

Article 2.

Contracts for "Futures."

§ 16-3. Certain contracts as to "futures" void.

Every contract, whether in writing or not, whereby any person shall agree to sell and deliver any cotton, Indian corn, wheat, rye, oats, tobacco, meal, lard, bacon, salt pork, salt fish, beef, cattle, sugar, coffee, stocks, bonds, and chooses in action, at a place and at a time specified and agreed upon therein, to any other person, whether the person to whom such article is so agreed to be sold and delivered shall be a party to such contract or not, when, in fact, and notwithstanding the terms expressed of such contract, it is not intended by the parties thereto that the articles or things so agreed to be sold and delivered shall be actually delivered, or the value thereof paid, but it is intended and understood by them that money or other thing of value shall be paid to the one party by the other, or to a third party, the party to whom such payment of money or other thing of value shall be made to depend, and the amount of such money or other thing of value so to be paid to depend upon whether the market price or value of the article so agreed to be sold and delivered is greater or less at the time and place so specified than the price stipulated to be paid and received for the articles so to be sold and delivered, and every contract commonly called "futures" as to the several articles and things hereinbefore specified, or any of them, by whatever other name called, and every contract as to the said several articles and things, or any of them, whereby the parties thereto contemplate and intend no real transaction as to the article or thing agreed to be delivered, but only the payment of a sum of money or other thing of value, such payment and the amount thereof and the person to whom the same is to be paid to depend on whether or not the market price or value is greater or less than the price so agreed to be paid for the said article or thing at the time and place specified in such contract, shall be utterly null and void; and no action shall be maintained in any court to enforce any such contract, whether the same was made in or out of the State, or partly in and partly out of this State, and whether made by the parties thereto by themselves or by or through their agents, immediately or mediately; nor shall any party to any such contract, or any agent of any such party, directly or remotely connected with any such contract in any way whatever, have or maintain any action or cause of action on account of any money or other thing of value paid or advanced or hypothecated by him or them in connection with or on account of such contract and agency; nor shall the courts of this State have any jurisdiction to entertain any suit or action brought upon a judgment based upon any such contract. This section shall not be construed so as to apply to any person, firm or corporation, or his or their agents, engaged in the business of manufacturing or wholesale merchandising in the purchase and/or sale of the necessary commodities required in the ordinary course of their business; nor shall this section be construed so as to apply to any contract with respect to the purchase and/or sale for future delivery of any of the articles or things mentioned and referred to in this section, where such purchase and/or sale is made on any exchange on which any such article or things are regularly bought and sold, or contracts therefor regularly entered into, and the rules and regulations of such exchange are such that either party to such contract may require delivery thereof: Provided, such contract is made in accordance with such rules and regulations.

In addition, this Article shall not apply to any person, firm, corporation, or other entity, either as principal or agent, or to any contract, that is excluded or exempted under the Commodity Exchange Act, as provided in section 16(e)(2) of the Commodity Exchange Act, 7 U.S.C. § 16(e)(2), and, accordingly, each section of this Article shall be considered a "law that regulates or prohibits the operation of bucket shops" within the meaning of section 16(e)(2) of the Commodity

Exchange Act. (1889, c. 221, s. 1; 1905, c. 538, s. 7; Rev., s. 1689; 1909, c. 853, s. 1; C.S., s. 2144; 1931, c. 236, s. 1; 2001-110, s. 1.)

§ 16-4. Entering into or aiding contract for "futures" misdemeanor.

If any person shall become a party to any contract declared void in this Article; or if any person shall be the agent, directly or indirectly, of any party in making or furthering or effectuating the same; or if any agent or officer of a corporation shall in any manner knowingly aid in making or furthering any such contract to which the corporation is a party, he shall be guilty of a Class 1 misdemeanor.

If any person shall, while in this State, consent to become a party to any such contract made in another state, and if any person shall, as agent of any person or corporation, become a party to any such contract made in another state, or in this State do any act or in any way aid in the making or furthering of any such contract so made in another state, he shall be guilty of a Class 1 misdemeanor. (1889, c. 221, ss. 3, 4; Rev., ss. 3823, 3824; C.S., s. 2147; 1993, c. 539, s. 304; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 16-5. Opening office for sales of "futures" misdemeanor.

If any person, corporation or other association of persons, either as principal or agent, shall establish or open an office or place of business in this State for the purpose of carrying on or engaging in making such contracts as are forbidden in this Article, he shall be guilty of a Class 1 misdemeanor. (1905, c. 538, ss. 1, 2; Rev., s. 3825; C.S., s. 2148; 1993, c. 539, s. 305; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 16-6. Evidence in prosecutions under this Article.

No person shall be excused on any prosecution under the provisions of this Article from testifying touching anything done by himself or others contrary to the provisions thereof, but no discovery made by the witness upon such examination shall be used against him in any penal or criminal prosecution, and he shall be altogether pardoned of the offense so done or participated in by him. In all such prosecutions proof that the defendant was a party to a contract, as agent or principal, to sell and deliver any article, thing or property specified or named in this Article, or that he was the agent, directly or indirectly, of any party in making, furthering or effectuating the same, or that he was the agent or officer of any corporation or association or person in making, furthering or effectuating the same, and that the article, thing or property agreed to be sold and delivered was not actually delivered, and that settlement was made or agreed to be made upon the difference in value of said article, thing or property, shall constitute against such defendant prima facie evidence of guilt. Proof that any person, corporation or other association of persons, either as principal or agent, has established an office or place where are posted or published from information received the fluctuating prices of grain, cotton, provisions, stocks, bonds and other commodities, or of any one or more of the same, shall constitute prima facie evidence of being guilty of violating the provisions of this Article. (1905, c. 538, ss. 3, 4, 5; Rev., s. 3826; C.S., s. 2149.)