

Chapter 15. Cotton Board.

§ 3.2-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Assessment" means moneys to be collected as authorized by this chapter.

"Bale" means a closely pressed package of ginned cotton that weighs approximately 480 pounds.

"Cotton" means the field crop of the genus *Gossypium* grown to be further processed into consumable goods.

"Farming unit" means any sole proprietorship, corporation, or partnership and includes land owned and leased by any such business entity.

"Gin" means to remove seed and foreign matter from cotton and make it into a bale.

"Handler" means a commercial enterprise that gins cotton.

"Producer" means any person who grows, harvests, and sells cotton in Virginia.

1997, c. [873](#), § 3.1-1081; 1999, c. [751](#); 2008, c. [860](#).

§ 3.2-1501. Cotton Board; composition and appointment of members; quorum.

The Cotton Board, established by the passage of a referendum held pursuant to Chapter 873 of the Acts of Assembly of 1997, is continued within the Department. The Cotton Board shall be composed of eight members appointed by the Governor, each of whom shall be a resident of Virginia and a producer in Virginia. The Governor shall be guided in his appointments from nominations made by the following agricultural organizations: (i) the Virginia Cotton Growers Association, Inc.; (ii) the Virginia Farm Bureau Federation; and (iii) any other organization within the Commonwealth that is recognized by the U.S. Department of Agriculture as a certified cotton grower organization representing Virginia producers pursuant to guidelines authorized by the Cotton Research and Promotion Act (7 U.S.C. §§ 2101-2118). Each such agricultural organization may nominate producers from each production area. The Governor shall appoint a producer residing in each such production area. If no producer resides in a particular production area, the Governor shall appoint a qualified producer from any other production area. Each agricultural organization shall submit nominations for each available position before the expiration of the member's term for which the nomination is being provided. If said agricultural organizations fail to provide the nominations, the Governor may appoint other nominees that meet the foregoing criteria. Five members of the Cotton Board shall constitute a quorum.

1997, c. [873](#), § 3.1-1093; 1999, c. [751](#); 2008, c. [860](#); 2011, cc. [691](#), [714](#); 2016, c. [565](#).

§ 3.2-1502. Cotton Board membership terms.

The terms for appointments to the Cotton Board shall be for three years. The Governor shall fill any vacancy occurring before the expiration of any term through appointment of a qualified producer for the unexpired term. If possible, such vacancies shall be filled from the production area from which the vacancy occurred. No person may serve more than two consecutive three-year terms.

1997, c. 873, § 3.1-1094; 1999, c. 751; 2008, c. 860.

§ 3.2-1503. Repealed.

Repealed by Acts 2016, c. 565, cl. 2.

§ 3.2-1504. Powers and duties of Cotton Board.

A. The Cotton Board shall have charge of the Virginia Cotton Fund established in the Virginia state treasury.

B. The Cotton Board may expend funds and enter into contracts in order to effectuate the purposes of this chapter.

C. The Cotton Board may cooperate with other state, regional, national, and international organizations in research concerning, education on, and promotion of cotton and may expend moneys from the Virginia Cotton Fund for such purpose.

1997, c. 873, §§ 3.1-1095 to 3.1-1097; 2008, c. 860.

§ 3.2-1505. Referenda.

The Board, upon petition by at least 10 percent of the producers in the Commonwealth as determined by the Commissioner, shall provide for either a referendum on the continuation of the Cotton Board and the assessment on cotton by a maximum of \$0.15 per bale. Any referendum held under this section shall be conducted in accordance with this chapter. The Board shall adopt regulations governing the conduct of referenda pursuant to § 3.2-112.

1997, c. 873, § 3.1-1089; 2005, c. 326; 2008, c. 860.

§ 3.2-1506. Management of referenda; Commissioner's duties; notice.

A. The Commissioner shall, under the regulations adopted by the Board pursuant to § 3.2-112, arrange for the use of any polling places, if necessary.

B. The Commissioner shall, at least 60 days before the date on which a referendum is to be held, mail notice to the clerk of the circuit court in each locality where cotton is produced. The clerk of the court shall post the notice on the front door or public bulletin board of the courthouse and certify the posting to the Commissioner. The Commissioner shall, at least 60 days prior to the holding of any referendum under this chapter, send a notice of the referendum (i) to a newspaper of general circulation in each locality where cotton is produced or (ii) by mail to all persons listed as cotton producers with the Department during the fiscal year preceding the referendum.

The notice shall contain the date, hours, voting places, and method of voting in the referendum; the amount of assessment to be collected, the means by which the assessment will be collected, and the general purposes for how the assessment will be used; and the regulations adopted by the Board pursuant to § 3.2-112.

C. The Commissioner shall prepare and distribute in advance of the referendum all necessary ballots, certificates, and supplies required for the referendum.

D. The Commissioner shall, within 10 days after the referendum, canvass and publicly declare the results thereof and certify the same to the Governor and shall notify, by mail, each member of the Board of the results.

1997, c. 873, §§ 3.1-1085, 3.1-1087; 2008, c. 860; 2010, c. 14.

§ 3.2-1507. Questions to be printed on ballots.

A. The question to be printed on the ballots used in a referendum authorized in § 3.2-1505 on the continuation of the Cotton Board shall be:

Do you favor the continuation of the Cotton Board for the purpose of research, education, and promotion of the growth and use of cotton?

B. The question to be printed on the ballots used in a referendum authorized in § 3.2-1505 on allowing the Cotton Board to increase the assessment on cotton by a maximum of \$0.15 per bale of cotton shall be:

Do you favor authorizing the Cotton Board to increase the assessment on cotton by a maximum of \$0.15 per bale of cotton ginned in the Commonwealth to support research, education, and promotion of the growth and use of cotton?

1997, c. 873, § 3.1-1091; 2005, c. 326; 2008, c. 860.

§ 3.2-1508. Persons eligible to vote.

Any person in the Commonwealth who produced at least one bale of cotton in the Commonwealth in the fiscal year preceding any referendum held pursuant to this chapter shall be eligible to vote in such referendum, provided that he so certifies on forms prepared by the Commissioner. Completed certification forms shall include the following information: (i) the full name, address, and, if applicable, title of producer if a partner or corporate officer; (ii) the name and locality of each handler of that producer's cotton in the fiscal year preceding the referendum; and (iii) any other information deemed necessary by the Commissioner to carry out the Commissioner's duties under this section. Any person who meets the requirements of this section shall be eligible to vote in the referendum, but no person shall be required to be a qualified voter in other respects. Such person may vote provided that they are a resident of the Commonwealth or qualified to do business in the Commonwealth. Any person who is not an individual shall vote by its authorized representative. Only one person per farming unit shall be eligible to vote in any referendum.

1997, c. 873, § 3.1-1086; 2008, c. 860.

§ 3.2-1509. Referenda results; action of Governor.

If the Governor finds any separate referendum held pursuant to this chapter in order, that at least 50 percent of those who have met the requirements of § 3.2-1508 have voted, and that a majority of those voting are in opposition to the continuation of the Cotton Board or in opposition to allowing the Cotton Board to increase the assessment on cotton, then the Governor shall so proclaim and upon such proclamation either the Cotton Board will be discontinued or the assessment on cotton will not be increased. If the Governor finds that one-half or more of those voting are in favor of the continuation of the Cotton Board or are in favor of allowing the Cotton Board to increase the assessment on cotton, then the Governor shall so proclaim, and either the Cotton Board shall continue or the Cotton Board shall be authorized to increase the assessment on cotton by a maximum of \$0.15 per bale. The cost of conducting a referendum under this section shall be from funds paid into the Virginia Cotton Fund as established in § 3.2-1511.

1997, c. 873, § 3.1-1090; 2005, c. 326; 2008, c. 860.

§ 3.2-1510. Production areas designated.

The following production areas are designated for the purposes of this chapter:

Area I: The Cities of Chesapeake, Virginia Beach, and Suffolk;

Area II: Isle of Wight County;

Area III: Charles City, Henrico, New Kent, Essex, King and Queen, King William, Lancaster, and Northumberland Counties;

Area IV: Surry and Prince George Counties;

Area V: Southampton County;

Area VI: Dinwiddie, Sussex, and Amelia Counties;

Area VII: Brunswick, Greenville, and Campbell Counties; and

Area VIII: Accomack and Northampton Counties.

If the production of cotton occurs in any locality that is not part of a production area as designated in this section, such locality shall be part of the nearest adjacent production area. If there are two or more nearest adjacent production areas, such locality shall be part of that production area that had the lowest cotton production in the most recent calendar year according to the records of the Department.

1997, c. 873, § 3.1-1092; 1999, c. 751; 2008, c. 860.

§ 3.2-1511. Virginia Cotton Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Cotton Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All assessments paid pursuant to § 3.2-1512 shall be paid into the state treasury and credited to the Fund.

The Cotton Board, to help defray the costs of Cotton Board programs, may sell printed materials, rent exhibit space at meetings, and engage in any revenue-producing activity related to research, education, and promotion of the growth and use of cotton. The Cotton Board shall promptly pay the proceeds of any such revenue-producing activities into the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the Cotton Board on warrants issued by the Comptroller upon written request signed by a duly authorized officer of the Cotton Board.

The Auditor of Public Accounts shall audit all the accounts of the Cotton Board as provided in § 30-133.

1997, c. 873, § 3.1-1101; 2008, c. 860.

§ 3.2-1512. Collection and disposition of assessment by handler; reports.

A. Every handler shall collect an assessment of 95 cents (\$0.95) per bale from the owner of all

cotton that the handler gins for any owner and shall remit such assessment to the Tax Commissioner on or before the last day of the month following the end of each calendar quarter. Such assessment shall be in addition to any moneys collected by the handler as authorized by the Cotton Research and Promotion Act (7 U.S.C. §§ 2101 -2118). The Tax Commissioner shall promptly pay the assessments into the state treasury to the credit of the Virginia Cotton Fund.

B. Every handler shall complete reports on forms furnished by the Tax Commissioner, submit such reports to the Tax Commissioner along with the assessments submitted pursuant to subsection A, and keep copies of the reports for a period of not less than three years from the time the report was produced. Each report shall consist of information for the calendar quarter preceding the month such report is due and shall include the following: (i) the number of bales that the handler has ginned; (ii) the dollar amount of assessments collected by the handler; (iii) a list of those from whom an assessment has been collected for cotton ginned by the handler; (iv) the dollar amounts of all assessments collected from each owner of cotton ginned by the handler; and (v) any other information deemed necessary by the Tax Commissioner to carry out his duties under this chapter. Notwithstanding the provisions of § [58.1-3](#), upon request, the Tax Commissioner shall provide to the Cotton Board or the Commissioner copies of reports submitted pursuant to this section.

C. Any assessment that is not paid when due shall be collected pursuant to § [3.2-1102](#).

1997, c. [873](#), § 3.1-1098; 1999, c. [751](#);2008, c. [860](#);2016, c. [565](#).

§ 3.2-1513. Records to be kept by handler.

Every handler shall maintain the following records for all cotton ginned by the handler for the owner of the cotton:

1. Full name and address of the owner of the cotton;
2. Date the cotton was ginned by the handler for such owner;
3. Number of bales ginned; and
4. Dollar amount of assessment collected by the handler from the owner.

The handler shall maintain such records for a period of not less than three years from the time the cotton was ginned. Such records shall be open to the inspection of the Tax Commissioner and shall be established and maintained as required by the Tax Commissioner.

1997, c. [873](#), § 3.1-1099; 1999, c. [751](#);2008, c. [860](#).

§ 3.2-1514. Falsification of records; misdemeanor.

It is a Class 1 misdemeanor:

1. For any handler to fail to submit to the Tax Commissioner any report required pursuant to § [3.2-1512](#) within 60 days after the time such report is required to be submitted.
2. For any handler knowingly to report falsely to the Tax Commissioner any information required pursuant to § [3.2-1512](#).
3. For any producer knowingly to report falsely to the Commissioner any information required pursuant to § [3.2-1508](#).

1997, c. [873](#), § 3.1-1103; 2008, c. [860](#).