

CHAPTER 185

IOWA SOYBEAN ASSOCIATION

185.1	Definitions.	185.18	Counting.
185.1A	Recognition of Iowa soybean association.	185.19	Effect.
185.1B	Duties and objects of the association.	185.20	Producers only to vote.
185.2	Petition for election.	185.21	Assessment.
185.3	Board established — elections.	185.22	Promotional order.
185.4	Repealed by 88 Acts, ch 1134, §116.	185.23	Deduction of assessment.
185.5	Notice of election for directors.	185.24	Termination of a promotional order.
185.6	Manner of election — tie votes.	185.25	Special referendum — producer petition.
185.7	Terms.	185.25A	Special referendum — request by the board. Repealed by 2005 Acts, ch 82, §28.
185.8	Election administration — candidate nominations.	185.26	Administration of moneys.
185.9	Vacancies — removal.	185.27	Refund of assessment.
185.10	Ex officio members. Repealed by 2005 Acts, ch 82, §28.	185.28	Use of moneys — appropriation.
185.11	Purpose of board.	185.29	Remission of remaining moneys.
185.12	Officers.	185.30	Bond.
185.13	Powers and duties.	185.31	Penalty.
185.14	Compensation — meetings.	185.32	First purchaser information.
185.15	Term of promotional order.	185.33	Report.
185.16	Notice of referendum.	185.34	Not a state agency.
185.17	Contents of notice.	185.35	Political activity — influencing legislation prohibited.

185.1 Definitions.

As used in this chapter:

1. “*Association*” means the Iowa soybean association as recognized in section 185.1A.
2. “*Board*” means the Iowa soybean association board of directors established by this chapter.
3. “*Bushel*” means sixty pounds of soybeans by weight.
4. “*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.
5. “*First purchaser*” means a person, public or private corporation, governmental subdivision, association, co-operative, partnership, commercial buyer, dealer, or processor who purchases soybeans 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 soybeans purchased for the purchaser’s personal consumption.
6. “*Influencing legislation*” means the same as defined in 26 C.F.R. § 56.4911 as that section exists on July 1, 2005.
7. “*Market development*” means to engage in research and educational programs directed toward better and more efficient production and utilization of soybeans; 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 soybeans.
8. “*Marketed in this state*” refers to a sale of soybeans to a first purchaser who is a resident of or doing business in this state where actual delivery of the soybeans occurs in this state.
9. “*National assessment*” means the assessment on soybeans collected pursuant to 7 U.S.C. ch. 92.
10. “*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.
11. “*Producer*” means a person engaged in this state in the business of producing and marketing in the person’s name at least two hundred fifty bushels of soybeans in the previous year.

12. “*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 a state assessment to finance the program.

13. “*Qualified financial institution*” means a bank, credit union, or savings and loan as defined in section 12C.1.

14. “*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.

15. “*Secretary*” means the secretary of agriculture.

16. “*Soybeans*” means and includes all kinds of varieties of soybeans marketed or sold as soybeans by the producer.

17. “*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.

[C73, 75, 77, 79, 81, §185.1]

83 Acts, ch 22, §1, 2; 86 Acts, ch 1245, §633; 94 Acts, ch 1146, §19, 20; 2005 Acts, ch 82, §1

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[P] Further definitions; see §159.1

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.

2005 Acts, ch 82, §4

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.

2005 Acts, ch 82, §5

185.2 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.

[C73, 75, 77, 79, 81, §185.2]

185.3 Board established — elections.

The Iowa soybean association board of directors shall administer this chapter.

1. a. The board shall consist of directors who are producers residing in Iowa at the time of the election. The directors shall be elected as follows:

(1) Four directors shall be elected from producers from the state at large.

(2) One director per district shall be elected from producers from each district in the state. However, two directors shall be elected from the producers from a district if more than an average of twenty-five million bushels of soybeans were produced in that district in the three years prior to the election.

b. 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 and life sciences 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.

[C73, 75, 77, 79, 81, §185.3]

2005 Acts, ch 82, §6; 2008 Acts, ch 1031, §40; 2008 Acts, ch 1032, §33

185.4 Repealed by 88 Acts, ch 1134, § 116.

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 procedures, and other information the board deems necessary.

[C73, 75, 77, 79, 81, §185.5]

88 Acts, ch 1134, §35; 2005 Acts, ch 82, §7

185.6 Manner of election — tie votes.

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.

[C73, 75, 77, 79, 81, §185.6]

2005 Acts, ch 82, §8

185.7 Terms.

A director's term shall be for three years. A director shall not serve for more than three full terms.

[C73, 75, 77, 79, 81, §185.7]

88 Acts, ch 1134, §36; 2005 Acts, ch 82, §9

185.8 Election administration — candidate nominations.

The board shall administer elections for its 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 of five producers. 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.

[C73, 75, 77, 79, 81, §185.8]

88 Acts, ch 1134, §37; 2005 Acts, ch 82, §10

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.

[C73, 75, 77, 79, 81, §185.9]

2005 Acts, ch 82, §11

185.10 Ex officio members. Repealed by 2005 Acts, ch 82, § 28. See § 185.3.

185.11 Purpose of board.

The purposes of the board shall be to:

1. Provide for research and education programs directed toward better and more efficient production, marketing, and utilization of soybeans and soybean products.
2. Provide methods and means, including, but not limited to, public relations and other promotion techniques for the maintenance of present markets.
3. Assist in development of new or larger markets, both domestic and foreign, for soybeans and soybean products.
4. Work for prevention, modification, or elimination of trade barriers which obstruct the free flow of soybeans and soybean products to market.

[C73, 75, 77, 79, 81, §185.11]

2005 Acts, ch 82, §12

185.12 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.

[C73, 75, 77, 79, 81, §185.12]

185.13 Powers and duties.

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

1. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.
2. Acquire and establish offices, issue negotiable instruments, 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 state assessment on soybeans marketed in this state.
5. Periodically review or evaluate each program conducted pursuant to this chapter to ensure that the program contributes to one of the purposes of the board.
6. Administer the soybean checkoff account as provided in section 185.26.

[C73, 75, 77, 79, 81, §185.13]

94 Acts, ch 1146, §22; 2005 Acts, ch 82, §13 – 15; 2009 Acts, ch 95, §1

185.14 Compensation — meetings.

Each director of the board shall receive a per diem of one hundred dollars and actual expenses in performing official board functions, notwithstanding section 7E.6. A director of the board shall not be a salaried employee of the board or any organization or agency which is receiving moneys from the board. The board shall meet at least four times each year.

[C73, 75, 77, 79, 81, §185.14]

91 Acts, ch 258, §34; 2005 Acts, ch 82, §16; 2008 Acts, ch 1046, §1

185.15 Term of promotional order.

A promotional order shall be effective for four years from its effective date, and upon each four-year anniversary of its effective date shall be either extended or terminated as provided in this chapter.

[C73, 75, 77, 79, 81, §185.15]

86 Acts, ch 1195, §5; 88 Acts, ch 1134, §38

185.16 Notice of referendum.

Notice of a referendum election to initiate or extend 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 may be determined by the secretary for the initial referendum and by the board for extension of the promotional order.

[C73, 75, 77, 79, 81, §185.16]

185.17 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.

[C73, 75, 77, 79, 81, §185.17]

185.18 Counting.

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

[C73, 75, 77, 79, 81, §185.18]

185.19 Effect.

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

[C73, 75, 77, 79, 81, §185.19]

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 at the time of voting certifying the producer's eligibility to vote. Each qualified producer shall be entitled to one vote.

[C73, 75, 77, 79, 81, §185.20]

2005 Acts, ch 82, §17

185.21 Assessment.

1. 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 state assessment shall be paid into the soybean promotion fund established in section 185.26.

3. The rate of the state assessment shall 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.

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.

[C73, 75, 77, 79, 81, §185.21]

94 Acts, ch 1146, §23; 2005 Acts, ch 82, §18

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.

[C73, 75, 77, 79, 81, §185.22]

2005 Acts, ch 82, §19

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.

[C73, 75, 77, 79, 81, §185.23]

2005 Acts, ch 82, §20

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 moneys collected from the state assessment are expended, the board shall 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 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.

[C73, 75, 77, 79, 81, §185.24]

94 Acts, ch 1146, §24; 2005 Acts, ch 82, §21

185.25 Special referendum — producer petition.

Upon receipt of a petition not less than one hundred fifty nor more than two hundred forty days from a four-year anniversary of the effective date of an initial promotional order signed within that same period by a number of producers equal to or greater than one percent of the number of producers reported in the most recent United States census of agriculture, requesting a referendum to determine whether to extend the promotional order, the secretary shall call a referendum to be conducted not earlier than thirty days before the four-year anniversary date. If the secretary determines that extension of the promotional order is not favored by a majority of the producers voting in the referendum, the promotional order shall be terminated as provided in section 185.24. If the promotional order is terminated, another referendum shall not be held within one hundred eighty days. A succeeding referendum shall be called by the secretary upon the petition of a number of producers equal to or greater than one percent of the number of producers reported in the most recent United States census of agriculture requesting a referendum, who shall guarantee the costs of the referendum.

If no valid petition is received by the secretary within the time period described above, or if a petition is received but the referendum to extend the promotional order passes, the promotional order shall continue in effect for four additional years from the anniversary of its effective date.

[C73, 75, 77, 79, 81, §185.25]

86 Acts, ch 1195, §6; 94 Acts, ch 1146, §25

185.25A Special referendum — request by the board. Repealed by 2005 Acts, ch 82, § 28.

185.26 Administration of moneys.

1. The state assessment collected by the board 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 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 to carry out the purposes of the board as provided in section 185.11. The board shall strictly segregate moneys in the soybean checkoff account from all other moneys of the board. Moneys in the soybean checkoff account shall be expended by the board exclusively for carrying out 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.

[C73, 75, 77, 79, 81, §185.26]

94 Acts, ch 1146, §27; 2003 Acts, ch 145, §286; 2005 Acts, ch 82, §22; 2006 Acts, ch 1030, §18

185.27 Refund of assessment.

A producer who has sold soybeans and had 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 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.

[C73, 75, 77, 79, 81, §185.27]

2005 Acts, ch 82, §23

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

185.28 Use of moneys — appropriation.

All moneys collected, deposited, and transferred to the board as provided in this chapter, are appropriated and shall be used for the administration of this chapter by the board and for the payment of claims by the board based upon obligations incurred in the performance of board activities and functions provided in this chapter.

[C73, 75, 77, 79, 81, §185.28]

94 Acts, ch 1146, §28

185.29 Remission of remaining moneys.

After the board has paid the costs of elections, referendum, necessary board expenses, and administrative costs, the remaining moneys collected, deposited in the fund, and transferred to the soybean checkoff account as provided in section 185.26 shall be expended by the board as is necessary to carry out its purposes as provided in section 185.11.

[C73, 75, 77, 79, 81, §185.29]

94 Acts, ch 1146, §29; 2005 Acts, ch 82, §24

185.30 Bond.

Every person occupying a position of trust under any provisions of this chapter shall provide a bond in an amount required by the board. The premium for the bond shall be paid out of moneys transferred from the soybean promotion fund to the board pursuant to section 185.26.

[C73, 75, 77, 79, 81, §185.30]

94 Acts, ch 1146, §30

185.31 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.

[C73, 75, 77, 79, 81, §185.31]

185.32 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, sale, storage, processing, handling, or assessment of soybeans 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.

[C73, 75, 77, 79, 81, §185.32]

185.33 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.

[C73, 75, 77, 79, 81, §185.33]

94 Acts, ch 1146, §31

185.34 Not a state agency.

1. The association is not 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.

[C73, 75, 77, 79, 81, §185.34]

2005 Acts, ch 82, §25

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.

2005 Acts, ch 82, §26