sorghum, soybeans, wheat or sunflowers are stored in this or any other state.

(c) Any corn, grain sorghum, soybean, wheat or sunflowers acquired by a grower as defined in K.S.A. [2-3001](#), and amendments thereto, under the provisions of any federal program shall be subject to the provisions of this section.

(d) No assessments for any commodity shall be collected pursuant to subsection (a) while a national checkoff program for that commodity remains in effect. Collection of assessments pursuant to subsection (a) shall be reinstated upon the withdrawal of a national checkoff program for that commodity.

History: L. 1977, ch. 4, § 7; L. 1982, ch. 9, § 2; L. 1983, ch. 4, § 2; L. 1986, ch. 9, § 2; L. 1988, ch. 10, § 2; L. 1990, ch. 5, § 1; L. 1991, ch. 6, § 4; L. 1992, ch. 219, § 1; L. 1996, ch. 209, § 17; L. 2000, ch. 116, § 6; L. 2002, ch. 93, § 5; L. 2008, ch. 94, § 4; Apr. 24.

2-3008. Assessments; collection; deposit in commission account; security for accounts. (a) The assessment imposed pursuant to this act shall on or before the 20th day of the calendar month following the date of settlement be paid by the purchaser to the secretary. The secretary shall issue a receipt to the purchaser for such assessment. The secretary shall deposit all moneys received in payment of such assessment in a bank account established in the name of the commission in accordance with the provisions of this act.

(b) Each bank account used in operating and conducting the commission's duties shall be secured by a pledge of securities in the manner prescribed for state bank accounts as provided under K.S.A. [75-4218](#), and amendments thereto.

History: L. 1977, ch. 4, § 8; L. 1978, ch. 1, § 2; L. 1991, ch. 6, § 5; L. 1996, ch. 209, § 18; L. 2000, ch. 116, § 7; July 1.

2-3009. Foreclosure of liens. If the grain assessment is not paid to the secretary as provided in K.S.A. [2-3007](#), and amendments thereto, or within 10 days thereafter, the lien may within one year after the expiration of such 10-day period be foreclosed in any court having jurisdiction in the county in which the grain was grown, or sold, or in which such grain may be found, or in which such grain may have been commingled with other like grain.

History: L. 1977, ch. 4, § 9, L. 1991, ch. 6, § 8; L. 1996, ch. 209, § 19; L. 2000, ch. 116, § 8; July 1.

2-3010. Unlawful acts; penalties. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days, or by both such fine and imprisonment.

History: L. 1977, ch. 4, § 10; July 1.

2-3011. Kansas soybean commission; state promotion entity for soybeans. The Kansas soybean commission, established pursuant to K.S.A. 2-3001 et seq., and amendments thereto, shall be the state promotion entity for soybeans under the soybean promotion, research and consumer information act of 1990, public law 101-624, upon certification by the national board or other certifying entity established under such act.

History: L. 1991, ch. 6, § 1; May 16.

2-3012. National checkoff program for soybeans. On and after the effective date of the national checkoff program for soybeans, established pursuant to public law 101-624, the assessment shall be collected upon all soybeans sold in the state of Kansas. Such assessment shall be levied and assessed to the grower at the time of sale and shall be collected pursuant to the terms of the national checkoff program for soybeans established pursuant to public law 101-624 and any rules and regulations or marketing orders promulgated or issued thereunder. Under the provisions of this act, no soybeans shall be subject to assessment more than once. Assessments made under this section shall constitute a preferred lien and shall have a priority over all other liens and encumbrances upon such soybeans. Any assessment made under this section shall be deducted and paid as herein provided whether such soybeans are stored in this or any other state.

History: L. 1991, ch. 6, § 6; May 16.

2-3013. Assessments, disposition; national checkoff program for soybeans. (a) Any assessment collected pursuant to the national checkoff program for soybeans, established pursuant to public law 101-624, shall be paid to the commission on or before the 20th day of the calendar year following the date of settlement and shall be paid by the purchaser of the soybeans to the commission.

(b) Whenever refunds are made from the national checkoff program for soybeans, established pursuant to public law 101-624, such refunds shall be made as authorized by public law 101-624.

(c) All money credited to the soybean commission shall be expended for the soybean commission in the administration of the national checkoff program for soybeans, established pursuant to public law 101-624, the administration of article 30 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, and for the payment of claims upon obligations incurred in the performance of the activities and functions set forth in article 30 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, and for no other purpose.

(d) The Kansas soybean commission shall have the ability to pay and transfer portions of the assessments collected pursuant to the national checkoff program for soybeans, established pursuant to public law 101-624, to the national board as required.

History: L. 1991, ch. 6, § 7; L. 1996, ch. 209, § 20; L. 2000, ch. 116, § 9; July 1.