

CHAPTER 183A

IOWA PORK PRODUCERS COUNCIL

Referred to in §8A.502, 97B.1A, 179.5A

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183A.1 Definitions.

As used in this chapter:

1. “*Assessment*” means an excise tax on the sale of porcine animals as provided in this chapter.
2. “*First purchaser*” means a person who buys porcine animals from a seller in the first instance.
3. “*Iowa pork producers council*” or “*council*” means the body established under section 183A.2.
4. “*Market development*” means research, education, and other programs directed at better and more efficient production, marketing, and utilization of pork; public relations and other promotion techniques for the maintenance of existing markets for pork, including but not limited to contributions to organizations working toward the purposes of this subsection; development of new or larger markets for pork both domestic and foreign, including but not limited to public relations and other promotion techniques; and the adoption, prevention, modification, or elimination of trade barriers which bear on the flow of pork in commercial channels.
5. “*Porcine animals*” means swine raised for slaughter, feeder pigs, or swine seedstock.
6. “*Pork*” means porcine animals and all parts of porcine animals.
7. “*Pork Promotion Act*” means the federal Pork Promotion, Research, and Consumer Information Act of 1985.
8. “*Producer*” means a person engaged in this state in the business of producing and marketing porcine animals in the previous calendar year.
9. “*Qualified financial institution*” means a bank or credit union as defined in section 12C.1.

85 Acts, ch 199, §1; 86 Acts, ch 1100, §9, 10; 86 Acts, ch 1245, §632; 94 Acts, ch 1146, §10; 2012 Acts, ch 1017, §49

Referred to in §183A.7

[P] Further definitions; see §159.1

[T] Subsection 9 amended

183A.2 Iowa pork producers council.

The Iowa pork producers council is created. The council consists of seven members, including two producers from each of three districts of the state designated by the secretary, and one producer from the state at large. The secretary shall appoint these members. The Iowa pork producers association may recommend the names of potential members, but the secretary is not bound by the recommendations. The secretary, the dean of the college of agriculture and life sciences of Iowa state university of science and technology, and the state veterinarian, or their designees, shall serve on the council as nonvoting ex officio members.

85 Acts, ch 199, §2; 86 Acts, ch 1100, §11; 2008 Acts, ch 1032, §32

Referred to in §183A.1, 183A.9A

183A.3 Terms.

The voting members of the council shall serve terms of three years, and shall not serve for more than two complete consecutive terms.

85 Acts, ch 199, §3; 86 Acts, ch 1100, §12

Referred to in §183A.9A

183A.4 Vacancies.

A vacancy in the voting membership of the council resulting from death, inability or refusal to serve, or failure to meet the qualifications established in this chapter, shall be filled by the council for the remainder of the unexpired term. If the council fails to fill the vacancy, the secretary shall fill it.

85 Acts, ch 199, §4; 86 Acts, ch 1100, §13

183A.5 Duties, objects, and powers of the council.

1. The council shall:
 - a. Aid in the promotion of the pork industry of the state.
 - b. Make an annual report of its proceedings and expenditures to the secretary.
 - c. Elect a chairperson, secretary, and other officers it deems advisable.
 - d. Administer and enforce this chapter, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purposes and requirements of this chapter.
 - e. Hire and discharge employees and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.
 - f. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.
 - g. Report alleged violations of this chapter to the attorney general or appropriate county attorney.
 - h. Keep accurate books, records, and accounts of all its dealings.
 - i. Receive, administer, disburse and account for, in addition to the funds received from the assessment provided in this chapter, other funds voluntarily contributed to the council for the purpose of promoting the pork industry.
2. The council or its designated agent may enter into arrangements with persons purchasing Iowa produced pork outside Iowa, for collection of the assessment from those persons.
3. The council is a state agency only for the purposes of chapters 21 and 22. Chapter 17A does not apply to the council.

85 Acts, ch 199, §5; 86 Acts, ch 1100, §14, 15; 2009 Acts, ch 41, §263

183A.6 Assessment.

The council shall make an assessment of not less than point zero zero two nor more than point zero zero three of the gross sale price of all porcine animals. The assessment shall be point zero zero two five of the gross sale price of porcine animals until consent to an assessment has been given through the initial referendum referred to in this chapter. After approval of the initial referendum, the rate of assessment shall be determined by the council. The assessment shall be made at the time of delivery of the animals for sale, and shall be deducted by the first purchaser from the price paid to the seller. The first purchaser, at the time of sale, shall make and deliver to the seller an invoice for each purchase showing the names and addresses of the seller and the first purchaser, the number and kind of animals sold, the date of sale, and the assessment made on the sale.

Assessments shall be paid to the Iowa pork producers council or its designated agent by first purchasers at a time prescribed by the council, but not later than the last day of the month following the month in which the animals were purchased.

85 Acts, ch 199, §6; 86 Acts, ch 1100, §16

Referred to in §183A.9A

183A.7 Administration of moneys — appropriation.

Assessments imposed under this chapter paid to and collected by the Iowa pork producers council shall be deposited in the pork promotion fund which is established in the office of

the treasurer of state. The department of administrative services shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the council. 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.

All moneys deposited in the pork promotion fund and transferred to the council as provided in this section 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 set forth in this chapter.

From the moneys collected, deposited, and transferred to the council as provided in this chapter, the council shall first pay the costs of referendums held pursuant to this chapter. Of the moneys remaining, at least twenty-five percent shall be remitted to the national pork producers council and at least fifteen percent shall be remitted to the Iowa pork producers association, in the proportion the committee determines, for use by recipients in a manner not inconsistent with market development as defined in section 183A.1. Moneys remaining shall be spent as found necessary by the council to further carry out the provisions and purposes of this chapter.

However, in no event shall the total expenses exceed the total amount of moneys transferred from the fund for use by the council.

85 Acts, ch 199, §7; 86 Acts, ch 1100, §17; 94 Acts, ch 1146, §11; 2002 Acts, ch 1119, §143; 2003 Acts, ch 145, §286

Referred to in §183A.9A

183A.8 Refund of assessment.

A producer from whom the assessment has been deducted, upon written application filed with the council within thirty days after its collection, shall have that amount refunded by the council. Application forms shall be given by the council to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for a refund by a producer shall have attached a proof of assessment deducted. The proof of assessment deducted shall be in the form of the original or a copy of the purchase invoice by the first purchaser. The council shall have no more than thirty days from the date the application for refund is received to remit the refund to the producer.

85 Acts, ch 199, §8; 86 Acts, ch 1076, §1

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

183A.9 Referendum.

At a time designated by the council within eighteen months after the termination of the collection of assessments under the Pork Promotion Act, the secretary shall conduct an initial referendum under administrative procedures prescribed by the department of agriculture and land stewardship.

Upon signing a statement certifying to the secretary that the person is a bona fide producer as defined in this chapter, each producer is entitled to one vote in each referendum. The secretary shall determine the qualification of producers under this section.

The secretary shall count and tabulate the ballots filed during the referendum within thirty days of the close of the referendum. If from the tabulation the secretary determines that a majority of the total number of producers voting in the referendum favors the assessment, the assessment provided for in the referendum shall be levied. The ballots cast pursuant to this section constitute complete and conclusive evidence for use in determinations made by the secretary under this chapter.

The secretary shall hold subsequent referendums on request of ten percent or more of the number of producers eligible to vote, to determine whether the producers favor the termination or suspension of the assessment. The secretary shall suspend or terminate collection of the assessment within six months after the secretary determines that suspension or termination of the assessment is favored by a majority of the producers voting in the

referendum, and shall terminate the assessment in an orderly manner as soon as practicable after the determination.

85 Acts, ch 199, §9; 86 Acts, ch 1100, §18

183A.9A Suspension during national order.

1. The terms of all voting members serving on the council on January 31, 1986 terminate at the time provided in subsection 2.

2. On the date of the commencement of the collection of assessments under the Pork Promotion Act, the collection of the assessments under section 183A.6 shall be suspended. The council shall continue to operate after suspension until all refunds are paid and all funds remaining in the pork promotion fund, less a reserve for future refunds, are disbursed for the purposes enumerated in this chapter. Notwithstanding section 183A.7, the council need not retain a reserve for future referendums. Upon completion of these acts, the existence of the Iowa pork producers council is suspended. The secretary of agriculture shall certify the suspension of the council as of a date certain to the Iowa pork producers council and the Iowa pork producers association. When the existence of the council is suspended, the terms of office of council members terminate.

3. On the date of the termination of the collection of assessments under the Pork Promotion Act, the period of suspension of the assessments under subsection 2 terminates. The secretary shall collect the assessments under section 183A.6 until this duty can be resumed by the reactivated council.

4. On the date of the termination of the collection of assessments under the Pork Promotion Act, the period of suspension of the council under subsection 2 terminates. Within sixty days from this date, the secretary shall appoint voting members to the council. For purposes of section 183A.3, a voting member so appointed is deemed not to have served a previous consecutive term. The terms of office of voting members of the initial reactivated council shall be determined by lot, but members from the same district shall not serve the same terms. As nearly as possible one-third of the voting members shall serve for one year, one-third of the voting members shall serve for two years, and one-third of the voting members shall serve for three years. Subsequent voting members shall be appointed pursuant to section 183A.2.

5. The secretary shall call the first meeting of the reactivated council. Upon reactivation, the council shall reimburse the secretary for expenses incurred in carrying out the duties provided in this section.

86 Acts, ch 1100, §19

183A.10 Per diem and expenses.

The members of the council shall receive a per diem as specified in section 7E.6 for each day spent on official business of the council, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in council activity.

85 Acts, ch 199, §10; 91 Acts, ch 258, §33

183A.11 Audit.

Moneys collected, deposited in the fund, and transferred to the council, as provided in this chapter shall be supervised by a certified public accountant employed by the council using generally accepted accounting principles and shall be subject to audit by the auditor of state.

85 Acts, ch 199, §11; 94 Acts, ch 1146, §12

183A.12 Examination of books.

Persons subject to this chapter and first purchasers shall furnish any information needed to enable the council and secretary to carry out the provisions of this chapter. For the purpose of ascertaining the correctness of any information given to the council or the secretary under this chapter, the secretary may examine books, papers, records, copies of tax returns, accounts, correspondence, contracts, or other documents and memoranda the secretary deems relevant which are in the control of any person and which are not otherwise confidential as provided by

law. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas duces tecum in connection with the administration of this chapter.

85 Acts, ch 199, §12

183A.12A Report.

The council shall prepare and submit a report summarizing the activities of the council under this chapter each year 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.

94 Acts, ch 1146, §13

183A.13 Misdemeanors.

A person who violates or assists in the violation of any of the provisions of this chapter is guilty of a simple misdemeanor.

85 Acts, ch 199, §13

183A.14 Influencing legislation.

Neither council members nor employees of the council shall attempt in any manner to influence legislation affecting any matters pertaining to the council's activities. No portion of the pork promotion fund shall be used, directly or indirectly, to influence legislation, to support any candidate for public office, or to support any political party.

85 Acts, ch 199, §14