

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1756

By: Enns

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8 COMMITTEE SUBSTITUTE

9 An Act relating to the Oklahoma Peanut Commission;
10 amending 2 O.S. 2011, Sections 18-50, as amended by
11 Section 26, Chapter 1, O.S.L. 2014, 18-51, 18-57, 18-
12 58 and 18-62 (2 O.S. Supp. 2014, Section 18-50),
13 which relate to the Oklahoma Peanut Act; removing
14 authority of the Commissioner of the Oklahoma
15 Department of Agriculture, Food, and Forestry to
16 replace the Oklahoma Peanut Commission; modifying
17 definitions; transferring certain duties to the
18 executive director of the Commission; modifying
19 reference to certain form; abolishing revolving fund
20 for the Oklahoma Peanut Commission; declaring certain
funds no longer be considered state property;
authorizing balance be transferred; modifying
reference to certain peanut growers; repealing 2 O.S.
2011, Sections 18-52, as amended by Section 1,
Chapter 63, O.S.L. 2012, 18-53, 18-54, 18-55, 18-56
and 18-59 (2 O.S. Supp. 2014, Section 18-52), which
relate to the Oklahoma Peanut Act; and providing an
effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-50, as
23 amended by Section 26, Chapter 1, O.S.L. 2014 (2 O.S. Supp. 2014,
24 Section 18-50), is amended to read as follows:

1 Section 18-50. ~~A.~~ Sections 18-50 through 18-62 of this title
2 shall be known and may be cited as the "Oklahoma Peanut Act".

3 ~~B. The Oklahoma Peanut Commission shall cease to exist and be
4 replaced by a successor organization if approved by the Commissioner
5 of the Oklahoma Department of Agriculture, Food, and Forestry to
6 receive the assessment contained in the Oklahoma Peanut Act pursuant
7 to the procedures outlined in the Oklahoma Agricultural Commodity
8 Act.~~

9 SECTION 2. AMENDATORY 2 O.S. 2011, Section 18-51, is
10 amended to read as follows:

11 Section 18-51. For the purpose of the Oklahoma Peanut Act:

12 1. "Commission" means the Oklahoma Peanut Commission;

13 2. "Grower" means any natural person engaged in growing
14 peanuts;

15 3. "First purchaser" is any person, public or private
16 corporation, association or partnership buying or otherwise
17 acquiring after harvest the property in or to peanuts from a grower.
18 A mortgagee, pledgee, lienor or other person, public or private,
19 having a claim against the grower under a nonrecourse loan made
20 against such peanuts after harvest thereof shall be deemed a
21 purchaser. The term "first purchaser" shall not include a
22 harvesting or threshing lienee; and

23 4. ~~"Commercial channels" is the sale of peanuts for use as
24 food, feed, seed or any industrial or chemurgic use, when sold to~~

1 ~~any commercial buyer, dealer, processor, cooperative, or to any~~
2 ~~person, public or private, who resells any peanuts or product~~
3 ~~produced from peanuts; and~~

4 5. "Sale" includes any pledge or mortgage of peanuts, after
5 harvest, to any person, public or private.

6 SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-57, is
7 amended to read as follows:

8 Section 18-57. A. There is hereby levied an assessment of Four
9 Dollars (\$4.00) per net ton of peanuts on a farmer's stock basis
10 marketed in Oklahoma. Such assessment shall be levied and assessed
11 to the grower at the time of sale, and shall be shown as a deduction
12 by the first purchaser from the price paid in settlement to the
13 grower; provided that within sixty (60) days after any sale the
14 grower may upon submission of a written request therefor to the
15 executive ~~secretary~~ director obtain a refund in the amount of the
16 assessment deducted by the first purchaser. The refund to the
17 grower who has requested such refund shall be made within sixty (60)
18 days following the request. Such request shall be accompanied by
19 the producer's ~~Marketing Quota~~ marketing settlement forms ~~(MQ's)~~
20 which shall be evidence of the payment of the assessment which need
21 not be verified.

22 B. The availability of a refund and instructions describing the
23 process of obtaining a refund shall be posted in a conspicuous
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1 public location at all places where the fees are required to be
2 collected.

3 C. The Oklahoma Peanut Commission shall keep complete records
4 of all refunds made under the provisions of this section. Records
5 of refunds may be destroyed two (2) years after the refund is made.

6 D. All funds expended in the administration of the Oklahoma
7 Peanut Act and for the payment of all claims whatsoever growing out
8 of the performance of any duties or activities pursuant to the
9 Oklahoma Peanut Act shall be paid from the proceeds derived from
10 subsection A of this section. In the case of a lienholder who is a
11 first purchaser, the assessment shall be deducted by the lienholder
12 from the proceeds of the claim secured by such lien at the time the
13 peanuts are pledged or mortgaged. The assessment shall constitute a
14 preferred lien and shall have priority over all other liens and
15 encumbrances upon such peanuts. The assessment shall be deducted
16 and paid as herein provided whether such peanuts are stored in this
17 or any other state.

18 SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-58, is
19 amended to read as follows:

20 Section 18-58. A. The assessment imposed shall, before the
21 twentieth day of the calendar month following the date of
22 settlement, be paid by the purchaser to the executive ~~secretary~~
23 director of the Oklahoma Peanut Commission. The executive ~~secretary~~
24 director shall give the purchaser a receipt.

1 B. ~~There is hereby created in the State Treasury a revolving~~
2 ~~fund for the Oklahoma Peanut Commission, to be designated the~~
3 ~~Oklahoma Peanut Commission Revolving Fund. The fund shall consist~~
4 ~~of all assessments received by the Commission. The fund shall be~~
5 ~~administered in accordance with the provisions of the Revolving Fund~~
6 ~~Procedures Act~~ Any unexpended balance contained in the Oklahoma
7 Peanut Commission Revolving Fund as of November 1, 2015, shall no
8 longer be considered state funds or state property and may be
9 transferred to the successor organization.

10 SECTION 5. AMENDATORY 2 O.S. 2011, Section 18-62, is
11 amended to read as follows:

12 Section 18-62. A. Before any change in assessment can be made,
13 a referendum of ~~the members of the Oklahoma Peanut Growers~~
14 ~~Association~~ peanut growers shall be conducted to determine the
15 proportion of the ~~members~~ peanut growers that favor continuation of
16 the program and the proportion of ~~the members~~ peanut growers that
17 favor discontinuing the program. Thereafter, such referendum shall
18 be conducted no more than once every three (3) years upon the
19 receipt by the Oklahoma Peanut Commission of petitions requesting a
20 referendum signed by at least ten percent (10%) of ~~the members of~~
21 ~~the Oklahoma Peanut Growers Association~~ peanut growers.

22 B. At any time a referendum is to be held, the Commission shall
23 write a definition of a producer eligible to vote, and shall cause a
24 notice to be given, by letter or publication in the official

1 publication of the Oklahoma Peanut Commission. The Commission shall
2 send ballots to those persons eligible to vote and shall set the
3 final date for ballots to be returned for tabulation. The
4 Commission shall provide for the printing of ballots and shall
5 furnish a double envelope system so that the identity of a voter
6 cannot be determined. The grower shall return the ballots by way of
7 a sealed envelope, pre-addressed to the President of the State Board
8 of Agriculture.

9 C. Tabulation of ballots shall be jointly by the President of
10 the State Board of Agriculture and chairman of the Oklahoma Peanut
11 Commission. Whenever the question of levying the assessments is
12 disapproved, by failure of sixty percent (60%) of growers voting in
13 the referendum to favor continuation of the assessments, the
14 proclamation declaring the result shall provide for the termination
15 of the assessments on April 30, following the date of the
16 referendum.

17 D. Thirty (30) days after termination of the assessment, all
18 remaining funds of the Commission shall be transferred to the
19 experiment stations of Oklahoma State University to be used for
20 continued research on peanuts.

21 SECTION 6. REPEALER 2 O.S. 2011, Sections 18-52, as
22 amended by Section 1, Chapter 63, O.S.L. 2012, 18-53, 18-54, 18-55,
23 18-56 and 18-59 (2 O.S. Supp. 2014, Section 18-52), are hereby
24 repealed.

1 SECTION 7. This act shall become effective November 1, 2015.

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