

Article 4G.

Official Cotton Growers' Organization.

**§ 106-65.84. Findings and purpose.**

The General Assembly of North Carolina finds that due to the interstate nature of boll weevil infestation, it is necessary to secure the cooperation of cotton growers, other State governments and agencies of the federal government, in order to carry out a program of boll weevil suppression and eradication. The purpose of this Article is to provide for the certification of a cotton growers' organization to cooperate with State and federal agencies in the administration of cost-sharing programs for the eradication and suppression of the boll weevil (*Anthonomus grandis* Boheman) and other cotton pests. (1983, c. 136, s. 1.)

**§ 106-65.85. Definitions.**

As used in this Article:

- (1) "Board" means the North Carolina Board of Agriculture.
- (2) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.
- (3) "Cotton grower" means any person who is engaged in and has an economic risk in the business of producing or causing to be produced, for market, cotton.
- (4) "Department" means the North Carolina Department of Agriculture and Consumer Services. (1983, c. 136, s. 2; 1997-261, s. 109.)

**§ 106-65.86. Certification by Board; requirements.**

(a) The Board may certify a cotton growers' organization for the purpose of entering into agreements with the State of North Carolina, other states, the federal government and other parties as may be necessary to carry out the purposes of this Article.

(b) In order to be eligible for certification by the Board, the cotton growers' organization must demonstrate to the satisfaction of the Board that:

- (1) It is a nonprofit organization and could qualify as a tax-exempt organization under section 501(a) of the Internal Revenue Code of 1954 (26 USC 501(a));
- (2) Membership in the organization shall be open to all cotton growers in this State;
- (3) The organization shall have only one class of members with each member entitled to only one vote;
- (4) The organization's board of directors shall be composed of:
  - a. Two cotton growers from this State being appointed by the Commissioner, with the consent of the Board; and
  - b. One representative of State government from this State, appointed by the Commissioner, with the consent of the Board.
- (5) All books and records of account and minutes of proceedings of the organization shall be available for inspection or audit by the Commissioner or his representative at any reasonable time; and
- (6) Employees or agents of the growers' organization who handle funds of the organization shall be adequately bonded. (1983, c. 136, s. 3.)

**§ 106-65.87. Certification; revocation.**

(a) Upon determination by the Board that the organization meets the requirements of the preceding section, the Board shall certify the organization as the official cotton growers'

organization. Such certification shall be for the purposes of this Article only, and shall not affect other organizations or associations of cotton growers established for other purposes.

(b) The Board shall certify only one such organization; provided, that the Board may revoke the certification of the organization if at any time the organization shall fail to meet the requirements of this Article. (1983, c. 136, s. 4.)

#### **§ 106-65.88. Referendum; assessments.**

(a) At the request of the certified organization, the Board shall authorize a referendum among cotton growers upon the question of whether an assessment shall be levied upon cotton growers in the State to offset, in whole or in part, the cost of boll weevil or other cotton pest eradication and suppression programs authorized by this Article or by any other law of this State.

(b) The assessment levied under this Article shall be based upon the number of acres of cotton planted. The amount of the assessment, the period of time for which it shall be levied, and the geographical area to be covered by the assessment shall be determined by the Board.

(c) All affected cotton growers shall be entitled to vote in any such referendum and the Board shall determine any questions of eligibility to vote.

(d) If at least two-thirds of those voting vote in favor of the assessment, then the assessment shall be collected by the Department from the affected cotton growers.

(e) The assessments collected by the Department under this Article shall be promptly remitted to the certified organization under such terms and conditions as the Commissioner shall deem necessary to ensure that such assessments are used in a sound program of eradication or suppression of the boll weevil or other cotton pests.

(f) The certified organization shall provide to the Department an annual audit of its accounts performed by a certified public accountant.

(g) For the purposes of the State Budget Act, Chapter 143C of the General Statutes, the assessments collected by the Department under this Article shall not be "State funds". (1983, c. 136, s. 5; 2006-203, s. 25.)

#### **§ 106-65.89. Agreements.**

The Board may authorize the Department to enter into agreements with the certified organization, other state governments, the federal government and individual cotton growers as may be necessary to carry out the purposes of this Article. (1983, c. 136, s. 6.)

#### **§ 106-65.90. Failure to pay assessments.**

(a) A cotton grower who fails to pay, when due and upon reasonable notice, any assessment levied under this Article, shall be subject to a penalty of not more than twenty-five dollars (\$25.00) per acre, as established in the Board's regulations.

(b) A cotton grower who fails to pay all assessments, including penalties, within 30 days of notice of penalty, shall destroy any cotton plants growing on his acreage which is subject to the assessment. Any such cotton plants which are not destroyed shall be deemed to be a public nuisance. The Commissioner may apply to a court of competent jurisdiction to abate and prevent such nuisance. Upon judgment and order of the court, such nuisance shall be condemned and destroyed in the manner directed by the court. The grower shall be liable for all court costs and fees, and other proper expenses incurred in the enforcement of this section.

(c) In addition to any other remedies for the collection of assessments, including penalties, the Department of Agriculture and Consumer Services has a lien upon cotton subject to such

assessments. Provided, that any buyer of cotton shall take free of such lien if he has not received written notice of the lien from the Department or if he has paid for such cotton by a check in which the Department is named as joint payee. In any action to enforce the lien, the burden shall be upon the Department to prove that the buyer of cotton received written notice of the lien. A buyer of cotton other than a person buying cotton from the grower takes free of the lien created herein. (1983, c. 136, s. 7; 1987, c. 293; 1997-261, s. 109.)

**§ 106-65.91. Regulations.**

The Board of Agriculture may adopt such regulations as are necessary to carry out the purposes of this Article. (1983, c. 136, s. 8.)

**§ 106-65.92:** Reserved for future codification purposes.

**§ 106-65.93:** Reserved for future codification purposes.

**§ 106-65.94:** Reserved for future codification purposes.