

Article 65.

Strawberry Assessment Act.

**§ 106-781. Title.**

This Article shall be known as the "Strawberry Assessment Act." (1989 (Reg. Sess., 1990), c. 1027, s. 1.)

**§ 106-782. Findings and purpose.**

The General Assembly hereby finds that strawberry production makes an important contribution to the State's economy; and that it is appropriate for the State to provide a means whereby strawberry producers may voluntarily assess themselves in order to provide funds for strawberry research and marketing. (1989 (Reg. Sess., 1990), c. 1027, s. 1.)

**§ 106-783. Definitions.**

As used in this Article:

- (1) "Association" means the North Carolina Strawberry Association, Inc.
- (2) "Commercial production" means the production of strawberries for sale.
- (3) "Department" means the North Carolina Department of Agriculture and Consumer Services.
- (4) "Strawberry plant seller" means a person who sells strawberry plants to growers for commercial production of strawberries. (1989 (Reg. Sess., 1990), c. 1027, s. 1; 1997-261, s. 78; 1997-371, s. 2.)

**§ 106-784. Referendum.**

(a) At any time after the effective date of this Article, the Association may conduct a referendum among strawberry producers upon the question of whether an assessment shall be levied as provided for herein.

(b) The Association shall determine:

- (1) The amount of the proposed assessment;
- (2) The period for which the assessment shall be levied, not to exceed three years;
- (3) The time and place of the referendum;
- (4) Procedures for conducting the referendum and counting of votes; and
- (5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment and the method of collection shall be set forth on the ballot; provided that no annual assessment shall exceed five percent (5%) of the value of the previous year's strawberry plant sales.

(d) All persons engaged in the commercial production of strawberries, including owners of farms, tenants and sharecroppers shall be eligible to vote in the referendum. Any questions concerning eligibility to vote shall be resolved by the Board of Directors of the Association. (1989 (Reg. Sess., 1990), c. 1027, s. 1.)

**§ 106-785. Two-thirds vote required; collection of assessment; penalties; audits.**

(a) The assessment shall not be collected unless at least two-thirds of the votes cast in the referendum are in favor of the assessment. If at least two-thirds of the votes cast in the referendum are in favor of the assessment, then the Department shall notify all strawberry plant sellers of the assessment. The assessment shall be added by the strawberry plant sellers to the price of all strawberry plants sold for commercial planting in North Carolina. The Department shall provide

forms to the strawberry plant sellers for reporting the assessment. All strawberry plant sellers shall provide each purchaser of strawberry plants for commercial production with an invoice that sets forth the amount of the assessment on the purchase covered by the invoice. Persons who purchase strawberry plants for commercial production on which the assessment has not been collected by the seller shall report such purchases and pay the assessment to the Department.

(b) Each strawberry plant seller shall remit to the Department no later than the tenth day following the end of each calendar quarter the assessment on strawberry plants sold during that quarter. Any strawberry plant seller who fails to remit the assessment for the previous year's sales by January 10 shall pay a penalty of five percent (5%) of the unpaid assessment plus a penalty of one percent (1%) of the unpaid assessment for each month after January 10 that the assessment remains unpaid.

(c) The Association may conduct inspections or audits of the books of any strawberry plant seller. If the inspection or audit reveals that a strawberry plant seller has willfully failed to remit assessments when due, the seller shall pay the Association the reasonable costs of the inspection or audit.

(d) The Association may bring an action to collect unpaid assessments, penalties, and reasonable costs of any inspection or audit as provided in subsection (c) of this section, against any strawberry plant seller who fails to pay the assessment, penalties, or costs. If successful, the Association shall also recover the cost of such action, including attorneys' fees. (1989 (Reg. Sess., 1990), c. 1027, s. 1; 1997-371, s. 3.)

#### **§ 106-786. Use of funds; refunds.**

The Department shall remit all funds collected under this Article to the Association at least monthly.

The Association shall use such funds for research and marketing related to strawberries including such administrative expenses as may be reasonably necessary to carry out this function. A funding committee composed of seven members of the Association appointed by the Commissioner of Agriculture, shall approve all expenditures of such funds. Funding committee members may be reimbursed for necessary expenses as determined by the Association's Board of Directors.

Any person who has purchased strawberry plants upon which the assessment has been paid shall have the right to receive a refund of the assessment by making demand in writing to the Association within 30 days of purchase of the plants. Such demand must be accompanied by proof of purchase satisfactory to the funding committee. (1989 (Reg. Sess., 1990), c. 1027, s. 1.)

#### **§§ 106-787 through 106-789. Reserved for future codification purposes.**