

## CHAPTER 1018

### REGULATION OF REAL ESTATE AUCTIONS AND AUCTIONEERS

*H.F. 2373*

**AN ACT** providing for the inapplicability of provisions regulating licensed real estate brokers and salespersons to auctioneers under specified circumstances, and providing penalties.

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

Section 1. Section 543B.7, subsection 5, Code 2003, is amended to read as follows:

5. The acts of an auctioneer in conducting a public sale or auction. The auctioneer's role must be limited to establishing the time, place, and method of an auction; advertising the auction including a brief description of the property for auction, and the time and place for the auction; and and crying the property at the auction. The auctioneer shall provide in any advertising the name and address of the real estate broker or attorney who is providing brokerage services for the transaction and who is also responsible for closing the sale of the property; and crying the property at the auction. The real estate broker or attorney providing brokerage services and closing services shall be present at the time of the auction and if found to be in violation of this subsection shall be subject to a civil penalty of two thousand five hundred dollars. If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, then the requirements of this chapter do apply to the auctioneer. If an investigation pursuant to this chapter reveals that an auctioneer has violated this subsection or has assumed to act in the capacity of a real estate broker or real estate salesperson, the real estate commission may issue a cease and desist order, and shall issue a warning letter notifying the auctioneer of the violation for the first offense, and impose a penalty of up to the greater of ten thousand dollars or ten percent of the real estate sales price for each subsequent violation.

Approved March 29, 2004

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## CHAPTER 1019

### ADMINISTRATION OF FAIRS — ALLOCATION OF FUNDS

*H.F. 2403*

**AN ACT** providing for the administration of fairs, providing for the allocation of moneys, and providing for an effective date.

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

Section 1. Section 21.2, subsection 1, paragraph f, Code 2003, is amended to read as follows:

f. A nonprofit corporation other than a ~~county or district fair or agricultural society~~ conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wager-

ing pursuant to chapter 99D or a nonprofit corporation which is a successor to the nonprofit corporation which built the facility.

Sec. 2. Section 22.1, subsections 1 and 3, Code 2003, are amended to read as follows:

1. The term "government body" means this state, or any county, city, township, school corporation, political subdivision, tax-supported district, nonprofit corporation other than a ~~county or district fair or agricultural society conducting a fair event as provided in chapter 174,~~ whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official or officer, of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter.

3. As used in this chapter, "public records" includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, nonprofit corporation other than a ~~county or district fair or agricultural society conducting a fair event as provided in chapter 174,~~ whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing.

Sec. 3. Section 99B.1, subsections 4 and 13, Code Supplement 2003, are amended to read as follows:

4. "Authorized" means approved as a concession by the Iowa state fair board or a ~~county or district fair or agricultural society holding~~ conducting a fair event as provided in chapter 174.

13. "Fair" means an annual fair and exposition held by the Iowa state fair board and any fair ~~held by a county or district fair or agricultural society event conducted by a fair~~ under the provisions of chapter 174.

Sec. 4. Section 99D.13, subsection 3, paragraphs a and b, Code 2003, are amended to read as follows:

a. Eighty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks to supplement the purses for those harness races in which only Iowa-bred or owned horses may run. However, beginning with the allocation of the appropriation made for the fiscal year beginning July 1, 1992, the races for which the purses are to be supplemented under this paragraph shall be those in which only Iowa-bred two-year and three-year olds may run. In addition, the races must be held under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a ~~society~~ fair, as defined under section 174.1.

b. Twenty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks for maintenance of and improvements to the tracks. Races held at the tracks must be under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a ~~society~~ fair, as defined under section 174.1.

Sec. 5. Section 173.3, Code Supplement 2003, is amended to read as follows

173.3 CERTIFICATION OF STATE AID ASSOCIATIONS.

On or before November 15 of each year, the secretary of agriculture shall certify to the secretary of the state fair board the names of the various associations, fairs, and societies which have qualified for state aid under the provisions of chapters 176 through 178, 181, 182, 186, and 352, and which are entitled to representation in the convention as provided in section 173.2.

Sec. 6. Section 174.1, subsections 1 and 2, Code 2003, are amended to read as follows:

1. "Fair event" ~~shall mean~~ means an annual gathering of people ~~the public on fairgrounds~~

that incorporates agricultural exhibits, ~~demonstrations~~, shows, or ~~competition~~ competitions ~~and which has the following activities~~ includes all of the following:

- a. ~~Extension, Programs or projects sponsored by 4-H clubs, or future farmers of America programs, or the Iowa cooperative extension service in agriculture and home economics of Iowa state university.~~
  - b. Commercial and educational exhibits sponsored by manufacturers or other businesses.
  - c. ~~Competition in the Educational programs or exhibits sponsored by governmental entities or nonprofit organizations.~~
  - d. Competition in culinary arts, fine arts, or home craft arts.
2. "Management" shall mean president, vice-president, secretary, or treasurer of ~~the society~~ a fair.

Sec. 7. Section 174.1, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 8. Section 174.1, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Association" means the association of Iowa fairs.

NEW SUBSECTION. 0B. "Fair" means an organization which is incorporated under the laws of this state, including as a county or district fair or as an agricultural society, for the purpose of conducting a fair event, if all of the following apply:

- a. The organization owns or leases at least ten acres of fairgrounds. A society<sup>1</sup> may meet the requirement of owning or leasing land, buildings, and improvements through ownership by a joint entity under chapter 28E.
- b. The organization owns buildings and other improvements situated on the fairgrounds which have been specially constructed for purposes of conducting a fair event.
- c. The market value of the fairgrounds and buildings and other improvements located on the fairgrounds is at least eighty thousand dollars.

NEW SUBSECTION. 0C. "Fairgrounds" or "grounds" means the real estate, including land, buildings, and improvements where a fair event is conducted.

NEW SUBSECTION. 4. "State aid" means moneys appropriated by the treasurer of state to the association of Iowa fairs for payments to eligible fairs pursuant to this chapter.

Sec. 9. Section 174.2, unnumbered paragraphs 1 and 2, Code 2003, are amended to read as follows:

~~Each society~~ A fair may hold annually a fair ~~conduct a fair event~~ to further interest in agriculture and to encourage the improvement of agricultural ~~commodities and~~ products, livestock, articles of domestic industry, implements, and other mechanical devices. It may offer and award such premiums as will induce general competition.

In addition to the powers granted ~~herein the society in this chapter~~, a fair shall possess ~~have~~ the powers of a corporation not for pecuniary profit under the laws of this state and those powers enumerated in its articles of incorporation, such powers to be exercised before and after the holding of ~~such fairs~~ a fair event.

Sec. 10. Section 174.3, Code 2003, is amended to read as follows:

174.3 CONTROL OF GROUNDS.

An ordinance or resolution of a county or city shall not in any way impair the authority of ~~the society, but it~~ a fair. ~~The fair~~ shall have sole and exclusive control over and management of ~~such a fair event and fairgrounds~~.

Sec. 11. Section 174.4, Code 2003, is amended to read as follows:

174.4 PERMITS TO SELL ARTICLES.

The management of ~~any society~~ a fair may grant a written permit to ~~such persons as it thinks~~ a person determined proper by the management, to sell fruit, provisions, and other articles not prohibited by law, under such regulations as the ~~board of directors~~ management may prescribe.

<sup>1</sup> See chapter 1175, §366 herein

Sec. 12. Section 174.6, Code 2003, is amended to read as follows:

174.6 REMOVAL OF OBSTRUCTIONS.

~~All~~ The management of a fair may order the removal of any obstruction to a fair event or on the fairgrounds, including but not limited to shows, swings, booths, tents, or vehicles, or any other thing that may obstruct the grounds of any society or the driveways thereof may be removed from the grounds on the order of the management.

Sec. 13. Section 174.8, Code 2003, is amended to read as follows:

174.8 PUBLICATION OF FINANCIAL STATEMENT.

~~Each society~~ A fair shall annually publish in one newspaper of the county a financial statement of receipts and disbursements for the current year.

Sec. 14. Section 174.9, Code 2003, is amended to read as follows:

174.9 STATE AID.

~~Each~~ An eligible ~~society~~ fair which is a member of the association of Iowa fairs ~~as provided in the association's bylaws and which conducts a county fair event shall be entitled to receive state aid from the state as provided in this chapter. The moneys paid as state aid must be used exclusively for capital expenditures relating to the acquisition of land for fairgrounds and improvements on the fairgrounds such as the construction of new facilities and the renovation of existing facilities.~~ In order to be eligible for state aid, a ~~society~~ fair must file with the association of Iowa fairs on or before November 15 of each year, a statement which ~~shall show provides information as required by the association of Iowa fairs. The information shall at least include all of the following:~~

- ~~1. The actual amount that the fair paid by it in cash premiums at its fair for the current year, which. The statement must correspond with its published offer of premiums.~~
- ~~2. That~~ A statement that no part of said ~~the~~ amount of state aid was paid for ~~any of the following:~~
  - ~~a. Entertainment venues, including but not limited to speed events, or to,~~
  - ~~b. To secure games or amusements.~~
  - ~~c. Supplies, rentals, equipment, payroll, inventory, fees, or routine operating expenses.~~
- ~~3. A full and accurate statement of the receipts and expenditures of the society fair for the current year and other.~~
- ~~4. A statement of statistical data relative to exhibits and attendance for the year.~~
- ~~4. 5. A copy of the published financial statement published as required by law, together with proof of such publication and a certified statement showing an itemized list of premiums awarded, and such other information as the association of Iowa fairs may require.~~

Sec. 15. Section 174.10, Code 2003, is amended to read as follows:

174.10 APPROPRIATION — AVAILABILITY.

1. Any moneys appropriated for state aid ~~for county or local fairs~~ shall be paid to the office of treasurer of state ~~to be allocated for allocation~~ to the association of Iowa fairs ~~for payments to be made by the association. The association shall distribute the moneys to eligible societies fairs pursuant to this chapter.~~

2. a. The association of Iowa fairs shall maintain a list of each ~~society~~ fair in a county which is a member of the association and conducts a fair ~~event~~ in that county as provided in this chapter. If a county has more than one fair ~~event~~, the association shall list the name of each ~~society~~ fair conducting a fair ~~event~~ in that county for three or more years. The association of Iowa fairs shall not make a payment to a ~~society~~ fair under this chapter unless the ~~society~~ fair complies with section 174.9, and the name of the ~~society~~ fair appears on the association's list, ~~and the fair is a member in good standing according to the bylaws of the association.~~

b. The association shall prepare a report at the end of each fiscal year concerning the state aid ~~appropriated for county or local fairs that it received~~, the manner in which such aid was allocated to eligible ~~societies~~ fairs, and the manner in which the aid was expended by the ~~societies~~ fairs. The association shall submit the report to the governor and the general assembly

by ~~January~~ February 1 of each year. The association shall not use moneys appropriated for state aid for ~~county or local fairs~~, or interest earned on such moneys, for administrative or other expenses.

3. The ~~association's board of directors shall determine the~~ amount of state aid for each fair ~~which is eligible for state aid shall be equal~~ allocated to each eligible fair.

4. If no ~~society fair~~ in a county ~~qualifies~~ is eligible to receive state aid, that county's share shall be divided equally among the ~~counties with societies eligible for state aid, as provided in this section~~ eligible fairs.

5. ~~The board of supervisors, upon receiving a petition seeking to designate an official county fair which meets the requirements of section 331.306, shall submit to the registered voters of the county at the next general election following submission of the petition or at a special election if requested by the petitioners at no cost to the county, the question of which fair shall be designated as the official county fair. Notice of the election shall be given as provided in section 49.53. The fair receiving a majority of the votes cast on the question shall be designated the official county fair.~~

Sec. 16. Section 174.12, Code 2003, is amended to read as follows:

174.12 PAYMENT OF STATE AID — PARTICIPATION BY DELEGATES.

The association of Iowa fairs shall pay a ~~society fair~~ the amount due in state aid, less one thousand dollars, as provided in this chapter. ~~The association of Iowa fairs~~ must certify to the treasurer that the ~~society fair~~ is eligible under this chapter to receive the amount to be paid to the ~~society fair~~ by the association. The association shall pay the ~~society fair~~ the remaining one thousand dollars, if all of the following apply:

1. The secretary of the state fair board certifies to the association that the ~~society fair~~ had an accredited delegate in attendance at the annual convention for the election of members of the Iowa state fair board as provided in section 173.2.

2. A district director of the association of ~~Iowa fairs~~ representing the district in which the county is located, and the director of the Iowa state fair board representing the ~~congressional district~~ state fair board district in which the county is located, certify to the association that the ~~society fair~~ had an accredited delegate in attendance at <sup>2</sup> least one of the district meeting meetings, and at the association's annual meeting.

Any ~~moneys appropriated in~~ state aid ~~moneys~~ remaining due to the failure of a ~~society fair~~ to comply with this section shall be distributed equally among the ~~societies~~ eligible fairs which have qualified for state aid under this section. The treasurer of state shall allocate to the association of ~~Iowa fairs~~ the total amount to be paid by the association to eligible ~~societies~~ fairs under this chapter.

Sec. 17. Section 174.13, Code 2003, is amended to read as follows:

174.13 COUNTY AID.

The board of supervisors of the county in which a ~~society fair~~ is located may appropriate moneys to be used for ~~fitting up or purchasing fairgrounds for the society or for aiding, constructing or restoring facilities on the fairgrounds, aiding 4-H club work, and payment of paying~~ agricultural and livestock premiums in connection with the fair, ~~if the society owns or leases at least ten acres of land for the fairground and owns or leases buildings and improvements on the land of at least eight thousand dollars in value event. A society may meet the requirement of owning or leasing land, buildings, and improvements through ownership by a joint entity under chapter 28E, of which the society is a part.~~

Sec. 18. Section 174.14, Code 2003, is amended to read as follows:

174.14 FAIRGROUND AID.

1. The board of supervisors of a county which has acquired real estate for ~~county or district fair purposes~~ fairgrounds and which has a ~~society fair~~ using the ~~real estate~~ fairgrounds, may appropriate moneys to be used for the any of the following:

<sup>2</sup> See chapter 1175, §367 herein

a. ~~The erection and repair of buildings or other permanent improvements on the real estate, and for the fairgrounds.~~

b. ~~The payment of debts contracted in the erection or repair and payment of agricultural and livestock premiums.~~

2. ~~In addition, the net proceeds from the sale of fairground sites and real estate or structures on or improvements on the sites fairgrounds shall be used for the purchase of real estate or the erection of permanent buildings and installation of improvements on a new fairground site fairgrounds, or the cost of moving structures from the old fairgrounds to the new site fairgrounds.~~

Sec. 19. Section 174.15, Code 2003, is amended to read as follows:

174.15 PURCHASE AND MANAGEMENT.

Title to land purchased or received for ~~fairground purposes of conducting a fair event~~ shall be taken in the name of the county or a ~~society, but fair.~~ ~~However,~~ the board of supervisors shall place it ~~the land~~ under the control and management of a ~~society fair.~~ The ~~society fair~~ may act as agent for the county in the erection of buildings, maintenance of ~~grounds and the fairgrounds, including the buildings, or and~~ improvements constructed on the grounds. Title to new buildings or improvements shall be taken in the name of the county or a ~~society, but fair.~~ ~~However,~~ the county is not liable for the improvements or expenditures for them.

Sec. 20. Section 174.16, Code 2003, is amended to read as follows:

174.16 TERMINATION OF RIGHTS OF SOCIETY FAIR.

The right of ~~such society a fair~~ to the control and management of ~~said real estate its fairgrounds~~ may be terminated by the board of supervisors whenever well conducted agricultural fairs ~~fair events~~ are not annually held ~~thereon by such society on the fairgrounds.~~

Sec. 21. Section 174.17, subsection 1, Code 2003, is amended to read as follows:

1. The governing body of a ~~society fair~~ may issue bonds payable from revenue generated by the operations of the ~~county fair event~~ and the use or rental of the real and personal property owned or leased by the ~~society fair.~~ The governing body of a ~~society fair~~ shall comply with all of the following procedures in issuing such bonds:

a. A ~~society fair~~ may institute proceedings for the issuance of bonds by causing a notice of the proposal to issue the bonds to be published at least once in a newspaper of general circulation within the county at least ten days prior to the meeting at which the ~~society fair~~ proposes to take action for the issuance of the bonds. The notice shall include a statement of the amount and purpose of the bonds, the maximum rate of interest the bonds are to bear, and the right to petition for an election.

b. If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by three percent of the registered voters of the county is filed with the board of supervisors, asking that the question of issuing the bonds be submitted to the registered voters, the board of supervisors shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds. The proposition of issuing bonds under this subsection is not approved unless the vote in favor of the proposition is equal to at least sixty percent of the vote cast. If a petition is not filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the board of supervisors acting on behalf of the ~~society fair~~ may proceed with the authorization and issuance of the bonds. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

c. All bonds issued under this subsection shall be payable solely from and shall be secured by an irrevocable pledge of a sufficient portion of the net rents, profits, and income derived from the operation of the ~~county fair event~~ and the use or rental of the real and personal property owned or leased by the ~~society fair.~~ Bonds issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or re-

striction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under this subsection shall not limit or restrict the authority of the society fair as otherwise provided by law.

Sec. 22. Section 174.17, subsection 3, Code 2003, is amended to read as follows:

3. For purposes of this section, "society" means a society, as defined by section 174.1, that ~~conducts a county or local~~ In order for the governing body of a fair to issue bonds under this section, the governing body must conduct a fair event that has a verifiable annual attendance of at least one hundred fifty thousand persons and annual outside gate admission revenues of at least four hundred thousand dollars.

Sec. 23. Section 174.19, Code 2003, is amended to read as follows:

174.19 REPORT OF COUNTY AID.

A society fair shall not receive an appropriation from a county under this chapter, until the society fair submits a financial statement to the county board of supervisors. The statement shall show all expenditures of moneys appropriated to the society fair from the county in the previous year. The financial statement submitted to the board of supervisors shall include vouchers related to the expenditures.

Sec. 24. Section 174.20, Code 2003, is amended to read as follows:

174.20 FRAUDULENT ENTRIES OF HORSES.

~~No A person, partnership, company, or corporation shall not knowingly enter or cause to be entered any horse of any age or sex under an assumed name, or out of its proper class, to compete for any purse, prize, premium, stake, or sweepstake offered or given by any agricultural or other society, association, person, or persons in the state, or drive any such horse under an assumed name, or out of its proper class, where such prize, purse, premium, stake, or sweepstake is to be decided by a contest of speed.~~

Sec. 25. Section 174.22, Code 2003, is amended to read as follows:

174.22 ENTRY UNDER CHANGED NAME.

The name of any horse for the purpose of entry for competition in any contest of speed shall not be changed after having once contested for a prize, purse, premium, stake, or sweepstake, except as provided by the code of printed rules of the society fair or association under which the contest is advertised to be conducted, unless the former name is given.

Sec. 26. Section 174.23, Code 2003, is amended to read as follows:

174.23 CLASS DETERMINED.

The class to which a horse belongs for the purpose of an entry in any contest of speed, as provided by the printed rules of the society fair or association under which such contest is to be made, shall be determined by the public record of said horse in any such former contest.

Sec. 27. Section 331.303, subsection 5, Code 2003, is amended by striking the subsection.

Sec. 28. Section 322.5, subsection 2, paragraph a, subparagraph (2), Code 2003, is amended to read as follows:

(2) Display, offer for sale, and negotiate sales of new motor vehicles at ~~county or district fairs fair events, as described~~ defined in chapter 174, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department. Such activities may only be conducted at fairs, vehicle shows, and vehicle exhibitions that are held in the county of the motor vehicle dealer's principal place of business. A sale of a motor vehicle by a motor vehicle dealer shall not be completed and an agreement for the sale of a motor vehicle shall not be signed at a fair, vehicle show, or vehicle exhibition. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

Sec. 29. Section 422.45, subsection 50, Code Supplement 2003, is amended to read as follows:

50. The gross receipts from sales or services rendered, furnished, or performed by the state fair organized under chapter 173 or a fair society organized under chapter 174.

Sec. 30. NEW SECTION. 669.25 LIABILITY.

A person who performs services for a fair, as defined in section 174.1, and is not a full-time employee of the fair is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 31. Section 717D.3, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. A fair event as defined in section 174.1.

Sec. 32. Section 174.5, Code 2003, is repealed.

Approved March 29, 2004

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## CHAPTER 1020

### HUMAN RIGHTS — ASIANS AND PACIFIC ISLANDERS — COMMISSION

S.F. 2188

**AN ACT** providing for the establishment of a commission on the status of Iowans of Asian and Pacific Islander heritage within the department of human rights.

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

Section 1. Sections 3 through 12 of this Act are enacted as subchapter 11 of Code chapter 216A.

Sec. 2. Section 216A.1, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 8. Division on the status of Iowans of Asian and Pacific Islander heritage.

Sec. 3. NEW SECTION. 216A.151 DEFINITIONS.

For purposes of this subchapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the division on the status of Iowans of Asian and Pacific Islander heritage of the department of human rights.
2. "Asian and Pacific Islander" means an individual from any of the countries of Asia or islands of the Pacific.
3. "Commission" means the commission on the status of Iowans of Asian and Pacific Islander heritage.
4. "Division" means the division on the status of Iowans of Asian and Pacific Islander heritage of the department of human rights.