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CHAPTER 31

Flue‑Cured Tobacco

**SECTION 46‑31‑10.** Declaration of public interest.

 It is hereby declared to be in the public interest that the farmers of this State who produce flue‑cured tobacco be permitted and encouraged to act jointly in promoting flue‑cured tobacco by organized methods and through the medium established for such purpose.

HISTORY: 1962 Code Section 3‑246; 1952 Code Section 3‑246; 1947 (45) 732; 1970 (56) 2292.

**SECTION 46‑31‑20.** Desirability of referendum on annual assessment.

 For the purpose of raising reasonable and necessary funds for producer participation in the operations of the agency set up under farmer sponsorship for the promotion of flue‑cured tobacco, it is proper, desirable, necessary and in the public interest that the farmers in this State engaged in the production of flue‑cured tobacco shall have the opportunity and privilege of participating in a referendum to be held as in this chapter provided, in which there shall be determined the question of whether or not the farmers of the State engaged in the production of flue‑cured tobacco shall levy upon themselves an annual assessment for the purposes herein stated.

HISTORY: 1962 Code Section 3‑247; 1952 Code Section 3‑247; 1947 (45) 732; 1970 (56) 2292.

**SECTION 46‑31‑30.** Provision for referendum; amount of proposed assessment.

 In the manner set forth in this chapter and under regulations as established under the provisions of this chapter there must be held in every county in the State in which flue‑cured tobacco is produced a referendum to be participated in by all farmers engaged in the production of flue‑cured tobacco. Those farmers entitled to share in the crop of flue‑cured tobacco or in the proceeds of the crop because of sharing in the risk of production are considered to be engaged in the production of flue‑cured tobacco. In the referendum individuals eligible for participation shall vote upon the question of whether or not there must be levied an annual assessment for a period of three years in an amount not to exceed ten dollars an acre on all tobacco acreage, the exact amount an acre to be determined by the members of the board of directors of Tobacco Associates, Incorporated, subject to the approval of the majority of the South Carolina members of the board of directors, or in an amount not to exceed fifty cents for each one hundred pounds of the flue‑cured tobacco marketed by each farmer under the alternate method for assessment provided for in Section 46‑31‑140.

HISTORY: 1962 Code Section 3‑248; 1952 Code Section 3‑248; 1947 (45) 732; 1951 (47) 197; 1959 (51) 65; 1970 (56) 2292; 1981 Act No. 158 Section 1; 1988 Act No. 550, Section 1, eff May 29, 1988.

Effect of Amendment

The 1988 amendment in the first sentence deleted “rules and” preceding “regulations and “who have tobacco marketing cards issued in their names by the Agricultural Stabilization and Conservation Service, USDA or its successors”, added a new second sentence defining who is considered to be engaged in the production of flue‑cured tobacco, increased the annual assessment from two to ten dollars an acre and from ten to fifty cents for each hundred pounds, replaced “effective farm marketing quota of a member” with “flue cured tobacco marketed by each farmer”, and made grammatical changes.

**SECTION 46‑31‑40.** Date, hours, voting places, notices, rules and regulations or referenda.

 The exact dates on which referenda must be held and the hours, voting places, and regulations under which the referenda must be conducted must be established and determined by the board of directors of the North Carolina corporation known and designated as Tobacco Associates, Incorporated, established under the leadership of farm organizations in the state of North Carolina for the purpose of promotion of flue‑cured tobacco. Referenda dates, hours, and voting places, and regulations with respect to the holding of the referenda must be published through the medium of the public press in this State by the board of directors at least fifteen days before the holding of the referendum and direct written notice must be given to all farm organizations within this State and to each county agent in any county in which flue‑cured tobacco is grown.

HISTORY: 1962 Code Section 3‑249; 1952 Code Section 3‑249; 1947 (45) 732; 1951 (47) 197; 1970 (56) 2292; 1981 Act No. 158 Section 2; 1988 Act No. 550, Section 2, eff May 29, 1988.

Effect of Amendment

The 1988 amendment decreased the amount of notice required to be given before holding a referendum from thirty to fifteen days, and made grammatical changes.

**SECTION 46‑31‑50.** Ballots; poll holders; canvass and declaration of result.

 The board of directors of Tobacco Associates, Incorporated, shall prepare and distribute in advance of any such referendum all necessary ballots for the purpose thereof and shall under the rules and regulations promulgated by the board arrange for the necessary poll holders for conducting such referendum. Following any such referendum and within ten days thereafter the board of directors shall canvass and publicly declare the results of such referendum.

HISTORY: 1962 Code Section 3‑249.1; 1952 Code Section 3‑249.1; 1947 (45) 732.

**SECTION 46‑31‑60.** Question in referendum.

 The referendum must be upon the question of whether or not the farmers eligible for participation and voting in the referendum shall vote upon themselves, for the period of three years, an assessment not to exceed ten dollars an acre on all tobacco acreage in the State, or not to exceed fifty cents for each hundred pounds of the flue‑cured tobacco marketed by each farmer under the alternate method for assessment provided for in Section 46‑31‑140, for the purpose of providing farmer participation in the fund and through the agency established for the promotion of flue‑cured tobacco, the exact amount an acre of the assessment to be determined by the members of the board of directors of Tobacco Associates, Incorporated, subject to the approval of the majority of the South Carolina members of the board of directors.

HISTORY: 1962 Code Section 3‑249.2; 1952 Code Section 3‑249.2; 1947 (45) 732; 1951 (47) 197; 1959 (51) 65; 1970 (56) 2292; 1981 Act No. 158 Section 3; 1988 Act No. 550, Section 3, eff May 29, 1988.

Effect of Amendment

The 1988 amendment increased the assessment from two to ten dollars an acre and from ten to fifty cents for each hundred pounds, replaced “effective farm marketing quota of a member” with “flue‑cured tobacco marketed by each farmer”, and made grammatical changes.

**SECTION 46‑31‑70.** Effect of one‑third negative vote in referendum.

 If in any such referendum more than one third of the tobacco farmers voting thereon shall vote in the negative and against the levying or collection of such assessment, no assessment shall be levied or collected.

HISTORY: 1962 Code Section 3‑249.3; 1952 Code Section 3‑249.3; 1947 (45) 732.

**SECTION 46‑31‑80.** Effect of two thirds affirmative vote in referendum.

 If in the referendum two‑thirds or more of the eligible tobacco farmers voting vote in the affirmative and in favor of the levying or collection of the assessment not to exceed ten dollars an acre on all tobacco acreage in the State, the exact amount an acre to be determined by the members of the board of directors of Tobacco Associates, Incorporated, subject to the approval of the majority of the South Carolina members of the board of directors, or not to exceed fifty cents for each one hundred pounds of the flue‑cured tobacco marketed by each farmer under the alternate method for assessment provided in Section 46‑31‑140, the assessment must be collected in the manner provided in this chapter.

HISTORY: 1962 Code Section 3‑249.4; 1952 Code Section 3‑249.4; 1947 (45) 732; 1959 (51) 65; 1970 (56) 2292; 1981 Act No. 158 Section 4; 1988 Act No. 550, Section 4, eff May 29, 1988.

Effect of Amendment

The 1988 amendment inserted “eligible” preceding “tobacco farmers”, increase the assessment from two to ten dollars an acre and from ten to fifty cents for each one hundred pounds, replaced “effective farm marketing quota of a member” with “flue‑cured tobacco marketed by each farmer”, and made grammatical changes.

**SECTION 46‑31‑90.** Collection and disposition of assessment.

 Any such assessment, if authorized, shall be collected annually for three years under such method, rules and regulations as may be determined by the board of directors of Tobacco Associates, Incorporated, and the assessment so collected shall be paid into the treasury of Tobacco Associates, Incorporated, to be used along with funds from other sources for the purpose of promotion of flue‑cured tobacco.

HISTORY: 1962 Code Section 3‑249.5; 1952 Code Section 3‑249.5; 1947 (45) 732; 1970 (56) 2292.

**SECTION 46‑31‑100.** Dissatisfied farmers and producers shall receive refunds.

 If a referendum is carried in the affirmative and the assessment is levied and collected as provided in this chapter, under the regulations promulgated by the board of directors of Tobacco Associates, Incorporated, any farmer or tobacco producer upon whom and against whom the annual assessment has been levied and collected under the provisions of this chapter, if dissatisfied with the assessment and the results may demand of and receive from the treasurer of Tobacco Associates, Incorporated, a refund of the annual assessment collected from him, if the demand for refund is made in writing within thirty days from the last date on which the assessment is collected from the farmer or producer or deducted from the proceeds of the sale of tobacco of the farmer or producer.

HISTORY: 1962 Code Section 3‑249.6; 1952 Code Section 3‑249.6; 1947 (45) 732; 1988 Act No. 550, Section 5, eff May 29, 1988.

Effect of Amendment

The 1988 amendment made grammatical changes throughout.

**SECTION 46‑31‑110.** Annual statement of amounts received and disbursed.

 If the assessments are levied and collected as provided in this chapter, the treasurer of Tobacco Associates, Incorporated, shall, within sixty days after the end of any calendar year in which assessments are collected, publish a statement of the amounts received, collected, and disbursed by him during the year under the provisions of this chapter.

HISTORY: 1962 Code Section 3‑249.7; 1952 Code Section 3‑249.7; 1947 (45) 732; 1988 Act No. 550, Section 6, eff May 29, 1988.

Effect of Amendment

The 1988 amendment increased from thirty to sixty days the time within which notice of the amount of assessments collected must be published, and made grammatical changes.

**SECTION 46‑31‑120.** Subsequent referendum when preceding one unsuccessful.

 If the referendum is not supported by two‑thirds or more of those eligible for participation and voting in the referendum, the board of directors of Tobacco Associates, Incorporated, in its discretion, may call another referendum for the purposes in this chapter set forth in any succeeding year.

HISTORY: 1962 Code Section 3‑249.8; 1952 Code Section 3‑249.8; 1947 (45) 732; 1951 (47) 197; 1988 Act No. 550, Section 7, eff May 29, 1988.

Effect of Amendment

The 1988 amendment replaced “the next succeeding year” with “any succeeding year” and made grammatical changes.

**SECTION 46‑31‑130.** Subsequent referendum when preceding one successful.

 If the referendum is carried by the votes of two‑thirds or more of the eligible farmers participating in the referendum and the assessments are levied, the board of directors in its discretion may call and conduct future referenda in which the farmers vote upon the question of whether or not the assessments are continued for the next three years.

HISTORY: 1962 Code Section 3‑249.9; 1952 Code Section 3‑249.9; 1947 (45) 732; 1951 (47) 197; 1988 Act No. 550, Section 8, eff May 29, 1988.

Effect of Amendment

The 1988 amendment made grammatical changes.

**SECTION 46‑31‑140.** Alternate methods for assessments.

 If the board of directors of Tobacco Associates finds that it is not reasonably feasible to base the authorization, making, or collection of an assessment on a “per acre” unit, it may by an affirmative vote of not less than two‑thirds of its members, which vote shall include the affirmative vote of not less than two‑thirds of the board members who were elected by South Carolina farm organizations, use a “tobacco poundage” unit as the basis for the authorization, making, or collection of an assessment. No assessment may exceed fifty cents for each one hundred pounds of the flue‑cured tobacco marketed by each farmer. The amount of any alternate assessment based upon a “tobacco poundage” unit as permitted by the provisions of this section must not be related to or limited by the amount of the assessment which could be authorized, made, or collected if it were based upon a “per acre” unit.

HISTORY: 1962 Code Section 3‑249.10; 1974 (58) 2216; 1981 Act No. 158 Section 5; 1988 Act No. 550, Section 9, eff May 29, 1988.

Effect of Amendment

The 1988 amendment increased the maximum assessment from ten to fifty cents for each one hundred pounds, and replaced “effective farm marketing quota of a member” with “flue‑cured tobacco marketed by each farmer”, and made grammatical changes.

**SECTION 46‑31‑150.** Alternative method of conducting referendum by mail through use of written ballots.

 (1) In the event the board of directors of Tobacco Associates, Inc. determines that it is not desirable or reasonably possible to conduct the referendum provided for in Section 46‑31‑30 under the terms and conditions prescribed in Section 46‑31‑40, the board in the alternative may provide that the referendum shall be conducted by mail by written ballots. The determination of whether it is not desirable to conduct the referendum under the terms and conditions prescribed by Section 46‑31‑40 and the determination of whether or not to conduct such referendum by mail shall be made by affirmative vote of not less than two‑thirds of the members of the board (which vote shall also include the affirmative vote of not less than two‑thirds of such board members who were elected by South Carolina farm organizations).

 (2) In the event that the board shall determine to conduct the referendum by mail as provided in subsection (1) above, the board shall:

 (a) prescribe the rules and regulations under which such mail referendum shall be conducted;

 (b) provide the necessary ballots and cause them to be mailed to the farmers of South Carolina who are engaged in the production of flue‑cured tobacco;

 (c) provide envelopes for the return of such ballots by individual voters;

 (d) cause to be published through the medium of the public press in the State of South Carolina, notice of the holding of the referendum at least fifteen days before the mailing out of the ballots;

 (e) give direct written notice of such mail referendum to all statewide farm organizations within this State, to each county agent in each county in this State in which flue‑cured tobacco is grown and to the chairman of the Agricultural Stabilization and Conservation Service Committee in each county in this State in which flue‑cured tobacco is grown;

 (f) provide a closing date for the return of the ballots;

 (g) provide for the receipt and safeguarding of such ballots; and

 (h) canvass the ballots and publish and declare the results of such referendum within thirty days of the date set as the latest date for the return of such ballots.

HISTORY: 1962 Code Section 3‑249.11; 1975 (59) 237; 1988 Act No. 550, Section 10, eff May 29, 1988.

Effect of Amendment

The 1988 amendment in subsection (2)(b) replaced “produce” with “are engaged in the production of”, and in subsection (2)(d) replaced “such referendum” with “the referendum” and “thirty” with “fifteen.”