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April 11, 2017

ENGROSSED HOUSE
BILL NO. 1994

By: Jordan of the House

and

Kidd of the Senate

An Act relating to agriculture; amending 2 O.S. 2011, Sections 18-271, 18-275, 18-276, 18-279 and 18-281, which relate to the Oklahoma Oilseed Resources Act; modifying definitions; modifying collection of assessment fee; transferring balance of Oklahoma Oilseed Resources Fund on certain date; modifying referendum to continue assessment; repealing 2 O.S. 2011, Sections 18-272, as amended by Section 1, Chapter 291, O.S.L. 2013, 18-273, as amended by Section 17, Chapter 304, O.S.L. 2012, 18-274 and 18-280 (2 O.S. Supp. 2016, Sections 18-272 and 18-273), which relate to the Oklahoma Oilseed Resources Act; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-271, is amended to read as follows:

Section 18-271. As used in the Oklahoma Oilseed
Resources Act:

~~1. "Canola" means canola, rapeseed and any Brassica plant grown in Oklahoma for the production of an oilseed, the oil and meal of which are used for food or nonfood use;~~

1 ~~2.~~ "Commercial channels" means the sale of oilseed for any use,
2 when sold to any commercial buyer, dealer, processor, cooperative,
3 or to any person, public or private, who resells any oilseed or
4 product produced from oilseed;

5 ~~3.~~ 2. "Commercial quantities" means and includes all
6 hundredweights (CWT) of oilseed produced for market in any calendar
7 year by any producer;

8 ~~4.~~ 3. "Commission" means the Oklahoma Oilseed Commission;

9 ~~5.~~ 4. "Department" means the Oklahoma Department of
10 Agriculture, Food, and Forestry;

11 ~~6.~~ 5. "First purchaser" means any person buying or acquiring
12 after harvest the property in or to oilseed from an oilseed
13 producer. A mortgagee, pledgee, lienholder, or other person having
14 a claim against the oilseed producer under a nonrecourse loan made
15 against the oilseed after harvest shall be a purchaser. The term
16 "first purchaser" shall not include a harvesting or threshing
17 lienee;

18 ~~7. "Fiscal year" means the oilseed accounting year beginning~~
19 ~~July 1 of each year and ending June 30 of the following year;~~

20 ~~8.~~ 6. "President" means the President of the State Board of
21 Agriculture;

22 ~~9.~~ 7. "Oilseed" means any seed or crop grown primarily or
23 mainly for oil; and
24

1 ~~10. "Oilseed processor" means a person who commercially~~
2 ~~manufactures products made from oilseed or animal feed; and~~

3 ~~11.~~ 8. "Oilseed producer" or "producer" means an individual
4 engaged in the production of oilseed, who markets oilseed in
5 commercial quantities in Oklahoma. Each individual determined to be
6 an entity pursuant to rules promulgated by the United States
7 Department of Agriculture Farm Service Agency shall be considered an
8 oilseed producer.

9 SECTION 2. AMENDATORY 2 O.S. 2011, Section 18-275, is
10 amended to read as follows:

11 Section 18-275. A. ~~Beginning ninety (90) days after the~~
12 ~~election of the initial Oklahoma Oilseed Commission, there~~ There is
13 hereby assessed a fee to be determined by each oilseed subcommittee
14 for oilseed marketed by oilseed producers in this state and sold or
15 handled through commercial channels. The fee shall be assessed and
16 imposed upon the oilseed producer at the time of sale or delivery
17 and shall be collected and remitted by the first purchaser to the
18 Oklahoma Oilseed Commission. Pursuant to the provisions of the
19 Oklahoma Oilseed Resources Act, no oilseed shall be subject to
20 assessment of a fee more than once including a national checkoff.
21 If the assessment of a national checkoff fee ceases to exist, an
22 Oklahoma assessment shall then be implemented.

1 B. 1. The first purchaser shall collect the assessment by
2 deducting the appropriate amount from the purchase price of the
3 oilseed or from any funds advanced for that purpose.

4 ~~2. The Commission, by registered or certified mail, shall~~
5 ~~notify each first purchaser of the duty to collect the assessment,~~
6 ~~the manner in which the assessment is to be collected, and the date~~
7 ~~on or after which the first purchaser is to begin collecting the~~
8 ~~assessment.~~

9 ~~3.~~ The amount of the assessment collected shall be clearly
10 shown on the sales invoice or other document evidencing the
11 transaction. The first purchaser shall furnish a copy of the
12 document to the oilseed producer.

13 ~~4. The Commission shall establish, by rule, the procedures for~~
14 ~~the collection and remittance of the assessment.~~

15 SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-276, is
16 amended to read as follows:

17 Section 18-276. A. The first purchaser shall render and have
18 on file a report along with remittance of the fees collected
19 pursuant to the Oklahoma Oilseed Resources Act on the fifteenth of
20 each calendar quarter. The report shall include the total amount of
21 fees assessed by the first purchaser, the total amount of oilseed
22 purchased and other information as may be required by the Oklahoma
23 Oilseed Commission.

1 B. If the first purchaser fails to make a report and remittance
2 as required by the Oklahoma Oilseed Resources Act, the Commission
3 shall determine the amount collected and owed by the first
4 purchaser, which shall be prima facie correct. Any first purchaser
5 having failed to make the report as required by the Oklahoma Oilseed
6 Resources Act shall, within ten (10) days after notice of the
7 computed collection amount established by the Commission is mailed
8 to the first purchaser, pay the computed collection amount, together
9 with a penalty of five percent (5%) of the computed collection
10 amount. The first purchaser may dispute the computed collection
11 amount established by the Commission and request the Commission to
12 hold a hearing to redetermine the amount of the computed collection
13 and the penalty to be imposed. No payment shall be made until the
14 Commission enters its order determining the amount of payment. The
15 payment of the determined collection amount and penalty shall be
16 paid within ten (10) days of notice of the decision.

17 C. At any time the Oklahoma Department of Agriculture, Food,
18 and Forestry may request an audit of the first purchaser to
19 determine whether the collection and proper disposition of the
20 collected assessment were made pursuant to the provisions of the
21 Oklahoma Oilseed Resources Act ~~and rules promulgated thereto.~~

22 D. The first purchaser shall retain any records or reports
23 relating to the collection of the assessment for at least three (3)
24 years.

SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-279, is amended to read as follows:

Section 18-279. ~~A.~~ There is created until November 1, 2017, the Oklahoma Oilseed Resources Fund. The Oklahoma Oilseed Resources Fund shall be administered by the Oklahoma Oilseed Commission for the benefit of the oilseed producers in this state for the purposes specified by the Oklahoma Oilseed Resources Act. The Oklahoma Oilseed Resources Fund shall be established and maintained in a bank or other depository as approved by the Commission and the President of the State Board of Agriculture. Any unexpended balance contained in the revolving fund designated for the Oklahoma Oilseed Commission on November 1, 2017, shall be transferred and deposited to the credit of the General Revenue Fund of the State Treasury.

~~B. The Oklahoma Oilseed Resources Fund shall consist of:~~

~~1. All monies received by the Commission as proceeds from the assessment imposed pursuant to the Oklahoma Oilseed Resources Act and each individual oilseed shall be distributed by collections to the account of the specific oilseed. The subcommittees established pursuant to Section 4 of this act shall control each individual account;~~

~~2. Interest attributable to investment of money in the Oklahoma Oilseed Resources Fund; and~~

1 ~~3. Monies received by the Commission in the form of gifts,~~
2 ~~grants, reimbursements, or from any other source designated by law~~
3 ~~for deposit to the Oklahoma Oilseed Resources Fund.~~

4 ~~C. Any costs incurred by the Commission pursuant to the~~
5 ~~provisions of the Oklahoma Oilseed Resources Act shall not exceed~~
6 ~~the actual collections of the Commission.~~

7 ~~D. Monies in the Oklahoma Oilseed Resources Fund shall only be~~
8 ~~expended for:~~

9 ~~1. Implementation and management of the Oklahoma Oilseed~~
10 ~~Resources Act; and~~

11 ~~2. Costs incurred by the Commission and the State Board of~~
12 ~~Agriculture for the administration of the Oklahoma Oilseed Resources~~
13 ~~Act.~~

14 SECTION 5. AMENDATORY 2 O.S. 2011, Section 18-281, is
15 amended to read as follows:

16 Section 18-281. A. Oilseed producers may petition for a
17 referendum to determine if the assessment is to be continued, at any
18 time ~~after five (5) years following November 1, 2008.~~ The President
19 of the State Board of Agriculture shall call and conduct a
20 referendum if the petitions bear signatures of ten percent (10%) of
21 the oilseed producers. No more than one referendum shall be
22 conducted in any one thirty-six-month period. The Oklahoma
23 Department of Agriculture, Food, and Forestry shall determine if the
24 petition bears the required number of valid signatures. The

1 President shall announce the referendum at least thirty (30) days
2 prior to the day of voting. At least thirty (30) days before the
3 referendum, the Department shall mail a notice of the referendum to
4 all known oilseed producers in the State of Oklahoma who market
5 oilseed in commercial quantities. The notice shall specify the
6 dates, times, and places for holding the referendum, and shall
7 include a sample ballot with the following wording:

8 DO YOU FAVOR A CONTINUATION OF THE THREE CENTS (\$0.03) PER
9 HUNDREDWEIGHT (CWT) ASSESSMENT ON OILSEED MARKETING IN OKLAHOMA
10 FOR UTILIZATION, RESEARCH, EDUCATION, PROMOTION, AND MARKET
11 DEVELOPMENT?

12 YES () NO ()

13 B. Places within each county for conducting the referendum
14 shall be designated by the ~~Oklahoma Oilseed Commission~~ Agricultural
15 Extension Division of Oklahoma State University, and voting in each
16 county shall be supervised by the county agricultural extension
17 agent, or person designated by the Department. The Oklahoma Oilseed
18 Commission shall ensure sufficient ballots and supplies necessary
19 for the conduct of the voting and tabulation of returns. Certified
20 results of the referendum in each district shall be transmitted
21 within twenty-four (24) hours after voting ends to the President,
22 and the ballots shall be transmitted to the President within
23 forty-eight (48) hours. Ballots shall be preserved by the President
24 for a period of at least three (3) months.

1 C. 1. The results of the referendum shall be determined by
2 the President, and the results certified to the ~~Chair of the~~
3 ~~Commission~~ Governor who shall issue a proclamation declaring the
4 results.

5 2. The Commission shall bear expenses of advertising and
6 conducting the referendum.

7 D. Whenever the question of levying the assessments is
8 disapproved, by failure of sixty percent (60%) of the oilseed
9 producers voting in the referendum to favor continuation of the
10 assessments, the proclamation declaring the result shall provide for
11 the termination of the assessments on April 30, following the date
12 of the referendum.

13 SECTION 6. REPEALER 2 O.S. 2011, Sections 18-272, as
14 amended by Section 1, Chapter 291, O.S.L. 2013, 18-273, as amended
15 by Section 17, Chapter 304, O.S.L. 2012, 18-274 and 18-280 (2 O.S.
16 Supp. 2016, Sections 18-272 and 18-273), are hereby repealed.

17 SECTION 7. This act shall become effective November 1, 2017.

18 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
19 April 11, 2017 - DO PASS
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