

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-371
HOUSE BILL 305

AN ACT TO INCREASE THE LIMIT FOR AN ASSESSMENT WHEN THE ASSESSMENT IS PAID BY PEANUT PRODUCERS FOR THE PROMOTION OF PEANUTS AND AMENDING THE STRAWBERRY ASSESSMENT ACT TO IMPROVE THE COLLECTION OF ASSESSMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-557 reads as rewritten:

"§ 106-557. Notice of referendum; statement of amount, basis and purpose of assessment; maximum assessment.

With respect to any referendum conducted under the provisions of this Article, the duly certified commission, council, board or other agency shall, before calling and announcing such referendum, fix, determine and publicly announce at least 30 days before the date determined upon for such referendum, the date, hours and polling places for voting in such referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by the growers, and the general purposes to which said amount so collected shall be applied; no annual assessment levied under the provisions of this Article shall exceed one half of one percent ($\frac{1}{2}$ of 1%) of the value of the year's production of such agricultural commodity grown by any farmer, producer or grower included in the group to which such referendum is submitted. Provided, that the assessment for the research and promotion programs of the American Dairy Association of North Carolina may be fixed on the volume of milk sold not to exceed one percent (1%) of the statewide blend price paid to all North Carolina producers during the previous calendar year for three and one-half percent (3.5%) milk as computed by the North Carolina Milk Commission. Provided further, that the assessment authorized by this Article and collected by the Commissioner of Agriculture to be paid to the North Carolina Yam Commission, Inc., or other duly certified agencies entitled thereto for research, marketing and promotional programs related to yams or sweet potatoes may be levied at a rate not to exceed two percent (2%) of the value of the year's production of that agricultural commodity grown by any farmer, producer or grower included in the group to which the referendum is submitted, and when authorized by two-thirds or more of the farmers, producers or growers in the area in which the referendum is conducted, the rate of the assessment may remain in effect for the length of time provided in the referendum. Provided further, that the assessment authorized by this Article on peanuts may not exceed two percent (2%) of the price paid to the producer."

Section 2. G.S. 106-783 is amended by adding a new subsection (4) to read:

"(4) 'Strawberry plant seller' means a person who sells strawberry plants to growers for commercial production of strawberries."

Section 3. G.S. 106-785 reads as rewritten:

"§ 106-785. Two-thirds vote required; collection of assessment. 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 ~~growers-sellers~~ of the assessment. The assessment shall be added by the strawberry plant growers-sellers to the price of all strawberry plants sold for commercial planting in North ~~Carolina~~ Carolina, ~~and shall be remitted to the Department no later than the 10th day following the end of each calendar quarter.~~ The Department shall provide forms to the strawberry plant growers-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) ~~The Association may bring an action against any plant grower who fails to pay the assessment to collect unpaid assessments, and if successful shall also recover the cost of such action, including attorney's fees.~~ 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."

Section 4. Section 3 of this act becomes effective October 1, 1997, and applies to assessments accruing on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 5:43 p.m. this 6th day of August, 1997