

## CORN PROMOTION BOARD

### 185C.1 Definitions.

As used in this chapter:

1. "*Assessment*" means a state or federal assessment.
2. "*Board*" means the Iowa corn promotion board established by this chapter.
3. "*Bushel*" means fifty-six pounds of corn by weight.
4. "*Corn*" means and includes all kinds of varieties of corn marketed or sold as corn by the producer but shall not include sweet corn or popcorn or seed corn.
5. "*District*" means an official crop reporting district formed by the United States department of agriculture and set out in the annual farm census published by the Iowa department of agriculture and land stewardship.
6. "*Federal assessment*" means a federal excise tax or other charge which is imposed for purposes related to market development.
7. "*First purchaser*" means a person, public or private corporation, governmental subdivision, association, co-operative, partnership, commercial buyer, dealer, or processor who purchases corn from a producer for the first time for any purpose except to feed it to the purchaser's livestock or to manufacture a product from the corn purchased for the purchaser's personal consumption.
8. "*Market development*" means to engage in research and educational programs directed toward better and more efficient utilization of corn; to provide methods and means, including but not limited to, public relations and other promotion techniques for the maintenance of present markets; to provide for the development of new or larger domestic and foreign markets; and to provide for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn.
9. "*Marketed in this state*" refers to a sale of corn to a first purchaser who is a resident of or doing business in this state where actual delivery of the corn occurs in this state.
10. "*Marketing year*" means the twelve-month period beginning the first day of September and ending on the following thirty-first day of August.
11. "*Producer*" means any individual, firm, corporation, partnership, or association engaged in this state in the business of producing and marketing in their name at least two hundred fifty bushels of corn in the previous marketing year.
12. "*Promotional order*" means an order pursuant to this chapter which provides for the administration of this chapter and provides for a state assessment necessary to provide for its administration.
13. "*Qualified financial institution*" means a bank, credit union, or savings and loan as defined in section 12C.1.
14. "*Sale*" or "*purchase*" may, to the extent determined by the board, include the pledge or other encumbrance of corn as security for a loan extended under a federal price support loan program. Actual delivery of the corn occurs when the corn is pledged or otherwise encumbered to secure the loan. The purchase price of the corn is the principal amount of the loan extended and the purchase invoice for the corn is the documentation required for extension of the loan.

15. "Secretary" means the secretary of agriculture.

16. "State assessment" means a state excise tax on each bushel of corn marketed in this state which is imposed as part of a promotional order to administer this chapter.

[C77, 79, 81, § 185C.1]

83 Acts, ch 22, § 3, 4; 86 Acts, ch 1245, § 634; 89 Acts, ch 198, §13; 94 Acts, ch 1146, §32, 33; 2004 Acts, ch 1024, §1, 2

## **Footnotes**

Further definitions; see § 159.1

### **185C.2 Petition for election.**

Upon receipt of a petition signed by at least five hundred producers requesting an initial referendum election to determine whether a promotional order shall be placed in effect, the secretary shall call an initial referendum election to be conducted within sixty days following receipt of the petition. Producers shall vote by written ballot in the manner provided by this chapter for referendum elections.

[C77, 79, 81, § 185C.2]

### **185C.3 Establishment of corn promotion board.**

If a majority of the producers voting in the referendum election approve the passage of the promotional order, an Iowa corn promotion board shall be established. The board shall consist of one director elected from each district in the state, except that a district producing more than an average of one hundred million bushels of corn in the three previous marketing years is entitled to two directors.

[C77, 79, 81, § 185C.3]

**185C.4 Initial board.** Repealed by 88 Acts, ch 1134, § 116.

### **185C.5 Notice of election.**

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, and other information the board deems necessary.

[C77, 79, 81, § 185C.5]

88 Acts, ch 1134, §39

### **185C.6 Election of directors.**

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.

[C77, 79, 81, § 185C.6]

### **185C.7 Terms of directors.**

Director terms shall be for three years and no director of the board shall serve for more than three complete consecutive terms.

If the board is reconstituted pursuant to section 185C.8, the terms of the directors shall be controlled by this section. However, the initial terms of the reconstituted board shall be staggered. To the extent practicable, one-third of the elected directors shall serve an initial term of one year, one-third of the elected directors shall serve an initial term of two years, and one-third of the elected directors shall serve an initial term of three years. The terms shall be determined by board members drawing lots. The board elected under this paragraph shall not contain two directors from the same district serving the same term.

[C77, 79, 81, § 185C.7]

88 Acts, ch 1134, §40; 89 Acts, ch 198, § 4

### **185C.8 Elections.**

The board shall administer elections for directors of the board 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 twenty-five producers. Procedures governing the time and place of filing shall be adopted and publicized by the board.

Following recommencement of the promotional order, or termination of the promotional order's suspension as provided in section 185C.24, the secretary shall order the reconstitution of the board. An election of directors shall be held within thirty days from the date of the order. The secretary shall call for, provide for notice of, conduct, and certify the results of the election in a manner consistent with section 185C.5 through 185C.7. Directors shall serve terms as provided in section 185C.7. Rules or procedures adopted by the board and in effect at the date of suspension shall continue in effect upon reconstitution of the board. The Iowa corn growers association may nominate two resident producers as candidates for each director position. Additional candidates may be nominated by a written petition of at least twenty-five producers.

[C77, 79, 81, § 185C.8]

88 Acts, ch 1134, §41; 89 Acts, ch 198, §5

### **185C.9 Vacancies.**

The board shall by appointment fill an unexpired term if a vacancy occurs in the board.

[C77, 79, 81, § 185C.9]

### **185C.10 Ex officio nonvoting members.**

The following persons shall serve on the board as ex officio, nonvoting members:

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

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

4. Two representatives of first purchaser organizations appointed by the board.

[C77, 79, 81, § 185C.10]

86 Acts, ch 1100, § 22; 94 Acts, ch 1146, §34; 2004 Acts, ch 1024, §3

### **185C.11 Purposes and powers of the board.**

1. The purposes of the board shall be to:

*a.* Provide for market development.

*b.* Provide for research and education programs directed toward better and more efficient production, marketing, and utilization of corn and corn products.

*c.* Provide methods and means, including, but not limited to, public relations and other promotion techniques for the maintenance of present markets.

*d.* Assist in development of new or larger markets, both domestic and foreign, for corn and corn products.

*e.* Work for prevention, modification, or elimination of trade barriers which obstruct the free flow of corn and corn products to market.

*f.* Promote the production and marketing of ethanol.

*g.* Administer the financial assistance program as provided in section 185C.11A.

*h.* Support education and training programs, or demonstration projects, which improve the production and marketing of corn or corn products or which improve environmental stewardship practices when producing corn.

*i.* Grant academic scholarships to full-time graduate and postgraduate students engaged in the study of areas or subjects relating to improving or increasing the production, marketing, or utilization of corn or corn products.

2. The board may carry out these purposes directly or contract with recognized and qualified persons.

[C77, 79, 81, § 185C.11]

91 Acts, ch 254, §13; 2004 Acts, ch 1024, §4

### **185C.11A Financial assistance program.**

1. The board shall assist in efforts to improve the economic conditions of corn producers by providing financial assistance to eligible persons for purposes of supporting projects which expand markets for all corn produced in this state and products derived from that corn. A project must relate to any of the following:

*a.* The planning, development, construction, operation, or improvement of a new or existing value-added facility which utilizes corn or corn products.

*b.* The development, production, or utilization of a variety of corn which expresses new or specialized traits.

*c.* The development of products or the delivery of services likely to increase the profits or reduce the risks associated with corn production or marketing.

2. The board may provide financial assistance in the form of an interest loan, low-interest loan, no-interest loan, forgivable loan, loan guarantee, grant, letter of credit, equity financing, principal buy-down, interest buy-down, or a combination of these forms. The board shall not approve an application for financial assistance under this section to refinance an existing loan.

3. A person is eligible for financial assistance under this section if all of the following apply:

*a.* The financial assistance will be used to support a project that will provide a demonstrable benefit to corn producers.

*b.* The board approves a business plan submitted by the person. The business plan must demonstrate the person's managerial and technical expertise to carry out the project.

*c.* The person agrees to comply with terms and conditions of the financial assistance as determined by the board.

4. The board shall award financial assistance to an eligible person based on all of the following criteria:

*a.* The degree to which the project will benefit corn producers.

*b.* The feasibility of the project to become a viable enterprise.

*c.* The amount of the investment in the project contributed by corn producers.

*d.* The economic and technical viability of the processes to be employed.

*e.* The economic and technical viability of the products to be produced.

2004 Acts, ch 1024, §5

### **185C.12 Officers.**

The board shall:

1. Elect a chairperson and other officers as advisable.

2. Administer this chapter, and perform all acts reasonably necessary to effectuate the purposes of this chapter.

[C77, 79, 81, § 185C.12]

### **185C.13 Powers and duties.**

The board may:

1. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.

2. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the

purposes of this chapter.

3. Adopt, rescind, and amend all proper and necessary rules for the exercise of its powers and duties.
4. Enter into arrangements for collection of the assessment on corn marketed in this state.
5. To the extent provided by federal law, be responsible for collection of receipts from the federal assessment, and for expenditure of proceeds from the federal assessment.

[C77, 79, 81, § 185C.13]

89 Acts, ch 198, §6

#### **185C.14 Per diem and expenses.**

Each member 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 of the board shall be a salaried employee of the board or any organization or agency which is receiving funds from the board. The board shall meet at least once every three months, and at such other times as deemed necessary by the board.

[C77, 79, 81, § 185C.14]

91 Acts, ch 258, §35

#### **185C.15 Term of promotional order automatic extension.**

A promotional order shall be effective for four years from its effective date. Upon the date that an order is due to expire the order shall automatically be extended for an additional four years from the date that the order or last extension would otherwise expire, except as provided in section 185C.24.

[C77, 79, 81, § 185C.15]

88 Acts, ch 1134, §42; 89 Acts, ch 198, §7

#### **185C.16 Notice of referendum.**

Notice of a referendum election to initiate or terminate a promotional order shall be given by publication in a newspaper of general circulation in this state at least ten days prior to the date of the referendum and in any other reasonable manner as determined by the secretary for the initial referendum and by the board for termination of the promotional order.

[C77, 79, 81, § 185C.16]

89 Acts, ch 198, §8; 90 Acts, ch 1168, § 31

#### **185C.17 Contents of notice.**

The notice of referendum shall set forth the period of time for voting, voting places and such other information as the secretary may deem necessary in an initial referendum. The board shall make such determinations in any subsequent referendum.

[C77, 79, 81, § 185C.17]

### **185C.18 Counting.**

At the close of a referendum voting period, the secretary shall count and tabulate the ballots cast during the referendum period.

[C77, 79, 81, § 185C.18]

### **185C.19 Effect.**

The ballots shall constitute conclusive evidence as to the validity of the promotional order.

[C77, 79, 81, § 185C.19]

### **185C.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.

[C77, 79, 81, § 185C.20]

### **185C.21 State assessment.**

1. The board shall determine and set the state assessment rate. State assessments collected pursuant to the promotional order shall be paid into the corn promotion fund established in section 185C.26. Except as provided in subsection 2, a state assessment shall not exceed one-quarter of one cent per bushel upon corn marketed in this state. The board shall establish the effective date of a rate change.

2. Upon request of the board, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the state assessment above one-quarter of one cent per bushel, notwithstanding subsection 1. The special referendum shall be conducted as provided in this chapter for referendum elections. However, the special referendum shall not affect the existence or length of the promotional order in effect. If a majority of the producers voting in the special referendum approve the increase, the board may increase the assessment to the amount approved in the special referendum. However, a state assessment shall not exceed one cent per bushel of corn marketed in this state.

[C77, 79, 81, § 185C.21]

89 Acts, ch 198, §9; 94 Acts, ch 1146, §35; 98 Acts, ch 1030, §1

### **185C.22 State assessment on purchase invoice.**

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

[C77, 79, 81, § 185C.22]

89 Acts, ch 198, §10

### **185C.23 Deduction of state assessment.**

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

[C77, 79, 81, § 185C.23]

89 Acts, ch 198, §11

**185C.24 Cancellation and suspension.**

1. The board shall be suspended and board operations and terms of members shall cease upon either of the following events:
  - a. The state assessment is terminated pursuant to section 185C.25.
  - b. The state assessment is suspended pursuant to section 185C.25A.
2. However, notwithstanding subsection 1, the board shall continue to operate until proceeds remaining in the corn promotion fund are disbursed. Disbursement shall be made as provided for payment of moneys under section 185C.26.
3. The secretary shall order that the board be reconstituted upon either of the following events:
  - a. Recommencement of the promotional order, pursuant to section 185C.25.
  - b. Termination of the promotional order's suspension, pursuant to section 185C.25A.
4. Until the board is reconstituted under section 185C.8, the secretary has the powers to perform the duties of the board as provided in this chapter, including the collection of the state assessment at the rate in effect on the date when collection of the state assessment was terminated pursuant to section 185C.25. However, the secretary shall not expend funds from state assessment.

[C77, 79, 81, § 185C.24]

89 Acts, ch 198, §12

**185C.25 Effective period of promotional order termination.**

1. A state assessment adopted upon the initiation of a promotional order shall be collected during the effective period of the order, and shall have no effect upon termination of the promotional order. Upon adoption or extension of the promotional order, the order shall be effective for the period described in section 185C.15 unless the order is terminated as provided in this section or suspended as provided in section 185C.25A.
2. The secretary shall call a referendum to terminate the promotional order if all the following conditions are met:
  - a. The secretary receives a petition signed by at least five percent of the state's producers reported in the most recent United States census of agriculture.
  - b. The petition is signed by at least five percent of the state's producers residing in each of five districts according to the most recent United States census of agriculture.
  - c. The secretary receives the petition not less than one hundred fifty days from the date that the order is due to expire, but receives the petition not more than two hundred forty days before the date that the order is due to expire.

3. The secretary shall conduct the election as provided for a referendum under this chapter, including sections 185C.16 through 185C.20. If upon counting and tabulating the ballots, the secretary determines that a majority of voting producers favor termination of the state assessment, the secretary, in cooperation with the board, shall terminate the state assessment in an orderly manner as soon as practicable.

4. If the assessment is terminated, another referendum shall not be held for at least one hundred eighty days from the date that the assessment is terminated. A succeeding referendum to restore the assessment shall be called by the secretary upon petition of at least five hundred producers requesting a referendum. The petitioners shall guarantee the costs of the succeeding referendum. The secretary shall conduct the election as provided for a referendum under this chapter not later than one hundred fifty days after the secretary receives the petition. If a referendum held pursuant to this subsection is approved by producers, the promotional order shall commence no later than two hundred ten days following the date that the petition is received by the secretary.

[C77, 79, 81, § 185C.25]

89 Acts, ch 198, §13

#### **185C.25A Collection of federal assessment.**

Prior to the collection of the federal assessment, the board may approve the continued collection of the state assessment during the collection of the federal assessment. If the collection of the state assessment would be in addition to, and not an offset against, the collection of the federal assessment, the board shall suspend the collection of the state assessment. On the date of the termination or suspension of the federal assessment, the promotional order shall recommence and the suspension of the state assessment shall terminate.

89 Acts, ch 198, §14

#### **185C.26 Deposit of moneys corn promotion fund.**

A state assessment collected by the board from a sale of corn shall be deposited in the office of the treasurer of state in a special fund known as the corn promotion fund. The fund may include any gifts, rents, royalties, interest, license fees, or a federal or state grant received by the board. Moneys collected, deposited in 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 established by the board in a qualified financial institution. The department shall transfer the moneys 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, the board shall first pay all the direct and indirect costs incurred by the secretary and the costs of referendums, elections, and other expenses incurred in the administration of this chapter, before moneys may be expended for the purpose of carrying out the purposes of this chapter as provided in section 185C.11.

[C77, 79, 81, § 185C.26]

89 Acts, ch 198, §15; 94 Acts, ch 1146, §36; 98 Acts, ch 1030, §2; 2003 Acts, ch 145, §286; 2004 Acts, ch 1024, §6

#### **185C.27 Refund of assessment.**

A producer who has sold corn and had a state assessment deducted from the sale price, by application in writing to the board, may secure a refund in the amount deducted. The refund shall be payable only when the application shall have been 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 to the application proof of the 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. The board may provide for refunds of a federal assessment as provided by federal law. Unless inconsistent with federal law, refunds shall be made under section 185C.26.

[C77, 79, 81, § 185C.27]

89 Acts, ch 198, §16

### **Footnotes**

Right to refund not subject to execution or transfer, § 179.5A

### **185C.28 Use of moneys appropriation.**

Moneys deposited in the corn promotion fund and transferred to the board as provided in section 185C.26, including federal moneys to the extent permitted by federal law, are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions provided in this chapter.

[C77, 79, 81, § 185C.28]

89 Acts, ch 198, §17; 94 Acts, ch 1146, §37

### **185C.29 Remission of excess funds.**

After the costs of elections, referendum, necessary board expenses, and administrative costs have been paid, at least seventy-five percent of the remaining moneys from a state assessment deposited in the corn promotion fund shall be used to carry out the purposes of this chapter as provided in section 185C.11.

The Iowa corn promotion board shall not expend any funds on political activity, and it shall be a condition of any allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

[C77, 79, 81, § 185C.29]

89 Acts, ch 198, §18; 2004 Acts, ch 1024, §7

### **185C.30 Bond.**

Every person occupying a position of trust under any provisions of this chapter shall give bond in such amount as may be required by the board, the premium for which shall be paid out of the corn promotion fund.

[C77, 79, 81, § 185C.30]

### **185C.31 Penalty.**

It is a simple misdemeanor for any person to willfully violate any provision of this chapter or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the secretary.

[C77, 79, 81, § 185C.31]

### **185C.32 First purchaser information.**

Every first purchaser shall upon request furnish the secretary with such information as is necessary to enable the secretary and the board to carry out the provisions of this chapter. Such information shall be provided as prescribed by the secretary. The secretary may examine any records relating to the purchase or the state assessment of corn by any first purchaser. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas as may be necessary for the proper administration of this chapter. When requested by the board, the secretary shall employ these powers in the manner requested.

[C77, 79, 81, § 185C.32]

89 Acts, ch 198, §19

### **185C.33 Report.**

The board shall each year prepare and submit a report summarizing the activities of the board under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

[C77, 79, 81, § 185C.33]

89 Acts, ch 198, §20; 94 Acts, ch 1146, §38

### **185C.34 Not a state agency.**

The Iowa corn promotion board is not a state agency.

[C77, 79, 81, § 185C.34]