

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1027
SENATE BILL 1380

AN ACT TO PROVIDE FOR A STRAWBERRY ASSESSMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 65.

"Strawberry Assessment Act.

"§ 106-781. Title.

This Article shall be known as the 'Strawberry Assessment Act.'

"§ 106-782. Findings and purpose.

The General Assembly hereby finds that strawberry production makes an important contribution to the State's economy; and that it is appropriate for the State to provide a means whereby strawberry producers may voluntarily assess themselves in order to provide funds for strawberry research and marketing.

"§ 106-783. Definitions.

As used in this Article:

- (1) 'Association' means the North Carolina Strawberry Association, Inc.
- (2) 'Commercial production' means the production of strawberries for sale.
- (3) 'Department' means the North Carolina Department of Agriculture.

"§ 106-784. Referendum.

(a) At any time after the effective date of this Article, the Association may conduct a referendum among strawberry producers upon the question of whether an assessment shall be levied as provided for herein.

(b) The Association shall determine:

- (1) The amount of the proposed assessment;
- (2) The period for which the assessment shall be levied, not to exceed three years;
- (3) The time and place of the referendum;
- (4) Procedures for conducting the referendum and counting of votes; and
- (5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment and the method of collection shall be set forth on the ballot; provided that no annual assessment shall exceed five percent (5%) of the value of the previous year's strawberry plant sales.

(d) All persons engaged in the commercial production of strawberries, including owners of farms, tenants and sharecroppers shall be eligible to vote in the referendum.

Any questions concerning eligibility to vote shall be resolved by the Board of Directors of the Association.

"§ 106-785. Two-thirds vote required; collection of assessment.

(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 of the assessment. The assessment shall be added by plant growers to the price of all strawberry plants sold for planting in North 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 plant growers for reporting the assessment. 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.

"§ 106-786. Use of funds; refunds.

The Department shall remit all funds collected under this Article to the Association at least monthly.

The Association shall use such funds for research and marketing related to strawberries including such administrative expenses as may be reasonably necessary to carry out this function. A funding committee composed of seven members of the Association appointed by the Commissioner of Agriculture, shall approve all expenditures of such funds. Funding committee members may be reimbursed for necessary expenses as determined by the Association's Board of Directors.

Any person who has purchased strawberry plants upon which the assessment has been paid shall have the right to receive a refund of the assessment by making demand in writing to the Association within 30 days of purchase of the plants. Such demand must be accompanied by proof of purchase satisfactory to the funding committee."

Sec. 1.1. G.S. 106-550 reads as rewritten:

"§ 106-550. Policy as to promotion of use of, and markets for, farm products; tobacco excluded. products.

It is declared to be in the interest of the public welfare that the North Carolina farmers who are producers of livestock, poultry, field crops and other agricultural products, including cattle, swine, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well as bulbs and flowers and other agricultural products having a domestic or foreign market, shall be permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and processors of such products in promoting and stimulating, by advertising and other methods, the increased production, use and sale, domestic and foreign, of any and all of such agricultural commodities. The provisions of this Article, however, shall not include the agricultural product of tobacco, products of tobacco, strawberries, or strawberry plants, with respect to which a separate provision and enactment has heretofore provisions have been made."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of July, 1990.