

IC 15-15-11

Chapter 11. Promotion of Agricultural Products

IC 15-15-11-1

"Agricultural commodity"

Sec. 1. As used in this chapter, "agricultural commodity" means poultry, poultry products, cattle, dairy products, sheep, wool, goats, mint, soybeans, wheat, or small grains. The term includes flour made from wheat or small grains.

As added by P.L.2-2008, SEC.6. Amended by P.L.130-2011, SEC.1.

IC 15-15-11-2

"Commercial quality"

Sec. 2. As used in this chapter, "commercial quantity" means a quantity produced and marketed through commercial channels of trade.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-3

"Commodity market development council"

Sec. 3. As used in this chapter, "commodity market development council" refers to a group representative of the agricultural commodity.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-4

"Dean of agriculture"

Sec. 4. As used in this chapter, "dean of agriculture" refers to the dean of the college of agriculture of Purdue University. The term includes the dean's designee.

As added by P.L.2-2008, SEC.6. Amended by P.L.130-2011, SEC.2.

IC 15-15-11-5

"Director"

Sec. 5. As used in this chapter, "director" refers to the director of the department of agriculture.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-6

"Handler"

Sec. 6. As used in this chapter, "handler" means a person who engages in the selling, marketing, or distribution of an agricultural commodity that the person:

- (1) has purchased for resale; or
- (2) is marketing on behalf of a producer.

The term includes a producer who distributes an agricultural commodity that the producer has produced.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-7

"Processor"

Sec. 7. As used in this chapter, "processor" means a person engaged in the receiving, grading, packing, canning, freezing, drying, or other methods of preparation for market of agricultural commodities produced in Indiana for sale.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-8

"Producer"

Sec. 8. As used in this chapter, "producer" means an individual, a firm, a limited liability company, a corporation, a partnership, or an unincorporated association engaged in Indiana in the business of producing for market or receiving income from an agricultural commodity in commercial quantities.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-9

Marketing program; commodity market development council; establishment; fees

Sec. 9. (a) A marketing program proposed or adopted under this chapter may include any of the following:

- (1) Market development and research programs.
- (2) Market promotion, education, and public relations programs.
- (3) Market information services.
- (4) The right to contract with qualified organizations, agencies, or individuals for any of the activities described in subdivision (1), (2), or (3).

(b) A commodity market development council organized under this chapter may not do any of the following:

- (1) Establish, promulgate, or fix the price of an agricultural commodity.
- (2) Limit the production of an agricultural commodity in any way.
- (3) Use the fees collected under this chapter for political or legislative activity of any kind.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-10

Commodity market council; petition; establishment; membership

Sec. 10. (a) A representative group of at least five percent (5%) of the producers of an agricultural commodity may petition the dean of agriculture for permission to establish a commodity market development council.

(b) A petition described in subsection (a) must include the following:

- (1) A statement of the area of production to be included. The area must be statewide. However, the area may be limited to a well defined smaller area if the area is the principal commercial producer of the agricultural commodity in Indiana.
- (2) A statement of the general purposes of the agricultural

commodity market development council program. The purposes may include research, education, market development, publicity, sales promotion, and cooperation with other state, regional, and national organizations.

(3) The amount of the fee to be collected for each designated unit of commercial quantities of the agricultural commodity.

(4) The method to be used in the collection of the fee.

(5) The composition, qualification, terms of office, method of nomination, election, filling unexpired terms, expenses, and duties of the members of the commodity market development council. However, the following apply to the council:

(A) The council must consist of an odd number of at least five (5) but not more than fifteen (15) members. A member may not serve on the council for more than six (6) consecutive years. A majority of the council members must be producers selected by producers.

(B) The dean of agriculture serves as an ex officio member of the council.

(C) The director of the Indiana state department of agriculture or the director's designee serves as an ex officio member of the council.

(6) The method of conducting the referendum of the agricultural commodity producers. The method must be either by mail or by polling place, depending on the area and volume of the commodity.

As added by P.L.2-2008, SEC.6. Amended by P.L.120-2008, SEC.51.

IC 15-15-11-11

Hearing; findings

Sec. 11. (a) A hearing held under section 12 of this chapter must be public, and a permanent record must be made of all testimony received. The dean of agriculture shall conduct the hearing and may make the determination from the record.

(b) The dean of agriculture shall give notice of the hearing by publication in trade journals and newspapers of general circulation in each area affected not later than ten (10) days before the date of the hearing. The representative group must pay all fees for initial organization in cash to the dean. Initial organization fees may not be paid from state money.

(c) The dean of agriculture shall do the following:

(1) Make and publish findings based upon the facts, testimony, and evidence received at the public hearing.

(2) Provide for copies of the dean of agriculture's findings and decisions to be delivered or mailed to all parties of record appearing at the hearing or the parties' attorneys of record.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-12

Referendum; notice; fee changes

Sec. 12. (a) If the dean of agriculture approves the petition, in

whole or as revised, the dean of agriculture shall call a referendum among producers of commercial quantities of the commodity to vote upon establishment of the proposed commodity market development program.

(b) Before issuance of a notice of referendum on a proposed commodity market development program, the dean of agriculture shall establish the number of producers qualified of that particular agricultural commodity. The producers must register with the dean of agriculture, who shall maintain a list of those producers. At least twenty percent (20%) of the producers must register before a referendum may be held. The dean of agriculture shall establish a registration period for establishing, continuing, changing, or terminating a marketing program after the dean of agriculture calls for a referendum. Postdating of a registration is void. The producer or handler list established under this subsection is final and conclusive in making determinations relative to the assent of producers upon the issuance, amendment, or termination of a commodity market development program.

(c) The dean of agriculture shall publish a notice of referendum to the attention of producers in the newspapers or trade journals within the affected area that the dean of agriculture prescribes. The dean of agriculture may also mail notice to all producers or handlers on the current list of producers.

(d) If the majority of those who actually vote favor the adoption of the proposal in the petition, the dean of agriculture shall declare the proposal to be adopted.

(e) A proposal to change the amount of the fee or to make other major changes in the program may be made only if a proposal for the change is adopted by a two-thirds (2/3) vote of the commodity market development council or by petition of twenty-five percent (25%) of the agricultural commodity producers. The proposal must then be submitted to a referendum under which the same percentages of votes favoring the proposal (by number and production) are required for approval as were required for establishment of the original market development program.

(f) A proposal to terminate a commodity market development program may be made only if a proposal for termination is adopted by a majority of the commodity market development council or by petition of two percent (2%) of the agricultural commodity producers. The proposed termination must be submitted to a referendum under which a simple majority of those voting in favor of termination of the program is required for termination.

(g) A referendum to:

- (1) set up a commodity market development council for a particular commodity;
 - (2) change the amount of fee;
 - (3) make other major changes; or
 - (4) terminate a commodity market development council;
- may not be held within twelve (12) months of a referendum conducted for a similar purpose for the same agricultural commodity.

(h) If the amount of refund requests under section 18 of this chapter exceeds twenty-five percent (25%) of the amount collected under this chapter for a fiscal year, the dean of agriculture shall conduct a referendum on the continuation of the commodity market development council.

(i) Any eligible producer may register to participate in a referendum on the continuation or termination of a program. Registration for such a referendum may not be limited to those producers who registered for the referendum to establish the program.

As added by P.L.2-2008, SEC.6. Amended by P.L.130-2011, SEC.3.

IC 15-15-11-13

Commodity market development; advice to dean

Sec. 13. The dean of agriculture shall be guided by the advice, recommendations, and assistance of the commodity market development council about:

- (1) the collection and expenditures of funds; and
- (2) audits and refunds;

associated with the commodity market development program.

As added by P.L.2-2008, SEC.6. Amended by P.L.130-2011, SEC.4.

IC 15-15-11-14

Fee imposed

Sec. 14. (a) As used in this section, "commercial channel of trade" means that series of transactions leading directly from the final producer of the agricultural commodity to the purchase of the agricultural commodity by a processor.

(b) The fee for an agricultural commodity imposed under this chapter must be paid when the final producer places the agricultural commodity in a commercial channel of trade.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-15

Fee collection; penalty; individual commodity council market development fund; accounting statement

Sec. 15. (a) Except as provided in subsection (b), the dean of agriculture shall collect the fee imposed under the commodity market development program from the producers, handlers, or processors.

(b) This subsection applies to a commodity market development program for cattle, dairy products, or soybeans. The dean of agriculture shall collect ninety-seven percent (97%) of the fee imposed under the commodity market development program from the producers, handlers, or processors. A producer, handler, or processor may retain the remaining three percent (3%) as compensation for collecting the fee.

(c) If a market development fee is unpaid on the date that the fee was due, a penalty of one percent (1%) per month is imposed beginning on the date the fee was due until payment plus the penalty is received by the dean of agriculture. If, after notice, a person

defaults in a payment of the fee or penalties imposed under this subsection, the amount due shall be collected by civil action in the name of the state of Indiana at the request of the dean of agriculture, and the person adjudged in default shall pay the costs of the action. The attorney general, at the request of the dean of agriculture, and, if requested by the attorney general, the prosecuting attorney of any county, in which a cause of action arose under the provisions for the collection of fees due and unpaid, shall institute proper action in an Indiana court for the collection of unpaid fees and penalties.

(d) The individual commodity council market development fund is established. The fund consists of all fees paid to the dean of agriculture under that agricultural commodity program. The dean of agriculture shall spend all money credited to the fund, less administration expenses, for the use and benefit of the commodity market development council for which the fund is established.

(e) The dean of agriculture shall submit an annual statement to the commodity market development council that shows all receipts, administration expenses, refunds, and the balance credited to the fund.

(f) Not more than one (1) fee may be collected for an agricultural commodity under this chapter.

As added by P.L.2-2008, SEC.6. Amended by P.L.130-2011, SEC.5.

IC 15-15-11-16

Audit of funds

Sec. 16. The state board of accounts shall audit the funds received and expended by the commodity market development council under this chapter.

As added by P.L.2-2008, SEC.6.

IC 15-15-11-17

Commodity market development council's duties

Sec. 17. The dean of agriculture shall assist a commodity market development council to do the following:

- (1) Elect a chairperson and any other officers.
- (2) Authorize the expenditure of a budgeted amount of the council market development fund in the administration of the commodity market development program.
- (3) Collect commodity market development fees.
- (4) Perform other necessary duties.

As added by P.L.2-2008, SEC.6. Amended by P.L.130-2011, SEC.6.

IC 15-15-11-18

Refunded fees

Sec. 18. (a) A producer or handler is entitled to have the fees paid by the producer or handler refunded as provided in this section.

(b) A producer or handler must file a request for refund with the dean of agriculture not later than one hundred eighty (180) days after the payment of the fees.

(c) The dean of agriculture shall provide forms for the request of

refund of fees under this section. A refund form shall be made available to a producer or handler when payment is made.

(d) For the purpose of making an application for a refund, a producer is considered the agent of all persons who have an interest in the agricultural commodity. The interest of each person in the agricultural commodity must be indicated on the refund request form, and the refund shall be paid to each interested person's interest according to that person's interest.

As added by P.L.2-2008, SEC.6. Amended by P.L.130-2011, SEC.7.