

CHAPTER 82**SOYBEAN PROMOTION, RESEARCH, AND MARKETING
— ASSOCIATION — ASSESSMENT***H.F. 700*

AN ACT relating to the Iowa soybean association, by providing for its board of directors, market development, and providing for an assessment.

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

Section 1. Section 185.1, subsections 1 and 8, Code 2005, are amended by striking the subsections.

Sec. 2. Section 185.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. “Association” means the Iowa soybean association as recognized in section 185.1A.

NEW SUBSECTION. 5A. “Influencing legislation” means the same as defined in 26 C.F.R. § 56.4911 as that section exists on the effective date of this Act.

NEW SUBSECTION. 8A. “National assessment” means the assessment on soybeans collected pursuant to 7 U.S.C. ch. 92.

NEW SUBSECTION. 8B. “Net market price” means the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors.

NEW SUBSECTION. 12A. “Secretary” means the secretary of agriculture.

NEW SUBSECTION. 13A. “State assessment” or “assessment” means an excise tax on each bushel of soybeans marketed in this state which is imposed pursuant to a promotional order as provided in this chapter.

Sec. 3. Section 185.1, subsections 2, 9, 10, and 12, Code 2005, are amended to read as follows:

2. “Board” means the Iowa soybean ~~promotion~~ association board of directors established by this chapter.

9. “Producer” means ~~any individual, firm, corporation, partnership, or association~~ a person engaged in this state in the business of producing and marketing in ~~their~~ the person’s name at least two hundred fifty bushels of soybeans in the previous ~~marketing~~ year.

10. “Promotional order” means an order administered pursuant to this chapter which establishes a program for the promotion, research, and market development of soybeans and provides for ~~an a state~~ a state assessment to finance the program.

12. “Sale” or “purchase” includes but is not limited to the pledge or other encumbrance of soybeans as security for a loan extended under a federal price support loan program. Sale and actual delivery of the soybeans under the federal price support loan program occurs when the soybeans are marketed following redemption by the producer or when the soybeans are forfeited in lieu of loan repayment. If the soybeans are forfeited in lieu of repayment, the purchase price of the soybeans is the principal amount of the loan extended and the state assessment shall be collected at the time of loan settlement.

Sec. 4. NEW SECTION. 185.1A RECOGNITION OF IOWA SOYBEAN ASSOCIATION.

The corporation known as the Iowa soybean association incorporated under the laws of this state shall be entitled to the benefits of this chapter by filing each year with the secretary a verified proof of its organization, the names of its officers, and any other information required by the secretary.

Sec. 5. NEW SECTION. 185.1B DUTIES AND OBJECTS OF THE ASSOCIATION.

The Iowa soybean association shall aid in the promotion of the soybean industry through

research, education, public relations, promotion, and market development projects and programs as directed by the board to accomplish its purposes as provided in section 185.11.

Sec. 6. Section 185.3, Code 2005, is amended to read as follows:

185.3 BOARD ESTABLISHED — ELECTIONS.

~~If a majority of the producers voting in the referendum election approve the passage of the promotional order, an~~ The Iowa soybean promotion association board of directors shall be established administer this chapter.

1. The board shall consist of one director directors who are producers residing in Iowa at the time of the election. The directors shall include all of the following:

a. Four producers who are elected from the state at large.

b. One producer who is elected from each district in the state, except that. However, two producers shall be elected from a district producing more than an average of twenty-five million bushels of soybeans in the three previous marketing years is entitled to two directors.

A producer shall be entitled to vote in the election regardless of whether the producer is a member of the association.

2. The following persons shall serve on the board as nonvoting, ex officio directors:

a. The secretary or the secretary's designee.

b. The dean of the college of agriculture of Iowa state university of science and technology or the dean's designee.

c. The director of the department of economic development or the director's designee.

d. Any other person that the board appoints.

Sec. 7. Section 185.5, Code 2005, is amended to read as follows:

185.5 NOTICE OF ELECTION FOR DIRECTORS.

Notice of elections for directors of the board in a district shall be given by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as determined by the board and shall set forth the period of time for voting, voting places procedures, and other information the board deems necessary.

Sec. 8. Section 185.6, Code 2005, is amended to read as follows:

185.6 WHO ELECTED.

In districts electing one director, the candidate receiving the highest number of votes shall be elected. In districts electing two directors, producers shall vote for two directors, and the two candidates receiving the highest number of votes shall be elected. If the election results in a tie vote, the board shall appoint a director from among the candidates who received the same number of votes.

Sec. 9. Section 185.7, Code 2005, is amended to read as follows:

185.7 TERMS.

~~Director terms~~ A director's term shall be for three years and no. A director of the board shall not serve for more than three complete consecutive full terms.

Sec. 10. Section 185.8, Code 2005, is amended to read as follows:

185.8 ELECTIONS.

The board shall administer elections for its ~~the board~~ directors with the assistance of the secretary. Prior to the expiration of a director's term of office, the board shall appoint a nominating committee ~~for the district represented by that director. The nominating committee shall consist of five producers who are residents of the district from which a director must be elected.~~ The nominating committee shall nominate two resident producers as candidates for each director position for which an election is to be held. Additional candidates may be nominated by a written petition of one hundred producers. Procedures governing the time and place of filing shall be adopted and publicized by the board. A place shall not be reserved on the ballot for write-in candidates, and votes cast for write-in candidates shall not be counted.

Sec. 11. Section 185.9, Code 2005, is amended to read as follows:

185.9 VACANCIES — REMOVAL.

1. The board shall by appointment fill an unexpired term if a vacancy occurs in the board.
2. The secretary may remove a director for any reason enumerated in section 66.1A.

Sec. 12. Section 185.11, subsection 1, Code 2005, is amended to read as follows:

1. ~~Enter into contracts or agreements with recognized and qualified agencies or organizations for the development and carrying out of~~ Provide for research and education programs directed toward better and more efficient production, marketing, and utilization of soybeans and soybean products.

Sec. 13. Section 185.13, unnumbered paragraph 1, Code 2005, is amended to read as follows:

~~The board may shall carry out its purposes as provided in section 185.11. The board shall administer this chapter, including by doing all of the following:~~

Sec. 14. Section 185.13, subsections 2 and 4, Code 2005, are amended to read as follows:

2. ~~Establish~~ Acquire and establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.
4. Enter into arrangements for collection of the state assessment on soybeans marketed in this state.

Sec. 15. Section 185.13, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 6. Administer the soybean checkoff account as provided in section 185.26.

Sec. 16. Section 185.14, Code 2005, is amended to read as follows:

185.14 PER DIEM AND EXPENSES.

Each ~~member~~ director of the board shall receive a per diem as specified in section 7E.6 and actual expenses in performing official board functions ~~not to exceed forty days per year. No member~~ A director of the board shall not be a salaried employee of the board or any organization or agency which is receiving funds monies from the board. The board shall meet at least once every three months, and at such other times as deemed necessary by the board four times each year.

Sec. 17. Section 185.20, Code 2005, is amended to read as follows:

185.20 PRODUCERS ONLY TO VOTE.

Only producers are eligible to vote in an election for directors or a referendum election and only in the district in which they reside. A producer shall sign an affidavit ~~furnished by the secretary~~ at the time of voting certifying the producer's eligibility to vote. Each qualified producer shall be entitled to one vote.

Sec. 18. Section 185.21, Code 2005, is amended to read as follows:

185.21 ASSESSMENT.

1. ~~An A~~ A state assessment which is adopted upon the initiation of a promotional order shall be collected during the effective period of the promotional order, and shall be of no force or effect upon termination of the promotional order.
2. ~~The board shall determine and set the assessment rate. Assessments pursuant to the promotional order~~ The state assessment shall be paid into the soybean promotion fund established in section 185.26.
3. ~~An~~ The rate of the state assessment shall ~~not exceed~~ be as follows:
 - a. ~~If the national assessment is being collected, the rate of the state assessment shall be one-quarter of one percent of the net market price of the soybeans marketed in this state and sold to a first purchaser. The net market price is the sales price received by a producer for soybeans~~

after adjustments for any premium or discount based on grading or quality factors. The rate of assessment shall be determined by the board. The board shall determine the effective date of a rate change.

b. If the national assessment is not being collected, the rate of the state assessment shall be one-half of one percent of the net market price of soybeans marketed in this state.

Sec. 19. Section 185.22, Code 2005, is amended to read as follows:
185.22 PROMOTIONAL ORDER.

After a promotional order has been issued, the first purchaser at the time of payment for soybeans shall show the total amount of state assessment deducted from the sale on the purchase invoice.

Sec. 20. Section 185.23, Code 2005, is amended to read as follows:
185.23 DEDUCTION OF ASSESSMENT.

The state assessment shall be deducted from the purchase price of soybeans at the time of sale, and forwarded to the board by the first purchaser in the manner and at intervals determined by the board.

Sec. 21. Section 185.24, Code 2005, is amended to read as follows:
185.24 TERMINATION OF A PROMOTIONAL ORDER.

If a promotional order is not extended as determined by a referendum the secretary and the board shall terminate the promotional order in an orderly manner as soon as practicable. After all funds moneys collected from the state assessment are expended, the board shall cease to function. Any funds remaining one year following the termination of a promotional order shall be disbursed by the board to the Iowa soybean association remain in existence as provided in its articles of incorporation or bylaws. The directors shall no longer be elected as required in this chapter. The ex officio directors shall no longer serve on the board. The board shall cease to administer this chapter, and the board shall no longer carry out its duties or exercise its powers as provided in this chapter. However, if a future referendum passes, the board shall be reorganized by the secretary and members the directors then serving on the board shall be deemed to be the same directors who served on the board when the promotional order was terminated. The directors shall serve out their terms as though there had been no lapse of time between the two effective orders.

Sec. 22. Section 185.26, Code 2005, is amended to read as follows:
185.26 ADMINISTRATION OF MONEYS.

1. Assessments The state assessment collected by the board from a sale of soybeans shall be deposited in a special fund known as the soybean promotion fund, in the office of the treasurer of state. The fund may also contain any gifts, or federal or state grant received by the board. Moneys collected, deposited into the fund, and transferred to the board, as provided in this chapter, shall be subject to audit by the auditor of state. The department of administrative services shall transfer moneys from the fund to the board for deposit into an account known as the soybean checkoff account which shall be established by the board in a qualified financial institution. The department shall transfer the moneys into the account as provided in a resolution adopted by the board. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From moneys collected, deposited, and transferred to the board soybean checkoff account as provided in this section, the board shall first pay the costs of referendums, elections, and other expenses incurred in the administration of this chapter, before moneys may be expended for the purpose of market development to carry out the purposes of the board as provided in section 185.11. The association shall strictly segregate moneys in the soybean checkoff account from all other moneys of the association. Moneys in the soybean checkoff account shall be expended exclusively for the purposes of the board as provided in section 185.11. The account shall be subject to audit by the auditor of state.

2. The fiscal year of the association shall commence on October 1 and end on September 30.

Sec. 23. Section 185.27, Code 2005, is amended to read as follows:

185.27 REFUND OF ASSESSMENT.

A producer who has sold soybeans and had ~~an~~ the state assessment deducted from the sale price may, by application in writing to the board, secure a refund in the amount deducted. The refund shall be payable only when the application ~~shall have been~~ is made to the board within sixty days after the deduction. Application forms shall be given by the board to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for refund by a producer shall have attached thereto proof of assessment deducted. The proof of assessment may be in the form of a duplicate or certified copy of the purchase invoice by the first purchaser. The board shall have thirty days from the date the application for refund is received to remit the refund to the producer.

Sec. 24. Section 185.29, Code 2005, is amended to read as follows:

185.29 REMISSION OF EXCESS FUNDS REMAINING MONEYS.

After the board has paid the costs of elections, referendum, necessary board expenses, and administrative costs, ~~at least seventy-five percent of the remaining moneys collected, deposited in the fund, and transferred to the board~~ soybean checkoff account as provided in ~~this chapter, section 185.26~~ shall be expended by the board for market development activities, including developing and expanding new markets for soybeans and soybean products worldwide. ~~The moneys shall only be used for research, promotion, and education in cooperation with qualified agencies as is necessary to carry out its purposes as provided in section 185.11.~~

Sec. 25. Section 185.34, Code 2005, is amended to read as follows:

185.34 NOT A STATE AGENCY.

1. ~~The Iowa soybean promotion board shall~~ association is not be a state agency.
2. a. Except as provided in paragraph "b", the board is not a state agency or a governmental entity as defined in section 8A.101, public employer as defined in section 20.3, or an authority or instrumentality of the state.
 - b. The board is deemed to be all of the following:
 - (1) A department for purposes of chapter 11.
 - (2) A public body for purposes of chapter 12C. Moneys deposited into the soybean checkoff account as established in section 185.26 shall be deemed to be public funds under chapter 12C.
 - (3) An agency for purposes of an appeal from its final decision under chapter 17A. A person who is aggrieved or adversely affected by the board's final agency action is entitled to judicial review as provided in section 17A.19.
 - (4) A governmental body for purposes of chapter 21.

Sec. 26. NEW SECTION. 185.35 POLITICAL ACTIVITY — INFLUENCING LEGISLATION PROHIBITED.

1. Except as provided in subsection 2, all of the following shall apply:
 - a. The board shall not expend any moneys on political activity or on any attempt to influence legislation.
 - b. It shall be a condition of any allocation of moneys that an organization receives from the board, that the organization shall not expend the moneys on a political activity or on an attempt to influence legislation.
2. Subsection 1 does not apply to a communication or action taken by the board if any of the following applies:
 - a. The board may communicate or take action directed to an appropriate government official or government relating to the marketing of soybeans or soybean products to a foreign country.
 - b. The communication or action relates to the prevention, modification, or elimination of trade barriers.

Sec. 27. Chapter 185A, Code 2005, is repealed.

Sec. 28. Sections 185.10 and 185.25A, Code 2005, are repealed.

Sec. 29. TRANSITIONAL PROVISIONS.

1. a. The secretary of agriculture shall establish a transitional Iowa soybean association board of directors by appointing initial directors to the board. The directors shall take office as soon as possible after the effective date of this Act. The initial directors shall serve until the first directors are elected pursuant to this section. The board shall administer the provisions of this chapter in the same manner as a board constituted pursuant to section 185.3. The initial directors are not required to post a bond as provided in section 185.30.

b. On or before July 15 following the enactment of this Act, the Iowa soybean association shall appoint a nominating committee. On or before July 30 following the enactment of this Act, the nominating committee shall nominate two producers as candidates for each position as director on the board. Additional candidates may be nominated by written petition. The petition must include the signatures of at least one hundred producers. The petition must be delivered to the initial board on or before August 15 following the enactment of this Act. The procedure governing the place and filing of contents of the petition shall be widely publicized by the Iowa soybean association.

c. The election shall be conducted in conformance with section 185.3, as amended by this Act. Producers shall vote by ballot for the directors of the board on or before August 31 following the enactment of this Act. The secretary of agriculture shall canvass the ballots and announce the elected directors on or before September 15 following the enactment of this Act. The elected directors shall as soon as possible conduct an organizational meeting at which meeting the terms of the initial directors shall cease.

2. a. Any agreement made by the Iowa soybean promotion board prior to the effective date of this Act shall continue in full force and effect until it expires by its terms or is amended, terminated, or supplemented by the affirmative action of the Iowa soybean association board.

b. Any rule, regulation, form, order, or directive adopted or promulgated by the Iowa soybean promotion board or the department of agriculture and land stewardship on behalf of the board which is in effect on the effective date of this Act shall continue in full force and effect until amended, repealed, or supplemented by the affirmative action of the Iowa soybean association board or the department of agriculture and land stewardship.

Approved April 29, 2005

CHAPTER 83

REGISTRATION AND LICENSING OF MORTGAGE BANKERS AND BROKERS

H.F. 737

AN ACT relating to the registration and licensing of mortgage bankers and brokers, providing for fees, and providing an effective date.

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

Section 1. Section 535B.1, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. "Individual registrant" means a natural person who is registered or who is required to be registered under section 535B.4A.