

~~Prior to the annual convention, the~~ The auditor of state shall annually examine and report to the executive council ~~upon~~ all financial affairs of the board.

Approved April 1, 1996

CHAPTER 1029

AGRICULTURAL DEVELOPMENT AUTHORITY EXECUTIVE DIRECTOR

S.F. 2336

AN ACT providing for the selection and tenure of the executive director of the agricultural development authority.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 175.3, subsection 7, Code 1995, is amended to read as follows:

7. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as they determine, but the executive director shall serve as secretary to the authority. The chairperson and vice chairperson shall serve on the selection and tenure committee as provided in section 175.7.

Sec. 2. Section 175.7, subsection 1, Code 1995, is amended to read as follows:

1. ~~The secretary of agriculture shall appoint an executive director of the authority, who shall be appointed by a selection and tenure committee which shall consist of the secretary of agriculture, and the chairperson and vice chairperson of the board established pursuant to section 175.3, or their designees. The executive director shall serve at the pleasure of the secretary committee. The votes of three members of the committee are necessary for any substantive action taken by the committee, except that two members may take a substantive action, if the secretary has a conflict of interest. If a member other than the secretary has a conflict of interest, the board shall appoint a substitute member of the committee from the appointed members of the board for the duration of the conflict of interest.~~ The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation.

1A. The executive director shall not, directly or indirectly, exert influence to induce any other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

Approved April 1, 1996

CHAPTER 1030

REGULATION OF GRAIN DEALERS - RECEIVERSHIP

S.F. 2337

AN ACT relating to receiverships regarding the administration of the assets of grain dealers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 203.8, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person required to be licensed as a grain dealer shall pay the purchase price to the owner or the owner's agent for grain upon delivery or demand of the owner or agent, but not later than thirty days after delivery by the owner or agent unless in accordance with the terms of a credit-sale contract that satisfies the requirements of this chapter.

Sec. 2. NEW SECTION. 203.12B APPOINTMENT OF DEPARTMENT AS RECEIVER.

1. As used in this section:

a. "Grain dealer assets" means the same as defined in section 203.12A, including any proceeds from a deficiency bond or irrevocable letter of credit, or any insurance policy relating to those assets.

b. "Interested seller" means a person who delivers or has delivered grain to a grain dealer who has not been paid as provided in section 203.8 or according to the terms of a credit sale contract breached by the grain dealer.

c. "Issuer" means a person who issues a deficiency bond or an irrevocable letter of credit pursuant to section 203.3, or an issuer of grain assets.

2. a. The department may file a verified petition in district court requesting that the department be appointed as a receiver, and the district court shall appoint the department as receiver, in order to protect interested sellers, if any of the following apply:

(1) The grain dealer's license is revoked or suspended under section 203.10.

(2) There is evidence that the grain dealer has engaged or is engaging in business under this chapter without obtaining a license as required pursuant to section 203.3.

b. Upon being appointed as a receiver, the department shall take custody and provide for the disposition of the grain dealer assets of the grain dealer under the supervision of the court. The petition shall be filed in the county in which the grain dealer maintains its principal place of business in this state. The court may issue ex parte any temporary order as it determines necessary to preserve or protect the grain dealer assets and the rights of interested sellers. The petition shall be accompanied by the department's plan for disposition of grain dealer assets which shall provide terms as may be necessary to preserve or protect the grain dealer assets and the rights of interested sellers, less expenses incurred by the department in connection with the receivership. The plan may provide for the delivery or sale of grain as provided in section 203C.4. The plan may provide for the operation of the business of the grain dealer on a temporary basis and any other course of action or procedure which will serve the interests of interested sellers. The petition shall be filed with the clerk of the district court who shall set a date for a hearing in the same manner as provided in section 203C.3. Copies of the petition, the notice of hearing, and the department's plan of disposition shall be delivered to the following:

(1) The grain dealer and each issuer who shall receive copies delivered in the manner required for service of an original notice.

(2) Interested sellers as determined by the department who shall receive copies delivered by ordinary mail.

The failure of a person to receive the required notification shall not invalidate the proceedings on the petition or any part of the petition for the appointment of the department as the receiver. A person is not a party to the action unless admitted by the court upon application.

3. When appointed as a receiver, the department shall publish notice of the appointment in the same manner provided in section 203C.3.

4. The department may employ or appoint a person to appear on behalf of the department in any proceedings before the court as provided in section 203C.3.

5. An action of the department shall not be subject to the provisions of chapter 17A. A person employed or appointed by the department as receiver shall be deemed to be an employee of the state as defined in section 669.2. Chapter 669 is applicable to any claim as defined in section 669.2 against the person carrying out the duties of the department acting as receiver.

6. When the department is appointed as a receiver, the issuer shall be joined as a party, and may be ordered by the court to pay indemnification proceeds, and shall be discharged from further liability as provided in section 203C.4. The department shall provide notice to interested sellers within one hundred twenty days after the date of appointment. A failure of a person to file a timely claim as provided by the department shall defeat the claim, except to the extent of any excess grain dealer assets remaining after all timely claims are paid in full.

7. If the court approves the sale of grain, the department shall employ or appoint a merchandiser who shall enjoy the same status, exercise the same powers, and receive compensation to the same extent as a merchandiser employed or appointed pursuant to section 203C.4. A person employed or appointed as a merchandiser must meet the following requirements:

- a. Be experienced or knowledgeable in the operation of grain dealers as provided in this chapter.
- b. Be experienced or knowledgeable in the marketing of grain.
- c. Not have had a license issued pursuant to section 203.3 suspended or revoked.
- d. Not have any pecuniary interest in the grain dealer assets of the grain dealer and not have a business relationship with the grain dealer.

8. The sale of the grain shall proceed in the same manner as grain sold pursuant to section 203C.4. The department may, with the approval of the court, continue the operation of all or any part of the business of the grain dealer on a temporary basis and take any other course of action or procedure which will serve the interests of interested sellers. The department is entitled to reimbursement out of grain dealer assets for costs directly attributable to the receivership. The department shall be reimbursed from the grain dealer assets in the same manner as provided in section 203C.4. If the approved plan of disposition requires a distribution of cash proceeds, the department shall submit to the court a proposed plan of distribution of those proceeds. The plan shall be approved and executed and the department shall be discharged and the receivership terminated in the same manner as provided in section 203C.4.

Approved April 1, 1996

CHAPTER 1031

RURAL WATER DISTRICTS - ATTACHMENT

H.F. 2187

AN ACT relating to the attachment of property to a rural water district.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 357A.14, subsection 1, Code 1995, is amended to read as follows:

1. An owner of real property outside a district which can be economically served by the facilities of the district, or thirty percent of the owners of all real property lying within the outside perimeter of a proposed addition, may petition to be attached to the district. The petition shall be filed with the auditor, and the auditor and supervisors shall notify the district that a petition has been received and proceed in a manner set forth in sections 357A.3 through 357A.6.

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