

TITLE 3. AGRICULTURE AND FORESTRY

CHAPTER 1. DEPARTMENT OF AGRICULTURE AND FORESTRY

§1. Terms defined

As used in this Title, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise:

(1) "Commissioner" means Commissioner of Agriculture and Forestry.

(2) "Department" means Department of Agriculture and Forestry.

(3) "Encumbrance" means any lien, privilege, judgment, mortgage, pledge, pawn, claim, charge, or any other encumbrance of like nature.

(4) "State chemist", notwithstanding anything in this Title to the contrary, shall mean the director of the Louisiana agricultural experiment station of the Louisiana State University Agricultural Center and also shall mean his designee, who shall be a member of the university's academic faculty and who, as determined by the state chemist, possesses a practical understanding of a body of knowledge that is sufficient to properly effect relevant analytical and microscopical work, research that may contribute to the knowledge of the properties, values, and proper use of commercial feeding stuffs, commercial fertilizers, and commercial insecticides and fungicides in Louisiana, and other analyses, determinations, responsibilities, duties, and obligations imposed on the state chemist in this Title.

(5) "Sustainable" or "sustainable agriculture" means science-based practices, including the use of technology, which lead to broad outcome-based performance improvements to meet the needs of present and future generations while advancing environmental, social and economic goals and the well-being of agricultural producers and rural communities. Critical outcomes to consider shall include increasing agricultural productivity, improving human health through access to safe, nutritious and affordable food, and enhancing agricultural and surrounding environments, including water, soil and air quality.

Acts 1986, No. 581, §1, eff. July 2, 1986; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 112, §1, eff. June 8, 2010.

§2. Creation, powers, and duties of Department of Agriculture and Forestry and the commissioner of agriculture and forestry

A. The Department of Agriculture and Forestry is created in accordance with the provisions of Article IV, Section 10 of the Constitution of Louisiana. The commissioner of agriculture shall head the department and shall exercise all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry, except research and educational functions expressly allocated by the constitution or by law to other state agencies. The department shall exercise such functions and the commissioner shall have other powers and perform such duties as authorized by the constitution or provided by law. The Department of Agriculture shall be known as the Department of Agriculture and Forestry. Whenever the phrases "Department of Agriculture" and "Department of Agriculture and Immigration" appear in any statute, rule or regulation, contract, or other document, those phrases shall be deemed to refer to the Department of Agriculture and Forestry.

B. The Department of Agriculture and Forestry, through the office of forestry, shall develop a timber management plan which shall consist of an inventory of the resource and any silvicultural activities that may be needed to perpetuate the resource and shall manage all timber on all state lands except timber which is on state land under the jurisdiction of the Department of Wildlife and Fisheries, the Louisiana State University and Agricultural and Mechanical College, or the office of state parks, Louisiana

Department of Culture, Recreation and Tourism. The management of the timber shall include joint decisions between the Department of Agriculture and Forestry and the agency which has title of the land on harvesting or removing trees, prescribed burning or other management practices, marketing of timber, and reforestation. When good management practices indicate that the land on which the timber is located can be used in more than one way, the agency which has jurisdiction over the land on which the timber is located shall have the final authority concerning the use of that land.

C. All funds derived from the sale of timber on state lands under this Section shall be deposited in the state treasury. Monies derived from the sale of timber on state lands in the custody of the Department of Health and Hospitals shall be deposited into the Department of Health and Hospitals' Facility Support Fund as provided in R.S. 40:16.2. The legislature shall annually appropriate to the Department of Agriculture and Forestry the costs incurred by that department under the provisions of this Section.

D. The Department of Agriculture and Forestry, through the office of forestry, may participate in cooperative endeavors with the federal government and with local governments in this state relating to the Federal Excess Property Program and the Firefighter Property Program for rural fire defense.

E. The Department of Agriculture and Forestry, through the office of forestry, may enter into cooperative endeavors with local governments or duly organized and officially recognized fire organizations for the purpose of making available to those organizations any applicable state owned surplus equipment which can be utilized in suppressing or providing protection from fires in rural areas. In order to facilitate these cooperative endeavors, the following provisions shall apply:

(1) The Louisiana Property Assistance Agency will notify the office of forestry whenever any appropriate surplus property is available.

(2) The office of forestry shall conduct periodic inspections of surplus property available to the Louisiana Property Assistance Agency.

(3) When the office of forestry determines that specific property is appropriate for use in a cooperative endeavor, the office of forestry shall give written notice of that determination to the Louisiana Property Assistance Agency. Upon receipt of the notice, the Louisiana Property Assistance Agency shall reserve the described property for the exclusive use of the office of forestry.

(4) The office of forestry shall assign the equipment to local governments or fire organizations. The office of forestry shall adopt administrative rules to insure that the assignment of property is made in a manner which is fair and equitable.

(5) The assignment and the cooperative endeavor shall be evidenced by a written agreement between the office of forestry and the local government or the fire organization.

(6) All equipment assigned as a result of a cooperative endeavor shall remain the property of the state, and the office of forestry shall maintain state inventory information with regard to that property.

(7) The office of forestry shall inspect all loaned equipment to determine the status of the equipment and the continued use of the equipment for fire protection purposes.

(8) The local government or the fire organization to which the equipment is loaned shall pay the costs of liability insurance, maintenance, and other expenses related to the equipment.

(9) When the local government or fire organization has no use for the loaned equipment, for any reason, the local government or fire organization shall return the equipment to the office of forestry. The office of forestry shall loan the equipment to another local government or fire organization or return the equipment to the Louisiana Property Assistance Agency.

F. The commissioner of agriculture and forestry and any department head for the state of Louisiana may by mutual agreement:

(1) Enter into a cooperative endeavor for the purpose of implementing any law which relates to the powers and duties of their respective departments.

(2) Adopt rules and regulations necessary for the implementation of the cooperative endeavor.

Acts 1987, No. 123, §1; Acts 1987, No. 211, §1; Acts 1988, No. 201, §1; Acts 2007, No. 438, §1, eff. July 11, 2007; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2012, No. 808, §1.

§3. Powers and duties of commissioner of agriculture

A. The commissioner of agriculture shall be known as the commissioner of agriculture and forestry. Whenever the phrases "commissioner of agriculture" or "commissioner of agriculture and immigration" appear in any statute, rule or regulation, contract, or other document, those phrases shall be deemed to refer to the commissioner of agriculture and forestry.

B. The commissioner shall direct the department, and except as otherwise provided by law shall adopt all necessary rules and regulations for the purpose of implementing the laws relating to agriculture and forestry. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

Acts 1986, No. 581, §1, eff. July 2, 1986.

§4. Election, tenure, oath of office, salary of commissioner

A. The commissioner of agriculture shall be elected by the qualified electors at each general state election held for the governor and other state officers. He shall hold office for a term of four years. In case of a vacancy in the office, the governor, with consent of the senate, shall fill the vacancy for the unexpired term as provided by the constitution.

B. The commissioner shall take the oath prescribed for other state officers.

C. *Repealed by Acts 1995, No. 846, §4, eff. Jan. 8, 1996.*

Amended by Acts 1950, No. 60, §1; Acts 1952, No. 397, §1; Acts 1956, No. 125, §1; Acts 1960, No. 572, §1; Acts 1965, No. 61, §1; Acts 1966, No. 65, §1; Acts 1969, No. 11, §1; Acts 1974, No. 433, §7; Acts 1979, No. 236, §1, eff. Sept. 1, 1979; Acts 1980, No. 376, §1, eff. Sept. 1, 1980; Acts 1981, No. 636, §3, eff. Sept. 1, 1981; Acts 1995, No. 846, §4, eff. Jan. 8, 1996.

§5. Office of commissioner

The office of the commissioner shall be maintained in the City of Baton Rouge, in one of the public buildings designated by the governor for the purpose.

Amended by Acts 1966, No. 454, §1.

§§6 to 9. *Repealed by Acts 2010, No. 495, §2, eff. June 24, 2010.*

§10. *Repealed by Acts 1982, No. 511, §7.*

§§11, 12. *Repealed by Acts 1966, No. 453, §1.*

§13. Employment of legal counsel; approval of contracts for legal services

A. The commissioner of agriculture may employ or contract with legal counsel to represent the Department of Agriculture in the enforcement of the laws, rules, and regulations of the department and its boards and commissions.

B. When funds are appropriated by the legislature to the Department of Agriculture for legal services in the professional services category of the state budget, each contract for legal services from that category shall be awarded in accordance with, and shall be subject to, the provisions of Chapter 16

of Title 39 of the Louisiana Revised Statutes of 1950, R.S. 39:1481 et seq. Provided, however, that notwithstanding any law, rule, or regulation to the contrary, each contract shall be subject to review and approval by the office of contractual review and the attorney general only.

Acts 1960, No. 28, §1, 2. Amended by Acts 1962, No. 340, §3; Acts 1983, No. 597, §1.

§14. Executive counsel and assistants; qualifications

The commissioner of the Department of Agriculture and Forestry may employ an executive counsel and such assistants as he finds necessary. The executive counsel and any assistants shall be duly qualified and admitted to practice law in Louisiana. The commissioner may fix the compensation of each.

Acts 2012, No. 152, §1, eff. May 14, 2012.

§15. Application for license, permit, or certificate; social security number required

A. The department and each board or commission authorized to issue a license, permit, or certificate under this Title shall require each applicant to include his social security number on the application.

B. The department and each board or commission shall maintain confidentiality of an applicant's social security number.

Acts 2012, No. 211, §1; Acts 2013, No. 104, §1.

§16. Fees for chemical and other analyses

The director of agricultural chemistry, with the approval of the commissioner of agriculture and forestry, may establish fees to be charged for all chemical or other analyses conducted or performed by the agricultural chemistry laboratory. The fees shall be established by rule adopted in accordance with the Administrative Procedure Act. The amount of the fee shall be based on the costs incurred in conducting or performing the analyses.

Acts 1988, No. 158, §1.

§17. Prescribed burning; intent and purpose; authorization; definitions

A. The application of prescribed burning is a land management tool that benefits the safety of the public, the environment, and the economy of Louisiana. Pursuant thereto, the legislature finds that:

(1) Prescribed burning reduces naturally produced on-site vegetative fuels within wild land areas. Reduction of the fuel load reduces the risk and severity of major catastrophic wildfire, thereby reducing the threat of loss of life and property, particularly in rural and urbanizing areas.

(2) Most of Louisiana's natural communities require periodic fire for maintenance of their ecological integrity. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities.

(3) Forest land, agricultural land, range land, and coastal marshland constitute significant economic, biological, and aesthetic resources of statewide importance. Prescribed burning on forest land prepares sites for reforestation, suppresses undesirable competing vegetation, expedites nutrient cycling, and controls or eliminates certain forest pathogens. On range land, coastal marshland, agricultural, and forest land, prescribed burning improves the quality and quantity of herbaceous vegetation important for livestock production and wildlife habitat and aids in the harvest of sugarcane.

(4) Proper training in the use of prescribed burning is necessary to ensure maximum benefits and protection for the public.

(5) As Louisiana's population continues its expansion into rural areas, pressures from liability issues and nuisance complaints inhibit the use of prescribed burning.

B. The commissioner of agriculture and forestry shall adopt and promulgate voluntary rules and regulations, consistent with applicable state and federal law, and the general intent and purpose of this Section, to authorize and promote the continued use of prescribed burning for ecological, silvicultural, wildlife management, agricultural, and range management purposes. Such rules and regulations shall be adopted and promulgated by the commissioner pursuant to the provisions of the Administrative Procedure Act.

C. The following terms as used in this Section shall have the following meanings:

(1) "Certified prescribed burn manager" means an individual who successfully completes the certification program of the Louisiana State University Agricultural Center or other approved program and is certified by the Department of Agriculture and Forestry.

(2) "Prescribed burning" means the controlled application of fire to naturally produced on-site vegetative fuels and sugarcane under specified environmental conditions, following appropriate precautionary measures, which causes the fire to be confined to a predetermined area to accomplish planned land management objectives, including the harvest of sugarcane.

D. Prescribed burning as authorized by the commissioner pursuant to this Section shall:

(1) Be conducted only under written authority according to the requirements of the commissioner.

(2) Be conducted only when at least one certified prescribed burn manager is present on site from ignition until the burn is completed and declared safe according to prescribed guidelines.

(3) Be considered a property right of the property owner if naturally occurring vegetative fuels are used and when conducted pursuant to the requirements of this Section.

E. If a property owner, lessee, or any person or entity owning a property interest of any kind, or their agent or employee, conducts a prescribed burn pursuant to the requirements of this Section and the rules and regulations promulgated pursuant to this Section, there shall be a rebuttable presumption of nonnegligence.

F. Persons who wish to complain about certain prescribed burns shall issue their complaints to the commissioner. The commissioner shall investigate such complaints and have the authority to suspend or revoke his authorization for the prescribed burn for persons found to be in violation of the prescribed burn requirements or rules and regulations promulgated pursuant to this Section.

Acts 1993, No. 589, §1; Acts 2010, No. 276, §1; Acts 2014, No. 590, §1.

§18. Emergency use airstrips; designation of certain roads

A. The department shall, through cooperation with other state agencies and local governing authorities, develop a program to designate certain roads, including but not limited to dead-end roads and strategically placed parish roads, as airstrips to aid in the use of aircraft for agricultural purposes.

B. Such roads shall be used only upon declaration by the department that an agricultural emergency exists making it necessary for certain roads to be used as airstrips by aircraft for agricultural purposes only.

C. The department shall adopt such rules and regulations, in accordance with the Administrative Procedure Act, as it deems necessary to implement the provisions of this Section.

Acts 1995, No. 334, §1.

§19. Louisiana Organic Certification Cost-Share Rebate Program; legislative findings; authority

A. The commissioner has the duty and authority to promote, protect, and advance Louisiana agriculture. The legislature finds that there is potential for growth of organic agricultural production in

Louisiana. The legislature further finds that there exists a need to support and encourage organic production in the state.

B. The commissioner is authorized to establish a state cost-share rebate program within the department. The purpose of the program is to provide for the reimbursement of a portion of organic certification costs incurred by organic producers and handlers who are certified by private organic certifiers which are accredited by the USDA National Organic Program. Such program shall be in addition to the National Organic Certification Cost-Share Program administered by the United States Department of Agriculture.

C. The commissioner may enter into cooperative agreements with organic producers and handlers and promulgate rules and regulations, in accordance with the Administrative Procedure Act, to carry out the provisions of this Section.

Acts 2012, No. 14, §1.

§20. Labeling of organic food

No person shall use the term "organic food" or any derivative of the term "organic" in the labeling or advertising of a food, unless the growth and composition of such food product meets the requirements contained in the Code of Federal Regulations, 7 CFR Part 205, the National Organic Program Standards.

Acts 2012, No. 14, §1.

CHAPTER 2. CO-OPERATIVE ASSOCIATIONS

PART I. AGRICULTURAL CO-OPERATIVE ASSOCIATIONS

§71. Purpose

The purpose of this Part is to provide for the formation and operation of agricultural co-operative associations and to provide for the rights, powers, liabilities and duties of co-operative associations.

Associations organized hereunder are non-business associations inasmuch as membership therein is limited to producers of agricultural products.

This Part is designed to encourage the intelligent development of agricultural products through co-operation and to rehabilitate farm families of low income on a scientific and co-operative plan.

§72. Terms defined

As used in this Part, the terms defined in this Section have the meanings here given to them, except where the context expressly indicates otherwise:

- (1) "Agricultural products" include horticultural, viticultural, forestry, dairying, livestock, poultry, bee and farm and range products, and furbearing animals raised or produced on a defined acreage.
- (2) "Member" includes actual members of associations with or without capital stock.
- (3) "Association" means any association or corporation organized under this Part.
- (4) "Person" includes individuals, firms, partnerships, corporations, and associations.
- (5) "Muskrat farmer" applies to any person engaged in the business of trapping muskrats, skinning the animals, and preparing the furs for market, on rented, owned, limited, or defined acreage.

§73. Persons entitled to organize

Ten or more persons, who are citizens of Louisiana and who are engaged in the production of agricultural products, may form a co-operative association, with or without capital stock, under the provisions of this Part.

§74. Powers of association; activities permitted

An association may be organized with the following purposes, authority, and powers:

(1) To engage in any activity in connection with the producing, marketing, selling, harvesting, dairying, preserving, drying, processing, canning, packing, milling, ginning, compressing, storing, handling, or utilization of any agricultural products produced by it or produced or delivered to it by its members; or in connection with the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring or use by it or its members of supplies, machinery or equipment; or in connection with the construction or maintenance of houses, barns, sheds or facilities for its use or the use of its members.

(2) To borrow money and to make advances to members.

(3) To establish funds in pool for the purpose of indemnifying or replacing damaged, lost, or destroyed livestock or other corporeal movables pertaining to agriculture belonging to members.

(4) To act as agent or representative of any member, or members, in any of the above mentioned activities.

(5) To purchase or otherwise acquire, and to hold, own, and exercise all rights of ownership in, and to sell, transfer, or pledge or guarantee the payment of dividends or interest on, or the retirement or redemption of shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the production, warehousing, handling or marketing of any of the products handled by the association.

(6) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the by-laws.

(7) To purchase or otherwise acquire, or to buy, hold and exercise all privileges of ownership or tenancy over such movable and immovable property as may be necessary or convenient for the conducting and operating of any of the business of the association or incidental thereto.

(8) To market muskrat furs, trapped, farmed or processed by muskrat farmers.

(9) To provide medical services and benefits for the members and families of members on fee basis.

(10) To engage in the construction, acquisition and operation of electric lines and appurtenances thereto for the distribution of electricity to its members; to purchase, generate or otherwise acquire electricity for such distribution and to sell or distribute electricity to its members.

(11) To do each and everything necessary, suitable or proper for the accomplishment of any of the purposes or the attainment of any one or more of the objects herein enumerated, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized, or to the activities in which it is engaged; and to do any such thing anywhere.

(12) To sue and be sued, prosecute and be prosecuted, to stand in judgment and sue before any court; to contract and be contracted with.

§75. Membership; stock certificates; association may be member

Under the terms and conditions prescribed in its by-laws, an association formed under this Part may admit as members and issue certificates of stock or membership only to persons engaged in the production of agricultural products grown by them and to be handled by or through the association, including the lessees and tenants of lands used for production of such products and lessors and landlords who receive as rent all or part of the crop raised on the leased premises.

Certificates of stock or membership shall not be transferable and no persons shall acquire by operation of law or otherwise the benefit of membership except as provided in this Section.

An association organized hereunder may become a member or stockholder of any other association or associations organized hereunder.

§76. Articles of association; contents; execution and filing

Each association formed under this Part shall prepare and file articles of association, setting forth:

(1) The name of the association and the place where its principal business will be transacted, which shall be its domicile.

(2) The purpose for which it is formed.

(3) The term for which it is to exist, not exceeding ninety-nine years.

(4) The number of directors which shall not be less than five and may be any number in excess thereof, and the term of office of the directors.

(5) If organized without capital stock, whether the property rights and interest of members shall be equal or unequal, the articles shall set forth the general rules applicable to all members by which property rights and interests, respectively, of each member shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with the general rules.

(6) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof. The capital stock may be divided into preferred and common stock. If so divided the articles of association must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and definite extent of the preference and privileges granted to each.

The articles shall be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgements; and shall be filed and recorded in the office of the Secretary of State.

§77. Amendments to articles of association

The articles of association may be altered or amended at any regular or special meeting of the stockholders or members called for that purpose. Any amendment shall first be approved by two-thirds of the directors and then adopted by a vote representing a majority of all stockholders or members of the association. Amendments to the articles of incorporation when adopted shall be filed in accordance with the provisions of Title 12, Chapter 1.

§78. By-laws; contents

Each association incorporated under this Part shall, within thirty days after its incorporation, adopt for its government and management, a code of by-laws not inconsistent with the powers granted by this Part. The by-laws shall prescribe the manner and method of removal from office of any officer or director of the association and shall prescribe the manner and method of filling vacancies. A majority

vote of the members or stockholders, or their written consent, is necessary, to adopt by-laws. Each association in its by-laws may also provide for any of the following matters:

- (1) The time, place and manner of calling and conducting its meetings.
- (2) The number of stockholders or members constituting a quorum.
- (3) The right of members or stockholders to vote by proxy or by mail, and the conditions, manner, form and effect of the votes.
- (4) The number of directors constituting a quorum.
- (5) The qualifications, duties, and term of office of directors and officers; the time of their election and the mode and manner of giving notice thereof.
- (6) Penalties for violations of the by-laws.
- (7) Form and manner of amendment of by-laws.
- (8) The amount of entrance, organization, and membership fees, if any; manner and method of collection of the fees, and the purposes for which they may be used.
- (9) The amount which each member or stockholder shall be required to pay annually, or from time to time, to carry on the business of the association; the charge to be paid by each member or stockholder for service rendered by the association to him; and the producing, marketing, renting, or leasing contract between the association and its members or stockholders which every member or stockholder shall be required to sign.
- (10) The qualifications of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the manner, method, and time of allotment and distribution of surpluses; the method, time, and manner of permitting members to withdraw or permitting the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and of the shares of common stock; the conditions upon which, and the time when, membership of any member shall cease; the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; the mode, manner, and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder or upon the expulsion of a member or forfeiture of his membership. In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise his property interests in the association and shall fix the amount thereof in money, which shall be paid to him at such time as may be fixed by the board of directors, not to exceed the termination of the current marketing or other agreements.

§79. Meetings; notice required

In its by-laws each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time, and ten per cent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time; the meeting shall thereupon be called by the directors. Notice of all meetings, together with a statement of the purpose thereof, shall be mailed to each member at least five days prior to the meeting; provided, however, that the by-laws may require instead that such notices may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

§80. Directors; executive committee

A. The affairs of the association shall be managed by a board of not less than five directors, a majority of whom shall be elected by the members or stockholders from their own members and shall

have all rights and powers as provided for under the general corporation laws of this state, and such other powers as may be necessary to the proper execution of this Part. The by-laws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts. In such cases, the by-laws shall specify the number of directors to be elected by each district, the manner and method of reappointing the directors and redistricting the territory covered by the association. The by-laws may provide that primary elections shall be held in each district to elect the directors apportioned to the districts and the results of all primary elections shall be ratified by the next regular meeting of the association, or they may be considered final as to the association.

B. The by-laws may provide that one or more directors may be appointed by the governor of the state, the dean of the college of agriculture of the Louisiana State University and Agricultural and Mechanical College, or the commissioner of agriculture and forestry. The directors appointed in this manner shall represent primarily the interest of the general public in associations. The director or directors so appointed need not be members or stockholders of the association, but shall have the same powers and rights as the other directors. Directors so appointed shall not number more than one-fifth of the entire number of directors.

C. The directors of the association may provide a fair remuneration for the time actually spent by its officers, directors, and employees in its service. No director, during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association.

D. The by-laws may provide for an executive committee and may allot to the committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

E. When a vacancy on the board of directors occurs, other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the by-laws provide for an election of directors by districts. In such case, the board of directors shall immediately call a special election to be voted in by the members or stockholders in that district to fill the vacancy.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§81. Officers

The directors shall elect from their number a president and one or more vice presidents. They shall also elect a secretary and a treasurer, who need not be directors or members of the association, and they may combine the two latter offices and designate the combined office as secretary-treasurer. The treasurer may be a bank or any depository, and as such shall not be considered as an officer but as a functionary of the board of directors. In such case the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as authorized by the board of directors.

Amended by Acts 1952, No. 127, §1.

§82. Stock or membership certificates; liability for debts; voting rights; transfer of stock or membership

When a member of an association established without capital stock, has paid his membership fee in full, he shall receive a certificate of membership.

Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note or notes given in payment thereof.

No member or stockholder shall be entitled to more than one vote.

The by-laws shall prohibit the transfer of the membership or stock of the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions shall be printed upon every certificate of membership or stock subject thereto.

§83. Co-operative activities not in restraint of trade

No association organized under this Part is in violation of the anti-trust statutes of this state, a combination in restraint of trade, nor an illegal monopoly; an attempt to lessen competition or fix prices arbitrarily; nor shall the marketing contracts or agreements between the association and its members, or any agreement authorized by this Part, be considered illegal or in restraint of trade, or in violation of the anti-trust statutes of this state.

§84. License fee and tax liability

Each association organized under this Part shall pay an annual license fee of ten dollars to the secretary of state, and shall be exempt from all franchise or other license taxes, but not from ad valorem property taxes. The provisions of this Section shall likewise apply to associations and corporations organized under the laws of the United States for the sole purpose of extension of credit to farmers and farmers' co-operative associations.

Amended by Acts 1966, No. 228, §1.

§85. Recording articles of association; fees; certificate of incorporation

A. The articles of association of each association organized hereunder shall be filed with the secretary of state. The secretary of state shall record the articles of association and issue a certificate showing the date and hour when the original articles were filed for record. Thereupon its corporate existence shall begin. For the purposes of this Title, any document required to be filed with the secretary of state shall be deemed filed when it is received either physically or electronically in any office designated by the secretary of state for the receipt of such documents.

B. A multiple original or certified copy of the articles of association shall be delivered to the recorder of mortgages of the parish in which the association has its domicile, who shall file the multiple original or certified copy in his office.

C. Twenty-five cents per hundred words shall be paid to the recorder of mortgages for recording the articles in his office. Thirty-five dollars shall be paid the secretary of state for recording the articles in his office. One dollar shall be paid the secretary of state for his certificate of incorporation. No other fees shall be charged by the secretary of state or the recorder of mortgages in connection with the incorporation of any association.

Acts 1989, No. 83, §1; Acts 1999, No. 342, §1.

§86. Applicability of general corporation laws

The provisions of Title 12, Chapter 1, and all powers and rights thereunder, apply to the associations organized hereunder, except where such provisions are in conflict with, or inconsistent with, the express provisions of this Part.

§87. Limitation of application

The provisions of this Part do not in any manner limit, restrict, enlarge, or modify the provisions of Part II of this Chapter, relative to the co-operative marketing law, nor of the law relative to the formation of non-trading corporations.

§88. Eligibility to federal funds

Co-operatives organized under this Part may participate in and be eligible to funds to be loaned by the United States or any agency thereof to associations operating co-operatively and organized for agricultural purposes.

PART II. CO-OPERATIVE MARKETING ASSOCIATIONS

§121. Declaration of policy

The purpose of this Part is to promote, foster, and encourage the intelligent and orderly marketing of agricultural products through co-operation; to eliminate speculation, unnecessary middlemen, and waste; to make the distribution of agricultural products as direct as can be efficiently done between producer and consumer; and to stabilize the marketing of agricultural products.

§122. Terms defined

As used in this Part, the terms defined in this Section have the meanings here given to them, except where the context expressly indicates otherwise.

(1) "Agricultural products" include horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and other farm products;

(2) "Member" includes actual members of associations without capital stock and holders of common stock in associations organized with capital stock;

(3) "Association" means any association organized under this Part; and,

(4) "Person" includes individuals, firms, partnerships, corporations, and associations.

Associations organized hereunder are non-profit, inasmuch as they are not organized to make profits for themselves as such, or for their members as such, but only for their members as producers.

This Part may be referred to as the Co-operative Marketing Law.

§123. Who may organize

Ten or more persons, a majority of whom are residents of this state, engaged in the production of agricultural products may form a non-profit, co-operative association, with or without capital stock, under the provisions of this Part.

§124. Purposes

An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, manufacturing, canning, packing, grading, storing, handling, shipping, or utilizing thereof, or the manufacturing or marketing of by-products thereof; or in connection with the manufacturing, selling, or supplying to its members of machinery, equipment or supplies; or more of the activities specified herein; or in the financing of the above enumerated activities.

Every group of persons contemplating the organization of an association under this Part is urged to communicate with the dean of the college of agriculture of the Louisiana State University and Agricultural and Mechanical College, who will inform them whatever a survey of the marketing conditions affecting the commodities proposed to be handled may indicate regarding probable success.

§125. Powers

Each association incorporated under this Part shall have the following powers:

(1) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any agricultural product produced or delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities; or in any one or more of the activities specified in this Section. No association shall handle the agricultural products of any non-member, except as necessary and incidental to the handling of the products of the members; and in any case, the value of the products of nonmembers handled, shall not exceed the value of the products handled by the association for its members.

(2) To borrow money and to make advances to members.

(3) To act as agent or representative of any member in any of the above mentioned activities.

(4) To purchase or otherwise acquire, and to hold, own, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing, handling, or marketing of any of the products handled by the association.

(5) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the by-laws.

(6) To buy, hold, and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conducting and operating of any of the business of the association or incidental thereto.

(7) To do each and everything necessary or proper for the accomplishment of any of the purposes or the attainment of any of the objects enumerated in this Part; or conducive to or expedient for the interest or benefit of the association; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized, or to the activities in which it is engaged; and to do any such thing anywhere.

(8) To sue and be sued, prosecute and be prosecuted before any court; and to contract.

(9) To have perpetual existence, unless a limited period of duration is stated in its articles of association.

Acts 2001, No. 41, §1.

§126. Members

Under the terms and conditions prescribed in its articles or by-laws, an association may admit as voting members, or issue common stock or certificates of voting membership only to persons engaged in the production of agricultural products, including the lessees and tenants of lands used for production of such products and lessors and landlords who receive as rent all or part of the crop raised on the leased premises, provided that if the articles or by-laws so stipulate, persons not engaged in the production of agricultural products may be admitted as nonvoting members, the titles, classifications and conditions of such nonvoting memberships to be specified in the articles or by-laws.

Certificates of membership of a nonstock association shall not be transferable, and no person shall acquire common stock by operation of law or otherwise, except as provided herein.

If a member of a nonstock association be other than a natural person, the member may be represented by any individual, associate, officer, manager, or member thereof, duly authorized in writing.

If the articles or by-laws so provide, members or stockholders may be represented at annual and special meetings by representatives or delegates, and in such cases, all rights of members and stockholders as defined in this Part shall be exercised by such representatives or delegates to the extent authorized by the articles or by-laws.

One association organized hereunder may become a member or stockholder of any other association organized hereunder.

Amended by Acts 1966, No. 87, §1.

§127. Articles of association

A. Each association formed under this Part shall prepare and file articles of association, setting forth:

(1) The name of the association and the place where its principal business will be transacted.

(2) The purpose for which it is formed.

(3) The term for which it is to exist or that it is to exist in perpetuity.

(4) The number of directors, which shall not be less than five and may be any number in excess thereof, and the term of office of the directors.

(5) If organized without capital stock, whether the property rights and interest of members shall be equal or unequal, the articles shall set forth the general rules applicable to all members by which property rights and interests, respectively, of each member shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with the general rules.

(6) If organized with capital stock the amount of stock and the number of shares into which it is divided and the par value thereof. The capital stock may be divided into preferred and common stock. If so divided the articles of association shall contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and definite extent of the preference and privileges granted to each.

B. The articles shall be executed by authentic act signed by each of the incorporators or by act under private signature subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgments; and shall be filed in accordance with the provisions of Chapter 1 of Title 12 of the Louisiana Revised Statutes of 1950.

Acts 1989, No. 146, §1; Acts 2001, No. 41, §1.

§128. Amendments to articles of incorporation

A. The articles of incorporation may be altered or amended at any regular meeting or at any special meeting called for that purpose. Any alteration or amendment shall be approved, before the adoption thereof, by two-thirds of the directors, and by the affirmative vote of not less than a majority of all members or stockholders of the association or their duly authorized and qualified representatives or delegates casting a vote thereon. The rules and regulations for voting by representatives or delegates shall be prescribed in the articles or bylaws.

B. If the articles or bylaws should require more than a majority vote of members or stockholders or their duly authorized and qualified representatives or delegates casting a vote thereon, such requirement must be satisfied before the adoption of any amendments.

C. Amendments to the articles of incorporation shall be filed in accordance with the provisions of Chapter 1 of Title 12 of the Louisiana Revised Statutes of 1950.

Acts 1989, No. 146, §1.

§129. By-laws

Each association incorporated under this Part shall within thirty days after its incorporation adopt for its government and management, a code of by-laws, not inconsistent with the powers granted by this Part. A majority vote of the members or stockholders or their duly authorized and qualified representatives or delegates casting a vote thereon, or their written consent, is necessary to adopt or amend by-laws; provided that if the articles so stipulate, the board of directors may make and amend by-laws, subject to the power of the members or stockholders, or their duly authorized and qualified representatives or delegates to change or repeal the by-laws or amendments so made.

Each association under its by-laws may provide for any or all of the following matters:

- (1) The time, place, and manner of calling and conducting its meetings.
- (2) The number of stockholders or members constituting a quorum.
- (3) The right of members or stockholders to vote by proxy or by mail, or both, and the conditions, manner, form and effect of such votes.
- (4) The number of directors constituting a quorum.
- (5) The qualifications, duties, and terms of office of directors and officers; time of their election and the mode and manner of giving notice thereof.
- (6) Penalties for violations of the by-laws.
- (7) The amount of entrance, organization, and membership fees, if any; manner and method of collection of the fees, and the purpose for which they may be used.
- (8) The amount which each member or stockholder shall be required to pay annually, or from time to time, to carry on the business of the association; the charge to be paid by each member or stockholder for services rendered by the association to him; and the marketing contract between the association and its members or stockholders which every member or stockholder shall be required to sign.
- (9) The qualifications of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or permitting the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and of the shares of common stock; the conditions upon which, and the time when, membership of any member shall cease; the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; and the mode, manner and effect of the expulsion of a member; manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder or upon the expulsion of a member or forfeiture of his membership.

Amended by Acts 1966, No. 89, §1.

§130. General and special meetings; how called

In its by-laws each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time, and ten per cent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. A special meeting shall thereupon be called by the directors. Notice of all meetings, together with a statement of the purpose thereof, shall be mailed to each member at least five days prior to the meeting; provided, however, that the by-laws may require instead that notices may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

§131. Directors; election

A. The affairs of the association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own members and shall have all rights and powers as provided for under the general corporation laws of this state, and such other powers as may be necessary to the proper execution of this Part. The by-laws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts. In such cases, the by-laws shall specify the number of directors to be elected by each district, the manner and method of reappointing the directors and redistricting the territory covered by the association. The by-laws may provide that primary elections shall be held in each district to elect the directors apportioned to such districts and the results of all primary elections shall be ratified by the next regular meeting of the association or may be considered final as to the association.

B. The by-laws may provide that one or more directors may be appointed by the governor of the state, the dean of the college of agriculture of the Louisiana State University and Agricultural and Mechanical College, or the commissioner of agriculture and forestry. The directors appointed in this manner shall represent primarily the interest of the general public in associations. The director or directors so appointed need not be members or stockholders of the association, but shall have the same powers and rights of the other directors. Directors so appointed shall not number more than one-fifth of the entire number of directors.

C. The directors of the association may provide a fair remuneration for the time actually spent by its officers, directors and employees in its service. No director, during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association.

D. The by-laws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

E. When a vacancy on the board of directors occurs, other than by expiration of term, the remaining members of the board by a majority vote shall fill the vacancy, unless the by-laws provide for an election of directors by districts. In such case, the board of directors shall immediately call a special election to be voted in by the members or stockholders in that district to fill the vacancy.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§132. Election of officers

The board of directors shall elect a president, a secretary, a treasurer and one or more vice-presidents, and may elect or select any other officers, assistant officers and agents as are authorized in the articles or by-laws; provided that if the articles or by-laws so stipulate, the above named officers or agents may be elected by the members or stockholders of the association or their duly authorized and qualified representatives or delegates. The articles or by-laws may prescribe special qualifications for any officer. Unless otherwise provided in the articles or by-laws, only members of the board of directors shall be eligible for election as president or vice-president. The offices of secretary and treasurer may be combined and designated as secretary-treasurer. The treasurer may be a bank or any depository, and as such shall not be considered as an officer but as a functionary of the board of directors. In such case the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as authorized by the board of directors.

Amended by Acts 1966, No. 88, §1.

§133. Stock; membership certificates; when issued; voting; liability; limitations on transfer and ownership

When a member of an association established without capital stock has paid his membership fee in full, he shall receive a certificate of membership. No association shall issue certificate of stock to a member until it has been fully paid for. The promissory note of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but such retention as security shall not affect the member's right to vote.

Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note given in payment thereof.

No stockholder of a co-operative association shall own more than one-tenth of the common stock of the association; and an association, in its by-laws, may limit the amount of common stock which one member may own to any amount less than one-tenth of the common stock.

No member or stockholder shall be entitled to more than one vote.

Any association organized with stock under this Part may issue preferred stock, with or without right to vote. Preferred stock may be redeemable or retireable by the association on such terms and conditions as may be provided by the articles of association and printed on the face of the certificates.

The by-laws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association, and the restrictions shall be printed upon every certificate of stock subject thereto.

The association may at any time, except when the debts of the association exceed fifty per cent of the assets thereof, purchase its common stock at book value as conclusively determined by the board of directors and pay for it in cash within thirty days thereafter.

§134. Removal of officer or director

Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by ten per cent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next meeting of the association and, by a vote of the majority of the members, the association may remove the officer or director and fill the vacancy. The officer or director against whom the charges are brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; the person bringing charges against him shall have the same opportunity. The officer or director may be suspended by a vote of two-thirds of the directors pending the hearing of such charges.

In case the by-laws provide for election of directors by districts with primary elections in each district, the petition for removal of an officer or director shall be signed by twenty per cent of the members residing in the district from which he was elected. The board of directors shall call a special meeting of the members residing in that district to consider the removal of the officer or director. By a vote of the majority of the members of that district, the officer or director in question shall be removed from office.

§135. Referendum

Upon demand of one-third of the entire board of directors, any matter that has been approved or passed by the board shall be referred to the entire membership or the stockholders for decision at the next meeting; a special meeting may be called for the purpose.

§136. Marketing contract

A. The association and its members may make and execute marketing contracts requiring the members to sell, for any period of time not over ten years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities created by the association. If they contract to sell to the association, title to the products shall pass absolutely and unreservedly, except for recorded liens, to the association upon delivery, or when put in merchantable condition, or at any other specified time if expressly and definitely agreed in the contract.

B. The contract may provide that the association may sell or resell the products delivered by its members, with or without taking title thereto, and pay over to its members the resale price, after deducting all necessary selling, overhead, and other costs and deductions, as defined in the contracts, and expenses including interest on preferred stock not exceeding the legal interest rate per annum, reserves for retiring stock, other proper reserves, and interest not exceeding the legal interest rate per annum upon common stock.

Amended by Acts 1981, No. 121, §1.

§137. Remedies for breach of contract

The by-laws or the marketing contract of any association existing hereunder may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach or threatened breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds, expenses, and fees in case any action is brought upon the contract by the association. Such provisions shall be valid and enforceable in the courts of this State, and the clauses providing for liquidated damages shall be enforceable and shall not be regarded as penalties.

In the event of any breach or threatened breach of a marketing contract by a member or other person, the association shall be entitled to an injunction to prevent the breach or further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of the action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a bond in the sum of one hundred dollars, the association shall be entitled to an injunction against the member or other person. The officiating judge may increase the bond to five hundred dollars after a hearing on five days notice to the parties, if justice demands the increase in the amount of the bond.

§138. Purchasing business of other associations, persons, firms or corporations; payment; stock issued

Whenever an association organized under this Part with preferred capital stock shall purchase the stock or any property, or any interest in any property, of any person, firm, corporation, or association, it may discharge the obligations incurred, wholly or in part, by exchanging for the acquired interest shares of its preferred capital stock to an amount which at par value would equal a fair market value of the stock or interest purchased, as determined by the board of directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued.

§139. Conflicting laws not to apply

Any provisions of law which are in conflict with this Part, shall be construed as not applying to the association herein provided for. Any exemptions under any and all existing laws, referring to taxes or otherwise, applying to agricultural products in the possession or under control of the individual producer, shall apply similarly to products delivered by its farmer members which are in the possession or under control of the association.

§140. Limitation of use of term "co-operative"

No person, firm, corporation or association, organized or doing business in this state, shall use the word "co-operative" as part of its corporate or other business name or title for producers' co-operative marketing activities, unless it has complied with the provisions of this Part.

§141. Interest in other corporations or associations

An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any corporation or association, with or without capital stock, engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing or selling the agricultural products handled by the association, or the by-products thereof. If the corporations are warehousing corporations, they may issue legal warehouse receipts to the association, against the commodities delivered by it, or to any other person and the legal warehouse receipts shall be considered as adequate collateral to the extent of the usual and current value of the commodity represented thereby. In case the warehouse is licensed or licensed and bonded under the laws of this state or the United States, its warehouse receipt delivered to the association on commodities of the association or its members shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association.

§142. Contracts and agreements with other associations

Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements, contracts, and arrangements with any other corporations or associations, formed in this or any other State, for the co-operative or more economical carrying on of its business, or any part thereof. Any two or more associations may, by agreement between them, unite in employing and using or may separately employ and use the same personnel, methods, means, and agencies for carrying on and conducting their respective businesses.

§143. Associations heretofore organized may adopt these provisions

Any corporation or association organized under previously existing statutes may by a majority vote of its directors or members, be brought under the provisions of this Part. It shall make out in duplicate a statement signed and sworn to by a majority of its directors, to the effect that the corporation or association has by a majority vote of its directors decided to accept the benefits and be bound by the provisions of this Part. Articles of association shall be filed as required in R.S. 3:127 except that they shall be signed by a majority of the members of the board of directors. The filing fee shall be the same as for filing an amendment to articles of association.

§144. How associations organized in another state may carry on business in this state

Any co-operative marketing association organized under appropriate laws of any other state for the purposes and with the restrictions and limitations substantially the same as those set forth in this Part, may operate and do business in this state with all the rights, powers, and privileges granted to any co-operative marketing association incorporated under this Part, upon compliance with the laws of this state regarding the qualifications of foreign corporations to carry on business within this state.

§145. Breach of marketing contract of co-operative associations; spreading false reports about the finances or management thereof

Any persons who, or any corporation whose officers or employees, knowingly induce or attempt to induce any member or stockholder of an association organized hereunder to breach his marketing contract with the association, or who knowingly spread false reports about the finances or management

thereof shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense, and shall be liable to the association aggrieved in a civil suit in the penal sum of one thousand dollars for each offense.

§146. Associations not in restraint of trade

No association organized hereunder shall be deemed to be in violation of the anti-trust statutes of this state, a combination in restraint of trade, or an illegal monopoly; nor in an attempt to lessen competition or fix prices arbitrarily; nor shall the marketing contracts or agreements between the association and its members or any agreement authorized by this Part be considered illegal, in restraint of trade, or in violation of the anti-trust statutes of this state.

§147. Annual license fees

Each association organized hereunder shall pay an annual license fee of ten dollars, but shall be exempt from all franchise or other license taxes, except upon its real estate, furniture, and fixtures.

§148. Filing fees

For filing articles of association, an association organized hereunder shall pay to the secretary of state thirty-five dollars and for filing an amendment to the articles, two and one-half dollars.

Acts 1989, No. 146, §1.

§149. Application of general corporation laws

The provisions of the general corporation laws of this State and all powers and rights thereunder shall apply to the association organized hereunder, except where such provisions are in conflict with, or inconsistent with, the express provisions of this Part.

CHAPTER 3. AGRICULTURAL CREDIT CORPORATIONS

§201. Purpose; name

Any number of natural persons not less than ten, may organize an agricultural credit corporation for the purposes of assisting the members by advancing to the members, or to other persons for the benefit of a member, moneys, supplies, seed, fertilizer, work animals, agricultural implements, live stock, cows, or poultry for agricultural and dairy purposes, and for the raising, breeding, and fattening of live stock and poultry.

Corporations formed after August 1, 1928 for the above purposes in the manner provided by this Chapter shall be incorporated under the terms of this Chapter and any corporation so organized shall include as part of its name the words "Agricultural Credit Corporation". Corporations formed after August 1, 1928 and not incorporated under the terms of this Chapter shall not include as part of its name the words "Agricultural Credit Corporation".

§202. Articles of incorporation

The articles of incorporation shall be executed by authentic act in the English language signed by each of the incorporators or their duly constituted agents, and shall state the name and title of the corporation, the purpose for which formed, the place chosen for its domicile where all meetings of the stockholders and directors shall be held, the amount of the capital stock and the amount to which it can be increased, the number of shares into which the stock is divided, the par value of each share, the period at which the corporation shall commence, its duration, the mode of liquidation at the termination or

dissolution of the charter, the number of directors and officers and the mode and manner of their election, and the manner of amending its charter and of calling and holding stockholders' meetings.

§203. Powers

Corporations organized under this Chapter may enjoy succession by its corporate name for the period of time expressed in its act of incorporation, not to exceed ninety nine years; contract, sue, and be sued in its corporate name; make and use a corporate seal, and alter it at pleasure; invest its board of directors with all corporate powers, subject to restrictions named in its charter; name and appoint such managers, directors, or officers as the interest and convenience of the corporation require; make and establish, alter, and amend such by-laws and rules for the proper management and regulation of the affairs of the corporation as may be necessary and proper; acquire property by grant, donation, or purchase in the due course of business, and lease, hold, and dispose of, mortgage, and pledge the property; wind up and dissolve itself; conduct business in this state; assess and collect from its members and stockholders such fees, dues, fines, interest and discount, premiums, and other charges as shall be provided by resolutions of its board or by its by-laws, which charges shall not be held to be usurious; receive and hold its own stock in pledge as part security for loans made to or guaranteed by its members and purchase the same under the power of pledge; purchase at a valuation mutually agreed upon, and cancel, unpledged shares of stock held by its members; make loans to members or to non-members, when such non-member loans are beneficial to a member and are guaranteed or endorsed in whole or in part by the member; borrow money and issue evidence of indebtedness therefor; sell or discount notes and evidence of indebtedness; invest its moneys by the purchase of bonds and other negotiable securities; and have such other and further powers as may be useful, necessary, or incidental to the effective carrying out of the purposes for which the corporation is organized.

§204. Capital stock

The capital stock of any corporation organized under this Chapter shall not be less than one hundred thousand dollars, divided into shares with par value of not less than twenty-five dollars nor more than one hundred dollars each. At least one-half of the capital stock shall be subscribed and actually paid in before the corporation is authorized to commence business. Stock issued shall be sold only for cash at not less than par value. All shares acquired by the corporation shall become its property and may be reissued and sold at a price, not less than par value, fixed by the board of directors. At no time shall there be less than one-half of the capital stock outstanding and belonging to its members.

§205. Types of loans; security

A. Corporations organized under this Chapter shall only make loans to and contract for advances with its members or to other persons whose loans are beneficial to members and are guaranteed by members in whole or in part. Loans shall be secured by pledge of shares of the corporation having a total valuation, based on par value of the shares, of not less than ten percent of the amount of the loan. No loan to any one borrower shall be in excess of twenty percent of the capital stock subscribed and paid in.

B. Loans made by such corporations shall be classified as current loans, and continuing credit loans, and only such loans shall be made.

C.(1) Current loans are those made for any one or more of the purposes for which the corporation is formed, definitely terminating within the current year of the loan, or within a period of time not less than six months nor more than three years from date of the loan.

(2) Current loans shall be secured by a pledge of the capital stock of the corporation, and may be additionally secured by: a security interest affecting crops, livestock, work animals, and agricultural

implements; a mortgage on real estate; and by such other collateral security as the board of directors of the corporation may require.

D. Continuing credit loans are those made to the borrower for his successive agricultural operations over a period of time not exceeding ten years, on a specifically described farm, of a stated sum of money designated as the "maximum", and secured by a pledge of capital stock of the corporation and any one or all of the following:

(1) A mortgage of the farm.

(2) A security interest affecting crops, those presently planted and growing as well as all successive crops to be planted, grown, cultivated, and harvested thereon during the entire period of time, as fixed in the loan.

(3) A security interest affecting all livestock and work animals and agricultural implements belonging to borrower and located on the farm at the beginning of the loan.

(4) A security interest affecting such other collateral security as the corporation may require and accept.

Acts 1989, No. 137, §2, eff. Sept. 1, 1989; Acts 1991, No. 539, §1, eff. Jan. 1, 1992.

§206. Matters to be covered by contract for continuing credit loan

A. Corporations operating under this Chapter may contract with the borrower applying for a continuing credit loan to advance him monies, supplies, seeds, fertilizer, work animals, agricultural implements, livestock, cows, and poultry for his successive annual operations, not exceeding in the aggregate at any time the designated maximum amount. The maximum amount plus attorney's fees and costs, as set forth in the contract, shall during the entire period of the loan be the amount due by the borrower to the corporation for the advances already made and to be made.

B. The mortgage and security agreement between the corporation and the borrower shall contain in addition to rules, regulations, conditions, and stipulations required by the corporation the following:

(1) A declaration by the borrower setting forth that he has applied to the corporation for a continuing credit loan of \$_____ (maximum amount), to be made to him from time to time, not exceeding at any time in the aggregate the maximum amount, to enable him to continue his agricultural operations over a stated period not to exceed ten years, on a specifically described farm of which he is the owner or lessee, by planting, cultivating, and harvesting crops thereon and therefrom during the period of time.

(2) A declaration by the borrower:

(a) That the farm together with the presently planted crops and all the crops proposed to be planted for that current year and all future crops thereafter planted thereon of any nature or kind, and together with all livestock and work animals and agricultural implements thereon, shall, for the purpose of this Chapter and during the term of the continuing credit loan, be considered and dealt with as a whole, as part and parcel of the realty.

(b) That during the period the borrower binds and obligates himself, his heirs and assigns not to grant any additional security interest affecting any of its crops, nor to obtain any advances for the crops, nor to grant any additional security interest affecting any of the chattels thereon, to any one else than the corporation, nor to do any act or thing to the prejudice of the corporation's security interest securing the continuing credit loan and the advances made and to be made thereunder.

C. The security agreement shall affect and include:

(1) All crops now planted and to be planted, cultivated, and harvested on the farm during the period.

(2) All livestock and work animals and agricultural implements, belonging to borrower.

(3) The pledge of the capital stock of the corporation of an aggregate par value of not less than one tenth of the maximum amount of the loan.

(4) Such other collateral security as may be given and accepted by the corporation.

D.(1) The security agreement shall further provide that during the period of the continuing credit loan and in order to enable and facilitate the corporation's ability to secure and to obtain the necessary funds to make the advances to borrower as contracted for between them, the borrower shall from time to time furnish and deliver to it his promissory notes. At no time shall the sum of the principals of the notes exceed the maximum amount of the continuing credit loan.

(2) The notes shall be consecutively numbered as issued, beginning with number one to the number of the last note. They shall be drawn by the maker upon a form approved by the corporation, payable to the order of the corporation at such place and at such dates and providing for such attorney's fees, if placed in the hands of an attorney for collection, as prescribed by the corporation, and shall have endorsed on the reverse of each the following words: "This is Note No. _____ of an indeterminate series of notes issued in accordance with the provisions of Chapter 3 of Title 3 of the Revised Statutes of Louisiana, providing for continuing credit loans by agricultural credit corporations; notes previously issued, Nos. _____; of which notes Nos. _____ have been retired and cancelled, leaving the sum of the principals of this and all the notes prior hereto, outstanding \$ _____", followed by signature of maker.

(3) Each note thus issued shall be delivered to the corporation, and shall be in its hands negotiable, for sale or discount to a third party. The security interest and mortgages securing the continuing credit loan, shall inure to the benefit of any holder thereof without the necessity of any notarial assignment and the holder of the notes shall have the right to enforce the full and punctual payment of each note in the order of its serial number for its full amount, with interest and attorney's fees, in accordance with its tenor. In any sale to enforce the payment of the continuing credit loan or of any of the notes thus issued, of any of the property mortgaged, or pledged or on which a security interest has been granted, and all proceeds of the sales shall be applied first to the payment of all court costs, charges, and legal expenses, and thereafter by preference and priority to the payment of all notes issued and not retired and cancelled, for the full amount of each, with interest, attorney's fees, and costs, in accordance with their tenor and in the order of their serial numbers, so that the holder of any of the notes shall not be paid or receive any of the proceeds until each note, issued prior thereto and at that time outstanding and unpaid, shall have been fully satisfied, and thereafter the corporation shall be paid from the proceeds the amount of any balance due it on account of advances made, with interest, attorney's fees, and costs.

E. The security agreement shall further provide that, during the entire period of the term of the continuing credit loan:

(1) The proceeds of all crops harvested shall be paid over to the corporation, with recognition of its lien, up to the amount of all advances at that time made and unsatisfied with interest, attorney's fees, and costs, in accordance with the terms thereof.

(2) The proceeds shall be applied to the payment of the notes as provided in this Section.

(3) The payment of the notes shall not operate to satisfy, diminish, extinguish, or to cancel the continuing credit loan in whole or in part.

(4) The maximum contracted debt shall continue to exist as the principal obligation and remain in full force for its full amount with interest, attorney's fees, and costs, secured by the mortgage and the security agreement affecting crops and pledge of stock and all such other collateral security belonging thereto.

F. The security agreement may additionally provide that the continuing credit loan may at the option of either party be terminated by written notice to the other party and that thereafter the immobilization for the purposes of this Chapter, as provided for in Paragraph B(2) of this Section, and the collateral

security given by borrower to corporation shall cease at such time as all the notes issued and all advances made under this contract, remaining due and unpaid, shall have been paid in full with interest, attorney's fees, and costs.

G. The security agreement may further provide that there shall be at all times reserved to the corporation as lender the right to increase, diminish, or discontinue entirely the advances whenever the condition of the crops or the elements or the happening of events, in the opinion of the corporation, so demand or warrant.

H. The security agreement may also provide that whenever notice of the intention to terminate the continuing credit loan has been given by one party to the other, then the corporation's continuing security interest as affecting successive crops shall not operate to secure any deficit remaining after all the proceeds of the crops planted, grown, and harvested during the current year have been received, paid, and imputed as provided in this Chapter.

Acts 1991, No. 539, §1, eff. Jan. 1, 1992.

§207. Priority arising from security for continuing credit loan

The real estate mortgage, and the security agreement as affecting the successive crops for the period of the loan, as well as affecting all the livestock, work animals, and agricultural implements of the borrower, as well as the pledge of the capital stock of the corporation and of other collateral security, and the giving and taking of other and additional security, all for the purpose of securing the continuing credit loan for its stated amount, with interest, attorney fees, and costs, and to extend over the term of the continuing credit loan, are lawful; and each

(1) Shall have preference and priority over all other liens and encumbrances which are created, recorded, filed, claimed, or which arise in any manner whatsoever, subsequent to the recording of the mortgage and the filing of a financing statement evidencing the corporation's security interest securing the continuing credit loan in accordance with applicable law, with the exception of subsequently perfected purchase money security interests as affecting livestock and work animals, agricultural implements, and other property purchased, to the extent that such a subsequently perfected purchase money security interest may be entitled to super priority rights under R.S. 10:9-324, and

(2) With the exception of a subsequently perfected purchase money security interest as noted in Paragraph (1) of this Section, the continuing credit loan and the notes, issued in order to facilitate the lender to make the advances, shall first be paid and satisfied, in full with attorney fees and costs, from the proceeds of any and all sales of the mortgaged property and the crops, livestock, and other collateral security on which a security interest was granted, before any payment shall be made from any of the proceeds in satisfaction of any other lien and encumbrance created, arising, perfected, or recorded thereafter or as affecting successive crops.

Acts 1989, No. 137, §2, eff. Sept. 1, 1989; Acts 1991, No. 539, §1, eff. Jan. 1, 1992; Acts 2001, No. 128, §2, eff. July 1, 2001.

§208. Notes to be negotiable; payment of single note not to discharge debt; other claimants subordinated

The notes of each indeterminate series furnished from time to time by the borrower to the corporation, as provided for in R.S. 3:206, shall be negotiable, and their payment in full, with interest, attorney's fees, and costs in accordance with the tenor of each, shall be secured by the mortgage, the security agreement, and the corporation's security interests, all as executed between corporation and borrower securing the continuing credit loan. The payment, satisfaction, retirement, or cancellation of any note shall not operate as a payment, cancellation, or novation of the debt due by the borrower to the corporation, for the maximum amount of the continuing credit loan, interest, attorney's fees, and costs, which shall exist as a contractual obligation between the borrower and corporation during the entire

period of the continuing credit loan. No holder or owner of any encumbrance previously subordinated to or which is created, claimed, recorded, or which arises subsequent to the recordation of the mortgage or the perfection of the corporation's security interest, excepting only those subsequently perfected purchase money security interests as specified in R.S. 3:207(1) and legal charges shall receive by preference and priority any proceeds from any sale, judicial or otherwise, of any of the property so mortgaged and secured until the corporation, and the holder or holders of all issued notes shall have been paid in full, interest, attorney's fees, and costs, all amounts due to the corporation and holder or holders of the notes.

Acts 1989, No. 137, §2, eff. Sept. 1, 1989; Acts 1991, No. 539, §1, eff. Jan. 1, 1992.

§209. Loans to non-members

The corporation may enter into and execute all contracts and agreements and loans, as authorized in this Chapter, with a borrower who is not a member of the corporation provided

(1) that the borrower is a tenant or lessee of a member or the payment of the loan of the borrower has been guaranteed by a member, and

(2) that the amount of capital stock required by the corporation as part security for the loan is pledged and delivered by the member to the corporation; and in each case the act executed between the corporation and borrower shall state the position of the borrower, who is not a member, and the member lessor or guarantor shall intervene in the act for the purpose of substantiating the averments and making the pledge and pawn and delivery of the stock as required.

§210. Bond to guarantee payment of several loans; mortgage security; recording instruments

A. It shall be lawful for any member to guarantee the payment in whole or in part of one or more current and continuing credit loans made to one or more borrowers, including his own; to execute his members obligation and bond therefor; and in order to secure and insure the faithful performance of each and every obligation undertaken in the bond and to secure and enforce the full and final payment of each loan guaranteed and of all of the notes issued in order to facilitate the lender to make the advances contemplated and contracted for in any such loan, to execute mortgages of realty and security agreements affecting livestock, work animals, and agricultural implements, with such security clauses, stipulations, and conditions as the corporation may require, and which shall inure to the benefit of any assigns of the corporation and of the holder of any notes, without the necessity of any notarial transfer.

B. The bond and the mortgages shall be recorded in the recorder's office of the parish in which the mortgaged property is located, in the mortgage records; and during the term and existence of any of the loans, of which payment has been guaranteed by bond, and until each such guaranteed loan and all notes issued in connection therewith have been paid in full, the bond and mortgages shall remain in full force and effect.

Acts 1991, No. 539, §1, eff. Jan. 1, 1992.

§211. Other claims subordinated to bonds and mortgages guaranteeing loans

The bond, mortgages, and security interests provided for in R.S. 3:210 have priority for the full amount of the bond with interest, attorney's fees, and costs over all encumbrances created, recorded, claimed, or which arise in any manner subsequent to the recordation of the bond and mortgage, excepting only subsequently perfected purchase money security interests on livestock, work animals, agricultural implements, and other property purchased as provided in R.S. 3:207(1). When property is sold, the proceeds shall be applied first to the payment of all legal charges and expenses incidental to the sale; thereafter to the payment of all outstanding notes issued in connection with any loan thus guaranteed, for the full amount with interest, attorney's fees, and costs; and thereafter the proceeds remaining shall

be paid to the corporation in full satisfaction of all advances made and remaining unpaid, with interest, attorney's fees, and costs. All such payments shall be made before any payments from the fund to any holder or owner of any encumbrance created, recorded, or arising subsequent to recordation of such bond and mortgage, excepting perfected purchase money security interests.

Acts 1991, No. 539, §1, eff. Jan. 1, 1992.

§212. Bond of officers handling money

The secretary or treasurer, and all other officers who have charge of moneys and securities of such corporations, shall, before entering upon the discharge of their duties, give such bond for the faithful performance of their duties, as is required and approved by the board of directors. The bond of the treasurer shall not be less than ten thousand dollars.

§213. Terms defined

In this Chapter whenever the word "corporation" is used, "agricultural credit corporation" as organized under this Chapter is meant; and whenever the words "borrower" or "member" are used, they shall include persons, co-partnerships, or corporations owning stock in the corporation.

§214. Construction of conflicting laws

Provisions of law, which are in conflict with this Chapter shall be construed as not applying to any corporation created hereunder nor to the rights, powers, privileges, and immunities granted herein to corporations nor to the manner in which the corporations are authorized to make and secure loans.

§215. Application to existing corporations

A corporation organized under prior statutes may be brought under the provisions of this Chapter by an amendment of its charter, in accordance with its provisions and the laws under which it was incorporated.

§216. Recording, publishing, and filing charter

The charter of each corporation, when executed, shall be recorded in the recorder's office of the parish of its domicile, and a certified copy thereof with certificate of its registry shall be published for a period of thirty days in a daily, or for six consecutive issues in a weekly, newspaper published in the parish, and be deposited for registry with the secretary of state, at Baton Rouge, Louisiana, who shall be paid as his fees for filing and registering thirty-five dollars.

Acts 1989, No. 70, §1.

CHAPTER 3-A. FAMILY FARM CREDIT

§§251 to 259. *Repealed by Acts 1989, No. 662, §8, eff. July 7, 1989.*

CHAPTER 3-B. LOUISIANA AGRICULTURAL FINANCE ACT

§261. Short title

A. This Chapter shall be known and may be referred to as the "Louisiana Agricultural Finance Act."

Added by Acts 1983, No. 96, § 1, eff. July 23, 1983.

§262. Legislative findings

A. The legislature hereby finds and declares that there exists in the state of Louisiana a serious shortage of capital and credit available for investment in agriculture, for domestic and export purposes, at interest rates within the financial means of persons engaged in agricultural production and agricultural exports. In conjunction with the financial problems associated with the agricultural industry there exists a need to provide economic assistance to those individuals who wish to convert their farming operation to the development of aquacultural products of a seafood nature for domestic and export purposes. In addition, there exists a need to provide economic assistance to persons who wish to engage in mariculture projects. This shortage of available capital and credit is severe throughout the state, has persisted for a number of years, and constitutes a grave threat to the agricultural industry and to the health, welfare, safety, and prosperity of all residents of the state.

B. The legislature hereby finds and declares further that private enterprise and existing federal and state governmental programs have not adequately alleviated the severe shortage of capital and credit available at affordable interest rates for investment in agriculture or in the conversion to aquaculture or for investment in mariculture projects.

C. The legislature hereby finds and declares that it is a matter of grave public necessity that the Louisiana Agricultural Finance Authority be created and empowered to alleviate the severe shortage of capital and credit available at affordable interest rates for investment in agriculture, including buildings and related facilities used by the Department of Agriculture and Forestry to promote and assist agriculture and forestry within this state, and for the export of agricultural products, commodities, and services, and for capital investment in converting to aquacultural farming, and for capital investment in mariculture projects by providing such capital and credit at interest rates within the financial means of persons and businesses engaged in agriculture and agricultural exports.

D. The legislature hereby finds that in order to convert Louisiana from an exporter of raw agricultural products into an exporter of processed products of high added value and to expand the state's economic base, it is necessary that the state encourage and support the development of agricultural plants to process products in this state. It is necessary for the state to develop and enhance its capacity to process agricultural products in Louisiana including providing financial assistance to any person who owns, leases, or operates, or is seeking to own, lease, or operate an agricultural plant in this state.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983. Acts 1987, No. 502, §1; Acts 1987, No. 856, §1, eff. July 20, 1987; Acts 2003, No. 230, §1, eff. June 5, 2003; Acts 2009, No. 510, §1, eff. July 10, 2009.

§263. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "Agribusiness" means a person, other than an agricultural producer, who engages in agriculture or provides support activities, products, or services to an agricultural producer and such products or services that are directly related to the planting, growing, production, or harvesting of crops and livestock.

(2) "Agricultural loan" means a loan made to any person for the purpose of financing: land acquisition or improvement for agricultural or agribusiness purposes; conversion to aquacultural production; soil conservation; construction of levees and ponds; irrigation; water well drilling; construction, renovation, or expansion of buildings and facilities for agricultural or agribusiness purposes; purchase of farm fixtures, livestock, poultry, fish of any kind; crustaceans and mollusks; seeds; fertilizers; pesticides; feeds; agricultural or agribusiness machinery; equipment; containers or supplies employed in the production, cultivation, harvesting, storage, marketing, distribution, or export of agricultural products, or for the purpose of financing agricultural products.

(3) "Agricultural plant" means any facility which receives raw agricultural products for the purpose of rendering them suitable for wholesale or retail marketing.

(4) "Agricultural producer" means a person engaged in agriculture for the planting, growing, harvesting, or production of an agricultural product in its natural state and who primarily assumes the production and market risks associated with such activities.

(5) "Agricultural product" means any agronomic, aquacultural, floricultural, horticultural, maricultural, silvicultural, or viticultural crop, livestock, or product.

(6) "Agriculture" means the commercial planting, growing, harvesting, production, storage, processing, marketing, distribution, or export of any agricultural product, including but not limited to farm products, livestock and livestock products, poultry and poultry products, milk and dairy products, fruit and other horticultural products, and seafood and aquacultural products.

(7) "Aquaculture" means the commercial production, storage, processing, marketing, distribution, or export of any seafood including but not limited to catfish, trout, crustaceans, and mollusks.

(8) "Authority" means the Louisiana Agricultural Finance Authority created by this Chapter.

(9) "Bonds" means the bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidences of indebtedness authorized to be issued by the Authority pursuant to the provisions of this Chapter.

(10) "Commissioner" means the Louisiana Commissioner of Agriculture and Forestry.

(11) "Department" means the Louisiana Department of Agriculture and Forestry.

(12) "Federal government" means the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(13) "Lending institution" means any bank, bank or trust company, federal land bank, production credit association, bank for cooperatives, building and loan association, homestead, insurance company, investment banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, or any other financial institution authorized to do business in Louisiana or operating under the supervision of any federal agency or any "Edge Act Corporation" or agreement corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.

(14) "Livestock" means any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, that is used in agriculture, aquaculture, agritourism, competition, recreation, or silviculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

(15) "Mariculture" means aquaculture which is practiced in brackish or saline water and includes hatchery breeding, spawning, transportation, implantation, propagation, growout, and harvesting of domesticated fish and other domesticated aquatic species.

(16) "Persons" means any individual, partnership, firm, corporation, company, cooperative, association, society, trust, limited liability company, or any other business unit or entity, including any state or federal agency.

(17) "Processing or process" means any action that will enhance any raw agricultural product's value or render a raw agricultural product suitable for further refinement or introduction at a marketing level.

(18) "State" means the state of Louisiana or any agency or instrumentality thereof.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983. Acts 1987, No. 502, §1; Acts 2009, No. 510, §1, eff. July 10, 2009.

§264. Louisiana Agricultural Finance Authority

A. The Louisiana Agricultural Finance Authority is hereby created within the Department of Agriculture.

B. The authority shall be composed of nine members. The commissioner of agriculture and forestry shall serve ex officio with the same rights and privileges, including voting rights, as other members. The chair of the Senate Committee on Agriculture, Forestry, Aquaculture and Rural Development or his designee, the chair of the House Committee on Agriculture, Forestry, Aquaculture and Rural Development or his designee, and the secretary of the Department of Economic Development or his designee, shall serve in an advisory capacity, without voting rights, to the authority, and shall not be counted for the purpose of constituting a quorum for the transaction of official business. The other eight members shall be appointed by the governor in the following manner:

(1) Two members appointed from a list of six persons nominated by the Louisiana Farm Bureau Federation.

(2) One member appointed from a list of six persons nominated by the Louisiana Bankers Association.

(3) Two members appointed from a list of six persons nominated by the president of the Senate.

(4) Two members appointed from a list of six persons nominated by the speaker of the House of Representatives.

(5) One member appointed from a list of six persons nominated by the Community Bankers of Louisiana.

C. The appointed members shall serve for terms concurrent with the terms of the governor making the appointment. Each appointment by the governor shall be submitted to the Senate for confirmation. The appointed members shall take and subscribe to the oath of office required of public officials. Appointed members shall serve until their successors are appointed and sworn into office.

D. Vacancies in the offices of any appointed members of the Authority shall be filled in the same manner as the original appointments for the unexpired portion of the office vacated. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to conduct official business of the Authority.

E. The domicile of the Authority shall be East Baton Rouge Parish.

F. A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require a majority vote of the members present and voting at any meeting.

G. Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may receive a per diem not to exceed forty dollars for attendance at meetings of the Authority or subcommittees thereof and may be reimbursed for mileage expenses incurred in the performance of their duties. The mileage allowance shall be fixed by the Authority in an amount not to exceed the mileage allowance authorized under state travel regulations.

H. The Authority shall meet at least four, but not more than twelve, times a year upon call.

I. The Authority may delegate to one or more of its members, officers, employees, or agents such powers and duties as it may deem proper.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983; Acts 1999, No. 18, §1, eff. May 21, 1999; Acts 2003, No. 116, §1, eff. May 28, 2003; Acts 2003, No. 230, §1, eff. June 5, 2003; Acts 2003, No. 774, §1; Acts 2009, No. 510, §1, eff. July 10, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§265. Officers and employees; administration of Chapter

A. The members of the Authority shall annually elect a chairman, a vice chairman, and such officers as they may deem advisable. All officers shall be members of the Authority.

B. The Authority, subject to the approval of the commissioner, may appoint a director and an assistant director and a director of the agriculture loan program and an assistant director of the agriculture loan program who shall be in the unclassified service of the state.

C. The commissioner shall administer and enforce this Chapter in accordance with rules and regulations promulgated by the Authority. The commissioner may employ such personnel as may be necessary to administer and enforce the provisions of this Chapter. All employees shall be under the supervision of the commissioner.

D. The Authority may employ legal, financial and technical experts and consultants as it deems necessary on a contractual basis.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983; Acts 2009, No. 510, §1, eff. July 10, 2009.

§266. Powers of authority

The authority shall have all the powers necessary to give effect to and carry out the purposes and provisions of this Chapter, including, in addition to all other powers granted by other provisions of this Chapter, the powers to:

(1) Sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to Paragraph (19) of this Section.

(2) Have a seal and alter the same at its pleasure.

(3) Adopt bylaws for the internal organization and government of the Authority.

(4) Adopt, promulgate, and amend rules and regulations for the administration of the Chapter in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.), provided that such regulations shall require fair, impartial, uniform, and equitable treatment of all lending institutions and shall establish objective standards and criteria to control and govern access to and allocation of services and functions authorized by this Chapter.

(5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this Chapter with any federal or state governmental agency, public or private corporation, lending institution, or other entity or person.

(6) Accept, administer and expend donations of movable or immovable property from any source, and receive, administer, and expend appropriations from the legislature and financial assistance, guarantees, insurance or subsidies from the federal or state government.

(7) Subject to the rights of holders of bonds of the Authority, to renegotiate, refinance or foreclose on any mortgage, security interest or lien; or commence any action to protect or enforce any right or benefit conferred upon the Authority by any law, mortgage, security interest, lien, contract or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the Authority may complete, administer, pay the principal of and interest on any obligation incurred in connection with such property, dispose of and

otherwise deal with such property in such manner as may be necessary or desirable to protect the interest of the Authority or of holders of its bonds therein.

(8) Procure or provide for the procurement of insurance or reinsurance against any loss in connection with its property or operations, including but not limited to insurance, reinsurance, or other guarantees from any federal or state governmental agency or private insurance company for the payment of any bonds issued by the Authority, or bonds, notes or any other obligations or evidences of indebtedness issued or made by any subsidiary corporation or entity created pursuant to Paragraph (19) of this Section or by any lending institution or other entity or person, or insurance or reinsurance against loss with respect to agricultural loans, mortgages or mortgage loans, or any other type of loans, including the power to pay premiums on such insurance or reinsurance.

(9) Insure, co-insure, reinsure, or cause to be insured, co-insured, or reinsured, agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive premiums on such insurance, co-insurance, or reinsurance, and establish reserves for losses, and participate in the insurance, co-insurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company.

(10) Undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the state and needs relating to the promotion of agricultural exports and ways of meeting such needs, and make such studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports.

(11) Accept federal, state, or private financial or technical assistance and comply with any conditions for such assistance, provided such conditions are not in conflict with the intent of this Chapter.

(12) Establish and collect fees and charges in connection with its loans, deposits, insurance commitments, and services, including but not limited to, reimbursement of costs of issuing bonds, origination and servicing fees, and insurance premiums.

(13) Make and guarantee agricultural loans and purchase or sell agricultural loans.

(14) Acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, or otherwise, movable or immovable property or any interest therein; own, hold, clear, improve, lease, construct, or rehabilitate, and sell, invest, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same, subject to the rights of holders of the bonds of the Authority, at public or private sale, in compliance with public bidding requirements set forth in Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950.

(15) Borrow money, issue bonds, and provide for the rights of the lenders or holders thereof and purchase, discount, sell, negotiate and guarantee, insure, coinsure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers acceptances, cable transfers, letters of credit and other evidence of indebtedness.

(16) Subject to the rights of holders of the bonds of the Authority, consent to any modification with respect to the rate of interest, time, payment of any installment of principal or interest, security, or any other term or condition of any loan, contract, mortgage, mortgage loan, or commitment therefor or agreement of any kind to which the Authority is a party or beneficiary.

(17) Maintain an office at such place or places as the Authority shall determine.

(18) Serve as the beneficiary of any public trust heretofore or hereafter created pursuant to the provisions of R.S. 9:2341, et seq.

(19) With the prior approval of the House and Senate committees on agriculture, forestry, aquaculture, and rural development, to create such subsidiary corporations or entities as may be necessary to make agricultural loans, borrow money for agricultural loans, insure or reinsure agricultural loans, or issue bonds in the international financial market.

(20) Issue revenue bonds for the purpose of acquiring, constructing, renovating, and equipping buildings and related facilities for use by the Department of Agriculture and Forestry in connection with the promotion and assistance of agriculture and forestry within this state. The bonds shall be authorized and issued by one or more resolutions adopted by a majority vote of the members of the authority and shall be payable solely from the income and revenues as set forth in the resolution authorizing the issuance of the bonds.

(21) Notwithstanding any other law, supervise and utilize public employees, equipment, and material in carrying out public work, including public work in furtherance of Formosan termite suppression.

(22) Foster and support the development and enhancement of processing raw agricultural products in this state by participating in cooperative endeavors involving loans and loan guarantees to private business enterprises, nonprofit institutions and organizations, the state and political subdivisions thereof, the federal government, and other organizations or persons concerned with the development or enhancement of agricultural plants in this state. The authority shall participate only in cooperative endeavors which involve the creation of a significant number of new jobs in relation to the amount of participation by the authority.

(23) Establish, administer, and supervise an incentive program to promote the purchase of Louisiana agricultural products.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983. Acts 1987, No. 856, §1, eff. July 20, 1987; Acts 1999, No. 18, §1, eff. May 21, 1999; Acts 2003, No. 116, §1, eff. May 28, 2003; Acts 2003, No. 230, §1, eff. June 5, 2003; Acts 2008, No. 117, §1; Acts 2009, No. 510, §1, eff. July 10, 2009; Acts 2011, No. 330, §1, eff. June 29, 2011.

§267. Purchases and sales of agricultural loans

The Authority may purchase or contract to purchase and sell or contract to sell agricultural loans made by lending institutions, at such prices and upon such terms and conditions as it shall determine in accordance with rules or regulations adopted pursuant to the Administrative Procedure Act (R.S. 49:950 et seq.). All lending institutions are hereby authorized to purchase and sell agricultural loans to the Authority in accordance with the provisions of this Chapter and the rules and regulations of the Authority. To the extent that any provisions of this Section may be inconsistent with any provision of law governing lending institutions, the provisions of this Section shall control.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§268. Loans to and deposits with lending institutions

The Authority may make, or contract to make, loans to and deposits with lending institutions at such interest rates, terms and conditions as it shall determine in accordance with rules or regulations adopted pursuant to the Administrative Procedure Act (R.S. 49:950 et seq.). All lending institutions are hereby authorized to borrow funds and accept deposits from the Authority in accordance with the provisions of this Chapter and the rules and regulations of the Authority. The Authority shall require that all proceeds of its loans to or deposits with lending institutions, or an equivalent amount, shall be used by such lending institutions to make agricultural loans, subject to such terms and conditions as the Authority may prescribe. To the extent that any provisions of this Section may be inconsistent with any provision of the law governing lending institutions, the provisions of this Section shall control.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§269. Insurance of agricultural loans

A. The Authority is hereby authorized to insure and reinsure agricultural loans made by lending institutions, subject to the terms, conditions, limitations, collateral and security provisions, and reserve requirements as shall be determined by the Authority in accordance with the rules and regulations adopted by the Authority pursuant to the Administrative Procedure Act (R.S. 49:950 et seq.).

B. Unless otherwise determined by the Authority, insurance of agricultural loans shall be in the amount of one hundred percent of the unpaid principal and interest on each loan.

C. An insured agricultural loan shall be in default when the holder of such loan makes application to the Authority for payment of insurance on such loan stating that such loan is in default in accordance with the terms of any agreement with respect to such insurance executed pursuant to this Section.

D. The Authority may enter into agreements with any person, lending institution, or holder of an insured agricultural loan upon such terms as may be agreed upon between the Authority and such person, lending institution, or holder, to provide for the administration, applications therefor, repayment thereof, and to establish the conditions for payment of insurance by the Authority, and the servicing, suit upon, or foreclosure of insured agricultural loans.

E. The aggregate value of all agricultural loans insured by the Authority and outstanding at any one time shall not exceed twenty times the total value of funds, investments, properties, and other assets of the Authority except that this insurance may be further expanded by use of federal, state, or private loan insurance, reinsurance, or guarantees of which the Authority is or shall become the beneficiary.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§270. Bonds of the authority

A. The authority is hereby authorized and empowered to issue from time to time bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidences of indebtedness, hereinafter collectively referred to as "bonds", to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in this Chapter, including but not limited to the purchase of agricultural loans from lending institutions, the making of loans to or deposits with lending institutions, the acquisition, construction, renovation, and equipping buildings and related facilities for use by the Department of Agriculture and Forestry in connection with promoting and assisting agriculture and forestry within this state, the payment of interest on bonds of the authority, the establishment of reserves to secure such bonds, the establishment of reserves with respect to the insurance of agricultural loans, and all other purposes and expenditures of the authority incident to and necessary or convenient to carry out its public functions or corporate purposes.

B. Except as may otherwise be provided by the Authority, all bonds issued by the Authority shall be negotiable instruments and may be general obligations of the Authority, secured by the full faith and credit of the Authority and payable out of any money, assets or revenues of the Authority or from any other sources whatsoever that may be available to the Authority.

C. Bonds shall be authorized, issued, and sold by a resolution or resolutions of the Authority adopted as provided in this Chapter. Such bonds may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates including variable, adjustable, or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in R.S. 39:1421, et seq., be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the income, revenue and receipts of, or available to, the Authority as may be provided by the Authority in the resolution or resolutions providing for the issuance and sale of the bonds of the Authority.

D. The bonds of the Authority shall be signed by such members or officers of the Authority, by either manual or facsimile signatures, as shall be determined by resolution or resolutions of the Authority, and shall have impressed or imprinted thereon the seal of the Authority, or a facsimile thereof. The coupons attached to coupon bonds of the Authority shall bear the facsimile signature of such member or officer of the Authority as shall be determined by resolution or resolutions of the Authority.

E. Any bonds of the Authority may be validly issued, sold, and delivered, notwithstanding that one or more of the members or officers of the Authority signing such bonds, or whose facsimile signature or signatures may be on the bonds or on coupons, shall have ceased to be such member or officer of the Authority at the time such bonds shall actually have been delivered.

F. Bonds of the Authority may be sold in such manner and from time to time as may be determined by the Authority to be most beneficial, and the Authority may pay all expenses, premiums, fees, or commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of this Chapter.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983. Acts 1987, No. 856, §1, eff. July 20, 1987; Acts 2003, No. 230, §1, eff. June 5, 2003.

§271. Statutory pledge

Any pledge made by the Authority shall be valid and binding from time to time when the pledge is made. The money, assets, or revenues of the Authority so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to establish and perfect a lien or security interest in the property so pledged by the Authority.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§272. Refunding bonds

Subject to the rights of the holders of the bonds of the Authority, the Authority is hereby authorized and empowered to issue from time to time its bonds for the purpose of refunding any bonds of the Authority then outstanding, together with the payment of any redemption premiums thereon and interest accrued or to accrue to the date of redemption of such outstanding bonds. All such refunding bonds of the Authority shall be issued, sold, or exchanged, and delivered, shall be secured, and shall be subject to the provisions of this Chapter in the same manner and to the same extent as any other bonds issued by the Authority pursuant to this Chapter, unless otherwise determined by resolution of the Authority. Refunding bonds issued by the Authority as herein provided may be sold or exchanged for outstanding bonds of the Authority and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of such outstanding bonds.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§273. Purchase of bonds by Authority

Subject to the rights of holders of bonds, the Authority shall have the power out of any funds available therefor, to purchase bonds of the Authority, which shall thereupon be cancelled, at a price not exceeding:

(1) If the bonds are then subject to optional redemption, the optional redemption price then applicable plus accrued interest to the next interest payment date thereon; or

(2) If the bonds are not then subject to optional redemption, the optional redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to optional redemption plus accrued interest to such date.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§274. Approval of issuance of bonds by State Bond Commission

The approval of the State Bond Commission shall be obtained prior to the issuance of any bonds of the Authority. However, before the Authority shall make application to the State Bond Commission for the issuance of any bonds in the amount of five million dollars or more, it shall first seek the approval of the Joint Legislative Committee on the Budget for such borrowing. No notice to, or consent or approval by any other governmental body or public officer shall be required as a prerequisite to the issuance, sale, or delivery of any bonds of the Authority, or to the making of any loans or deposits by the Authority to lending institutions, or to the purchase or sale of agricultural loans by the Authority, or to the insurance by the Authority of any agricultural loan, or to the exercise of any other public function or corporate power of the Authority, except as is expressly provided in this Chapter.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983; Acts 2009, No. 510, §1, eff. July 10, 2009.

§275. Exemption from taxes

It is hereby determined that the creation of the Authority and the carrying out of its public functions and corporate purposes is, in all respects, a public and governmental purpose for the benefit of the people of the state, and for the improvement of their health, safety, welfare, prosperity, and security, and that said functions and purposes are public purposes and that the Authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this Chapter. The money, assets, revenues, and operations of the Authority shall be exempt from all taxation by the state or any of its political subdivisions. The Authority shall not be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf. All bonds authorized to be issued by the Authority pursuant to the provisions of this Chapter, together with interest thereon, income therefrom, and gain upon the sale thereof shall be exempt from all state and local taxes.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§276. Covenant of state

In consideration of the acceptance of and payment for the bonds of the Authority by the holders thereof, the state does hereby pledge to and agree with the holders of any bonds of the Authority issued pursuant to the provisions of this Chapter, that the state will not impair, limit, or alter the rights hereby vested in the Authority to fulfill the terms of any agreements made with the holders of the bonds of the Authority, or in any way impair the rights or remedies of such holders thereof, until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The Authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds of the Authority.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§277. Trust funds

Subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, all funds received by the authority shall be deposited immediately upon receipt in the state treasury and shall be credited to the Bond Security and Redemption Fund. After a sufficient amount is allocated from the fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the state treasurer, prior to placing the remaining funds in the state general fund,

shall pay an amount equal to the total amount of funds paid into the state treasury by the authority into a special fund which is hereby created in the state treasury and designated as the Louisiana Agricultural Finance Authority Fund. The monies in the Louisiana Agricultural Finance Authority Fund shall be used solely for the programs and purposes of the authority and only in the amount appropriated each year to the authority by the legislature. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. All interest earned from the investment of the monies in the Louisiana Agricultural Finance Authority Fund shall be deposited in that fund.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983; Acts 1985, No. 68, §1

§278. Bonds as legal investment and security for public deposits

The state and all public officers, any parish, municipality, or other subdivision or instrumentality of the state, any bank, banker, trust company, savings bank and institution, building and loan association, savings and loan association, investment company or any person carrying on a banking or investment business, any insurance company or business, insurance associations, and any person carrying on an insurance business, and any executor, administrator, curator, trustee, and other fiduciary, and retirement system or pension fund may legally invest any sinking funds, monies or other funds belonging to them or within their control in any bonds issued by the Authority pursuant to the provisions of this Chapter, and such bonds shall be authorized security for all public deposits. It is the purpose of this Section to authorize such persons, firms, corporations, associations, political subdivisions and officers, or other entities, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit for the purchase of any such bonds of the Authority, and that any such bonds shall be authorized security for all public deposits. However, nothing contained in this Section with regard to legal investments or security for public deposits shall be construed as relieving any such person, firm, or corporation or other entity from any duty of exercising reasonable care in selecting securities.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§279. Account and audits

A. Subject to the provisions of any contract with the holders of its bonds, the Authority shall establish a system of accounts.

B. The Authority shall be subject to audit by the legislative auditor. The Authority may cause an independent audit to be prepared annually. Any such independent audit shall be subject to the authority of the legislative auditor to prescribe and approve the terms and conditions of such audit as provided in R.S. 24:513.

C. Within six months after the end of each fiscal year, the Authority shall submit to the governor and to both houses of the legislature an annual report on the operations of the Authority. Within sixty days after receipt thereof, the Authority shall submit to the governor and to both houses of the legislature a copy of the report of every audit of the books and accounts of the Authority.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§280. Cooperation of state agencies

All state officers and agencies are authorized to render such services to the Authority within their respective functions as may be requested by the Authority.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§281. Suits to determine validity of bonds

Any suit to determine the validity of bonds of the Authority shall be brought only in accordance with R.S. 13:5121 et seq.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§282. Construction of Chapter

This Chapter, being necessary for the welfare of the state and its residents, shall be liberally construed to effect the purposes thereof.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§283. Termination of the Authority

In the event of the termination of the Authority, all of its rights, money, assets, and revenues in excess of its obligations shall be deposited in the state general fund.

Added by Acts 1983, No. 96, §1, eff. July 23, 1983.

§283.1. Transfer; State Market Commission

A. All employees of the office of marketing and agro-economic development are transferred to the office of management and finance.

B. All funds appropriated to the State Market Commission shall be transferred to the Louisiana Agricultural Finance Authority.

C. Any appropriation for Fiscal Year 2009 - 2010 to the office of marketing and agro-economic development shall be deemed to be appropriated to the office of management and finance within the Department of Agriculture and Forestry.

D. All property and facilities owned and operated by, leased by or for the State Market Commission are transferred to the Louisiana Agricultural Finance Authority.

E. All unfinished business of the State Market Commission shall be completed by, all references in laws and refer to, and all obligations of that office shall be administered by the Louisiana Agricultural Finance Authority. All legal proceedings of the State Market Commission shall be continued in the name of the State Market Commission and further proceedings shall be in the name of Louisiana Agricultural Finance Authority without the necessity for amendment of any document.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§283.2. Loans and guarantees for agricultural plants

A. As part of the authority's participation in cooperative endeavors, the authority may:

(1) Loan funds to any person to be expended to acquire, construct, furnish, equip, make necessary improvements to, or purchase land for any agricultural plant which will be occupied by that person, under rules and regulations adopted by the authority. The loan shall not exceed seventy-five percent of the value of the property offered as security pursuant to a first mortgage. The minimum execution requirement by the borrower of a note is to be secured by a first mortgage on the property being acquired or constructed and payable to the authority within the time and under the terms and conditions together with additional endorsements as may be required by the authority.

(2) Loan to any person funds for operating capital, market development, and product inventories under rules and regulations adopted by the authority. The loan shall not exceed seventy-five percent of the value of the property offered as security pursuant to a first mortgage. The minimum execution requirement by the borrower of a note or notes is to be secured by a first mortgage on property, including

product inventories and accounts receivable from the sale of inventories, under the terms and conditions as may be required by the authority.

(3) Guarantee funds, on an interim or long-term basis, for an amount to be expended to acquire, construct, furnish, equip, make necessary improvements to, or purchase land for, any agricultural plant for any loan made by any lending institution to any person approved by the authority, provided that whenever the authority guarantees the payment of the loan, the authority shall make and enter into a guarantee agreement with the lending institution and the borrower setting forth the terms and conditions under which the authority is obligated and the extent to which repayment of the loan is guaranteed and secured. Each loan guaranteed by the authority shall be secured by a first mortgage on property. Whenever the authority enters into a loan guarantee agreement, the authority may impose and collect an origination fee not to exceed one percent of the amount of the loan guaranteed.

(4) Guarantee funds, on an interim or long-term basis, to any person for operating capital, market development, and product inventories, under rules and regulations adopted by the authority. The minimum execution requirement by the borrower of a note or notes is to be secured by a first mortgage on property, including product inventories and accounts receivable from the sale of inventories, under the terms and conditions as may be required by the authority.

(5) Renegotiate, refinance, or foreclose on any mortgage or commence any action to protect or enforce any right or benefit conferred by any law, mortgage, contract, or other agreement and bid for and purchase such property at any foreclosure or at any other sale or otherwise to acquire or take possession of the property. In such event, the authority may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, and dispose of and otherwise deal with such property in such manner as may be desirable or necessary to protect the interest of the authority.

B. The aggregate of loans and loan guarantees made by the authority under this Section shall not exceed twenty million dollars at any one time.

C. The authority shall:

(1) Give priority to persons who utilize Louisiana agricultural products to the maximum extent possible.

(2) Fix the rate of interest to be charged on every loan at a rate not less than the base federal reserve discount rate.

(3) Keep records showing from whom any money is received and for what purpose and to whom any money is paid and for what purpose.

(4) Keep vouchers and receipts for all money disbursed.

D. The authority shall not loan or guarantee any loan:

(1) For any applicant who fails to submit all information required by this Section or by rules and regulations of the authority.

(2) If the amount loaned would result in the property offered as security being burdened with indebtedness in excess of seventy-five percent of the appraised value of the property.

(3) For any person with any pending or outstanding charge or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness.

(4) For any person who has presently pending, at the federal, state, or local level, any proceeding concerning the denial or revocation of a necessary license or permit.

(5) If the proceeds of the loan are to be, or may be, used for consolidation of existing, previous financial obligations.

(6) To a person in excess of fifty percent of the total funds for loans or guarantees under this Section.

E. The authority shall not:

(1) Subordinate its interest, if such subordination shall result in any risk to the authority's security position.

(2) Enter into any cooperative endeavor, unless the cooperative endeavor involves the creation of a significant number of new jobs in relation to the amount of participation by the authority.

F. When requested by the authority, the commissioner may contract with consulting engineers, architects, attorneys, accountants, construction experts, financial experts, and such other persons as may be necessary to carry out the purpose of this Section. Contracts entered into under this Section shall be subject to the provisions of R.S. 38:2310 et seq.

G. The authority shall transmit, at the end of each fiscal year, reports to the House and Senate committees on agriculture, forestry, aquaculture, and rural development, the House Committee on Appropriations and the Senate Committee on Finance. The reports shall set forth the cooperative endeavors approved and rejected, the terms, conditions, and status of each loan guarantee entered into in the fiscal year covered by the report, and the status of all loans and guarantees entered into in previous fiscal years.

H. *Repealed by Acts 2012, No. 834, §13, eff. July 1, 2012.*

Acts 2009, No. 510, §1, eff. July 10, 2009; Acts 2012, No. 834, §13, eff. July 1, 2012.

§284. Louisiana Buy Local Purchase Incentive Program

A. Title; creation. There is hereby created the Louisiana Buy Local Purchase Incentive Program, hereinafter referred to as the "program", within the Louisiana Department of Agriculture and Forestry, to be administered and supervised by the Louisiana Agricultural Finance Authority, in order to grant incentive payments to Louisiana restaurant establishments for purchases of Louisiana agricultural products.

B. Declaration of purpose. The Legislature of Louisiana hereby finds and declares that the health, safety, and welfare of the people of this state are dependent upon the continued encouragement, development, growth, and expansion of Louisiana farmers and agricultural products. Louisiana residents rely on Louisiana farmers and agricultural processors as their primary source of safe, nutritional, and affordable food. Furthermore, agricultural industries are a major source of employment for Louisiana residents. Therefore, it is declared to be the purpose of this Act to encourage and promote the consumption of Louisiana agricultural products by providing incentive payments to certain Louisiana restaurants for the purchase of Louisiana agricultural products.

C. Definitions. For purposes of this Chapter, the following terms shall have the meanings hereinafter ascribed to them, unless the context clearly indicates otherwise:

(1) "LAFA" means the Louisiana Agricultural Finance Authority.

(2) "Louisiana agricultural products" means the following products produced in Louisiana: agronomic, aquacultural, floricultural, horticultural, silvicultural, and viticultural products, including but not limited to: plants, crops, livestock, dairy products, and fruits; crawfish, catfish, other fish, shrimp, oysters, crabs, underutilized species, and any other seafood and freshwater food; and all meat and meat products including beef, veal, pork, mutton, poultry, and products made therefrom.

(3) "Louisiana coastal waters" shall have the same meaning as provided for in R.S. 49:214.23(4) in the coastal zone law.

(4) "Louisiana coastal zone" shall have the same meaning as provided for in R.S. 49:214.23(5).

(5)(a) "Produced in Louisiana" means manufactured, planted, cultivated, grown, caught, or harvested in Louisiana, including in Louisiana coastal waters, the Louisiana coastal zone, and in the territorial waters of the state.

(b) "Produced in Louisiana" shall also mean, in regard to seafood, caught or harvested in waters seaward of the territorial waters of the state by the holder of a Louisiana commercial fisherman's license who transports and sells his catch to a licensed Louisiana wholesale/retail seafood dealer located within the state of Louisiana.

(6) "Restaurant establishment" means any establishment which has a special Class "R" restaurant permit issued pursuant to R.S. 26:73(B) in the Alcohol Beverage and Tobacco law, or any establishment which meets the definition of "restaurant establishment" as defined in R.S. 26:73(C)(1).

D. Fund. (1) There is hereby established a special fund in the state treasury to be known as the Louisiana Buy Local Purchase Incentive Program Fund, hereinafter referred to as the "fund".

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, any public or private grants, gifts, and donations received by the state or the Department of Agriculture and Forestry for the purposes of this Section shall be credited to the fund. No state general fund monies shall be appropriated to the fund.

(3)(a) Subject to appropriation by the legislature, monies in the fund shall be used solely to provide grants to eligible restaurant establishments for purchases of Louisiana agricultural products all as defined in Subsection C of this Section and for all ordinary and necessary operating and administrative costs and expenses associated with implementation of this Section, provided that the ordinary and necessary operating and administrative costs and expenses shall not exceed five percent of monies appropriated from the fund. The Louisiana Agricultural Finance Authority shall have the authority to determine the grant recipients and the amount of the grant awards as well as other eligible expenses to be paid with monies appropriated each fiscal year.

(b) The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. All interest earned from the investment of the monies in the fund shall be deposited in and remain in the fund. All unexpended and unencumbered money in the fund at the end of the year shall remain in the fund.

E. Program. (1) The amount of the incentive payment pursuant to this Section shall be four percent of the total costs of the Louisiana agricultural products purchased by the eligible restaurant establishment during a fiscal year.

(2) An application for an incentive payment pursuant to this Section shall be provided by LAFA and shall be submitted by an interested restaurant establishment to LAFA within the application period set forth by LAFA based upon the restaurant establishment's purchases of Louisiana agricultural products within that fiscal year.

(3) In accordance with the Administrative Procedure Act, LAFA in cooperation with the commissioner of the Department of Agriculture and Forestry shall promulgate rules and regulations as are necessary to implement the provisions of this Section including but not limited to rules and regulations regarding the period within which an application for the incentive shall be submitted in order to be eligible to receive an incentive payment, and the documentation required to be maintained and provided by a restaurant establishment applying for the incentive payment. The regulations may require producers of Louisiana agricultural products to obtain license numbers issued by LAFA evidencing the eligibility of the Louisiana agricultural products produced by them.

(4) A restaurant establishment applying for the incentive payment authorized pursuant to this Section shall be required to provide and maintain sufficient documentation evidencing the amount of purchases of Louisiana agricultural products and eligibility to claim the incentive payment as determined by LAFA in regulations issued pursuant to Paragraph (3) of this Subsection.

(5) If there is insufficient money in the fund to fully satisfy all timely filed applications for incentive payments, then incentive payments shall be distributed to the applicants on a pro-rated basis based upon the proportion of Louisiana agricultural products purchased by the applicant to the total amount of such purchases by all applicants.

(6) The aggregate amount of incentive payments for the purchase of Louisiana agricultural products issued to restaurant establishments pursuant to this Section shall not exceed seven million dollars, in the aggregate, per fiscal year.

F. Termination of program. The program created pursuant to this Section shall terminate on December 31, 2014. Therefore, no rebate payments authorized according to the provisions of this Section shall be granted after December 31, 2014.

Acts 2011, No. 330, §1, eff. June 29, 2011; Acts 2014, No. 646, §1, eff. June 12, 2014.

CHAPTER 3-C. LOUISIANA AGRICULTURAL DEVELOPMENT ACT

§291. Legislative findings and purpose

Louisiana residents rely on Louisiana farmers and agricultural processors as their primary source of safe, nutritional, and affordable food. Furthermore, agriculture and aquaculture industries are a major source of employment for Louisiana residents. The financial survival of these industries in Louisiana is dependent on increasing markets for Louisiana products. For this reason, the legislature finds it necessary to encourage and promote markets in Louisiana for the sale of Louisiana agricultural and aquacultural products.

Acts 2004, No. 271, §1.

§292. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "Agriculture" means the commercial production, storage, processing, marketing, or distribution of any agronomic, floricultural, horticultural, vitacultural, silvicultural, or aquacultural crop, including but not limited to farm products, livestock and livestock products, poultry and poultry products, milk and dairy products, fruit and other horticultural products, and seafood and aquacultural products.

(2) "Aquaculture" means the producing, raising, managing, harvesting, or marketing of aquatic livestock under controlled circumstances.

(3) "Department" means the Louisiana Department of Agriculture and Forestry.

(4) "Louisiana agricultural firm" means a legal entity that meets all of the following criteria:

(a) Is engaged in the business of agriculture or aquaculture.

(b) Is qualified to do business in Louisiana.

(c) Has a physical presence in Louisiana by owning or leasing property or facilities which are located in Louisiana.

(d) Employs Louisiana residents who operate the farm business, company, corporation, or limited liability corporation.

(e) Produces, processes, or manufactures agricultural or aquacultural products in Louisiana.

(5) "Louisiana agricultural markets" means any entity in the state of Louisiana, public or private, which in the normal scope of business purchases Louisiana agricultural or aquacultural products.

Acts 2004, No. 271, §1.

§293. Prohibition upon limitation of agricultural and aquacultural markets

A. The state may not limit the ability of Louisiana agricultural firms to bid or do business in Louisiana by restricting Louisiana agricultural markets including but not limited to those markets subject to Title 27 of the Louisiana Revised Statutes of 1950.

B. Nothing in this Chapter is intended to limit the ability of the department to regulate agriculture and aquaculture as is otherwise provided in this Title.

Acts 2004, No. 271, §1.

CHAPTER 3-D. HEALTHY FOOD RETAIL ACT

§296. Healthy Food Retail Act; definitions; purpose

A. This Chapter shall be known as the "Healthy Food Retail Act".

B. The legislature finds the following:

(1) When fresh fruits and vegetables and other healthy foods are not easily available or affordable, people, particularly low-income families, children, and the elderly, face serious barriers to eating a healthy diet. Research in Louisiana and nationally shows that residents of low-income, minority, and rural communities are most often affected by poor access to supermarkets and other retailers selling healthy food, as well as by high rates of obesity.

(2) Obesity, which results from poor diet and physical inactivity, is the fastest growing cause of disease and death in America. Louisiana has one of the highest rates of obesity nationwide, putting growing numbers of Louisiana adults and children at risk for developing heart disease, type-2 diabetes, hypertension, certain cancers, and other health problems.

(3) Increasing access to retail food outlets that sell fresh fruits, vegetables, and other healthy food is an important strategy for fighting the obesity epidemic and improving health. Studies have shown that people with better access to supermarkets and fresh produce tend to have healthier diets and lower levels of obesity.

(4) Developing quality retail food outlets also creates jobs, expands markets for Louisiana farmers, and supports economic vitality in underserved communities.

(5) The program established pursuant to this Chapter is intended to provide a dedicated source of financing for healthy food retailers operating in underserved communities in Louisiana, in both urban and rural areas; to increase access to affordable healthy food so as to improve diets and health; to promote the sale and consumption of fresh fruits and vegetables, particularly those that are Louisiana grown; and to support expanded economic opportunities in low-income and rural communities.

C. As used in this Chapter, the following terms and phrases shall have the meanings hereinafter ascribed to them:

(1) "Funding" means grants, loans, or a combination of grants and loans.

(2) "Healthy food retailers" means for-profit or not-for-profit retailers that sell high quality fresh fruits and vegetables at competitive prices including but not limited to supermarkets, grocery stores, and farmers' markets.

(3) "Program" means a public-private partnership established to provide a dedicated source of financing for food retailers that increase access to fresh fruits and vegetables and other affordable healthy food for Louisiana residents managed by the Louisiana Department of Agriculture and Forestry.

(4) "Underserved community" means a geographic area that has limited access to healthy food retailers and is located in a lower-income or high-poverty area, or an area that is otherwise determined to have serious healthy food access limitations.

D.(1) To the extent funds are available, the Louisiana Department of Agriculture and Forestry, in cooperation with public and private sector partners, shall establish a financing program that provides grants and loans to healthy food retailers that increase access to fresh fruits and vegetables and other affordable healthy food in underserved communities.

(2) The department may contract with one or more qualified nonprofit organizations or community development financial institutions to administer the program described in this Section through a public-private partnership, to raise matching funds, market the program statewide, evaluate applicants, make award decisions, underwrite loans, and monitor compliance and impact. The department and its partners shall coordinate with complementary nutrition assistance and education programs.

(3) The program shall provide funding on a competitive, one-time basis as appropriate for the eligible project.

(4)(a) The program may provide funding for projects such as:

(i) New construction of supermarkets and grocery stores.

(ii) Store renovations, expansion, and infrastructure upgrades that improve the availability and quality of fresh produce.

(iii) Farmers' markets and public markets, food cooperatives, mobile markets and delivery projects, and distribution projects that enable food retailers in underserved communities to regularly obtain fresh produce.

(iv) Other projects that create or improve healthy food retail outlets that meet the intent of this Chapter as determined by the department.

(b) Funding made available for projects included in Subparagraph (a) of this Paragraph may be used for the following purposes:

(i) Site acquisition and preparation.

(ii) Construction costs.

(iii) Equipment and furnishings.

(iv) Workforce training.

(v) Security.

(vi) Certain pre-development costs such as market studies and appraisals.

(vii) Working capital for first-time inventory and start-up costs.

(c) A restaurant is not eligible for funding under this Chapter.

(5) An applicant for funding may be a for-profit or a not-for-profit entity, including but not limited to a sole proprietorship, partnership, limited liability company, corporation, cooperative, nonprofit organization, nonprofit community development entity, university, or governmental entity.

(6) In order to be considered for funding, an applicant shall meet the following criteria:

(a) The project for which the applicant seeks funding shall benefit an underserved community.

(b) The applicant shall demonstrate a meaningful commitment to sell fresh fruits and vegetables, according to a measurable standard established by the department.

(c) Generally, the applicant shall accept Food Stamps (Supplemental Nutrition Assistance Program) and WIC (Special Supplemental Nutrition Program for Women, Infants and Children) benefits. For

categories of applicants that are not eligible to accept Food Stamps or WIC benefits, an alternative standard shall be established by the department to demonstrate a meaningful commitment to make healthy food affordable to low-income households.

(7) Applicants shall be evaluated on the following criteria in order to determine the funding awarded:

(a) Demonstrated capacity to successfully implement the project, including the applicant's relevant experience, and the likelihood that the project will be economically self-sustaining.

(b) The ability of the applicant to repay debt.

(c) The degree to which the project requires an investment of public funding to move forward, create impact, or be competitive, and the level of need in the area to be served. Additional factors that will improve or preserve retail access for low-income residents, such as proximity to public transit lines, also may be taken into account.

(d) The degree to which the project will promote sales of fresh produce, particularly Louisiana-grown fruits and vegetables.

(e) The degree to which the project will have a positive economic impact on the underserved community, including by creating or retaining jobs for local residents.

(f) Other criteria the department determines to be consistent with the purposes of this Section.

(8) The department shall establish program benchmarks and reporting processes to make certain that the program benefits both rural and urban communities in Louisiana. The department shall likewise establish monitoring and accountability mechanisms for projects receiving grants or loans, such as tracking fruit and vegetable sales data.

(9) The department shall prepare and submit an annual report to the legislature on any projects funded and outcome data.

(10) The department shall establish rules for the implementation of the Chapter in accordance with the Administrative Procedure Act.

E. Funds described in this Chapter, to the extent practicable, may be used to leverage other funding including but not limited to New Markets Tax Credits, federal and foundation grant programs, incentives available to designated Enterprise Zones or Renewal Communities, operator equity, and funding from private sector financial institutions under the federal Community Reinvestment Act.

Acts 2009, No. 252, §1.

CHAPTER 3-E. LOUISIANA SUSTAINABLE LOCAL FOOD POLICY COUNCIL

§299. *Repealed by Acts 2013, No. 184, §10.*

CHAPTER 4. RURAL EDUCATION

§301. Support for programs of Louisiana Cooperative Extension Service

As a cooperative endeavor with the Louisiana Cooperative Extension Service of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the governing body of any local government subdivision may provide financial and other support for the programs of the

Louisiana Cooperative Extension Service which benefit that local government subdivision under such terms and conditions as may be agreed upon between the Louisiana Cooperative Extension Service and the local government subdivision. Financial support for the cooperative endeavor may be appropriated from the general funds of the local government subdivision or may be provided for by an increase in the ad valorem taxes for such specific purpose in accordance with the provisions of Article VI, Part II, of the Louisiana Constitution of 1974.

Amended by Acts 1975, No. 242, §1.

§302. Farmers' institute conductor

The commissioner of agriculture and forestry may appoint a farmers' institute conductor, who shall devote his time exclusively to the work, as the commissioner may direct.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§303. Holding institutes; lecturers

Farmers' institutes shall be held yearly at such time and at such places as the commissioner of agriculture and forestry may direct. The commissioner shall make rules and regulations for organizing and conducting the institutes, and may call on the president of the Louisiana State University and Agricultural and Mechanical College to furnish one or more lecturers from the faculty or student body, whose traveling expenses shall be paid going to or returning from the institute work. The commissioner may also employ lecturers, male or female, at nominal salaries and traveling expenses while so employed, to perform duties in connection with institute work. The course of instruction at institutes shall be so arranged as to present to those in attendance the results of the most recent investigations in practical and scientific agriculture.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§304. Master farmer certification

A. The commissioner of agriculture and forestry may certify individuals as master farmers in accordance with this Section. Each individual must successfully complete a master farmer certification program and have implemented an individual comprehensive soil and water conservation plan that meets the standards and specifications of the United States Department of Agriculture, Natural Resources and Conservation Service, the Louisiana Department of Agriculture and Forestry, and the affected soil and water conservation district.

B. The commissioner may adopt rules and regulations setting out the requirements for obtaining a certification. The curriculum shall be established by the Louisiana State University AgCenter. The Louisiana State University AgCenter may consult with other agencies and organizations as needed, including but not limited to the Louisiana Department of Environmental Quality, Louisiana Department of Natural Resources, Louisiana Farm Bureau, the United States Department of Agriculture, Natural Resources and Conservation Service, and the state soil and water conservation commission. The curriculum shall include but is not limited to the instruction on environmental issues in agriculture, nonpoint source pollution, best management and conservation practices, soil and water quality monitoring demonstrations, and development and implementation of an individual comprehensive soil and water conservation plan.

C. Any individual who has received a master farmer certification shall be presumed to be in compliance with state soil and water quality requirements as long as certification is maintained. The master farmer certification shall continue as long as the individual actively maintains his specific comprehensive conservation plan in accordance with best management practices.

Acts 2003, No. 145, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

CHAPTER 4-A. LOUISIANA RURAL DEVELOPMENT LAW

PART I. GENERAL PROVISIONS

§311. Short title

This Chapter shall be known and may be referred to as the "Louisiana Rural Development Law".

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1.

§312. Legislative findings

The legislature hereby finds and declares that:

(1) The state's rural territory is vast in size, exceptionally diverse, possesses abundant natural and cultural resources, and together with its economic, human, and community resources, contributes greatly to the quality and maintenance of life of all people of the state, and hence to a healthier, more prosperous state.

(2) Federal, state, and local resources, and individual effort available to address rural needs are often isolated and limited to individual symptoms of blight and deterioration. Related programs are frequently inaccessible to the residents they are designed to serve. The placement of such programs within the various organizational structures is indistinct and many localities have inadequate numbers of managerial, professional, or technical personnel to pursue such assistance. Additionally, many public and private agencies also lack adequate staffing to adapt programs and services to the special needs and requirements of citizens and their environs. This situation has contributed to a growing confusion and disintegrating force that discourages coordinated individual policy and program development and delivery of services intended to address the needs of rural localities and citizens. Consequently, the energies and resources of the many individual federal, state, and local, public and private initiatives that could help answer rural needs and capitalize on the strengths of these areas, are often frustrated or diminished in their effort.

(3) An important role and challenge for state government, therefore, is to get diverse groups to work together for the betterment of Louisiana, and to combine their efforts in imaginative ways to the end that all regions of the state may always offer the highest possible quality of life, and cultural and material standards of living without sacrificing individual freedom or responsibility. The legislature believes that such individual efforts can be significantly enhanced, and support and sustain each other in the public interest; and many useful and innovative responses to rural needs will be possible if a more focused and coordinated interdisciplinary approach for addressing these problems and opportunities is made available through state government.

(4) The legislature seeks to amplify the efforts of existing agencies and individuals who are interested in such rural policy areas as economic development and employment, local government and management, business, agriculture, environment, land use, natural resources, community revitalization, human services and community life, health care, education, transportation, community facilities, and housing.

(5) No state office has been specifically created to promote, harmonize, or assist such efforts of existing agencies and individuals that address the unique needs, conditions, and strengths of rural areas of the state. It is, therefore, the intent of the legislature to create a state office of rural development. The office shall serve as a single contact point for rural governments, service providers, state and federal agencies, and for individuals interested in rural policies and programs of the state; and shall strive to promote cooperative and integrated efforts among such agencies and programs that are designed to address rural needs; and shall recommend to the governor and to the legislature the suitable use of policies, programs, long-range plans, laws, and regulatory mechanisms in order to meet such needs.

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1.

§313. Definitions

When used in this Chapter:

- (1) "Applicant" means any local governing authority requesting a loan from or completing an application form to apply for a loan under the Rural Development Loan Program.
- (2) "Director" means the chief administrative officer of the state office of rural development.
- (3) "Federal agency" means any department, office, council, or agency of the federal government, or any public benefit corporation or authority authorized by federal statute.
- (4) "Local agency" means any political subdivision, or office or department thereof, or not-for-profit organization created for the purposes of enhancing the quality of life and revitalization of rural areas.
- (5) "Municipality" means any incorporated city, town, or village.
- (6) "Office" means the state office of rural development created by this Chapter.
- (7) "Political subdivision" means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions.
- (8) "Rural areas" means parishes within the state having less than one hundred thousand population, or municipalities within the state having less than thirty-five thousand population, and the unincorporated areas of a parish with a population of over one hundred thousand.
- (9) "Rural development and revitalization" means those policies, programs, laws, regulations, or other matters having to do with rural areas, including but not limited to economic development, employment, local government services and management, business, agriculture, environment, land use and natural resources, human services and community life, health care, education, transportation, community facilities, and housing.
- (10) "State agency" means any department, office, council, or agency of the state, or any public benefit corporation or authority authorized by the laws of the state.

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1; Acts 1997, No. 637, §1.

§314. State office of rural development

A. There is hereby created within the office of the governor an office of rural development. The head of the office shall be the director of rural development who shall be appointed by the governor to serve at his pleasure. The appointment shall be subject to Senate confirmation.

B. The director shall employ necessary staff to carry out the duties and functions of the office as otherwise provided in this Chapter, or as otherwise provided by law.

C. The director shall prepare and submit to the governor and the House and Senate Committees on Agriculture, Forestry, Aquaculture and Rural Development annually, on March first of each year, a comprehensive report concerning the assistance activities undertaken by the office, recommendations for legislative proposals, data concerning program activities in rural areas, and other pertinent information which will indicate the activities conducted by the office in the previous year.

D. The governor shall direct that all state agencies provide the director with assistance in advancing the purpose of the office and to assure that the activities of the office are fully coordinated with the activities of state agencies providing related services.

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1; Acts 2003, No. 116, §1, eff. May 28, 2003.

§315. Functions, powers, and duties

The state office of rural development, by and through the director or his duly authorized officers and employees, shall have the following functions, powers, and duties:

(1) To serve as a clearinghouse and provide comprehensive information relating to rural development and revitalization upon request to any agency, individual, or corporation.

(2) To advise and assist agencies, individuals, and corporations in answering particular rural revitalization and development needs, including cooperative efforts among such agencies, individuals, and corporations to solve common problems or provide services in these areas.

(3) To receive notification from all state and federal agencies, individuals, or corporations engaged in rural development and revitalization of program descriptions, appropriation data, and application procedures. The office shall maintain a listing of existing programs and advise local agencies, individuals, or corporations of their existence.

(4) To assist, upon request, applicant local agencies, individuals, or corporations located in rural areas in obtaining timely and efficient responses from state and federal agencies; to assist such applicants in consideration of alternative program grant strategies; to assist state and federal agencies in cooperative approaches to address the needs of such applicants; and to provide technical assistance to agencies in formulating and implementing rural development and revitalization programs.

(5) To encourage the assistance of the private sector in effectuating rural development and revitalization.

(6) To assist the governor and the legislature in the integration and formulation of state rural development and revitalization policy and long-range plans for rural areas and in answering needs related thereto.

(7) To facilitate efforts of local agencies, individuals, and corporations in developing cooperative responses to rural needs. Personnel of the office may be available to participate in an advisory capacity at local meetings exploring such cooperative agreements; and may assist in the identification of appropriate state agencies and personnel who may be instrumental in facilitating such efforts.

(8) To analyze and make recommendations concerning proposed new state legislation or programs that may affect rural areas.

(9) To apply for and receive grants or financial assistance from the federal government, the state government, or other agencies, individuals, or corporations.

(10) To adopt and promulgate such rules and regulations, procedures, instructions, and forms as are deemed necessary to implement the functions, powers, and duties imposed upon the office by this Chapter in accordance with the provisions of the Administrative Procedure Act.

(11) To assist the governor in coordinating the activities and services of those departments and agencies of the state having relationships with local rural agencies, individuals, and corporations in order to provide more effective service to them and to simplify state procedures relating thereto.

(12) To keep the governor informed about the problems and needs of agencies, individuals, and corporations that are involved with rural development and revitalization and to assist in formulating policies with respect thereto and utilizing the resources of the state government for the benefit of rural areas.

(13) To refer local agencies, individuals, and corporations to the appropriate departments and agencies of the state and federal governments for advice, assistance, and available services in connection with particular rural development and revitalization problems or needs.

(14) To encourage the expansion and improvement of in-service training opportunities and to make information available to officials of local agencies in rural areas on matters pertaining to rural development and revitalization.

(15) To consult with and seek assistance from officials of federal and local agencies or corporations with respect to coordinating assistance programs for rural areas and to recommend to the governor and the legislature any policies or programs which would facilitate such coordination.

(16) To do all things necessary or convenient to carry out the functions, powers, and duties expressly set forth in this Chapter.

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1; Acts 1997, No. 637, §1.

§316. Functions, powers, and duties of other departments and state agencies

Nothing contained in this Chapter shall be deemed to derogate or detract in any way from the functions, powers, or duties prescribed by law of any other department of the state or to interrupt or preclude the direct relationship of any such department or agency with local agencies, individuals, or corporations for the carrying out of such functions, powers, or duties.

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1.

§317. Comprehensive grant information

A. The office shall request such specific information as the director determines to be necessary concerning assistance programs and grants administered by federal, state, and local agencies, individuals, and corporations designed to enhance rural areas. Such information shall be used to advise local agencies, individuals, or corporations for the purpose of promoting coordination in program or grant efforts wherever feasible or proper.

B. Any applicant requesting program grants or assistance in order to address rural development and revitalization needs, conditions, or strengths in rural areas may, pursuant to the rules of the office, adopted under the Administrative Procedure Act, confer with the office to obtain assistance in the prompt and efficient processing and review of applications.

C. The office shall, so far as possible, render such assistance, and the director may designate an officer or employee of the office to act as an expeditor for the purpose of:

(1) Facilitating contacts for the applicant with state, federal, or local agencies, individuals, or corporations responsible for processing and reviewing grant applications.

(2) Arranging conferences to clarify the interest and requirements of any such agency, individual, or corporation with respect to grant applications.

(3) Considering with the agency, individual, or corporation the feasibility of consolidating hearings and data required of the applicant.

(4) Assisting the applicant in the resolution of outstanding issues identified by the agency, individual, or corporation, including delays experienced in application review.

(5) Coordinating federal, state, and local grant application review actions and assistance programs to the extent practicable.

D. No fees of any kind shall be charged or collected under this Chapter, except those monies that may be provided by a federal agency or the state for administrative costs.

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1.

§318. Contract authority

The office is hereby empowered to enter into any agreement or contract with any corporations or public agencies necessary or convenient to carry out the provisions of this Chapter.

Acts 1990, No. 216, §1; Acts 1991, No. 396, §2; Acts 1991, No. 449, §1; Acts 1997, No. 637, §1.

PART II. RURAL DEVELOPMENT PROGRAM

§§321 to 323. *Repealed by Acts 2012, No. 834, §13, eff. July 1, 2012.*

PART III. LOUISIANA CENTER FOR RURAL INITIATIVES

§331. Legislative findings

The legislature hereby finds and declares that economic development is one of the missions of land grant universities. The Louisiana Board of Regents' Master Plan for Higher Education calls for the Louisiana State University Agricultural Center and the Southern University Agricultural Research and Extension Center to play an integral role in supporting agricultural industries, sustaining rural areas, and encouraging efficient use of resources through research and educational programs conducted by its experiment stations and extension service.

Acts 2004, No. 796, §1.

§332. Louisiana Center for Rural Initiatives; creation; mission; duties

A. There is hereby created as a consortium initiative, between the Louisiana State University Agricultural Center and the Southern University Agricultural Research and Extension Center, hereinafter referred to as the "center". The mission of the center shall be to improve socioeconomic well-being in Louisiana's rural communities by facilitating rural development research, increasing awareness and understanding of rural development conditions, issues, strategies, and policies in Louisiana, and providing rural community stakeholders and policymakers with information necessary for public policy decisionmaking.

B. The center shall have the following powers, duties, and functions:

(1) Facilitate socioeconomic and rural development research and outreach by providing a platform for interdisciplinary and collaborative scholarship and education and enhance the ability of the Louisiana State University Agricultural Center and the Southern University Agricultural Research and Extension Center to capture external funding.

(2) Provide leadership within Louisiana, Louisiana State University, and Southern University in assessing and addressing the current status of socioeconomic development and underlying reasons for socioeconomic conditions within the state, with a particular emphasis on rural and persistent poverty areas.

(3) Evaluate the potential of various rural development policies and strategies and develop statewide and regional awareness of effective policies and strategies for rural development. Such strategies shall include rural entrepreneurship and value added development, rural workforce development, civic engagement and leadership, asset-based development, biotechnology, health care sector development, and natural resource based development.

(4) Provide educational outreach and assistance in implementing effective rural development strategies through such activities as conferences, workshops, and training sessions.

(5) Provide public services to communities and collect, analyze, interpret, and disseminate rural development information for Louisiana residents, policymakers, and other stakeholders. Methods of dissemination of rural development information shall include educational programming and print and electronic media.

C. The center shall be housed at the Louisiana State University Agricultural Center and administered through a cooperative endeavor agreement with Southern University Agricultural Research and Extension Center and shall include working partners throughout the state. Participation shall be open to rural development professionals with an interest in rural development research and outreach. The core faculty shall consist of academic faculty within the Louisiana State University and Southern University systems. The implementation team shall consist of selected faculty of the Louisiana State University Agricultural Center's Community Economic Development Team and selected Southern University Agricultural Research and Extension Center faculty. Affiliated partners may include rural development or social science professionals from other universities, colleges, foundations, governments, or nongovernmental organizations.

D. The center shall operate a satellite rural development outreach center in Oak Grove, Louisiana, at the Thomas Jason Lingo Community Center and may operate other satellite rural development outreach centers deemed necessary. The Southern University Agricultural Center has established initiatives such as the community development program and may develop other such rural development outreach activities as deemed necessary.

E. The center shall engage relevant stakeholders to facilitate rural development throughout the state and region, including universities, colleges, federal and state governments, national rural funders, and nongovernmental organizations. The center shall coordinate and build on existing relationships with the University of Louisiana system, the Southern University system, the governor's Office of Rural Development, the Louisiana Department of Agriculture and Forestry, the Louisiana Department of Economic Development, the United States Department of Agriculture, the Louisiana Forest Products Development Center, the Southern Rural Development Center, the Rural Policy Research Institute, and the Foundation for the Mid South. The center shall develop new working relationships with other rural development partners.

Acts 2004, No. 796, §1.

§333. Delta Development Initiative

A. The legislature hereby finds that in northeast Louisiana, which has a poverty rate that is nearly double the national average and whose economy is severely and chronically depressed, there is an urgent need to address issues related to poverty, education, health care, economic development and jobs, housing, and culture. Approximately one in four individuals in northeast Louisiana lives in poverty. Seven out of the state's ten parishes with the highest child poverty rates are in northeast Louisiana. Infant mortality rates in this region are among the highest in the state. The region has among the lowest per capita incomes in the state and among the highest rates of uninsured and unemployed adults. A large percentage of the region's public schools are considered academically below average. Immediate steps must be taken to form a multifaceted initiative to identify and implement ways to solve the region's problems, to assist the region's individuals, families, and businesses as they strive for success and economic survival, and to improve the quality of life and standards of living for the region's citizens. An opportunity must be facilitated to engage citizens of different backgrounds and areas of expertise in order to achieve long-term growth and development in the region, and a framework must be designed for such an initiative that provides for an exchange of ideas in a comprehensive and coordinated effort and for the widespread implementation of solutions in the region.

B.(1) The center shall plan, develop, and implement a Delta Development Initiative, referred to in this Section as the "Delta initiative", as provided in this Section.

(2) The Delta initiative shall be implemented in the parishes of Caldwell, Catahoula, Concordia, East Carroll, Franklin, Madison, Morehouse, Ouachita, Pointe Coupee, Richland, Tensas, and West Carroll. Such parishes shall be referred to in this Section as the "Delta" or the "Delta region".

C. The purpose of the Delta initiative shall be to provide for a dynamic and comprehensive approach to planning, developing, and implementing solutions to problems of the Delta region in Louisiana by utilizing all possible available resources, and specifically to address problems related to poverty, education, health care, economic development and jobs, housing, and culture.

D. To carry out the purpose of the Delta initiative and to plan, develop, and implement solutions to problems in the Delta region as provided in Subsection C of this Section, the center shall collaborate, consult, and coordinate with entities in the public and private sector with particular expertise and resources to provide effective solutions, including but not limited to the following:

- (1) The governor's Office on Rural Development.
- (2) Louisiana Department of Economic Development.
- (3) The Board of Regents.
- (4) Each public postsecondary education management board.
- (5) The University of Louisiana at Monroe and its Small Business Development Center.
- (6) The Southern Regional Education Board.
- (7) Louisiana State University Health Sciences Center at Shreveport.
- (8) The Delta Regional Authority.
- (9) The Louisiana State University AgCenter.
- (10) The Southern University AgCenter.
- (11) Delta Community College.
- (12) Louisiana Tech University.
- (13) Grambling State University.
- (14) Louisiana Center Against Poverty.
- (15) Northeast Economic Development District.
- (16) All other appropriate technical and community colleges located in the Delta region.

E. The center shall plan, develop, and implement components of the Delta initiative to accomplish the purpose of the Delta initiative as provided in Subsection C of this Section. Such components shall include the following at a minimum and such other components as the center may identify or the legislature may suggest:

(1) A government leadership academy. The center shall establish an academy to train elected local government officials to carry out their responsibilities. The academy also may provide training on management and operations issues, including legal aspects thereof, such as public records, ethics, purchasing and procurement, personnel management, financial management, conflict resolution, conduct of board meetings and board business, and leadership educational programs.

(2) A rural entrepreneurship program, including a business incubator. The center shall spur the creation and sustainability of new rural businesses and shall implement a business incubator program that provides high-speed Internet access to give Delta business owners the necessary technological infrastructure to create new companies and expand into global markets. The center also shall teach adult entrepreneurs how to start and manage e-businesses, including how to establish storefront businesses on the Internet, how to develop web sites, and how to utilize an array of educational programs that can be

accessed using distance education technology and regional partnerships with economic development institutions and organizations. The center also shall teach young people in the Delta region business management skills, such as marketing, finance, and economics, necessary to start and develop businesses, including how to buy and sell items on the Internet and provide opportunities for Delta young people to work with local retailers to expand their businesses into global markets.

(3) Value-added agriculture enterprise development. The center shall collaborate with the United States Department of Agriculture in Louisiana and other appropriate resources to develop biofuel feasibility studies examining the economics of using energy crops to produce ethanol and diesel and to develop food and fiber product industries. The center also shall provide educational presentations for producers and others who are interested in exploring feasible biofuel businesses and otherwise study and seek to develop ways to develop nontraditional markets for crops that will yield opportunities for long-term sustainable economic stability and growth for agriculture in the Delta. The center also shall conduct a workshop for the Delta region, which may include neighboring states, to assess Delta region and multistate renewable energy options for producers and others in the business community, such workshop to include biofuels and nontraditional energy sources.

(4) Improvement of rural health care and addressing of rural health issues. The center shall provide educational programs for Delta region residents to increase knowledge of best practices to improve overall health and to reduce obesity, diabetes, and high cholesterol rates. The center also shall provide technical assistance to Delta health care organizations to improve recruitment of health care professionals to rural areas and evaluate costs and quality of services and strategies to improve the efficiency of Delta health organizations.

(5) Education and workforce development. The center shall identify areas in which improvement would have the greatest impact on improved pre-kindergarten through grade twelve education outcomes, such as attraction and retention of quality teachers, school readiness, and dropout reduction, and shall plan, develop, and implement projects to address problems or provide improvements in such areas. The center shall identify the greatest needs for training for workforce development and shall initiate projects to direct appropriate resources to address those needs.

(6) Housing. The center shall work with the Louisiana Housing Corporation and other appropriate public and private resources to identify the housing needs of the parishes in the Delta initiative and to identify available resources and incentives to address those needs. The center shall plan and implement projects to begin to address the most serious of those needs or those needs that can be most readily addressed, or both.

(7) Natural resource and environmental management. The center shall enlist assistance from a wide array of available resources and shall establish best practices for public and private entities and property owners to provide for effective measures for the protection, conservation, and presentation of the environment, heritage, and natural resources of the Delta region and for management and control of the environment and natural resources systems in such a way as to ensure the sustainability of development efforts over a long-term basis.

(8) Tourism and cultural heritage. The center shall take all possible measures to promote tourism in the Delta region and to preserve its cultural heritage. The center shall work to attract retirees to reside in the Delta region, to market the Delta region as a sportsman's paradise, and to commemorate and celebrate the history of the Delta region.

F. In order to plan, develop, and implement the components of the Delta initiative and to address the purposes of the Delta initiative, the center shall provide for:

(1) Identification and development of a database of all resources available, including resources at all levels of government and organizations of government bodies at all levels of government, private

individuals, groups and organizations, and foundations, and educational institutions at all levels, including those in-state and out-of-state and inside and outside the United States.

(2) Identification of and development of a database of potential sources of funding for Delta initiative components, programs, or projects, including public and private funds, tax credits and other tax incentives, and in-kind services and supplies.

(3) Identification of those resources in the databases available for assistance in implementing each Delta initiative component.

(4) Facilitation of coordination and joint use of available resources identified as useful for assistance to a particular component, program, or project.

G. In planning, developing, and implementing each component of the Delta initiative, as well as projects and programs of the initiative, the center shall include procedures for evaluation of the effectiveness and results thereof. The center shall also provide for an annual evaluation of the success and accomplishments of the Delta initiative.

H. The center annually shall submit a report to the legislature summarizing the activities and accomplishments of the Delta initiative and shall include in each such report significant information from the evaluations completed pursuant to Subsection G of this Section and recommendations to the legislature for improvements in the Delta initiative. The annual report shall be submitted to the legislature not later than sixty days prior to the convening of the regular legislative session.

Acts 2007, No. 347, §1; Acts 2011, No. 408, §5(B), eff. July 5, 2011.

§§334 to 338. *Repealed by Acts 2001, No. 1185, §8, eff. July 1, 2001.*

CHAPTER 5. ADVERTISING, MARKETING, AND PROCESSING

PART I. STATE MARKET COMMISSION

§§401 to 409. *Repealed by Acts 2009, No. 24, §7, eff. June 12, 2009.*

§414. *Repealed by Acts 2009, No. 24, §7, eff. June 12, 2009.*

§§416 to 420. *Repealed by Acts 1978, No. 242, §3.*

§§421 to 426. *Repealed by Acts 2009, No. 24, §7, eff. June 12, 2009.*

PART I-B. NEW ORLEANS FOOD CENTER

§§431 to 441. *Repealed by Acts 1989, No. 662, §8, Eff. July 7, 1989.*

PART I-C. LOUISIANA CRAWFISH MARKET DEVELOPMENT AUTHORITY

§§445.1 to 445.10. *Repealed by Acts 2008, No. 62, §1, eff. June 5, 2008.*

PART I-D. AGRICULTURAL PRODUCTS PROCESSING DEVELOPMENT LAW

§§446.1 to 446.7. *Repealed by Acts 2009, No. 24, §7, eff. June 12, 2009.*

PART II-B. FRESH STRAWBERRY MARKETING LAW

§§481 to 488. *Repealed by Acts 1964, No. 227, §1.*

PART IV. FARM PRODUCTS MARKET FACILITIES

§§521 to 538. *Repealed by Acts 2009, No. 24, §7, eff. June 12, 2009.*

PART V. FARM YOUTH LOAN PROGRAM

§§541 to 550. *Repealed by Acts 2009, No. 24, §7, eff. June 12, 2009.*

PART X. LOUISIANA PORK PROMOTION BOARD

§§551.81 to 551.85. *Repealed by Acts 2006, No. 713, §4, eff. July 1, 2006.*

**PART XIII. LOUISIANA CRAWFISH PROMOTION
AND RESEARCH PROGRAM**

§556.1. Purpose

A. The provisions of this Part are intended to provide a voluntary method of raising revenues to be used for the purposes of developing markets for farm-raised and wild-caught Louisiana crawfish and for funding research which will increase production of farm-raised and wild-caught Louisiana crawfish.

B. It is hereby acknowledged that the promotion and marketing of farm-raised or wild-caught Louisiana crawfish is of great public interest and that the development of marketing potential for Louisiana crawfish can be of great economic benefit to the state and its citizens. The department shall put forth great effort to promote and help develop markets for Louisiana crawfish whether they be farm-raised or wild-caught Louisiana crawfish.

C. In pursuit of the effort to promote the Louisiana crawfish industry, the commissioner and the secretary of the Department of Wildlife and Fisheries are hereby directed to enter into a memorandum of understanding recognizing the immense value of the wild-caught crawfish industry to the state of Louisiana and pledging to work together to bring the resources of both departments in support of Louisiana crawfish, both farm-raised or wild-caught. The memorandum of understanding shall also include a pledge to work together to seek out revenue sources that can be used to support, develop, and promote both the farm-raised and the wild-caught crawfish industries and a pledge to work jointly to support, develop, promote, and enhance the crawfish industry, both farm-raised or wild-caught. The

memorandum of understanding shall also include a pledge to work jointly with the state's congressional delegation to ensure that all elements of the industry, including the farmers, the harvesters, and the processors, are eligible for any disaster funding which may be appropriated for the industry.

Added by Acts 1983, No. 679, §1; Acts 2008, No. 334, §1.

§556.2. Definitions

As used in this Part, the following terms shall have the following meanings ascribed to them:

(1) "Artificial crawfish bait" or "bait" means any substance that is manufactured or processed into a substantially different form than the raw materials and is sold for the purpose of attracting crawfish to traps.

(2) "Board" means the Louisiana Crawfish Promotion and Research Board.

(3) "Commissioner" means the Louisiana commissioner of agriculture and forestry.

(4) "Crawfish farmer" means a person who farms or cultivates crawfish in ponds.

(5) "Crawfish harvester" means a person who harvests wild crawfish commercially without participating in the growing of the crawfish.

(6) "Department" means the Louisiana Department of Agriculture and Forestry.

(7) "Person" means any individual, corporation, partnership, association, or other legal entity.

(8) "Quarter" means a calendar quarter more specifically defined as follows:

(a) First quarter: January, February, and March.

(b) Second quarter: April, May, and June.

(c) Third quarter: July, August, and September.

(d) Fourth quarter: October, November, and December.

(9) "Ultimate consumer" means any person who purchases bait for use in crawfish traps.

(10) "Distributor" means a Louisiana manufacturer of crawfish bags or a person who brings crawfish bags into Louisiana which were manufactured outside of Louisiana or a person who brings crawfish tail meat into Louisiana or who distributes crawfish tail meat in Louisiana.

Added by Acts 1983, No. 679, §1; Acts 1985, No. 492, §1; Acts 1995, No. 543, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§556.3. Louisiana Crawfish Promotion and Research Board

A. The Louisiana Crawfish Promotion and Research Board is hereby created within the Department of Agriculture and Forestry. The board shall be domiciled in Baton Rouge.

B. The board shall consist of thirteen members appointed by the commissioner of agriculture and forestry in accordance with the following provisions:

(1) One member who is engaged in crawfish farming east of the Atchafalaya River appointed from a list of three persons nominated by the Louisiana Crawfish Farmers Association.

(2) One member who is engaged in crawfish farming west of the Atchafalaya River and south of U.S. Highway 190 appointed from a list of three persons nominated by the Louisiana Crawfish Farmers Association.

(3) One member who is engaged in crawfish farming north of U.S. Highway 190 appointed from a list of three persons nominated by the Louisiana Crawfish Farmers Association.

(4) Four members engaged in harvesting wild crawfish.

(5) One member who is engaged in crawfish farming or crawfish harvesting appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation.

(6) One member who is an owner or operator of a facility which produces artificial crawfish bait.

(7) One member who is an owner or operator of a facility which processes crawfish.

(8) One member appointed from a list of three persons nominated by the Louisiana Restaurant Association.

(9) One member appointed who owns or operates a retail crawfish-seafood facility, appointed from the state at large.

(10) One member who is a landowner engaged in commercial crawfish leasing appointed from a list of three persons nominated by the Louisiana Landowners Association.

C. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

D. *Repealed by Acts 2014, No. 219, §2.*

E. A vacancy in the office of a member shall be filled in the same manner as the original appointment. If any board or association nominating potential members becomes defunct or does not submit the required list of names to the commissioner within thirty days after he requests such list, the commissioner may appoint any otherwise qualified person not already a board member to fill a vacancy. A person appointed to fill a vacancy shall serve out the unexpired portion of the term of office vacated.

F. A majority of the members of the board shall constitute a quorum for the transaction of business. All official actions of the board shall require the affirmative vote of a majority of the members of the board present and voting.

G. Members of the board shall not receive any salary for their duties as members. Members may receive a per diem for each day spent in actual attendance of meetings of the board. The amount of the per diem shall be fixed in an amount not to exceed forty dollars. Members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the board in an amount not to exceed the mileage rate for state employees.

H. The board shall meet quarterly and may meet on the call of the chairman or any four members. The board shall not receive per diem or mileage for more than twelve meetings in any calendar year.

I. The board, by a vote of a majority of the members, may expel a member for good cause shown. Good cause shall include but shall not be limited to three consecutive unexcused absences. The expulsion of a member creates a vacancy in the office of the expelled member.

Added by Acts 1983, No. 679, §1; Acts 1985, No. 865, §1; Acts 1985, No. 328, §1; Acts 1985, No. 327, §1; Acts 1990, No. 128, §1; Acts 1995, No. 543, §1; Acts 2004, No. 12, §1, eff. May 12, 2004; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2014, No. 219, §2.

§556.4. Officers and employees

A. The members of the board shall elect a chairman, a vice chairman, and such other officers as they deem necessary. All officers shall be members of the board.

B. The board may employ subordinate officers and employees, prescribe their duties, and fix their compensation and terms of employment.

Added by Acts 1983, No. 679, §1; Acts 2010, No. 495, §1, eff. June 24, 2010.

§556.5. Administration

A. The board may adopt rules and regulations for the administration of this Part. All rules shall be adopted in accordance with the Administrative Procedure Act.

B. The commissioner shall administer and enforce the provisions of this Part in accordance with rules and regulations adopted by the board and shall collect the assessments authorized under this Part.

C. The board shall determine who shall receive grants for marketing and research under the rules and regulations adopted pursuant to this Section.

Added by Acts 1983, No. 679, §1; Acts 1985, No. 180, §1.

§556.6. Assessments

A. There is hereby levied and imposed an assessment of one-quarter of one cent per pound on all artificial crawfish bait sold in this state. The assessment shall be ultimately paid by the crawfish farmers and harvesters who purchase the artificial bait.

B. There is hereby levied and imposed an assessment on each bag used to package live crawfish in the amount of one cent for each bag holding less than twenty-five pounds of crawfish, and two cents for each bag holding twenty-five pounds or more of crawfish. The assessment shall ultimately be paid by the crawfish farmers and harvesters who purchase the bags.

Added by Acts 1983, No. 679, §1. Amended by Acts 1985, No. 330, §1; Acts 1985, No. 492, §1; Acts 1986, No. 547, §1; Acts 2014, No. 219, §1.

§556.7. Repealed by Acts 2014, No. 219, §2.

§556.8. Registration of manufacturers and distributors; reports

A. Each manufacturer who sells artificial crawfish bait in Louisiana shall register each product with the department. Each manufacturer shall submit a quarterly report to the department showing the amount of artificial bait sold in Louisiana during that quarter. The quarterly reports shall be submitted on or before the fifteenth day after each quarter.

B. Each distributor who sells crawfish bags in Louisiana shall register each type of bag with the department. Each manufacturer shall submit a quarterly report to the department showing the number of each type of bag sold in Louisiana during that quarter. The quarterly reports shall be submitted on or before the fifteenth day after each quarter.

Added by Acts 1983, No. 679, §1. Amended by Acts 1985, No. 492, §1; Acts 1985, No. 330, §1; Acts 1986, No. 547, §1.

§556.9. Collections

A. The assessments provided for in R.S. 3:556.6 shall be collected at the first point of sale in Louisiana. The person selling the artificial bait or crawfish bags shall collect the assessments.

B. Each person who collects the assessments shall remit the collections to the department on or before the fifteenth day after each quarter.

C. The assessments shall be included in the purchase price of the artificial bait or the crawfish bags each time the artificial bait or the bags are sold until they are purchased by a crawfish farmer or harvester.

D. Each person who collects an assessment shall place a stamp or seal on each unit of artificial bait for which the assessment has been collected. The stamp or seal shall be supplied by the department and shall be in the size, shape, and design approved by the board.

E. The board may impose a civil penalty for failure to collect and remit assessments in accordance with the provisions of this Section. Civil penalties shall be imposed in accordance with the following provisions:

(1) The civil penalty shall not exceed one hundred dollars per violation.

(2) Each day on which a violation occurs shall be considered a separate offense.

(3) Civil penalties may be assessed only by a ruling of the board based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

(4) The board may institute civil proceedings to enforce its rulings in the district court for the parish in which the violation occurred.

Added by Acts 1983, No. 679, §1. Amended by Acts 1985, No. 330, §1; Acts 1985, No. 492, §1; Acts 1986, No. 547, §1; Acts 1987, No. 133, §1.

§556.10. Confidentiality

The information received by the department from the reports required by R.S. 3:556.8 and the collections required by R.S. 3:556.9 shall be confidential with respect to the person submitting the report and the person remitting the collections. The figures for the total amount of artificial bait and crawfish bags sold and the total collections of each assessment shall be public record.

Added by Acts 1983, No. 679, §1; Acts 1985, No. 330, §1; Acts 1985, No. 492, §1; Acts 1986, No. 547, §1.

§556.11. Refunds

Each person who purchases artificial crawfish bait or crawfish bags may obtain a refund of the assessment by submitting a written request for a refund to the department on or before the fifteenth day after the end of the quarter in which the artificial bait or bags were purchased. Each request for a refund shall be accompanied by copies of invoices or sales receipts showing the amount of bait or bags purchased.

Added by Acts 1983, No. 679, §1; Acts 1985, No. 330, §1; Acts 1985, No. 492, §1; Acts 1986, No. 547, §1.

§556.12. Distribution of proceeds

A. On or before the last day of the first month of each quarter the department shall transmit the refunds requested for the previous quarter and deliver the balance of the proceeds of the assessments to the board.

B. The department may retain the actual costs of collecting and transmitting the funds, not to exceed three percent of the gross amount of the funds collected from each assessment.

C. The board shall retain such amounts as are necessary for the administrative expenses of the board and shall disburse the remaining funds to fund the following: all costs related to advertising, promotion, and marketing of Louisiana crawfish; research which will aid in carrying out the purposes of this Part; efforts to increase consumption of Louisiana crawfish; providing producers, distributors, retailers, and consumers with educational information as to the nutritional and health value of Louisiana crawfish; and fulfilling any other purposes authorized by this Part.

Added by Acts 1983, No. 679, §1; Acts 1985, No. 330, §1; Acts 1985, No. 492, §1; Acts 2006, No. 21, §1.

§556.13. Audits

The commissioner may audit the books and records of each person who is required to collect and remit the assessments provided for in this Part. The sole purpose of any audit conducted under the provisions of this Section shall be to determine if the assessments have been properly collected and remitted.

Acts 1985, No. 329, §1.

§556.14. Assessments on crawfish tails

A. An assessment of one cent per pound is hereby levied on all crawfish tail meat sold in this state.

B., C. *Repealed by Acts 2014, No. 219, §2.*

D. If the assessment is modified or eliminated for any reason, then all assessments approved, levied, or otherwise collectible under this Section on the last date prior to any such modification or elimination of assessments taking effect shall remain valid and collectible for such time as is necessary to pay the financial obligations incurred prior to the effective date of the modification or elimination of the assessment.

E.-G. *Repealed by Acts 2014, No. 219, §2.*

H. The assessment shall be collected and paid at the first point of sale in Louisiana by the producer or distributor doing business in Louisiana and remitted to the department on or before the fifteenth day after the close of each quarter.

I. Each crawfish tail meat producer who produces crawfish tail meat from crawfish obtained from crawfish farmers and harvesters who have paid the assessment under R.S. 3:556.6 shall be exempt from the assessment imposed under this Section.

J. The board may impose a civil penalty for failure to collect and remit assessments in accordance with the provisions of this Section in the amount and in the manner provided for in R.S. 3:556.9(E).

K. The proceeds of the assessment shall be distributed and used in accordance with R.S. 3:556.12.

Acts 2006, No. 293, §1, eff. June 8, 2006; Acts 2014, No. 219, §§1, 2.

PART XV. LOUISIANA CATFISH PROMOTION AND RESEARCH PROGRAM

§§558.1 - 558.13. *Repealed by Acts 2014, No. 832, §4.*

PART XVI. LOUISIANA AQUACULTURAL DEVELOPMENT ACT

§559. *Repealed by Acts 2001, No. 1137, §1.*

§559.1. Short title

This Part shall be known and may be referred to as the "Louisiana Aquacultural Development Act".

Acts 2004, No. 865, §1, eff. July 12, 2004.

§559.2. Legislative findings; purpose

A. The legislature hereby finds and declares that a substantial production of aquatic livestock in private, constructed facilities occurs yearly in Louisiana, which substantially contributes to the vitality of Louisiana's economy. The raising and harvesting of aquatic livestock is substantially similar to and utilizes similar production practices as are used in traditional agriculture. Therefore, the legislature finds that the raising and harvesting of aquatic livestock in a private, constructed environment is agriculture and that aquatic livestock in such an environment is not wildlife.

B. No unified program for overseeing and coordinating modern, sustainable aquacultural production exists in Louisiana. The development of a modern aquaculture industry through a regulatory program that allows for the development of current and future aquacultural production, while at the same time protecting the native fish and aquatic life and wildlife and their natural habitat, will be beneficial to the economy of this state.

C. The purpose of this Part is to provide a regulatory framework for the orderly development and maintenance of a modern aquacultural segment of Louisiana's agriculture industry and for the promotion of aquaculture and aquacultural products.

Acts 2004, No. 865, §1, eff. July 12, 2004.

§559.3. Terms defined

As used in this Part, the following terms shall have the meanings given to them except where the context expressly indicates otherwise:

(1) "Aquaculture" means the producing, raising, managing, harvesting, transporting, or marketing of aquatic livestock in privately owned waters or ponds as defined in R.S. 56:8(103) and (104).

(2) "Aquatic livestock" means domestic aquatic, nongame, native, freshwater organisms produced, raised, managed, or harvested within or from a constructed impoundment in compliance with rules and regulations adopted pursuant to this Part.

(3) "Aquatic producer" means any person engaged in producing, raising, managing, harvesting, or marketing aquatic livestock.

(4) "Commissioner" means the Louisiana commissioner of agriculture and forestry.

(5) "Department" means the Louisiana Department of Agriculture and Forestry.

(6) "Facility" means any piece of property that contains a constructed impoundment or other area where aquatic livestock are produced, raised, managed, harvested, or marketed.

(7) "Impoundment" means any private, constructed pond, lake, reservoir, tank, cage, or other means of containment that has no inlet from or outlet to any public waters.

(8) "Person" means an individual, partnership, firm, company, association, corporation, limited liability company, and any other legal entity or group of persons.

Acts 2004, No. 865, §1, eff. July 12, 2004; Acts 2010, No. 743, §2A, eff. July 1, 2010.

§§559.4, 559.5. *Repealed by Acts 2010, No. 743, §2C, eff. July 1, 2010.*

§559.6. Powers of the commissioner

A. The commissioner shall have the following powers and responsibilities:

(1) To develop a regulatory framework for the orderly development and maintenance of a modern, sustainable aquacultural segment of Louisiana's agriculture industry and to promote aquaculture and aquaculture products.

(2) To develop criteria for licensing and permitting and for granting or denying licenses and permits issued pursuant to this Part.

(3) To hold hearings on alleged violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(4) To impose civil penalties and decide on injunctive or other civil relief to be sought for violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(5) To adopt rules and regulations as are necessary to implement the provisions of this Part, including regulations establishing the criteria for granting or denying licenses and permits. All rules and regulations shall be adopted in accordance with the provisions of this Part and promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

(6) To administer and enforce the provisions of this Part and the rules and regulations adopted pursuant to this Part.

(7) To collect, administer, and disburse the proceeds of all fees, interest, penalties, and other monies collected pursuant to this Part.

(8) To issue licenses and permits to persons engaged in aquacultural activities in accordance with this Part.

(9) To conduct inspections and investigations in accordance with the provisions of this Part and any rules and regulations adopted pursuant to the provisions of this Part.

(10) To seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part, rules and regulations adopted pursuant to this Part, or orders and rulings issued pursuant to this Part.

(11) To institute civil proceedings to enforce his orders or rulings, collect any fees, fines, penalties, or costs due under this Part or to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

(12) To issue a stop order to prevent a violation or further violation of this Part or of any rule or regulation adopted pursuant to this Part.

B. Any suit filed pursuant to this Part may be filed in East Baton Rouge Parish or in any parish of proper venue.

Acts 2004, No. 865, §1, eff. July 12, 2004; Acts 2010, No. 743, §2A, eff. July 1, 2010.

§559.7. *Repealed by Acts 2010, No. 743, §2C, eff. July 1, 2010.*

§559.8. Aquacultural production; licensing; fees; records

A. Every aquatic producer of a suitable species of aquatic livestock shall obtain a license from the department for each facility owned or operated by the aquatic producer. Each license shall be renewed annually. An application for a license shall be on a form furnished by the department and shall solicit such information as the department deems reasonably pertinent. A fee or structured fees for licenses, permits, applications for licenses, inspections, and other services required under this Part may be adopted by rule or regulation. The amount of any fees shall not generate revenues in excess of the total cost involved in providing the license, permit, or service.

B. Prior to approval and issuance of any license, the Department of Agriculture and Forestry shall inspect each facility subject to the license to determine that aquatic livestock at the facility are in compliance with the rules and regulations adopted pursuant to this Part.

C. The criteria used by the department in inspecting the facility shall be established by rules and regulations. The criteria shall include the following:

(1) The species of aquatic livestock to be raised, maintained, or harvested at the facility.

(2) Whether the species is established in Louisiana.

(3) The physical location and size of the facility.

(4) The topography of the facility and the surrounding area.

(5) The approximate number of individual aquatic livestock at the facility.

(6) The facility's operational plan.

(7) The type of impoundment at the facility.

(8) The filtering or treatment system to be used to prevent the passage of eggs, larvae, juveniles, adults, waste, and unpurified water from the facility into areas or waters outside the facility.

(9) The emergency plan to become operational in the event of flooding or natural or manmade disasters.

(10) The most current best management practices for the type of facility.

D. Licensed aquatic producers shall maintain and preserve records as required by the rules and regulations adopted pursuant to this Part.

Acts 2004, No. 865, §1, eff. July 12, 2004; Acts 2010, No. 743, §2A, eff. July 1, 2010.

§559.9. Inspections; investigations; confidentiality

A. The department may conduct an investigation if it has reason to believe that a violation of this Part or the rules or regulations adopted pursuant to this Part may occur or has occurred. In connection with any such investigation, the department may compel the attendance of witnesses or the production of documents and records anywhere in the state.

B. The department shall have access, during normal working hours, to any premises where there is reason to believe that aquatic livestock are being produced, maintained, harvested, or marketed. The department may examine any facility and any records relating to the production, maintenance, harvesting, or marketing of aquatic livestock. Entrance on the premises under the provisions of this Subsection shall not be deemed to be criminal trespass under any state law or local ordinance.

C. If any person is found guilty of violating this Part or any rule or regulation adopted pursuant to this Part or is found guilty of a criminal violation as a result of any such investigation, the person found guilty shall reimburse the department the cost of the investigation.

D. The records of investigations conducted under the provisions of this Section shall be confidential and shall not be public records for the purposes of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950.

E. The Department of Agriculture and Forestry is authorized to inspect each facility licensed pursuant to R.S. 3:559.8 to determine that the aquatic livestock and the facility are in compliance with the rules and regulations adopted pursuant to this Part.

Acts 2004, No. 865, §1, eff. July 12, 2004; Acts 2010, No. 743, §2A, eff. July 1, 2010.

§559.10. Stop order

A. The commissioner may issue a stop order prohibiting the production, harvesting, distribution, sale, offering for sale, application, movement, or disturbance of any aquatic livestock or products derived therefrom to prevent a violation or continued violation of this Part or the rules and regulations adopted pursuant to this Part.

B. Any person aggrieved by a stop order may petition for a hearing on the matter. The hearing shall be held in accordance with the provisions of R.S. 3:559.13(D).

C. Based on the results of the hearing, or a consent agreement mutually entered into by the department and a violator, the commissioner may take one or more of the following actions:

- (1) Release the aquatic livestock or product from the stop order.
- (2) Require the cause for the stop order to be remedied prior to releasing the stop order.
- (3) Destroy the aquatic livestock or product.
- (4) Provide for the disposition of the aquatic livestock or product.

Acts 2004, No. 865, §1, eff. July 12, 2004.

§559.11. Deposit and disbursement of fees and other monies

A. All fees, interest, penalties, and other monies received under the provisions of this Part shall be deposited in a special fund established for the department. The commissioner shall make disbursements from the fund for the activities authorized by the Part.

B. The monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part. The commissioner may retain a portion of the total assessments collected, as is necessary to defray the costs of collecting assessments and administering and enforcing this Part.

(2) To fund all costs related to the orderly development of a modern, sustainable aquacultural segment of Louisiana's agriculture industry and promotion of aquaculture and aquaculture products.

Acts 2004, No. 865, §1, eff. July 12, 2004; Acts 2010, No. 743, §2A, eff. July 1, 2010.

§559.12. Violations; cost of remedying violations

Violations of this Part shall include but shall not be limited to the following:

(1) Conducting business as an aquatic producer of aquatic livestock without a valid, unsuspended license or permit if a license or permit is required of that producer.

(2) Producing, maintaining, harvesting, or marketing aquatic livestock that has not been approved by the commissioner as aquatic livestock suitable for aquaculture pursuant to this Part.

(3) Allowing the discharge or passage of eggs, larvae, juveniles, or adults of aquatic livestock requiring a license or their waste or unpurified water into areas or waters outside the facility.

(4) Submitting false or fraudulent information on any application for a license or permit or in regard to any inspection or investigation conducted by the department.

(5) Maintaining false or fraudulent records.

(6) Knowingly operating faulty or unsafe equipment at a facility.

(7) Operating a facility in a faulty, careless, or negligent manner.

(8) Refusing or failing to properly maintain a facility.

(9) Refusing or failing to properly dispose of eggs, larvae, juveniles, or adults of aquatic livestock requiring a license or their waste or unpurified water from a facility.

(10) Refusing or failing to keep and maintain the records required by this Part or the regulations adopted pursuant to this Part.

(11) The aiding or abetting of, or conspiring to aid or abet, any unlicensed or unpermitted person in the violation of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(12) Allowing a license or permit to be used by another person.

(13) Interfering with the commissioner or the department or their representatives in the performance of their duties in connection with this Part.

(14) Refusing or failing to pay any fines legally imposed pursuant to this Part.

(15) Violating any provision of this Part, any rule or regulation adopted pursuant to this Part, or any stop order issued pursuant to this Part.

Acts 2004, No. 865, §1, eff. July 12, 2004; Acts 2010, No. 743, §2A, eff. July 1, 2010.

§559.13. Penalties; enforcement

A. Any person who violates any provision of this Part or any rule or regulation adopted pursuant thereto or any provision of a stop order shall be subject to a civil penalty of not more than five thousand dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Any licensee or permit holder who violates any of the provisions of this Part or the rules or regulations adopted pursuant thereto or any stop order shall be subject to having his license or permit suspended, revoked, or placed on probation, in addition to any other penalties authorized by this Part.

C. In addition to any penalty that may be imposed under Subsection A or B of this Section, any person who operates a facility requiring a license from which eggs, larvae, juveniles, or adults of aquatic livestock or their waste or unpurified water escape or are released may be required to reimburse the department any cost incurred by them in the destroying, removing, containing, or monitoring of the release or discharge. It shall be an affirmative defense that the release or discharge was an act of nature or sabotage if the aquatic producer operating the facility held, at the time of the release or discharge, a valid unsuspended license listing the facility. No affirmative defense shall be available to an aquatic producer if, at the time of the release or discharge, he was unlicensed, or if his license was suspended, or if the facility from which the release or discharge came was not listed on his license, or if he was producing, managing, harvesting, or marketing aquatic livestock that had not been determined to be suitable for aquaculture pursuant to this Part.

D. Penalties and costs of reimbursement may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this Part. The commissioner shall appoint a hearing officer to preside over the hearing.

E. In addition to civil penalties, the cost of the adjudicatory hearing may be assessed against any person found to be in violation of this Part or the regulations adopted pursuant to this Part. The amount of costs to be assessed in adjudicatory hearings shall be established by regulation.

F. Any action brought for civil violation shall not preclude criminal prosecution for the same violation of this Part or rules and regulations promulgated hereunder.

Acts 2004, No. 865, §1, eff. July 12, 2004; Acts 2010, No. 743, §2A, eff. July 1, 2010.

§559.14. *Repealed by Acts 2010, No. 743, §2C, eff. July 1, 2010.*

PART XVII. LOUISIANA AQUATIC CHELONIAN RESEARCH AND PROMOTION BOARD

§559.21. Purpose

The purpose of this Part is to promote the growth and development of Louisiana's aquatic chelonian industry by expanding research related to aquatic chelonians, improving the quality and variety of Louisiana aquatic chelonians through research, and increasing sales of Louisiana aquatic chelonians through advertising and marketing, thereby promoting the general welfare of the people of this state.

Acts 2004, No. 913, §1, eff. July 1, 2004.

§559.22. Terms defined

As used in this Part, the following terms shall have the following meanings ascribed to them as follows:

- (1) "Aquatic Chelonian" means terrapins and turtles.
- (2) "Board" means the Louisiana Aquatic Chelonian Research and Promotion Board.
- (3) "Commissioner" means the Louisiana commissioner of agriculture and forestry.
- (4) "Department" means the Louisiana Department of Agriculture and Forestry.

(5) "Licensed farmer" means any person who holds a valid aquatic chelonian or pet turtle farmer license issued by the department pursuant to Part X of Chapter 16 of this Title.

Acts 2004, No. 913, §1, eff. July 1, 2004.

§559.23. Louisiana Aquatic Chelonian Research and Promotion Board

A. The Louisiana Aquatic Chelonian Research and Promotion Board is hereby created within the department. The board shall be domiciled in Baton Rouge, Louisiana.

B. The board shall consist of ten members, nine of whom shall be appointed by the commissioner and confirmed by the Senate, as follows:

(1) Two members shall be licensed farmers appointed from a list of four persons nominated by the Louisiana Turtle Farmers Association.

(2) Two members shall be licensed farmers appointed from a list of four persons nominated by the Independent Turtle Farmers of Louisiana, Inc.

(3) Two members shall be licensed farmers appointed from a list of four persons nominated by the Pet Turtle Cooperative Association, Inc.

(4) Two members shall be licensed farmers who are not a member of any of the trade organizations listed in this Subsection.

(5) One member with knowledge of the aquatic chelonian industry shall be appointed at large.

C. The commissioner, or his designee, shall serve *ex officio* and shall have all rights and responsibilities of appointed members. The commissioner or his designee shall be counted for purposes of constituting a quorum.

D. At the same time and in the same manner, the commissioner shall appoint one alternate for each appointed member. The alternate appointed to represent a member nominated by a trade group shall be appointed from the list of four persons submitted by the respective trade group. When a member is unable to be present at any meeting of the board, his alternate shall serve in his place. Any alternate serving in the place of a member shall exercise all of the powers vested by law in the member, including the right to vote.

E. Appointed members and their alternates shall serve terms concurrent with the term of the commissioner making the appointment.

F. Vacancies in the offices of the members and alternates shall be filled in the same manner as the original appointments. If the position of any member or alternate appointed from a list of persons submitted by one of the trade groups named in this Section becomes vacant, then the commissioner shall call for a list of names from the appropriate trade group. If any trade group named in this Section becomes defunct or does not submit a full list of names to the commissioner within thirty days after he requests a list of names, then the commissioner may appoint any licensed turtle farmer not already appointed to the board to fill a vacancy. Persons appointed to fill vacancies shall serve out the unexpired portion of the memberships to which they have been appointed.

G. A majority of the members of the board shall constitute a quorum.

H. Members of the board shall not receive any salary for their duties as members. Members may receive a per diem for each day spent in actual attendance of meetings of the board, in an amount not to exceed forty dollars. Members may receive a mileage allowance for mileage traveled in attending meetings, not to exceed the mileage rate for state employees. Members shall not receive per diem or mileage for more than six meetings in any calendar year.

I. The board may meet on the call of the chairman or upon the request of any three members. All meetings of the board and all minutes and records thereof shall be subject to R.S. 42:11 et seq. and R.S. 44:1 et seq.

J. The board, by a vote of a majority of the members, may expel a member or alternate for good cause shown. Good cause shall include but shall not be limited to three consecutive unexcused absences. The expulsion of a member or alternate creates a vacancy in the office of the expelled member or alternate.

Acts 2004, No. 913, §1, eff. July 1, 2004; Acts 2010, No. 495, §1, eff. June 24, 2010.

§559.24. Officers and employees

A. The commissioner or his designee shall serve as chairman of the board. The members shall elect such other officers as they deem necessary.

B. The board shall employ a director and assistant director who shall be appointed by mutual agreement of the board and the commissioner. The director and assistant director shall be in the unclassified service. All employees of the board shall be under the direction and supervision of the commissioner.

Acts 2004, No. 913, §1, eff. July 1, 2004.

§559.25. Powers

A. The board shall have the following powers:

(1) To plan and conduct, in consultation with the department, a campaign for expanding research related to aquatic chelonians, improving the quality and variety of Louisiana aquatic chelonians through research, and increasing sales of Louisiana aquatic chelonians through advertising and marketing.

(2) To enter into contracts or any other agreement, with the concurrence of the commissioner, for research, advertising, and marketing.

(3) To hold meetings in the board's parish of domicile or in such other locations within the state as the board may direct.

(4) To hold hearings on alleged violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(5) To advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(6) To annually adjust the amount of assessment in accordance with the needs of the aquatic chelonian industry, but not to exceed the amount of one cent per aquatic chelonian as authorized by this Part and approved by referendum.

(7) To perform such other advisory functions as the commissioner may assign to the board.

B. The commissioner shall have the following powers:

(1) To adopt rules and regulations as are necessary to implement the provisions of this Part.

(2) To administer and enforce the provisions of this Part and the rules and regulations adopted pursuant to this Part, through the department.

(3) To collect, administer and disburse the proceeds of the assessment levied and collected pursuant to this Part.

(4) To seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part, or rules and regulations adopted pursuant to this Part, or orders and rulings issued by the commissioner pursuant to this Part.

(5) To inspect all records during regular working hours.

(6) To institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties or costs due under this Part or to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

C. Repealed by Acts 2008, No. 613, §2.

Acts 2004, No. 913, §1, eff. July 1, 2004; Acts 2008, No. 613, §2.

§559.26. Referendums

A. No assessment shall be levied unless the assessment is approved by a majority of the licensed farmers voting in a referendum called by the commissioner for that purpose.

B. If an assessment is approved or abolished in a referendum, the action shall become effective on the thirtieth day after the results are promulgated.

C. If an assessment is approved in a referendum, then the assessment shall remain in full force and effect unless a majority of licensed farmers vote to abolish the assessment in a referendum called for that purpose. A referendum to abolish the assessment shall be called by the commissioner if twenty-five percent of the licensed farmers submit to him a signed petition requesting such a referendum. However, no more than one such referendum shall be held annually.

D. If the assessment is modified or eliminated for any reason, then all assessments approved, levied, or otherwise collectible under this Part on the last date prior to any such modification or elimination of assessments taking affect shall remain valid and collectible for such time as is necessary to pay the financial obligations authorized by this Part that were incurred prior to the effective date of the modification or elimination of the assessment.

E. Only those persons who are licensed farmers at the time the call for a referendum is issued shall have the right to vote in that referendum.

F. The department shall notify all licensed farmers of the results of any referendum.

Acts 2004, No. 913, §1, eff. July 1, 2004.

§559.27. Assessment on aquatic chelonians; collection; refunds; costs

A. An assessment may be levied on all aquatic chelonians produced in Louisiana, subject to approval in a referendum authorized by this Part. The amount of the assessment shall be set by the board, but shall not exceed one cent per aquatic chelonian.

B. Each person producing aquatic chelonians shall remit the assessment on all aquatic chelonians produced by that person to the representative of the department taking samples for testing as required by Part X of Chapter 16 of this Title. The assessment shall be remitted at the time samples for testing are obtained by the department's representative.

C. The department shall not collect aquatic chelonian samples taken from any person who fails to pay any assessment due under the provisions of this Part.

D. Licensed farmers who have aquatic chelonians upon which the assessment has been paid, but which remain unsold as of April thirtieth of the year immediately following the year in which the aquatic chelonians were hatched, may submit a written request for a refund of the assessment paid on the unsold aquatic chelonians by that date. The written request must be accompanied by sufficient proof that the aquatic chelonians have not been sold and that they cannot be sold. If the department determines that

the aquatic chelonians upon which an assessment was paid have not been sold and cannot be sold, then the requesting licensed farmer shall receive a refund of the amount of the assessment collected for the unsold aquatic chelonians. No assessment refunds shall be made prior to April thirtieth of each year.

E. Any licensed farmer who obtains a refund of the assessment shall immediately pay to the department the amount of the assessment due for those aquatic chelonians for which the assessment was refunded and which were subsequently sold.

Acts 2004, No. 913, §1, eff. July 1, 2004.

§559.28. Deposit and disbursement of assessments

A. All assessments, fees, interest, penalties, and other funds received under the provisions of this Part shall be deposited in a special fund established by the department for the board. The commissioner, as authorized by the board, shall make disbursements from the fund for the activities of the board as authorized by this Part, subject to budgetary review.

B. The monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part. The department may retain a portion of the total assessments collected, not to exceed ten percent, as is necessary to defray the costs of collecting assessments, administering, and enforcing this Part.

(2) To fund all costs related to the promoting of research, advertising, and marketing of Louisiana aquatic chelonians and aquatic chelonian products, expanding markets for aquatic chelonians, providing educational information, and fulfilling any other purpose as authorized by this Part.

(3) To contract for services in order to accomplish the purpose for which the board is created.

Acts 2004, No. 913, §1, eff. July 1, 2004; Acts 2008, No. 613, §1.

§559.29. Offenses; hearing; penalties

A. Any person who (1) violates any of the provisions of this Part or the regulations adopted under the provisions of this Part; or (2) alters, forges, counterfeits, or uses without authority, any certificate or permit or other document provided for in this Part or in the rules and regulations adopted under the provisions of this Part; or (3) fails to timely pay the assessments due under this Part, shall, in addition to any unpaid assessments, late fees, or collection costs, be subject to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and the following provisions:

(1) The board shall be convened for the purpose of hearing any alleged violation of this Part or any rule and regulation adopted pursuant to this Part.

(2) The commissioner shall appoint a hearing officer to preside over the hearing.

(3) The board shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(4) The commissioner may lower or dismiss a civil penalty.

C. In addition to civil penalties, the commissioner may assess the cost of the adjudicatory hearing against any person found to be in violation of this Part or the rules and regulations adopted pursuant to this Part. The commissioner shall, by rule, determine the amount of costs to be assessed in adjudicatory hearings.

Acts 2004, No. 913, §1, eff. July 1, 2004.

CHAPTER 6. DEALERS IN FARM PRODUCTS

PART I. LIVESTOCK DEALERS

§561. Definitions

As used in this Part, the following terms shall have the following meanings ascribed to them:

(1) "Market agency" means any persons, firm, or corporation engaged in the business of buying or selling livestock in commerce on a commission basis, either at a public stockyard or at a privately owned and operated sales pen or concentration point, or any persons engaged in the furnishing of services for the conduct of such business, including but not limited to livestock video auctions.

(2) "Livestock dealer" means any person, not a market agency, engaged in the business of buying or selling livestock.

(3) "Livestock" means cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised raites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

(4) "Person" means an individual, partnership, corporation, or association of such persons acting as a unit.

(5) "Security device" means any lien, mortgage, pawn, pledge, privilege, or other instrument by which an interest in livestock is used to secure the performance or payment of any obligation.

Amended by Acts 1962, No. 95, §1; Acts 1983, No. 348, §1; Acts 1990, No. 58, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§562. Regulation by Louisiana Board of Animal Health

The power of control and execution of this Part over the business and industry of livestock as set forth herein shall be under the Louisiana Board of Animal Health which may exercise such regulatory powers as are necessary to properly carry out the provisions of this Part and may issue such rules and regulations as may be necessary in connection with the provisions of this Part and in requiring that certain animal health requirements be met by market agencies and dealers.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§563. Dealers to obtain permit

All market agencies and dealers shall secure an annual permit from the Louisiana Board of Animal Health for the privilege of conducting business. The provisions of this Part shall not apply to farmers or other actual producers of the livestock who offer it for sale either at public stockyards or at a privately owned sales pen or concentration point.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§564. Records of sales and purchases

A. Each market agency shall keep complete records of all sales and purchases for each period of twelve months. The record shall consist of the name and address of the seller, the number of the sales tag of the animal, the permanent identification number of any brucellosis test-eligible animal, the weight

and price of the animal, and the name and address of the purchaser. The willful noncompliance with this provision, after due notice, shall automatically revoke the permit of the operator of the market agency.

B. Each livestock dealer shall keep complete records of all sales and purchases for each period of twelve months. The record shall consist of the name and address of the seller, the permanent identification number of any brucellosis test-eligible animal, the weight and price of the animal, and the name and address of the purchaser. The willful noncompliance with this provision, after due notice, shall automatically revoke the permit of the livestock dealer.

Acts 1990, No. 58, §1.

§565. Surety instrument required of market agencies and dealers

A. The Louisiana Board of Animal Health by rule shall define the term "surety instrument" for the purposes of this Part. The definition shall include, but shall not be limited to, cash deposits, surety bonds, and trust agreements with one or more irrevocable letters of credit.

B. Every market agency and dealer, on or before the date of commencement of operations, shall execute and thereafter maintain, or cause to be executed and maintained, a surety instrument payable to the executive secretary of the Louisiana Board of Animal Health for the use and protection of livestock producers, shippers, or purchasers, to secure the performance of their obligations incurred as a market agency or dealer, and shall immediately file with the executive secretary of the Louisiana Board of Animal Health a fully executed duplicate of the surety instrument. The surety company shall be approved and authorized to do business in Louisiana. In the event that an applicant for a permit is unable to secure a surety instrument, the Louisiana Board of Animal Health may accept a deposit with it of a cash amount equal to the amount of the surety required.

C. Except as otherwise provided herein, the amount of each surety instrument shall be not less than the next multiple of two thousand dollars above the average amount of sales of livestock by a market agency, or purchases of livestock by a person buying livestock as a market agency or dealer, or both, during a period equivalent to three business days based on the total number of business days, and the total amount of such transactions in the preceding twelve months, or in such substantial part thereof in which such market agency or dealer did business, if any. However, surety instruments above twenty-six thousand dollars shall be not less than the next multiple of five thousand dollars above the average amount of sales of livestock by a market agency or purchases of livestock by a person buying livestock as a market agency or dealer, or both, computed as set out in this Subsection. For the purpose of this computation, two hundred sixty shall be deemed the number of business days in any year. When the principal part of the livestock handled by a market agency selling livestock on a commission basis is sold at public auction, the amount of the surety instrument shall be not less than the next multiple of two thousand dollars for those surety instruments of twenty-six thousand dollars or less and the next multiple of five thousand dollars for those surety instruments in excess of twenty-six thousand dollars above an amount determined by dividing the total value of the livestock sold by the market agency during the preceding twelve months, or such a substantial part thereof as the market agency was engaged in business, by the actual number of auction sales at which livestock was sold by the market agency, but in no instance shall the divisor be greater than eighty-six and two-thirds. When the amount of a surety instrument for any market agency or dealer, calculated as specified above, exceeds fifty thousand dollars, the amount of the surety instrument need not exceed fifty thousand dollars plus ten percent of the excess, unless the Louisiana Board of Animal Health has reason to believe a surety instrument in such amount to be inadequate pursuant to Subsection D of this Section.

D. No surety instrument shall be less than five thousand dollars. Any applicant for a permit who has not previously engaged in the business of market agency or dealer on or before the date of commencement of operations shall execute and maintain, or cause to be executed and maintained, a surety instrument in the amount of five thousand dollars to cover the first twelve months operations.

However, whenever the Louisiana Board of Animal Health has reason to believe that any surety instrument filed or maintained under the provisions of this Part is inadequate to secure the performance of the obligations of the market agency or dealer covered by the surety instrument and such investigations shall be conducted and adjustments demanded on not less than an annual basis, it shall notify the market agency or dealer to adjust the surety instrument to meet the requirements of this Section or, if the surety instrument is inadequate because of the volume of business conducted on a seasonal or otherwise irregular basis, to meet such requirements as may be determined by the Louisiana Board of Animal Health to be reasonable based upon such seasonal or irregular operation.

E. The surety instrument shall be required for each individual establishment operated within the state. All surety instruments shall contain a provision requiring that at least thirty days notice in writing shall be given to the executive secretary of the Louisiana Board of Animal Health, Baton Rouge, Louisiana, by the party terminating the surety instrument in order to effect its termination.

Amended by Acts 1952, No. 432, §1; Acts 1954, No. 635, §1; Acts 1974, No. 715, §1; Acts 1985, No. 802, §2; Acts 2008, No. 920, §1, eff. July 14, 2008.

§567. Custodial accounts

A. Applicability. The provisions of this Section shall apply to all sales of livestock through market agencies.

B. Accounts. Each market agency shall establish and maintain a separate bank account designated as "Custodial Account for Shipper's Proceeds" or by some similar identifying designation, under terms and conditions with the bank where established, to disclose that the depositor is acting as a fiduciary with respect thereto and that the funds in the account are trust funds.

C. Trust funds. Each payment made by a livestock buyer to a market agency is a trust fund until the market agency's custodial account has been paid in full in connection with such purchase. Funds deposited in a custodial account are also trust funds, under both the gross proceeds and net proceeds methods of maintaining the custodial account. The market agency is a fiduciary with respect to the custodial account.

D. Deposits. (1) Gross proceeds method. Under the gross proceeds method, before the close of the next banking day after livestock is sold, the market agency shall deposit in its custodial account the proceeds from the sale of livestock that are collected and received on the day of sale, and an amount equal to the proceeds receivable from the sale of livestock that are due from the market agency; any owner, officer, or employee of the market agency; or any buyer to whom the market agency has extended credit. On or before the seventh day following the sale of livestock the market agency shall deposit in the custodial account an amount equal to all the proceeds receivable from the sale of livestock, whether or not such proceeds have been collected or received by the market agency.

(2) Net proceeds method. In lieu of the gross proceeds method, any market agency may adopt, and thereafter continuously follow, a net proceeds method for making deposits in its custodial account. Under the net proceeds method, the market agency shall make the same deposits at the same time as required under the gross proceeds method, but shall retain and not deposit the marketing charges which are due the market agency.

E. Withdrawals. The custodial account shall be drawn on only for payment of the net proceeds to the consignor or shipper, or such other person or persons who the market agency has knowledge are entitled thereto, to pay all legal charges against the consignment of livestock which the market agency may, in its capacity as agent, be required to pay for and on behalf of the consignor or shipper, and when the account is not kept on a net proceeds basis, to obtain therefrom the sums due the market agency as compensation for its services.

F. Accounts and records. Every market agency shall keep such accounts and records as will at all times disclose the handling of the funds in the custodial account referred to in this Section, including

without limitation such accounts and records as will at all times disclose the names of the consignors and the amount due and payable to each from funds in the Custodial Account for Shipper's Proceeds. These records shall be made available to the Louisiana Board of Animal Health under such rules and regulations as the board may provide.

G. Insured banks. Custodial accounts required by this Section shall be established and maintained in banks whose deposits are insured by the Federal Deposit Insurance Corporation.

H. Certificates of deposit. Any market agency which has established and maintains the separate custodial account referred to in this Section may invest, in certificates of deposit issued by the bank in which such account is kept, such portion of the custodial funds as will not impair the market agency's ability to meet its obligations to its consignors. Such certificates of deposit shall be made payable to the market agency in its fiduciary capacity as trustee of the custodial funds.

I. Penalties. In addition to all other penalties provided in this Part, the board, as defined in Section 663 of this Chapter, may order the immediate closure of any market agency which fails to properly maintain the custodial account required by this Section.

Added by Acts 1979, No. 153, §1; Acts 1985, No. 802, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§568. Security devices on livestock

A. Notwithstanding any provision of law to the contrary, no owner or operator of a market agency shall be liable to any person who holds a security device affecting livestock that are sold through the market agency on a commission or consignment basis unless the owner or operator receives notice as provided in this Section.

B. The following provisions shall apply to notices to market agencies concerning security devices:

- (1) The notice shall be in writing.
- (2) The notice shall be mailed by certified or registered mail, return receipt requested, or shall be actually delivered.
- (3) The notice shall contain the name and address of the person holding the security device.
- (4) The notice shall contain the name and address of the person who has granted the security device as shown on the instrument which evidences the security device.
- (5) The notice shall contain the parish of residence of the person who has granted the security device as shown on the instrument which evidences the security device.
- (6) The notice may contain the nickname, initials, or other appellation by which the person who has granted the security device is sometimes or commonly known.
- (7) The notice may contain information concerning more than one person who has granted a security device.
- (8) The notice shall be limited to information concerning security devices on livestock.
- (9) The notice of the existence of the security device shall be valid until the person who holds the security device cancels the notice by written notice mailed or actually delivered to the market agency.
- (10) The person who holds the security device shall cancel the notice of the existence of the security device within ten calendar days after the date the person who has granted or who is affected by the security device authorizes cancellation of the security device, provided the security device is then no longer in effect.

C. If a person who holds a security device provides notice of the existence of the security device to the market agency, the market agency shall make the remittance or check for the livestock affected by

the security device jointly or payable jointly to the owner of the livestock and the person who holds the security device.

D. If a person who sells livestock on a commission or consignment basis through a market agency provides false or misleading information concerning the name of the owner of the livestock, or concerning the existence of a security device affecting the livestock, the owner or operator of the market agency shall not be liable to the person who holds the security device if the owner or operator, using due diligence, could not have determined that the information was false or misleading.

E. Each person who holds a security device on livestock shall have immediate access, for inspection and recording purposes only, to the sale records of any market agency upon request and presentation of a copy of a recorded security device affecting the livestock that are the object of the inspection. Inspection shall be made only during normal working hours and shall not be made on sale days.

F. No person shall provide any false or misleading information concerning the name of the owner of any livestock or concerning the existence of any security device affecting the livestock with intent to deprive the holder of any of his security under the security device. No person shall take any action with respect to the alienation, encumbrance, or other disposition of livestock which are subject to the security device with intent to deprive the holder of any of his security under a security device. Whoever violates the provisions of this Subsection shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both.

G. The provisions of this Section shall be construed in pari materia with the provisions of R.S. 10:9-101 et seq., R.S. 3:3651 et seq., and R.S. 9:4341 et seq.

Added by Acts 1983, No. 348, §1; Acts 1995, No. 1087, §2.

§571. Livestock auctioneers

A. Each auctioneer who engages in the auction business exclusively as an employee or agent of a Louisiana public livestock market which is regulated by the Louisiana Board of Animal Health shall register annually with the board.

B. The registration shall be in accordance with rules adopted by the board.

C. Each auctioneer who registers with the board shall submit to the board an affidavit stating that the applicant is engaged in the auction business exclusively as an employee or agent of one or more Louisiana public livestock markets which are regulated by the board.

D. If any of the information in the affidavit changes, the applicant shall submit a supplemental affidavit with correct information within thirty days of the date the change occurred.

Acts 1987, No. 157, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §3(C).

§573. Penalty

Whoever violates any of the provisions of this Part shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both, for each violation.

Acts 1990, No. 23, §1; Acts 2012, No. 204, §3(A).

PART II. MILK BUYERS

§641. Bond or other security required of milk buyers

Any person, firm, or corporation who shall engage in the business of purchasing milk from producers or co-operative associations for the purpose of manufacturing, pasteurizing, distributing milk or milk products shall, before carrying on business, furnish a bond or other security for the payment of all

amounts to become due by them to the producers of milk or co-operative associations for milk sold by producers or co-operative associations. The bond shall be signed by a surety company authorized to do business in Louisiana. The bond or such other security as may be required shall be sufficient in amount to cover all amounts due the producers of milk or co-operative associations for two normal or customary pay periods, but not to exceed twenty-five days in total, based upon the average of the preceding six-month period of purchases from milk producers or co-operative associations, provided that the minimum bond or other security shall not be less than the amount sufficient to cover amounts due producers or co-operative associations for one week's purchases. The bond or other security shall be approved as to form, amount, and sufficiency by the commissioner of agriculture and forestry and shall be filed by him and retained in his office, subject to public inspection.

Amended by Acts 1950, No. 109, §1; Acts 1954, No. 128, §1; Acts 1964, No. 85, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§642. Commissioner of agriculture and forestry to adopt regulations

The commissioner of agriculture and forestry may adopt rules as to the determination of the amount of the bond or other security and the filing of it.

Amended by Acts 1950, No. 109, §2; Acts 2009, No. 24, §1, eff. June 12, 2009.

§643. Failure to post bond or other security

Any person, firm, or corporation who shall engage in the business of purchasing milk from producers for the purpose of manufacturing, pasteurizing, or distributing milk or milk products within the state without having first posted the bond or other security that shall be required by the commissioner of agriculture and forestry, and as required by this Part, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ten dollars nor more than two hundred dollars, or by imprisonment in the parish jail for not less than ten days nor more than six months, or both, in the discretion of the court.

Amended by Acts 1950, No. 109, §3; Acts 2009, No. 24, §1, eff. June 12, 2009.

§644. Producers' rights under bond or other security

Any producer of milk to whom money is due for milk sold to any manufacturer, pasteurizer, or distributor, shall have full recourse on the bond or other security that shall be required by the commissioner of agriculture and forestry, as provided by this Part, for all such amounts.

Amended by Acts 1950, No. 109, §4; Acts 2009, No. 24, §1, eff. June 12, 2009.

§645. Collection on bond or other security; pro-ration of proceeds

The commissioner of agriculture shall, upon notification of any producer or producer group, that any person, firm or corporation has failed to pay for milk delivered by them, make an immediate investigation and audit of such person's, firm's, corporation's records to determine amounts due milk producers. If such investigation and audit reveals that such person, firm, or corporation owes and is unable to pay, or refuses to pay, producers for milk delivered, the commissioner shall collect on the surety bond or other security by court action if necessary, and pro-rate the proceeds of such surety bond or other security to the milk producers based on amounts due the producers as shown by the official audit of the records.

Added by Acts 1954, No. 128, §2.

PART III. LIVESTOCK AUCTION BARNs

§651. Mechanical or electrical weighing device; installation date

A. All livestock auction barns shall install a mechanical or electrical device which shall visually indicate the weight of all animals or groups of animals sold on a weight basis immediately after they have passed across the scales. The device herein required shall be installed in plain view of attending buyers and sellers and shall be of a size to be easily read at a distance of not less than fifty feet.

B. Livestock auction barns operating in the state of Louisiana shall have such a device installed not later than July 1, 1959.

Acts 1958, No. 110, §§1, 2.

§652. Penalty; enforcement

Failure to comply with R.S. 3:651 shall result in the loss of operating license. It shall be the duty of the Department of Agriculture and Forestry to determine compliance with R.S. 3:651 and to enforce its provisions.

Acts 1958, No. 110, §3; Acts 2009, No. 24, §1, eff. June 12, 2009.

PART IV. LOUISIANA PUBLIC LIVESTOCK MARKET CHARTER LAW

§661. Short title

This Part shall be known and cited as the Louisiana Public Livestock Market Charter Law.

Added by Acts 1966, No. 142, §1.

§662. Policy of state

It is hereby declared to be the policy of the State of Louisiana, and the purpose of this Part, to encourage, stimulate and stabilize the agricultural economy of the state in general, and the livestock economy in particular, by encouraging the construction, development and productive operation of public livestock markets as a key industry of the state with all benefits of fully open, free, competitive factors, in respect to sales and purchases of livestock. No person shall conduct the business of a public livestock market without a valid charter to conduct such market.

Added by Acts 1966, No. 142, §1.

§663. Definitions

The following words and phrases as used in this Part, unless the context otherwise requires, shall have the meaning respectively ascribed to them in this Section.

(1) "Board" means the Louisiana Board of Animal Health augmented by the persons named in R.S. 3:665.

(2) "Livestock" means cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

(3) "Public livestock market" means any place, establishment or facility commonly known as a "livestock market," "livestock auction market," "sales ring," "stockyard," or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment.

(4) "Commissioner" means the Commissioner of the Department of Agriculture.

(5) "Charter" means the charter for public livestock market operation authorized to be issued under this Part.

Added by Acts 1966, No. 142, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§664. Exemptions

A. The provisions of this Part shall not apply to the following types of sales:

(1) Any sale sponsored by a Louisiana Chapter of the Future Farmers of America, a Louisiana 4-H Club, or any other similar Louisiana farm youth organization approved by the commissioner of agriculture.

(2) Any dispersal sale conducted by a Louisiana farmer, dairyman, or livestock producer.

(3) Any sale sponsored by a Louisiana livestock producer, a group of Louisiana livestock producers, or a Louisiana livestock producers association which is recognized by the commissioner of agriculture, when the livestock are owned by the producer, or by the members of the group or association sponsoring the sale. Livestock from outside the state of Louisiana which are owned by the producer or by the members of the group or association may be sold at sales exempted under this Paragraph.

(4) Any sale sponsored by a national livestock organization if the national livestock organization is affiliated with a Louisiana livestock organization recognized by the commissioner of agriculture and if the Louisiana organization participates in the sale.

B. Each producer, group, association, or organization which sponsors a sale exempted under this Section shall be responsible for the condition of the livestock sold at the sale, the payment of the purchase price of the livestock sold at the sale, the title to the livestock sold at the sale, and other aspects of the sale.

C. The exemptions contained in this Section shall not apply to any sale which is operated for profit.

Added by Acts 1966, No. 142, §1. Amended by Acts 1982, No. 443, §1, eff. Jan. 1, 1983.

§665. Administration of Part

A. The Louisiana Board of Animal Health shall administer the provisions of this Part.

B. The Louisiana Board of Animal Health shall determine the day or days on which each public livestock market chartered under the provisions of this Part may conduct sales.

C. Each public livestock market in operation on April 1, 1982, shall retain the sale day or days on which the public livestock market was conducting sales prior to April 1, 1982.

Added by Acts 1966, No. 142, §1. Amended by Acts 1982, No. 443, §1, eff. Jan. 1, 1983; Acts 2008, No. 920, §1, eff. July 14, 2008.

§666. Application for charter

The application for charter shall include the following information:

(1) The name and address of the applicant, a statement of the names and addresses of all persons having any financial interest in the applicant, and the amount and nature of such interest.

(2) A financial statement of assets and liabilities.

(3) Plans, blueprints and specifications for new facilities or pictures of existing facilities.

(4) Proof that the registration requirements of the Packers and Stockyards Division, U.S. Department of Agriculture, can be met.

(5) A statement, in writing, assuring the Louisiana Board of Animal Health that the auction market will be operated in compliance with the Louisiana Board of Animal Health's regulations.

(6) Projected source and quantity of livestock, by parish, anticipated to be handled.

(7) Projected income and expense statement for the first year's operation.

(8) Facts upon which are based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.

(9) A charter fee of two hundred fifty dollars per license issued, which will be retained by the Department of Agriculture and Forestry whether or not the charter is granted.

Added by Acts 1966, No. 142, §1. Amended by Acts 1968, No. 220, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §1, eff. June 12, 2009.

§667. Hearings on applications for charter

A. All hearings on applications for charters shall be conducted in accordance with the provisions of the Administrative Procedure Act relating to adjudicatory hearings.

B. The commissioner of agriculture shall fix the date of the hearing and shall provide notice by mail, at least ten days prior to the hearing, to each Louisiana livestock organization which has requested notice of the hearings to other Louisiana livestock organizations which the commissioner believes would be interested in the hearing, and to each owner of a chartered livestock auction market.

C. The commissioner shall publish a notice of the hearing on two separate days in the official journal of the state and in the official journal of the municipality or parish in which the proposed public livestock market will be located.

D. The board shall consider the following factors in determining whether or not a charter should be granted:

(1) The financial stability, business integrity, and fiduciary responsibility of the applicant.

(2) The adequacy of the facilities to be used.

(3) The present market services elsewhere available to the trade area to be served by the proposed public livestock market.

(4) Whether the proposed public livestock market would be permanent and continuous.

(5) The benefits to be derived by the livestock industry from the establishment and operation of the proposed public livestock market.

(6) The economic feasibility of the proposed public livestock market.

E. If the board finds the applicant to be qualified to operate a public livestock market, the board shall grant the charter. If the board finds that the applicant is not qualified to operate a public livestock market or has failed to comply with the requirements of this Part, the board shall deny the charter.

Added by Acts 1966, No. 142, §1. Amended by Acts 1968, No. 220, §1; Acts 1982, No. 443, §1 eff. Jan. 1, 1983.

§668. Appeals

Any interested party who claims to have been adversely affected by any order, decision, rule or regulation of the board shall have a right of appeal to the district court in the parish where the board is domiciled.

Added by Acts 1966, No. 142, §1.

§669. Issuance of charter; special provision

The owner of any public livestock market operated and conducted as such on July 27, 1966 shall be issued a charter for the operation of said market.

Added by Acts 1966, No. 142, §1.

§670. Charter required

A. Each charter shall be personal to the holder and shall be valid only with respect to the facility indicated on the charter. Charters are not transferable.

B. Each public livestock market shall be chartered separately.

C. When the owner of a facility has leased the facility to another person who is operating a public livestock market at the facility, and the lessee loses his charter for any reason, the owner of the facility shall have the right to apply for a charter to operate the facility as a public livestock market prior to any other person. If the owner of the facility qualifies for the charter, the charter shall be issued to him.

D. If a charter is issued to a partnership, corporation, association, or other legal entity, and a total of fifty percent or more of the ownership of the legal entity is transferred incrementally or in a single transaction, the legal entity shall submit to the board a new charter application containing such information as the board may require concerning the transfer and the transferee or transferees. Upon approval by the board, the charter shall be transferred to the new partners, shareholders, or other majority owners of the legal entity.

E. The board may cancel a charter for any one or more of the following actions:

(1) The holder has fraudulently misrepresented: the ownership, brands or weights of livestock; the charges at a sale; the proceeds of a sale; or any other information with respect to a sale.

(2) The holder is unable to meet the bond or financial requirements for operating a public livestock market.

(3) The holder has violated the provisions with respect to the custodial account.

(4) The holder has violated the provisions of this Part, the provisions of the rules or regulations adopted under the provisions of this Part, or any applicable federal law or rule or regulation governing the operation of a public livestock market.

(5) The holder has not operated the facility for ninety days. The board for good cause shown, may allow a holder to not operate the facility without cancelling his charter for a period of up to one year.

F. Charters may be revoked only by a ruling of the board based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

Added by Acts 1966, No. 142, §1. Amended by Acts 1968, No. 220, §1; Acts 1979, No. 320, §1; Acts 1982, No. 443, §1, eff. Jan. 1, 1983; Acts 1985, No. 802, §3.

§671. Disposition of fees

Fees paid as required by R.S. 3:666 shall be deposited in the Louisiana Department of Agriculture and Forestry, Louisiana Board of Animal Health Account, for paying the expenses of administration of this Part.

Added by Acts 1966, No. 142, §1. Amended by Acts 1968, No. 220, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

PART V. GRAIN DEALERS

SUBPART A. DEALER LICENSING

§§681 to 690.1. *Repealed by Acts 1982, No. 563, §3, eff. Jan. 1, 1983.*

SUBPART B. MOISTURE MEASURING DEVICES

§§691 to 695. *Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.*

SUBPART C. GRAIN SAMPLING

§§697 to 699. *Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.*

PART VI. COTTON BUYERS

§§700 to 705. *Repealed by Acts 1997, No. 1034, §2.*

PART VII. AGRICULTURE COMMODITY MARKETING LAW

§§711 to 716. *Repealed by Acts 2012, No. 145, §2, eff. May 14, 2012.*

PART VIII. CATFISH PROCESSORS

§721. Prompt payment for catfish; penalty

A. Each farm-raised catfish processor doing business in Louisiana shall pay the producer for catfish delivered in a timely manner within fourteen days after the day the catfish is delivered.

B. Any farm-raised catfish processor who does not make payment as required shall pay the producer one cent per pound of catfish per day on the balance owed on the fourteenth day after delivery.

Acts 1991, No. 254, §1.

§§722 to 724. *Repealed by Acts 1982, No. 443, §7, eff. Jan. 1, 1983.*

PART IX. PAYMENT FOR STRAWBERRIES AND OTHER PRODUCE

§726. Payment for strawberries and other produce

A. As used in this section the following terms shall have the following meaning:

- (1) "Buyer" means any person who buys produce from a producer for resale or processing.
- (2) "Person" means any individual, corporation, partnership, association, or other legal entity.

(3) "Produce" means strawberries and other fruits and vegetables which are sold for processing or for resale in fresh, frozen, canned, or processed form.

(4) "Producer" means any owner, tenant, or operator of land in this state who has an interest in and receives all or any part of the proceeds from the sale of produce grown on that land.

B. Each producer who sells produce to a buyer shall have the right to request and receive payment for the produce within forty-five days from the date the produce is delivered.

C. The Department of Agriculture shall enforce the provisions of this Section.

Added by Acts 1982, No. 305, §1.

PART X. STRAWBERRIES

§730.1. Purpose

The purpose of this Part is to promote the general well-being of the strawberry industry of the state of Louisiana by promoting increased production and quality in Louisiana strawberries through marketing and research; by expanding the market for Louisiana strawberries through promotion and marketing; by increasing the consumption of strawberries in Louisiana through advertising, promotion, and marketing; by providing producers, distributors, retailers, and consumers with educational information as to the nutritional and health value of strawberries; and by performing any other act deemed advisable in promoting this industry and the general welfare of the people of this state.

Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009.

§730.2. Terms defined

The terms used in this Part shall be construed to mean as follows:

(1) "Board" shall mean the Louisiana Strawberry Marketing Board.

(2) "Commissioner" shall mean the commissioner of agriculture and forestry.

(3) "Department" shall mean the Department of Agriculture and Forestry.

(4) "Person" means an individual, partnership, firm, company, association, corporation, limited liability company, and any other legal entity or group of persons.

(5) "Strawberries" means all strawberries of the grades as recommended by the United States Department of Agriculture and the State Market Commission.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009.

§730.3. Louisiana Strawberry Marketing Board

A. The Louisiana Strawberry Marketing Board is created in the department with its domicile in Baton Rouge, Louisiana.

B.(1) The board shall consist of twelve members. Nine members shall be appointed by the commissioner and confirmed by the Senate as follows:

(a) Seven members shall be practicing strawberry producers.

(b) One member shall be an agricultural chemical dealer, representative, or consultant with knowledge of the strawberry industry.

(c) One member shall be a consumer with knowledge of the strawberry industry.

(2) The commissioner or his designee, the resident coordinator of the Louisiana State University Agriculture Experiment Station at Hammond, and the chairman of the Ponchatoula Strawberry Festival shall serve ex officio and shall have all rights and responsibilities of appointed members. The commissioner or his designee, the resident coordinator of the Louisiana State University Agriculture Experiment Station at Hammond, and the chairman of the Ponchatoula Strawberry Festival shall be counted for purposes of constituting a quorum.

C. Appointed members shall serve terms concurrent with the term of the commissioner making the appointment. The chairman of the Ponchatoula Strawberry Festival shall serve for one year until the end of his term as chairman and shall be automatically replaced by his successor.

D. The presence of six members of the board shall constitute a quorum for the transaction of all business and the carrying out of duties of the board. Each member shall take and subscribe to the oath of office prescribed for state officers. No member of the board shall receive any salary, but each member shall receive the sum of twenty dollars per day for each day spent in actual attendance of meetings of the board and such allowance for traveling expenses in attending the meeting as is allowed other state employees for traveling expenses.

E. The members of the board shall meet and organize immediately after their appointment and annually thereafter shall elect a chairman and a vice chairman from the membership of the board, whose duties shall be those customarily exercised by such officers or specifically designated by the board. The board may establish rules and regulations for its own government and the administration of the affairs of the board.

F. The board shall employ a director and assistant director who shall be appointed by the board, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service. The commissioner is authorized to employ such other personnel necessary to carry into effect the rules, regulations, and ordinances that may be adopted by the board. The commissioner shall appoint an executive secretary for the board.

G. Vacancies in appointed membership positions shall be filled in the same manner as the original appointments. Persons appointed to fill vacancies shall serve out the unexpired portion of the memberships to which they have been appointed.

Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 1974, No. 320, §1; Acts 1977, No. 577, §1; Acts 1980, No. 729, §1, eff. July 29, 1980; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 1992, No. 57, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009; Acts 2012, No. 149, §1, eff. May 14, 2012.

§730.4. Powers; commissioner; board

A. The board shall have the following powers:

(1) To plan and conduct, in consultation with the department, a campaign for advertising, promoting, and marketing Louisiana strawberries, promoting and funding research, increasing consumption of strawberries in Louisiana, providing producers, distributors, retailers, and consumers educational information as to the nutritional and health value of strawberries and fulfilling any other purpose authorized by this Part.

(2) To enter into any contract or other agreement to accomplish any purpose authorized by this Part, including advertising, education, marketing, promotion, publicity, and research activities or services.

(3) To decide upon a distinctive logo, emblem, name, or other method for distinguishing Louisiana-produced strawberries and to register or have the department register any such logo, emblem, name, or method and promote the use of same in promoting Louisiana strawberries.

(4) To hold meetings in the board's parish of domicile or in such other locations within the state as the board may direct.

(5) To hold hearings on alleged violations of the provisions of this Part or rules and regulations adopted pursuant to this Part.

(6) To advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(7) To perform such other advisory functions as the commissioner may assign to the board.

B. The commissioner shall have the following powers:

(1) To adopt rules and regulations as are necessary to implement the provisions of this Part.

(2) To administer and enforce the provisions of this Part and the rules and regulations adopted pursuant to this Part through the department.

(3) To collect, administer, and disburse the proceeds of the assessments, penalties, and other monies collected pursuant to this Part.

(4) To enter, either directly or through a duly authorized agent, the premises of any person producing or shipping strawberries and examine that person's books, accounts, and records, and obtain any other information necessary for purposes of determining that the assessments required under this Part have been collected and transmitted to the department and that the person is in compliance with the provisions of this Part and any regulations adopted pursuant to the provisions of this Part.

(5) To seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part or rules and regulations adopted pursuant to this Part or orders and rulings issued by the commissioner pursuant to this Part.

(6) To institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties, or costs due under this Part and to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

C. Any suit filed by or on behalf of the board, commissioner, or department pursuant to this Part may be filed in East Baton Rouge Parish or in any other parish in which venue is authorized.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009.

§730.5. Assessment on strawberries; collection; costs

A. An assessment is hereby levied on all strawberries produced in Louisiana or produced elsewhere and distributed in Louisiana. For all strawberries sold by volume or dry measure, this assessment is levied on each pint, or equivalent, of strawberries in the amount of \$.00165 for each pint. For all strawberries sold by weight, this assessment is levied on each pound of strawberries in the amount of \$.00185 per pound. Any strawberries sold in increments of pints, pounds, or their equivalent shall be assessed at a prorated assessment for the applicable rate.

B. Louisiana strawberry producers shall pay this assessment at the point of first sale in Louisiana on the containers used by them to hold strawberries. The first Louisiana handler of strawberries produced elsewhere and distributed in Louisiana shall collect the assessment at the point of first distribution in Louisiana.

C. The person responsible for collecting the assessment shall remit the assessment to the commissioner on or before the fifteenth day of the month immediately following each quarter for collections made during that quarter.

D. Any person who fails to pay any assessment due under the provisions of this Part within fifteen days after the payment is due shall be liable not only for the assessment but also for a late fee equal to twenty percent of the amount of the unpaid assessments. Any person cast in judgment for any unpaid assessment or late fee shall pay all costs connected with the bringing of the civil action, including reasonable attorney fees incurred by or on behalf of the board, plus legal interest from date of judicial demand.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 1990, No. 908, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009.

§730.6. Deposit and disbursement of assessments

A. All assessments, interest, penalties, and other monies received under the provisions of this Part shall be deposited in a special fund established by the commissioner for the board. The commissioner, as authorized by the board, shall make disbursements from the fund for the activities of the board authorized by this Part.

B. The monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part. The commissioner may retain a portion of the total assessments collected, not to exceed ten percent, as is necessary to defray the costs of collecting assessments and administering and enforcing this Part.

(2) To fund all costs related to advertising, promotion, and marketing of Louisiana strawberries, research, increasing consumption of strawberries in Louisiana, providing producers, distributors, retailers, and consumers educational information as to the nutritional and health value of strawberries and fulfilling any other purpose authorized by this Part.

Added by Acts 1958, No. 485, §1. Amended by Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2004, No. 764, §1, eff. July 6, 2004; Acts 2009, No. 24, §8D, eff. June 12, 2009.

§730.7. Advertising strawberries; contracts

The board working with the Department of Agriculture and Forestry shall plan and conduct a campaign for advertising, publicizing, and promoting the increased consumption of strawberries and may contract for any advertising, publicity, and sales promotion services, the amount of the contract to be limited each year to the estimated amount of the tax for the year less the estimated cost of administering this Part. The board is further empowered to take any other action which it deems necessary to promote and improve the well-being of the strawberry industry. The commissioner is authorized and empowered to carry out any and all contracts made by the board.

Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009.

§730.8. Labeling of strawberries; rules and regulations

A. All strawberries offered for sale shall have a stamp or label affixed to the container or package identifying its farm of origin.

B. The board shall adopt rules and regulations as are necessary to implement the provisions of this Section.

Added by Acts 1958, No. 485, §1; Acts 2003, Added by Acts 1958, No. 485, §1. Amended by Acts 1968, No. 365, §1; Acts 1977, No. 577, §1; Acts 2003, No. 1253, §1; Acts 2009, No. 24, §8D, eff. June 12, 2009; Acts 2010, No. 40, §1.

§730.9. Offenses; penalty

A. Any person who violates any of the provisions of this Part or the rules and regulations adopted under the provisions of this Part or who alters, forges, or counterfeits, or uses without authority any

certificate or permit or other document provided for in this Part or in the rules or regulations adopted under the provisions of this Part or who fails to collect or to timely pay the assessments or penalties due under this Part shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this Part as follows:

(1) The board shall be convened by the commissioner for the purpose of hearing any alleged violation of this Part or any rule and regulation adopted pursuant to this Part.

(2) The commissioner shall appoint a hearing officer to preside over the hearing.

(3) The board shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(4) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the board, the commissioner shall issue a written opinion based on the record of the hearing.

C. In addition to civil penalties, the commissioner may assess the cost of the adjudicatory hearing against any person found to be in violation of this Part or the regulations adopted pursuant to this Part. The commissioner shall, by rule, determine the amount of costs to be assessed in adjudicatory hearings.

Acts 2010, No. 40, §1, eff. June 30, 2010.

CHAPTER 7. BRANDS, GRADES, AND INSPECTION

PART I. BRANDS AND MARKS

§731. Definitions

As used in this Part, the following words shall have the following meanings ascribed to them:

(1) "Brand" means an identification mark hot or cold branded into or onto the hide of a live animal.

(2) "Commission" means the Livestock Brand Commission.

(3) "Commissioner" means the commissioner of agriculture.

(4) "Director" means the director of the commission.

(5) "Mark" means a distinct marking or device placed on or in a live animal sufficient to distinguish the animal readily if it becomes intermixed with other animals, including a tattoo or an electronic device.

(6) "Person" means an individual, firm, partnership, corporation, or other association.

Acts 1982, No. 113, §1; Acts 1993, No. 136, §1; Acts 1993, No. 146, §1.

§732. Livestock Brand Commission

A. The Livestock Brand Commission is hereby created within the Department of Agriculture and Forestry. Notwithstanding any provision of this Part or of any other law to the contrary, the commission shall exercise and perform its powers, duties, functions, and responsibilities as provided by R.S. 36:629(D)(1). The commission shall be domiciled in Baton Rouge.

B.(1) The commission shall be comprised of nine members appointed by the commissioner as follows:

(a) One member appointed from a list of three persons nominated by the Louisiana Cattlemen's Association.

(b) One member appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation.

(c) One member appointed from a list of three persons nominated by the Louisiana Sheriffs' Association.

(d) One member appointed from a list of three persons nominated by the Louisiana District Attorneys' Association.

(e) Two members appointed from the state at large, one of whom shall be appointed from the northern portion of the state and one of whom shall be appointed from the southern portion of the state.

(f) One member appointed from the state at large, who shall be an operator of a Louisiana public livestock market.

(g) One member appointed from a list of three persons nominated by the Louisiana Landowners Association.

(h) One member appointed from a list of three persons nominated by the Louisiana Forestry Association.

(i) The commissioner of agriculture and forestry, or his designee, shall serve as an ex officio member with the same rights, powers, and privileges as the other members.

(j) At the same time, in the same manner, and for the same term as provided for the appointment of the nine appointed members, the commissioner shall appoint one alternate for each member who shall be appointed from the same list of nominations submitted by the respective organizations. At large alternates shall possess the same qualifications as the member for whom he is appointed as an alternate. When, for any reason, a member is unable to be present at any meeting of the board, the alternate shall serve in his place and shall exercise all of the powers vested by law in the member, including the right to vote.

(2) Each appointed member, except the members appointed from nominations by the Louisiana Sheriffs' Association and the Louisiana District Attorneys' Association, shall be engaged in the production or marketing of livestock, or shall be a veterinarian specializing in the treatment of large animals.

(3) Each appointment by the commissioner shall be submitted to the Senate for confirmation.

C. The appointed members shall serve for a term of four years which shall expire with the term of the commissioner making the appointment. Vacancies on the commission shall be filled in the same manner as the original appointments. Appointments to fill vacancies shall be made within ninety days of the date the vacancy occurred and shall be for the unexpired portion of the term of the office vacated.

D. The commission shall meet annually or upon the call of the chairman.

E. A majority of the members of the commission shall constitute a quorum. The affirmative vote of a majority of the members shall be required to transact any official business of the commission. Each member shall take and subscribe to the oath of office prescribed for state officers. Members of the commission shall not receive any salary for their duties as members. The appointed members may receive a per diem for each day spent in actual attendance of meetings of the commission or of duly appointed committees or subcommittees of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. The appointed members may receive a

mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the rate for state employees.

F. The commission, in accordance with the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes, may adopt such rules and regulations as are necessary to implement and enforce the provisions of this Part.

G. The commission may enter into such contracts and agreements as are necessary to implement and enforce the provisions of this Part.

H. The commission, by a vote of two-thirds of the appointed members, may expel a member who has three consecutive unexcused absences from commission meetings.

Amended by Acts 1952, No. 272, §1; Acts 1982, No. 113, §1; Acts 1993, No. 293, §1, eff. Jan. 1, 1996; Acts 1995, No. 546, §1, eff. Jan. 1, 1996; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010.

§733. Officers and employees; administration and enforcement

A. The commissioner shall serve as chairman of the commission. At the first meeting of the commission after the effective date of this Part, the members shall elect from their membership a vice-chairman and such other officers as the commission may deem advisable.

B. The commission, with the approval of the commissioner, shall appoint a director and an assistant director who shall be in the unclassified service of the state.

C. The commissioner shall administer and enforce the provisions of this Part in accordance with the rules and regulations promulgated by the commission. The commissioner shall appoint livestock brand inspectors and such other personnel as may be necessary for the proper and efficient administration of this Part, except as provided in Subsection B of this Section.

Amended by Acts 1956, No. 153, §1; Acts 1980, No. 330, §1; Acts 1982, No. 113, §1.

§734. Livestock brand inspectors

A. Livestock brand inspectors employed by the commissioner and the director and assistant director of the commission shall be commissioned by the Department of Public Safety and Corrections and, for the purposes of this Part, shall have the same power and authority as is vested in the state police. Inspectors shall have general jurisdiction throughout the state to enforce the provisions of the Louisiana Criminal Code as set forth in Paragraph (B)(1) of this Section, this Part and the rules and regulations adopted under the provisions of this Part.

B. Personnel of the commission who are commissioned peace officers shall be under the direction, control, and supervision of the commissioner and shall have the following powers and duties:

(1) To provide for the protection of the assets and property of the Department of Agriculture and Forestry and to enforce all of the provisions of this Part, and the rules and regulations adopted under the provisions of this Part and provisions in the Louisiana Criminal Code relating to the theft of animals, the illegal branding or marking of animals, the disposition of strayed animals, the theft of any farm machinery, equipment, or supplies, and to perform such duties with respect to any other farm-related crime.

(2) To take the following actions, with or without a warrant, when the inspector has probable cause to believe that the provisions of the Louisiana Criminal Code as set forth in Paragraph (B)(1) of this Section or this Part, or of the rules and regulations adopted under the provisions of this Part, have been violated:

(a) To enter upon private land or premises.

(b) To stop and search any airplane, automobile, truck, boat, or other vehicle.

(c) To enter any establishment where livestock or carcasses are slaughtered, butchered, stored, or sold.

(d) To hold livestock, carcasses, parts of carcasses, or hides for a reasonable time for the purposes of investigation and determination of ownership.

(3) To arrest, with or without a warrant, any person who the inspector has probable cause to believe has violated the criminal provisions of this Part or the Louisiana Criminal Code as set forth in Paragraph (B)(1) of this Section.

(4) To serve all warrants and other processes issued by courts of competent jurisdiction in connection with violations of the provisions of this Part and the rules and regulations adopted under the provisions of this Part or the Louisiana Criminal Code as set forth in Paragraph (B)(1) of this Section.

(5) To cooperate with all other peace officers in the enforcement of the Louisiana Criminal Code as set forth in Paragraph (B)(1) of this Section, the provisions of this Part and the rules and regulations adopted under the provisions of this Part.

(6) To be attired in a uniform approved by the commissioner and carry proper credentials evidencing their authority, which shall be exhibited upon demand of any person. Notwithstanding the provisions of R.S. 49:121(E), every automobile, truck, or other vehicle belonging to the state that is used by an inspector shall conform with the provisions of R.S. 49:121(A)(1), (B), and (C).

Acts 1982, No. 113, §1; Acts 1992, No. 33, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §1, eff. June 12, 2009.

§735. Use of unrecorded brand or mark prohibited

No person shall use any brand or mark for branding or marking animals unless the brand or mark is recorded with the commission.

Acts 1982, No. 113, §1.

§736. Brands and marks

A. The provisions of this Part shall apply to cattle, horses, mules, sheep, hogs, dogs, and other animals as determined by the commission.

B. The commission, by rule, shall adopt guidelines and requirements for brands and marks which shall include, but shall not be limited to the following:

(1) The other animals which shall be subject to the provisions of this Part.

(2) The style, design, and size of brands and marks.

(3) The location of brands and marks on the animal.

(4) Brands and marks recorded prior to September 10, 1982, shall not be affected by the provisions of this Subsection.

C. Brands and marks may be recorded with the commission. Each person who desires to record a brand or mark shall submit a written application on a form approved by the commission. Each application shall be accompanied by a facsimile of the brand or mark; a description of the brand or mark, including the location of the brand or mark on the animal; such other information as may be required by the commission; and the recordation fee.

D. The director shall examine the description or facsimile, or both, to determine if the brand or mark:

(1) Is currently recorded by another person.

- (2) Closely resembles a brand or mark currently recorded by another person.
- (3) Meets the requirements for brands and marks adopted by the commission.

E. If the brand or mark is not currently recorded, does not closely resemble a currently recorded brand or mark, and meets the requirements adopted by the commission the director shall record the brand or mark. The recordation shall be effective on the date the application was received by the commission and shall give the person for whom the brand or mark is recorded the exclusive right to use the brand or mark.

F. If the brand or mark is currently recorded, or closely resembles a currently recorded brand or mark, or does not meet the requirements adopted by the commission, the director shall not record the brand or mark and shall return the application, the fee, the facsimile, and the description to the applicant with written reasons for refusing to record the brand or mark.

G. Any applicant whose application to record a brand or mark has been refused, and any person who has recorded a brand or mark and who believes that a subsequently recorded brand or mark closely resembles a previously recorded brand or mark may appeal the decision of the director to the commission.

Acts 1982, No. 113, §1.

§737. Duration of recordation; renewal

A. The recordation of each brand or mark shall expire on the last day of December of 1984, and every fifth year thereafter.

B. The commission shall notify each owner of a brand or mark of the expiration date no later than the first day of April of each expiration year. Applications for renewal shall be received by the commission no later than the first day of September of the expiration year. Applications for renewal shall be on forms approved by the commission and shall be accompanied by the renewal fee and such other information as the commission may require. If any owner of a brand or mark fails to renew his recordation by the first day of September of the expiration year, the brand or mark shall be forfeited on the last day of the expiration year, and may thereafter be issued to another applicant.

Acts 1982, No. 113, §1.

§738. Transfer of ownership of brand or mark

Brands and marks recorded under the provisions of this Part are the property of the person recording the brand or mark and may be transferred by sale, donation, assignment, or other act of transfer of movable property. Instruments evidencing the transfer of a brand or mark shall be recorded with the commission. The recordation of a transfer shall be notice to all third persons.

Acts 1982, No. 113, §1.

§739. Recordation of brand or mark by two persons

The director shall continually review and examine the recorded brands and marks to determine if there are conflicting brands or marks recorded with the commission. When the director determines that a conflict exists, the director shall notify both persons who have recorded the brand or mark and shall expunge the more recent recordation. The person whose recordation is expunged shall be notified by registered mail that his recordation has been expunged and that further use of this brand or mark is illegal. Persons whose recordation has been expunged may appeal the decision of the director to the commission. The provisions of this Section shall not affect the ownership of any animals which were branded or marked after the brand or mark was recorded and before the recordation was expunged.

Acts 1982, No. 113, §1.

§740. Certified copies of recordations, renewals, and transfers

A. Each person who records a brand or mark, who renews a recordation, or to whom a recorded brand or mark is transferred, shall be entitled to one certified copy of the recordation, renewal, or transfer free of charge.

B. In any civil or criminal action in which the ownership of an animal is in question, a certified copy of a recordation, renewal, or transfer shall be prima facie evidence of the ownership of the animal and shall be admissible in evidence without further foundation.

Acts 1982, No. 113, §1.

§741. Publication of brands and marks

The commission shall maintain a list of all recorded brands and marks, which shall be supplemented annually. The list shall contain a facsimile of each recorded brand or mark and the owner's name and mailing address. The list shall be maintained in convenient form for reference. The commission shall notify the clerk of court and the sheriff of each parish of the list as supplemented. The list may be sold to the general public.

Acts 1982, No. 113, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§742. Inspection of cattle

No livestock shall be sold at any public sale until such livestock have been offered for inspection by the seller to brand inspectors or a designee of the Livestock Brand Commission appointed for such purpose. Brand inspectors are authorized to inspect any livestock being transported by any means, or being loaded or prepared to be transported. Brand inspectors shall have the authority to inspect all livestock together with accompanying health documentation for each animal in conjunction with the Louisiana Board of Animal Health. Whenever health documentation for any animal is not in compliance with the requirements of the Louisiana Board of Animal Health, the brand inspector may stop all movement of the animal until all required health documentation is provided or may require the person who has possession of the animal to return the animal to the place of origin.

Acts 1982, No. 113, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 177, §1.

§743. Strayed animals

A. The commission shall determine the ownership of strayed animals which are subject to the provisions of this Part, based on the brands and marks recorded with the commission.

B. Each person who takes possession of a strayed animal which is subject to the provisions of this Part shall notify the commission by certified mail, return receipt requested. The notice shall indicate the kind of animal; the color, weight, size, sex, age, brands, marks, and distinguishing features of the animal; the place where the animal is kept; and the name and address of the person holding the animal. The costs and expenses which may be charged by a person holding a strayed animal shall commence on the date the notice is mailed to the commission.

C. If the commission is unable to determine the ownership of the strayed animal, the commission shall notify the person holding the strayed animal who, within ten days of receipt of the notice, shall cause the strayed animal to be advertised and sold in accordance with law.

Acts 1982, No. 113, §1.

§744. Purchase of cattle for slaughter

A. No person engaged in the business of butchering or slaughtering cattle shall purchase any cattle slaughtered by another unless the hide and ears of the animal accompany the carcass.

B. No person engaged in the business of butchering or slaughtering cattle shall purchase any cattle slaughtered by another if the hide or ears accompanying the carcass indicate that the brand or mark on the animal has been changed, mutilated, or destroyed.

C. The provisions of this Section shall not apply to persons engaged in the business of butchering or slaughtering cattle who are operating under the provisions of the federal Packers and Stockyards Act of 1924, as amended, or under a permit issued by the Department of Health and Hospitals.

Acts 1982, No. 113, §1.

§745. Branding or marking or obliterating brands or marks

No person shall wilfully and knowingly brand or mark the animal of another person, or intentionally alter, deface, or obliterate a brand or mark on the animal of another person.

Acts 1982, No. 113, §1.

§746. Branding or marking or obliterating brands or marks with intent to steal or prevent identification

No person shall brand or mark the animal of another person or alter, deface, or obliterate a brand or mark on the animal of another person with intent to steal the animal or to prevent the identification of the animal by the owner.

Acts 1982, No. 113, §1.

§747. Criminal penalties

Whoever violates the provisions of R.S. 3:744, R.S. 3:745, or R.S. 3:746 shall be fined not more than five thousand dollars, or imprisoned with or without hard labor, for not more than ten years, or both.

Acts 1982, No. 113, §1.

§748. Civil penalties; injunctive relief

A. The commission may assess a civil penalty of not more than two hundred fifty dollars for each violation of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part. Each day on which a violation occurs shall be considered a separate offense.

B. Penalties may be assessed only by a ruling by the commission based on an adjudicatory hearing held in accordance with the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes.

C. The commission may institute civil proceedings to enforce the rulings of the commission in the district court for the parish in which the violation occurred.

D. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part, or of the rules and regulations adopted under the provisions of this Part, in the district court for the parish in which the violation occurred.

Added by Acts 1950, No. 245, §1. Amended by Acts 1982, No. 113, §1.

§749. Fees

A. The commission shall charge the following services:

- (1) Recording brand or mark \$15.00
- (2) Renewing recordation 10.00
- (3) Transfer of recordation 10.00
- (4) Second and subsequent certified copies of recordations, renewals, and transfers 6.50

B. For each publication and each supplemental list of brands and marks, the commission shall charge the price required to be printed on the document by R.S. 43:31 plus one dollar.

C. The commission may charge fees authorized by other federal and state law for services provided in accordance with any agreement between the commission and any state or federal agency.

D.(1) All assessments, fees, penalties, and all other funds received under the provisions of this Part, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the state treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Part into a special fund which is hereby created in the state treasury and designated as the Livestock Brand Commission Fund, hereinafter referred to as the "fund".

(3) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

(4) Subject to appropriation, the monies in the fund shall be used for the following purposes:

(a) To provide for the expenses of the program established by this Part, as determined by the commission.

(b) To fund any and all costs related to the carrying out of the powers and duties granted to the commission and the Department of Agriculture and Forestry under this Part.

Acts 1950, No. 245, §2. Amended by Acts 1952, No. 273, §1; Acts 1982, No. 113, §1; Acts 2003, No. 121, §1, eff. May 28, 2003.

§750. Livestock Crimestoppers Program

A. The Livestock Crimestoppers Program is hereby created within the Department of Agriculture to be administered by the Livestock Brand Commission.

B. The commission shall do the following:

(1) Create, maintain, and promote a statewide livestock crimestoppers program in order to assist law enforcement agencies in detecting and combatting livestock-related crimes.

(2) Determine which individuals shall be rewarded for providing information used in detecting and combatting livestock-related crimes.

(3) Determine the amount of any reward to be paid.

C. The commission may do the following:

(1) Assist and advise in the creation and maintenance of local livestock crimestoppers programs.

(2) Encourage the channeling of information from the programs to law enforcement agencies.

(3) Foster the detection of livestock-related crimes by the public.

(4) Promote the state and local programs through the media.

(5) Accept gifts, grants, and donations for the furtherance of the program and spend these in compliance with the conditions of the gifts, grants, or donations.

(6) Adopt such rules and regulations as are necessary to administer the program. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

D. Initial funding for the livestock crimestoppers program shall be provided by a donation from the Louisiana Cattlemen's Association.

E. All donations and other funds made available to the program shall be kept in an interest-bearing account.

F. The identity of each person who submits information under any state or local livestock crimestoppers program and any information which may lead to the disclosure of that person's identity shall be kept confidential.

Added by Acts 1984, No. 30, §1.

§751. Beaver, coyote, and coydog control program

A. There is hereby established a beaver, nuisance feral swine, coyote, and coydog control program which shall be developed by the Louisiana Department of Agriculture and Forestry to be administered by the Livestock Brand Commission. The program shall be limited to population control of beavers, nuisance feral swine, coyotes, and coydogs on private or public lands, excluding federally-owned lands, but including lands whereupon servitudes are granted to a federal entity.

B. Any state, local, or private funds available to the commissioner to fund the program may be used to match federal funds available for such purpose. The commissioner may execute such agreements with any agency of the federal government to obtain matching funds to finance the beaver, nuisance feral swine, coyote, and coydog control program.

C. Nonfederal funds to help finance the program may be obtained by the commission from the following sources:

- (a) Appropriations by the legislature.
- (b) Charges on participating landowners.
- (c) Contributions from any other sources for such purpose.

D. The Livestock Brand Commission may adopt rules and regulations as are necessary to implement and enforce the provisions of this Section.

E. Operation of the program shall be subject to the availability of funds.

Acts 1995, No. 546, §1, eff. Jan. 1, 1996; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §1, eff. June 12, 2009.

PART I-A. DOG BRANDS

§§771 to 784. *Repealed by Acts 1982, No. 113, §2.*

PART II. EGG GRADING

§821. Citation of part

This part shall be known and cited as the Louisiana Egg Grading and Marketing Law.

§822. Definitions

The following definitions apply in this Part.

- (1) "Eggs" means pullet and hen eggs only.
- (2) "Producer" means every person engaged in producing eggs in the state.
- (3) "Person" means every person, partnership, firm, company, association, syndicate, or corporation engaged in the handling and selling of eggs.
- (4) "Dealer" or "distributor" means every person, not a producer, engaged in buying, or selling eggs in the state.
- (5) "Candling" means the practice of examining the interior of an egg by use of transmitted light for determining inedible eggs, and for determining quality in grading edible eggs.
- (6) "Federal Standards" means the quality and weight requirements for grades as defined in the U.S. Standards for shell eggs that are now or may hereafter be established by the United States Department of Agriculture.
- (7) "Current receipt eggs" or "ungraded eggs" means yard-run eggs or eggs as they are produced on the farm and ungraded.
- (8) "Inedible eggs" means inedible eggs as defined in the U.S. Standards for shell eggs.

§823. Inspection services

Any financially interested person, may, upon request secure federal inspection services at nominal charges or fees as outlined and in accordance with USDA Bulletin SRA-AMS No. 137 (Revised).

§824. Repealed by Acts 2009, No. 24, §7, eff. June 12, 2009.

§825. Commissioner of agriculture and forestry to appoint enforcement officer and deputies

The commissioner of agriculture and forestry shall appoint an enforcement officer and such deputies as may be needed, who shall be responsible for the enforcement of this part along with the regulations and supplemental rules and regulations promulgated by the commissioner.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§826. Exemption from Part

Producers selling eggs of their own production are exempt from the provisions of this Part.

§827. Application of provisions

The provisions of this Part apply equally to all eggs when offered for sale or marketed in the state whether produced in the state or elsewhere.

§828. Regulations for advertising eggs

A person offering ungraded eggs for sale shall not use any descriptive words in connection with advertising, display or price announcements referring to the quality or condition of the eggs, except that current receipts may be advertised as such.

§829. Eggs must be correctly described in advertisements

A person offering for sale or advertising shell eggs on a graded basis may advertise, post or display any descriptive terms which truly and correctly identify the actual grade or grades of the eggs with the appropriate size designated.

§830. Eggs must be candled; permitted tolerance

A person offering eggs for sale to any one other than a wholesale dealer shall first candle all eggs and remove all inedible eggs. A two percent tolerance for inedible eggs will be permitted for each case of eggs at the time of inspection.

§831. Penalty for violations

Whoever violates a provision of this Part or any regulations issued hereunder shall be fined not less than ten nor more than fifty dollars.

§832. Attorney General and district attorneys to represent commissioner of agriculture and forestry

It shall be the duty of the Attorney General and the various district attorneys to represent the commissioner of agriculture and forestry in all legal proceedings in carrying out the provisions of this Part and the rules and regulations made pursuant thereto.

Acts 2009, No. 24, §1, eff. June 12, 2009.

PART II-A. LOUISIANA EGG COMMISSION**§835. Purpose**

The purpose of this Part is to promote the general well-being of Louisiana's egg industry by encouraging increased production and quality in Louisiana eggs through marketing and research; by expanding the market for Louisiana eggs and egg products through promotion and marketing; by increasing the consumption of eggs and egg products in Louisiana through advertising, promotion, and marketing; by providing producers, distributors, retailers, and consumers educational information as to the nutritional and health value of eggs; by performing any other act deemed advisable in promoting this industry and the general welfare of the people of this state.

Added by Acts 1968, No. 441, §1. Amended by Acts 1970, No. 495, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§836. Terms defined

As used in this Part, the following terms shall have the following meanings, except where the context expressly indicates otherwise:

- (1) "Case" means a standard thirty dozen egg case.
- (2) "Commission" means the Louisiana Egg Commission.
- (3) "Commissioner" means the Louisiana commissioner of agriculture and forestry.
- (4) "Department" means the Louisiana Department of Agriculture and Forestry.
- (5) "Distribute" means to ship, bring, or take eggs or egg products into or out of Louisiana or to transfer eggs or egg products in Louisiana from one place to another.
- (6) "Egg products" means shell eggs, whether in cooked, dried, frozen, liquid, or raw form, and any product made from shell eggs, egg whites, egg yolks, or any combination thereof.
- (7) "Eggs" means pullet and hen eggs only.
- (8) "Person" means an individual, partnership, firm, company, association, corporation, limited liability company, and any other legal entity or group of persons.

(9) "Producer" means any person engaged in the business of producing eggs in Louisiana or any person deriving a profit from such a business.

Added by Acts 1968, No. 441, §1; Amended by Acts 1975, No. 212, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§837. Louisiana Egg Commission; creation, organization

A. The Louisiana Egg Commission is hereby created within the department with its domicile at Baton Rouge, Louisiana.

B. The commission shall consist of nine members appointed by the commissioner and confirmed by the Senate.

- (1) Two members shall be active egg producers.
- (2) Four members shall be active distributors.
- (3) Two members shall have knowledge of the egg industry.
- (4) One member shall be appointed from the public at large.

C. The commissioner, or his designee, shall serve *ex officio* and shall have all rights and responsibilities of appointed members. The commissioner or his designee shall be counted for purposes of constituting a quorum.

D. At the same time and in the same manner, the commissioner shall appoint one alternate for each appointed member. Each alternate shall possess the same qualifications as the member for whom he is appointed as an alternate. When a member is unable to be present at any meeting of the commission, his alternate shall serve in his place. Any alternate serving in the place of a member shall be deemed to be a member for purposes of that meeting and shall exercise all of the powers vested by law in the member, including the right to vote.

E. Appointed members and alternates shall serve terms concurrent with the term of the commissioner making the appointment.

F. Vacancies in the office of the members and alternates shall be filled in the same manner as the original appointments. Persons appointed to fill vacancies shall serve out the unexpired term.

G. A majority of the members of the commission shall constitute a quorum.

H. Members of the commission shall not receive any salary for performing their duties as members. Members may receive a per diem for each day spent in actual attendance of meetings of the commission, in an amount not to exceed forty dollars. Members may receive a mileage allowance for mileage traveled in attending meetings, at a rate not to exceed that paid to state employees. Members shall not receive per diem or mileage for more than twelve meetings per year.

I. The commission shall meet quarterly and may meet on the call of the chairman.

J. The commission, by a vote of a majority of the members, may expel a member or alternate for good cause. Good cause shall include but shall not be limited to three consecutive unexcused absences. The expulsion of a member or alternate creates a vacancy in that office.

Added by Acts 1968, No. 441, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

NOTE: *See Acts 2003, No. 523, §§2 and 3.*

§838. Officers and employees

A. The members shall annually elect a chairman and such other officers as deemed necessary.

B. The commission shall employ a director and assistant director who shall be appointed by the commission, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service. The commissioner is authorized to employ such other personnel necessary for the efficient and proper administration of this Part. All employees of the commission shall be under the direction and supervision of the commissioner.

Added by Acts 1968, No. 441, §1. Amended by Acts 1970, No. 495, §2; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§839. Powers

A. The commission shall have the following powers:

(1) To plan, conduct, and fund, in consultation with the department, a campaign for: advertising, promoting, and marketing Louisiana eggs and egg products; promoting research; increasing consumption of eggs and egg products in Louisiana; providing producer, distributor, retailer, and consumer educational information as to the nutritional and health value of eggs; and fulfilling any other purpose authorized by this Part.

(2) To contract or enter into any other agreement to accomplish any purpose authorized by this Part, including agreements for advertising, educational, marketing, promotional, publicity, and research activities or services.

(3) To decide upon some distinctive and suggestive logo, emblem, name, or other method for distinguishing Louisiana-produced eggs, register or have the department register any such logo, emblem, name, or method and to encourage the use, by licensing or otherwise, of same in promoting Louisiana eggs and egg products.

(4) To hold meetings in the commission's parish of domicile or in such other locations within the state as the commission may direct.

(5) To hold hearings on alleged violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(6) To advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(7) To perform such other advisory functions as the commissioner may assign to the commission.

B. The commissioner shall have the following powers:

(1) Adopt regulations as are necessary to implement the provisions of this Part.

(2) Administer and enforce the provisions of this Part and the regulations adopted pursuant to this Part.

(3) Collect, administer, and disburse the proceeds of the assessments, fees, interest, penalties, and other monies collected pursuant to this Part.

(4) Conduct inspections of premises where eggs or egg products are held, stored, or sold and examine and audit books and records of any person who produces, processes, stores, holds, maintains, distributes, or sells eggs or egg products in Louisiana.

(5) Issue a stop order to prevent a violation or further violation of this Part or of any regulation adopted pursuant to this Part.

(6) Seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part, or any regulation adopted pursuant to this Part, or orders and rulings issued by the commissioner pursuant to this Part.

(7) Institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties, or costs due under this Part, or to otherwise enforce the provisions of this Part or any regulations adopted pursuant to this Part.

C. Any suit filed by the commissioner pursuant to this Part may be filed in East Baton Rouge Parish or in any parish of proper venue.

Added by Acts 1968, No. 441, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§840. Stop orders

A. When the commissioner believes that a violation of the provisions of this Part or of the regulations adopted pursuant to this Part has occurred, the commissioner may issue a stop order prohibiting the production, processing, handling, distribution, sale, offering for sale, movement, or disturbance of any eggs or egg products.

B. Any person aggrieved by a stop order may petition the commission to hold a hearing on the matter. The hearing shall be held in accordance with the Administrative Procedure Act and the provisions of this Section.

C. Based on the results of the hearing, or a consent agreement mutually entered into by the commissioner and a violator, the commissioner may take one or more of the following actions:

- (1) Release the eggs or egg products from the stop order.
- (2) Require the cause for the stop order to be remedied prior to releasing the stop order.
- (3) Destroy the eggs or egg products.
- (4) Provide for the disposition of the eggs or egg products.

Added by Acts 1968, No. 441, §1. Amended by Acts 1970, No. 495, §3; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§841. Levy of assessment; collection; costs

A. An assessment of two cents per case is hereby levied on all eggs and egg products produced in Louisiana or produced elsewhere and distributed in Louisiana. The commissioner, by regulation, may establish the assessment on all eggs or egg products not sold by the case in an amount equal to the per case assessment.

B. Louisiana egg producers shall pay this assessment at the point of first sale in Louisiana. The assessment due on eggs or egg products produced elsewhere but distributed in Louisiana shall be paid at the point of first receipt of the eggs or egg products in Louisiana.

C. The person purchasing the eggs or egg products at the first point of sale or receiving the eggs or egg products at the first point of receipt in Louisiana shall be responsible for collecting the assessment and remitting payment to the department on or before the fifteenth day of each month for collections made during the previous month. The assessment shall be remitted to the department along with such forms and information as the commissioner may require.

D. Any person who fails to pay any assessment due under the provisions of this Part within fifteen days after the payment is due shall be liable not only for the assessment but also for a late fee equal to twenty percent of the amount of the unpaid assessments. Any person cast in judgment for any unpaid assessment or late fee shall pay all costs connected with the bringing of the civil action, including reasonable attorney fees incurred by or on behalf of the commission, plus legal interest from date of judicial demand.

Added by Acts 1968, No. 441, §1. Amended by Acts 1970, No. 495, §4; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§842. Dealers and handlers; records; reports; licensing; fees

A. Except as otherwise provided by this Part, every person who produces, processes, distributes, or sells eggs or egg products in Louisiana shall obtain a license to do so from the department. Each license shall be renewed annually. Failure to obtain or renew a license, when required, shall be a violation of this Part. An application for a license, or for a renewal, shall be on a form furnished by the department and shall furnish such information as the commissioner shall deem reasonably pertinent. A fee of one hundred dollars shall accompany each license application and renewal.

B. Every person who produces, processes, holds, stores, maintains, distributes, or sells eggs or egg products in Louisiana shall keep a complete and accurate record of all eggs and egg products handled and all assessments paid or collected by him. These records shall be in a form and contain such information as the commissioner may require. These records shall be preserved for the period of time set by the commissioner in regulations adopted pursuant to this Part.

C. The department shall have access, during normal working hours, to any premises where there is reason to believe that eggs or egg products are being produced, processed, held, stored, maintained, distributed, sold, or offered for sale. The department may examine any facility and any records relating to the production, processing, holding, storing, maintaining, distributing, or selling of eggs or egg products. The department may inspect and audit all books and records relating to the amount of any assessment that may be due and the collection and payment of any such assessment. Entrance on the premises under the provisions of this Subsection shall not be deemed to be criminal trespass under any state law or local ordinance.

Added by Acts 1968, No. 441, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§843. Payment of assessment required

Except as otherwise provided by this Part, no person shall produce, process, store, hold, maintain, distribute, sell, or offer for sale any eggs or egg products in Louisiana upon which the assessment has not been paid. Any person who is not responsible for paying or collecting the assessment, but who pays the assessment, shall have the right to reimbursement from either the person responsible for paying the assessment or the person responsible for collecting the assessment, or both.

Added by Acts 1968, No. 441, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§844. Deposit and disbursement of assessments, fees, and other monies

A. All assessments, fees, interest, penalties, and other monies received under the provisions of this Part shall be deposited in a special fund established by the commissioner for the commission. The commissioner, as authorized by the commission, shall make disbursements from the fund for the activities of the commission authorized by this Part.

B. The monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part. The commissioner may retain a portion of the total assessments collected, as is necessary to defray the costs of collecting assessments and administering and enforcing this Part.

(2) To fund all costs related to: advertising, promoting, and marketing Louisiana eggs and egg products; promoting research; increasing consumption of eggs and egg products in Louisiana; providing producer, distributor, retailer, and consumer educational information as to the nutritional and health value of eggs; and fulfilling any other purpose authorized by this Part.

Added by Acts 1968, No. 441, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§845. Exclusion from coverage of Part

A. Retail stores that receive eggs or egg products from a licensed distributor solely for the purpose of selling the eggs or egg products directly to consumers are exempt from the licensing requirements of this Part.

B. Any producer who has egg production from less than five hundred hens is exempt from the licensing requirements of this Part and from the payment of any assessment if that producer sells his eggs or egg products directly to the consumer from the farm.

Added by Acts 1968, No. 441, §1; Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

§846. Penalties; offenses; hearings; costs

A. Any person who violates any of the provisions of this Part or the regulations adopted under the provisions of this Part; or who alters, forges, or counterfeits, or uses without authority any certificate or permit or other document provided for in this Part or in the regulations adopted under the provisions of this Part; or who fails to collect or to timely pay the assessments, fees, and penalties due or assessed under this Part, shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Any licensee who violates any of the provisions of this Part or the regulations adopted pursuant to this Part shall be subject to having his license suspended, revoked, or placed on probation, in addition to any other penalties authorized by this Part.

C. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this Part.

(1) The commission shall be convened by the commissioner for the purpose of hearing any alleged violation of this Part or any rule and regulation adopted pursuant to this Part.

(2) The commissioner shall appoint a hearing officer to preside over the hearing.

(3) The commission shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(4) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the commission, the commissioner shall issue a written opinion based on the record of the hearing.

D. In addition to civil penalties, the commissioner may assess the cost of the adjudicatory hearing against any person found to be in violation of this Part or the regulations adopted pursuant to this Part. The commissioner shall, by regulation, determine the amount of costs to be assessed in adjudicatory hearings.

Acts 2003, No. 523, §1, eff. June 20, 2003; Acts 2009, No. 24, §8F, eff. June 12, 2009.

PART III. SAMPLING AND ANALYSIS OF AGRICULTURAL PRODUCTS

§851. Power to secure samples

The commissioner of agriculture and forestry hereinafter cited as the commissioner is empowered to secure samples of agricultural products which are sold or traded upon the basis of content or lack of specified constituents.

Acts 1956, No. 316, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§852. Analysis by state chemist; reports

Samples received by the commissioner shall be transmitted to the state chemist who shall perform any necessary chemical or physical analysis. The results of such analyses shall be reported to the commissioner who in turn shall report them to all interested parties.

Acts 1956, No. 316, §2.

§853. Procedures; interpretation of analytical results

The commissioner shall establish and promulgate procedures for taking, identifying, handling and transporting samples. He is further empowered to establish policies for interpretation of analytical results.

Acts 1956, No. 316, §3.

§854. Extent of sampling and analysis

The extent to which sampling and analysis is carried out shall be determined by the commissioner according to the need therefor; provided, that any party to a transaction involving agricultural products sold upon basis of composition may request sampling and analysis to be performed.

Acts 1956, No. 316, §4.

§855. Arbitration committee

In event of controversy between buyers and sellers regarding composition of an agricultural product, upon request, the commissioner may appoint an arbitration committee composed of three disinterested parties to resolve the matter.

Acts 1956, No. 316, §5.

§856. Products excluded

Milk and other dairy products, cotton seeds and soybeans are specifically excluded from the provisions of this Part.

Acts 1956, No. 316, §6.

PART IV. STATE GRADE OF FARM PRODUCTS AND MISLABELING OF FRUITS AND VEGETABLES

§901. State grades of farm products

The official minimum state grades of all farm products, fruits, and vegetables presented for sale or for shipment, intrastate or interstate, shall be the grades recommended by the Agricultural Marketing Service of the United States Department of Agriculture and recognized in the central market of the nation as government grades.

Acts 1978, No. 242, §1; Acts 2009, No. 24, §8A, eff. June 12, 2009.

§902. Mislabeling of fresh fruits and vegetables prohibited

A. No person shall mislabel any fresh fruit or vegetable, or place or have any false or misleading statement or designation of quality, grade, trade-marks, trade-name, area of production or place of origin on any wrapper or container, or on the label or lining of any container of any fresh fruit or vegetable, or

on any placard used in connection with or having reference to any fresh fruit or vegetable or container, bulk lot, bulk load, load, arrangement, or display of fresh fruits or vegetables.

B. Unless there is deception as to contents, quality, or area of production, nothing in this Section shall be construed to require the obliteration of old markings or labels on used containers which are not closed, where such marking or labels are clearly inapplicable to the contents, or of old markings or labels on unlidded containers in which the product is not packed.

Acts 1978, No. 242, §1; Acts 2009, No. 24, §8A, eff. June 12, 2009.

§903. Fees for inspection, classification, and grading

The commission may collect fees for the inspection, classification, and grading of farm products, fruits, and vegetables. The fees shall not exceed the actual cost necessary to provide for the proper inspection, grading, and classification of the products.

Acts 1978, No. 242, §1; Acts 2009, No. 24, §8A, eff. June 12, 2009.

§904. Penalty for violations; injunctive relief; costs

A. Whoever violates this Part or the regulations promulgated under this Part shall be fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than ten days nor more than six months, or both.

B. In addition to the penalties authorized in this Section, the commission may apply for injunctive relief restraining violations of this Part or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

Acts 1978, No. 242, §1; Acts 2009, No. 24, §8A, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

CHAPTER 8. EXPERIMENT STATIONS AND FARMS

PART I. IN GENERAL

§1021. Proceeds of alimony tax may be used to purchase lands to donate

The police juries of the various parishes of the state are authorized to appropriate funds out of the general alimony tax, for the purpose of purchasing lands to be donated to the United States Government for use by the United States in the maintenance and operation of agricultural experiment and research stations.

§1022. Assent to federal grants to state

The State of Louisiana, in accordance with Section 2, of an Act of Congress, approved March 16, 1906, entitled, "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," and in accordance with Section 2, of an Act of Congress, approved February 24, 1925, entitled, "An Act to authorize the more complete endowment of Agricultural Experiment Stations, and for other purposes," does hereby accept the grants of money for the purposes set out in the above recited Acts of Congress.

§1023. Board of supervisors of state university authorized to receive federal grants

The Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College is the governing board of the experiment stations in Louisiana, mentioned or contemplated by the Acts

of Congress recited in R.S. 3:1022, and is the beneficiary of all moneys granted by those Acts of Congress, with full power to receive, administer, and expend the funds. The treasurer of the Board, or other officer duly appointed by it, is authorized to receive and receipt for all moneys granted by those Acts of Congress.

§1024. Director of experiment stations as state chemist

The director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center shall be the state chemist, with all the rights conferred and all the duties and obligations imposed on the state chemist, especially as to analytical and microscopical work that may be necessary or desirable and all research as may contribute to the knowledge of the properties, values, and proper use of commercial feeding stuffs, commercial fertilizers, and commercial insecticides and fungicides in Louisiana.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§1025. Duty of state chemist to analyze samples of soils, water, oils, and minerals

The state chemist, or his designee, shall analyze samples of soils, water, oils, minerals, etc., when samples are sent to him with the request that they be analyzed. The work shall not be compulsory during the period beginning January first and ending May 15 of each year.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§1026. Creation of soil and plant analysis laboratory at Northeast Louisiana State University

A. Northeast Louisiana State University shall establish, create, and maintain, within its college of agriculture, a laboratory to analyze samples of soil, plants, water, seeds, and fertilizer when such samples are sent to the laboratory with a request that they be analyzed. The laboratory shall contain sufficient equipment, facilities, and personnel to conduct a year-round sample testing program.

B. The university, through its college of agriculture, shall fix and assess fees for sample analysis sufficient to cover the costs of requested analytical work.

C. If at any time the sample testing program is terminated either by the Board of Trustees for State Colleges and Universities or by the legislature, the laboratory and all other facilities, fixtures, and equipment used in the program may be used by the college of agriculture and college of chemistry as the Board of Trustees for State Colleges and Universities may designate.

D. The laboratory shall become self-supporting within five years.

Added by Acts 1978, No. 287, §1.

PART II. EXPERIMENT STATIONS

§1061. Establishment and purposes

The establishment, by the Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College, of the state experiment station and of branch experiment stations, at the following locations and for the purposes stated, is authorized and ratified:

(1) Baton Rouge, Parish of East Baton Rouge--to serve as the headquarters of the Director of Experiment Stations of Louisiana and his technical staff, and to be the location of the laboratories devoted to agricultural experimentation and research.

(2) Calhoun, Parish of Ouachita--to make and carry on practical and scientific investigations and demonstrations pertaining to agriculture, livestock and poultry, the ravages of and means of combating

insect pests and diseases, and other problems vital to the development and maintenance of the agricultural, livestock, and poultry industries.

(3) St. Joseph, Parish of Tensas--to make and carry on practical and scientific investigations and demonstrations pertaining to agriculture and livestock, and to aid and assist in the development of the agricultural and livestock industries.

(4) Hammond, Parish of Tangipahoa--to carry on practical and scientific investigations pertaining to the most economical production of the strawberry and other fruit and truck crops, preservation of soil fertility, irrigation and drainage, the ravages of and means of combating insect pests and fungus diseases, the study of the varieties of strawberries and other fruit and truck crops, the grading and marketing of fruit and truck crops, and other problems vital to the development and maintenance of the fruit and truck crop industry.

(5) Crowley, Parish of Acadia--to carry on practical and scientific investigations pertaining to the most economical production of rice, preservation of soil fertility, irrigation and drainage, the ravages of and means of combating insect pests and fungus diseases, the study of the varieties of rice, rice weeds, climatic conditions influencing the rice crop, the milling qualities of rice and the conditions influencing these qualities, and other problems vital to the development and maintenance of the rice industry.

(6) Franklinton, Parish of Washington--to make and carry on practical and scientific investigations and demonstrations pertaining to livestock, fruit crops, and the production of tung oil, the ravages of and means of combating insect pests and diseases, and other problems vital to the development and maintenance of the livestock, fruit, and tung oil industries.

(7) Parish of Sabine, Vernon, or Beauregard--to make and carry on practical and scientific investigation and experiments including those concerning livestock, pastures, and crops grown in the cut over pine area of West Louisiana.

(8) Parish of Plaquemines--to conduct agricultural research and development with particular and continuous emphasis on citrus and other sub-tropical plants.

(9) Parish of Claiborne--to conduct experiments to determine and develop the most economically suitable agriculture, livestock, and tree crop practices for the North Louisiana hill farm section.

(10) Northwest Louisiana Experiment Station--to make and carry on practical and scientific investigations and demonstrations pertaining to agriculture and livestock, and to aid and assist in the development of the agricultural and livestock industries.

§1062. Authorization for other branch experiment stations

The Board of Supervisors of Louisiana State University and Agricultural and Mechanical College may establish branch experiment stations at such places and for such purposes as it deems necessary to best serve the agricultural and livestock interests of Louisiana.

§1063. Management and control

The management and control of the experiment stations of Louisiana is vested in the board of supervisors of the Louisiana State University and Agricultural and Mechanical College, and shall be exercised by the director of experiment stations of Louisiana subject to the direction and supervision of the board.

PART III. STATE DEMONSTRATION FARMS

§1101. Board of control of state penitentiary to maintain demonstration farms

The board of control of the state penitentiary shall maintain on Hope Plantation, Oakley Plantation and Monticello Plantation a general system of demonstration of agricultural and stock raising operations,

to which at least five hundred acres of land on each of the properties should be dedicated from the area of each of the properties; it may in its discretion and to meet the requirements of the purposes herein set forth increase the area. No portion of the land so dedicated shall be sold by the Governor of the state by virtue of the authority of any legislative act prior to July 22, 1914, permitting the sale.

§1102. Names of demonstration farms

The properties dedicated in R.S. 3:1101 shall be known and designated as the "State Demonstration Farm at Hope", "State Demonstration Farm at Monticello", and "State Demonstration Farm at Oakley."

§1103. Nature of operations on farms

The Department of Institutions shall purchase and maintain on demonstration farms such livestock and shall engage in such general farming and agricultural operations as in its judgment will best demonstrate the proper operation of agricultural and stock farms in the respective sections in which they are located. To this end it shall as rapidly as possible equip and maintain on the properties modernly equipped farm and stock implements, fixtures, and buildings, and in general do such things as will be required to make effective the provisions of this Part.

§1104. Employment of help

The board of control of the state penitentiary shall employ such scientific and expert help as is advisable or necessary.

§1105. Record of activities; issuance of bulletins

The board of control of the state penitentiary shall keep an accurate and detailed record of all work, experiments, demonstrations, and enterprises undertaken or conducted by it, which record shall at all times be accessible to the general public. It shall at stated intervals issue bulletins advising the public of its operations and the results thereof, and shall publish the bulletins through the press or otherwise.

§1106. Authority to sell animal or agricultural products of farms

The board of control may market, sell, trade, or dispose of any of the animal or agricultural products of demonstration farms, whether it be for the maintenance thereof or with the aim toward proper and commensurate compensation to aid in the promotion of the agricultural and stock raising industries of the state.

§1107. Transfer of lands from farms to United States for demonstration purposes

In the event the government of the United States should undertake at any time to establish, in either of the parishes in which the state farms are situated, any agricultural, cattle, stock, or other demonstration farm or station, for the purpose of promoting in any manner the animal industries or agricultural interests of this state or of any section or portion thereof, and for the purpose of so doing should require the requisite lands to be given or the use thereof dedicated to it, the board of control of the state penitentiary under the authority of the governor may in the name of the state dedicate and transfer to the government of the United States, from the farms named, an acreage of not more than that which is dedicated on the farms to the purposes set forth in this Part, or which may be dedicated. The use and enjoyment of the dedicated acreage shall remain with and in the government of the United States as long as the land shall be used for the purposes of agricultural, cattle, stock, or other demonstration farm. In the event of transfer the board of control of the state penitentiary shall exercise no further rights upon the property transferred and shall not be required to conduct and operate the particular farm or farms dedicated to the uses of the United States government.

PART IV. PARISH EXPERIMENTAL FARMS

§1141. Parishes empowered to acquire land

The governing authorities of the several parishes of this state may acquire the ownership of a tract of land, and when so acquired the title to the land shall rest in the public. In those parishes having large areas of different classes of soil, they may, under this Part, acquire tracts representative of the several classes of soil that predominate in the particular parish.

§1142. Working farms; use of prisoners

The tracts of land acquired under this Part are to be constituted parish experimental farms, and the parish is to improve the property so that it may be worked by the parish in accordance with plans to be suggested by the state and United States agricultural departments. The governing authorities of the parishes may utilize parish prisoners in the working of the experimental farms.

§1143. Farms to promote scientific knowledge of agriculture

The parish experimental farms provided for by this Part are established for the purpose of demonstrating the possibilities of the soil in the respective parishes, and in every way to disseminate a scientific knowledge of agriculture. In consequence, the work and results obtained on the parish experimental farms shall be open to the inspection and study of the public at stated times.

§1144. Exhibits at state fair

With a view of stimulating a friendly rivalry as to the most successful results obtained upon parish experimental farms, a selection of the best results of each year's work upon the farms may be assembled and exhibited annually at the state fair in the building owned and set apart by the state as an agricultural hall at the state fair of Louisiana.

§1145. Provision in budget for establishing farms

Parishes may make provision in their budgets for the carrying out of this Part at the earliest practical time that the finances of each parish will permit.

CHAPTER 9. SOIL CONSERVATION

PART I. SOIL AND WATER CONSERVATION DISTRICTS

§1201. Legislative determinations and declaration of policy

It is hereby declared, as a matter of legislative determination:

A. The condition. That the farm and grazing lands of the State of Louisiana are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this state; that the breaking of natural grass, plant, and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive sub-soil; that failure by any land occupant to conserve the soil and to control erosion upon

his lands causes a washing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

B. The consequences. That the consequences of such soil erosion are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or ruin of rich bottom lands by overwash of poor subsoil material, sand and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failure; an increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods; and losses in navigation, hydro-electric power, municipal water supply, irrigation developments, farming, and grazing.

C. The appropriate corrective methods. That to conserve soil resources and control and prevent soil erosion, and prevent floodwater and sediment damages, and further the conservation, development, utilization, and disposal of water, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices, and works of improvement for flood prevention or the conservation, development, utilization, and disposal of water be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches and the like; the utilization of strip cropping, lister furrowing, contour cultivating and contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping, abandoned or eroded lands to water conserving and erosion preventing plants, trees and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of run-off by increasing absorption of rainfall, irrigation where and when necessary; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

D. Declaration of policy. It is hereby further declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, and for the prevention of floodwater and sediment damages, and for furthering the conservation, development, utilization, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, to preserve wildlife, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

Amended by Acts 1956, No. 10, §1.

§1202. Terms defined

As used in this Part of Chapter 9, the terms defined in this Section have the meanings here given to them, except where the context expressly indicates otherwise:

(1) "District" or "soil conservation district" means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this Part, for the purposes, with the powers, and subject to the restrictions set forth in this Part.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this Part.

(3) "Committee" or "State Soil Conservation Committee" means the agency created in Section 3:1204.

(4) "Petition" means a petition filed under the provisions of subsection A of Section 3:1205 for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of Section 3:1206 to nominate candidates for the office of supervisor of a soil conservation district.

(6) "State" means the State of Louisiana.

(7) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this State.

(8) "United States" or "agencies of the United States" include the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this State, the Government of the United States, or any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Land owner" or "owner of land" includes any person, persons, partnership, firm, or corporation who shall hold title to any lands lying within a district organized under the provisions of this Part.

(11) "Land occupant" or "occupant of land" includes any person, persons, partnership, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this Part, whether as owner, lessee, tenant, or otherwise.

(12) "Due notice" means notice published at least twice, with an interval of at least 7 days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning parish or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

§1203. *Repealed by Acts 1956, No. 10, §2.*

§1204. State soil and water conservation commission

A.(1)(a) There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this Part, a state soil and water conservation commission. The commission shall consist of eight members. The chancellor of the Louisiana State University Agricultural Center, the commissioner of agriculture and forestry of Louisiana, and the president of the Louisiana Association of Conservation Districts shall automatically be members of this commission. Each shall designate a person to represent him at meetings at which he cannot be present, and the person so designated by each shall serve, in the absence of the officer who selects him, with the same power and authority as that officer, including the right to vote. In the case of the Louisiana Association of Conservation Districts president, his alternate shall be the vice president of the association. The other five members shall be elected, one from each of the following areas of the state:

(i) State Area No. 1, comprising those soil and water conservation districts which include either all or the predominant areal portion of the parishes of Caddo, Bossier, Webster, Claiborne, Union, Lincoln, Bienville, Red River, DeSoto, and Sabine.

(ii) State Area No. 2, comprising those soil and water conservation districts which include either all or the predominant areal portion of the parishes of Ouachita, Morehouse, West Carroll, East Carroll, Richland, Madison, Franklin, Tensas, and Concordia.

(iii) State Area No. 3, comprising those soil and water conservation districts which include either all or the predominant areal portion of the parishes of Jackson, Caldwell, Catahoula, Avoyelles, LaSalle, Winn, Grant, Rapides, Allen, Beauregard, Vernon, and Natchitoches.

(iv) State Area No. 4, comprising those soil and water conservation districts which include either all or the predominant areal portion of the parishes of St. Landry, Evangeline, Acadia, Jefferson Davis, Calcasieu, Cameron, Vermilion, Lafayette, St. Martin, Iberia, St. Mary, Terrebonne, and Lafourche.

(v) State Area No. 5, comprising those soil and water conservation districts which include either all or the predominant areal portion of the parishes of Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, East Baton Rouge, West Baton Rouge, Iberville, Assumption, Ascension, St. James, St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

(b) At the same time, in the same manner, and for the same term as hereinafter provided for the election of the five members, there shall be elected one alternate for each such member, who shall be elected from the same area and shall possess the same qualifications as the member for whom he is elected as an alternate. Whenever for any reason the member elected from any area is unable to be present at any meeting of the commission, the alternate elected from his area shall serve in his place, and in such case, the alternate shall exercise all of the powers vested by law in the member, including the right to vote. For each day of such service the alternate shall be paid the same per diem and expenses as a member. A vacancy in the position of alternate shall be filled as provided by law for members.

(2)(a) The members of the state soil and water conservation commission created by law prior to August 1, 1956, shall continue to serve as a state soil and water conservation commission until the new members of the state soil and water conservation commission are elected and qualify as hereinafter provided.

(b) Within forty-five days after August 1, 1956, the chairman of the old state soil and water conservation commission shall notify the soil and water conservation district supervisors within the state of the time and the place that an election is to be held as hereinafter provided.

(c) A meeting of each board of soil and water conservation district supervisors shall be held within thirty days after receiving notice of the state convention. The majority of the members of the board of district supervisors shall constitute a quorum and at such meeting, the board of district supervisors shall elect one of its members as a delegate to attend a state convention, at the time and place specified in the notice given by the chairman of the old state soil and water conservation commission. Each such elected delegate shall have one vote at the state convention. Each state area at the state convention shall elect one of its members as a member of the state soil and water conservation commission to represent that area. Each member elected as a member of the state soil and water conservation commission shall be a landowner or operator actively engaged in farming or animal husbandry within the district and area he represents and shall be a qualified voter in that district. He shall be elected as a member of the state soil and water conservation commission by a majority of the votes cast at the state convention. The chairman of the convention shall within ten days certify to the old state soil and water conservation commission and to the secretary of state the name and address of the person so elected as a member of the new state soil and water conservation commission. Each member of the commission shall take the state constitutional oath of office and qualify within thirty days after this election. Within thirty days after the election and qualification of the five members, the commissioner of agriculture and forestry of the state of Louisiana shall call a meeting of the entire commission, at which time one of the said members provided for herein shall be elected chairman of the state soil and water conservation commission,

another member shall be elected vice chairman, and a third member secretary-treasurer. The terms of the five members of the state soil and water conservation commission elected under this Section shall be as follows:

The members from State Area Nos. 1 and 2 shall serve for one year;

The members from State Area Nos. 3 and 4 shall serve for two years;

The members from State Area No. 5 shall serve for three years.

Thereafter, each member shall serve for a period of three years after his election and shall be removed only for cause. In the event of a vacancy, the vacancy shall be filled by the state commission until the next convention, and then by election in the same manner, as outlined, for the unexpired term. An elected member of the commission shall not qualify for reelection unless he shall have attended at least sixty-six and two-thirds percent of the scheduled commission meetings during his tenure; however, upon a showing of good cause this condition may be waived by resolution duly adopted by the state soil and water conservation commission.

(3) The commission shall keep a record of its official actions and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this Part.

B. The State Soil and Water Conservation Commission shall employ a director and an assistant director who shall be appointed by the commission subject to the approval of the commissioner of agriculture and forestry. The director and the assistant director shall be in the unclassified service. The commissioner may employ such other personnel of the commission as he deems appropriate. All employees of the commission shall be under the direction and supervision of the commissioner. The commission may call upon the attorney general of the state for such legal services as it may require or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall be furnished the necessary supplies and equipment for the commission's work. It shall have the authority to locate its office at a place to be selected by the commission. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning, shall insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission members of the staff or personnel of such agency or institution of learning, and make such special report, surveys, or studies as the commission may request.

C.(1) The commission annually shall elect a chairman, vice chairman, and secretary-treasurer, each of whom shall serve for a period of one year from the date of his appointment or until his successor is elected and qualified. A member of the commission may serve concurrently as a soil and water conservation district supervisor, but he shall not be required to continue in office as a soil and water conservation district supervisor in order to be entitled to serve his full term as a member of the commission. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination.

(2) The chairman and members of the commission shall receive a per diem of thirty-five dollars for each day or fraction thereof actually engaged in official work of the commission, provided such per diem allowance as to each member shall not exceed twenty days in any year. The chairman and members of the commission shall also be entitled to receive reimbursement for actual traveling expenses necessarily incurred in the performance of their duties of the commission, and only such members not otherwise compensated or paid from public funds shall be entitled to the per diem allowance.

(3) The commission shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and all resolutions, regulations, and orders issued or adopted; shall provide for an

annual examination of the accounts of receipts and disbursements and an annual examination of all districts; and shall provide for a complete audit at least once every four years of the accounts of receipts and disbursements and all districts, all of which shall be performed by the audit and evaluation section of the Department of Agriculture and Forestry and filed with the legislative auditor.

D. In addition to the duties and powers hereinafter conferred upon the State Soil and Water Conservation Commission, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil and water conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs; to assist and guide districts in the preparation and carrying out of programs for resource conservation authorized under this Chapter; to review district programs; to coordinate the programs of the several districts and resolve any conflicts in such programs; to facilitate, promote, assist, harmonize, coordinate, and guide the resource conservation programs and activities of districts as they relate to other special-purpose districts, parishes, and other public agencies.

(2) To keep the supervisors of each of the several districts organized under the provision of this Chapter informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with any state, federal, interstate, or other public or private agency, organization, or individual, and advise the districts concerning such agreements or forms of agreements.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts and to accept donations, grants, gifts, and contributions in money, services, or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of this Part.

(5) To recommend the inclusion in annual and longer term budgets and appropriation legislation of the state of Louisiana of funds necessary for appropriation by the legislature to finance the activities of the commission and soil and water conservation districts; to administer the provisions of any act hereafter enacted by the legislature appropriating funds for expenditure in connection with the activities of soil and water conservation districts; to distribute to soil and water conservation district funds, equipment, supplies, and services received by the commission for that purpose from any source, subject to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property, or services; to issue regulations establishing guidelines and suitable controls to govern the use by soil and water conservation districts of such funds, property, and services; and to review all budgets, administrative procedures, and operations of such districts and advise the districts concerning their conformance with applicable laws and regulations.

(6) To enlist the cooperation and collaboration of state, federal, regional, interstate, and local public and private agencies with the soil and water conservation districts; and to facilitate arrangements under which the soil and water conservation districts may serve parish governing bodies and other agencies.

(7) To disseminate information throughout the state concerning the activities and programs of the soil and water conservation districts in areas where their organization is desirable; to make available information concerning the needs and the work of the soil and water conservation districts and the commission to the governor, the legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies, and the general public.

(8) Pursuant to procedures developed mutually by the commission and other state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of soil, water, and other related resources, to receive from such agencies for review and comment suitable descriptions of their plans, programs, and activities for purposes of coordination with district conservation programs;

to arrange for and participate in conferences necessary to avoid conflict among such plans and programs, to call attention to omissions, and to avoid duplication of effort.

(9) To compile information and make studies, summaries, and analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis.

(10) To require annual reports from soil and water conservation districts, the form and content of which shall be developed by the commission in consultation with the district supervisors.

(11) To establish by regulations, with the assistance and advice of the legislative auditor or other appropriate state fiscal officer, adequate and reasonably uniform accounting and auditing procedures which shall be used by soil and water conservation districts.

(12) The state soil and water conservation commission and the soil and water conservation districts that may be created under this Part shall be the official state agencies for cooperating with the Soil Conservation Service of the United States Department of Agriculture.

E. Nothing contained in this Part shall have the effect of taking away or abridging any of the functions presently being exercised under existing law by the Department of Public Works, state of Louisiana, or of transferring any of such functions to any other agency.

Amended by Acts 1956, No. 10, §3; Acts 1970, No. 469, §1; Acts 1974, No. 101, §1; Acts 1975, No. 42, §1; Acts 1978, No. 740, §1; Acts 1980, No. 385, §1; Acts 1984, No. 325, §1; Acts 1986, No. 258, §1; Acts 1986, No. 703, §1; Acts 1988, No. 91, §2; Acts 1989, No. 105, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2008, No. 920, §1, eff. July 14, 2008.

§1205. Creation; division or combination

A. Any twenty-five owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil and water conservation commission asking that a soil and water conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of the district;

(2) That there is need, in the interest of public health, safety, and welfare, for a soil and water conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivision, but shall be deemed sufficient if generally accurate;

(4)(a) A request that the state soil and water conservation commission duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil and water conservation district in such territory; and that the commission determine that such a district be created.

(b) Where more than one petition is filed covering parts of the same territory, the state soil and water conservation commission may consolidate all or any such petitions.

B. Within thirty days after such petition has been filed with the state soil and water conservation commission, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this Part, and upon all questions relevant to such inquiries. All landowners within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice

of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the commission shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil and water conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determinations and in defining such boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practice, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil and water conservation districts already organized or proposed for organization under the provisions of this Part, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in R.S. 3:1201. The territory to be included within such boundaries need not be contiguous. If the commission shall determine after such hearing and after due consideration of the said relevant facts, that there is no need for a soil and water conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the commission has made and recorded a determination that there is need, in the interest of public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries, with the powers conferred upon soil and water conservation districts in this Part, is administratively practicable and feasible. To assist the commission in the determination of such administrative practicability and feasibility, it shall be the duty of the commission, within reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which there shall appear the words: "For creation of a soil and water conservation district of the lands below described and lying in the parish (or parishes) of _____, and _____ and _____" and "Against the creation of a soil and water conservation district of the lands below described and lying in the parish(es) of _____ and _____", with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the commission. All owners of land within such boundaries shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote.

D. The commission shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. The commission shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively

practicable and feasible. If the commission shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the commission shall give due regard and weight to the attitudes of the eligible voters within the defined boundaries, the number eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of land occupants of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in R.S. 3:1201, provided, however, that the commission shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of the creation of the district shall have been cast in favor of the creation of such district.

F. If the commission shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two supervisors to act, with the three supervisors elected as provided in R.S. 3:1207, as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

(1) The two appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals):

(a) that a petition for the creation of the district was filed with the state soil and water conservation commission pursuant to the provisions of this Part, and that the proceedings specified in this Part were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this Part; and that the commission has appointed them as supervisors;

(b) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office;

(c) the term of office of each of the supervisors;

(d) the name which is proposed for the district; and

(e) the location of the principal office of the supervisors of the district.

(2) The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state soil and water conservation commission, which shall certify and such statement need contain no detail other than the mere recitals, that a petition was filed, notice issued, and hearings held as aforesaid; that the commission did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil and water conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the commission did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the commission.

(3) The secretary of state shall examine the application and statement, and if he finds that the name proposed for the district is not identical with that of any other soil and water conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil and water conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil and water conservation commission, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate, under the seal of the state, of the due organization of said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state soil and water conservation commission as aforesaid, but in no event shall they include any area included within the boundaries of another soil and water conservation district organized under the provisions of this Part.

G. After six months shall have expired from the date of entry of a determination by the state soil and water conservation commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this Part.

H. Petitions for including additional territory within an existing district may be filed with the state soil and water conservation commission, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form of such petitions, which shall be as nearly as may be in the form prescribed in this Part for petitions to organize a district. Where the total number of eligible voters in the area proposed for inclusion shall be less than twenty-five, the petition may be filed when signed by a majority of the eligible voters of such area. In referenda upon petitions for such inclusion, all owners of land within such area shall be eligible to vote. Only such landowners shall be eligible to vote.

I. Any district or districts organized under the provisions of this Part may be divided, or combined with any other district or districts, or divided and combined with any other district or districts in the following manner:

(1) Twenty-five or more landowners of each district affected by the proposed division or combination shall sign and file with the commission a petition requesting that the district or districts, as the case may be, and the operations thereof, be divided or combined, or divided and combined, in the manner requested. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form described in this Part for petitions to organize a district. The commission may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. The commission may define in more detail the boundaries outlined in the petitions for the districts proposed to result from the division or combination.

(2) Within sixty days after such petition has been filed with the commission, it shall give due notice of the holding of a referendum, and shall supervise and conduct such referendum, and issue appropriate regulations governing the conduct thereof. Each owner of land lying within the district or districts to be affected shall be entitled to vote; and only such landowners shall be entitled to vote. The commission shall make provisions on the referendum for each landowner to vote (a) on whether or not he approves of the proposed division, if any, of the district in which his land is located, and (b) on whether or not he approves of the proposed new district in which his land will be located under the proposed combination, if any. No informalities in the conduct of such referendum or in any matters relating thereto shall

invalidate said referendum or the result thereof if notice shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(3) The commission shall publish the results of such referendum and shall thereafter consider and determine whether the division or combination requested in the petition is administratively practicable and feasible. If the commission shall determine that the division or combination of such district or districts is not administratively practicable and feasible, it shall record such determinations and deny the petition. If the commission shall determine that the division or combination is administratively feasible and practicable, it shall record such determinations and proceed with the division or combination of the district or districts in the manner hereafter provided. In making such determinations the commission shall give due regard and weight to the attitudes of the owners of lands lying within the defined boundaries of the districts to be affected, the number of landowners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the division or combination of the district or districts to the total number of votes cast, the approximate wealth and income of the landowners of the proposed new district, or districts, the probable expense of carrying on erosion control operations within such district or districts, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in R.S. 3:1201, provided, however, that no district or districts may be divided or combined if a majority of landowners voting vote against either the particular division or combination which is submitted to their vote as hereinabove provided.

(4)(a) If the commission shall determine that the proposed division or combination is practicable and feasible in its entirety, it shall appoint for each district to result from the proposed division or combination two supervisors to act with three supervisors to be elected in accordance with, and subject to, the terms and conditions set forth in R.S. 3:1206 (except that the nominating petitions shall be filed within thirty days of the determination of the commission and notice thereof to the eligible voters), as the governing body of each such district. Any existing supervisor shall be eligible to be appointed or elected as a new supervisor. The commission shall then certify to the new supervisors, and to the supervisors of such existing district which is to be divided or combined (hereinafter sometimes called old supervisors), the determination of the commission as to the administrative practicability and feasibility of the division or combination, the boundaries of the proposed districts, the names, addresses, and positions of the supervisors appointed or elected for each new district, and such other data as it deems appropriate. Thereupon, the old supervisors of each district to be divided, if any, shall decide the proportion and manner of division of its property, assets, and rights, exclusive, however, of any executory contracts, among the new districts into which the old district is to be divided, taking into consideration the nature and source of such property, assets, and rights, the comparative sizes of the new divisions, the number of landowners of each such division, and general considerations of fairness in making the allocation. The supervisors shall notify the commission and the new supervisors who are to receive any of said property, rights, and assets, of their decision; and the said property, assets, and rights shall then be divided and transferred accordingly. If no division of a district is to be made, the supervisors shall simply transfer the said assets, property, and rights of such district to the new supervisors of the combined district of which it will comprise a part.

(b) If the supervisors of a district to be divided are unable to agree on the division of the said property, assets, and rights to be made, within sixty days after the certification of determination from the commission, they shall notify the commission, and the commission shall, after a hearing of the said supervisors and any other persons within the district who may be, in the commission's judgment, reasonably entitled to be heard, decide and determine finally the proportions and manner of the division, and shall certify its decision to said supervisors, who shall proceed forthwith to divide the said property, assets, and rights accordingly.

(5) Upon receiving the said property, assets, and rights to which they shall be entitled under the division or combination decided upon in the above manner, the supervisors of each resulting district shall

file an application, duly verified, with the secretary of state, for the completion of the division or combination, which application shall set forth (and such application need contain no detail other than the mere recitals) that a petition for the division or combination of the district was filed with the commission pursuant to the provisions of this Part, and that the proceedings specified in this Part were taken pursuant to such petition; that the application is being filed in order to complete the division or combination of the old district or districts as governmental subdivisions and public bodies, corporate and politic, under this Part; and that they have been appointed and elected, respectively, as supervisors; and the application shall also set forth with respect to the resulting district or districts the matters required in this Section. Said application shall be executed and sworn to as provided in this Section; and shall be accompanied by a statement by the commission, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice given, and a referendum held on the question of dividing or combining the named districts; that the commission did duly determine that such division or combination was administratively practicable and feasible; and that the division or combination of the property, assets, and rights was decided upon and carried out in accordance with the provisions of this Part. The said statement shall set forth the boundaries of the district as they have been described in the petition, or further defined by the commission.

(6) The secretary of state shall examine the applications, and shall receive and file them, and record them in the book for the recording of applications for the organization of districts; whereupon the old districts shall cease to exist as such and the resulting districts shall constitute governmental subdivisions of this state and public bodies corporate and politic; and the said secretary shall issue to the said supervisors of each resulting district, a certificate, under the seal of the state, of the due constitution by division or combination (as the case may be) of such district, and shall record said certificate with the application and statement.

(7) Upon the issuance of the certificate of due constitution of each such district under the provisions of this Part, all ordinances and regulations theretofore adopted and in force within the former districts shall be of no further force and effect. All contracts, agreements, and easements entered into, to which an old district or the old supervisors thereof are parties, shall remain in force and effect for the period provided in such contracts. The commission shall be substituted for the district or supervisors as a party to such contracts. The commission shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the former district would have had. The commission may designate and direct any of the new districts to act as its agent to carry out any contract or duty, or enforce any right, or perform any other work which accrues to it under this Section on account of the division or combination of an old district.

(8) The district constituted by such division or combination, and the supervisors thereof, shall have the same powers and be subject to the same restrictions as districts organized under R.S. 3:1205, and the supervisors thereof.

J.(1) When a petition signed by at least a majority of landowners in a territory is submitted to the commission requesting that the territory be transferred from the district wherein the territory is located to an adjoining district, the commission shall proceed as follows.

(2) The commission may conduct public meetings and hearings upon such petition as may be necessary to assist it in the consideration thereof. In making such determination, the commission shall give due weight and consideration to the legislative determinations set forth in R.S. 3:1201 and to the standards provided herein for the guidance of the commission in making its determinations in connection with the organization of districts. The commission may define in more detail the boundaries of the territory proposed to be transferred. If the commission determines that the proposed transfer is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission shall determine that the transfer is administratively feasible and practicable, it shall record

such determination, and provided that the proposed change is agreed to by a majority of the board of supervisors of each district affected by the transfer, the commission shall proceed with and complete the proposed transfer. In such case, no referendum shall be necessary.

K.(1) In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this Part upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be prima facie proof of the filing and contents thereof.

(2) It shall be the duty of the assessor for the parish or parishes in which real property included within the boundaries of an established or a proposed soil and water conservation district is situated to furnish, within thirty days after receipt of a written request, the state soil and water conservation commission a list of the persons paying taxes on real property located within the boundaries of an established or a proposed soil and water conservation district as shown by the assessment roll last made and filed; likewise, it shall be the duty of the registrar of voters to furnish a list of qualified voters.

(3) The registration and assessment rolls, in the absence of fraud, shall be the sole and final tests of the qualifications of voters for participation in referenda or elections held under the provisions of this Part.

L. A third method by which the boundaries of soil and water conservation districts may be changed is as follows: The board of supervisors of any one or more districts organized under the provisions of this law may submit to the state commission a petition signed by eighty percent of the members of the board of supervisors of each district affected requesting a division of a district, a combination of two or more districts, or a transfer of land from one district to another. The state commission shall make a determination as to the practicability and feasibility of the proposed change, giving due regard to the same considerations as provided in this Section for changes in district boundaries by other methods. If the commission determines that the proposed change of district boundaries is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission determines that the proposed change is administratively practicable and feasible, it shall record such determination and proceed with the reorganization of the district or districts affected in the same manner as provided in this Section for changes in district boundaries by other methods.

Amended by Acts 1958, No. 231, §1; Acts 1966, No. 195, §2; Acts 2008, No. 920, §1, eff. July 14, 2008.

§1206. Election of three supervisors for each district

A. Within thirty days after the date of issuance by the secretary of state of a certificate of organization of a soil and water conservation district, nomination petitions may be filed with the state soil and water conservation commission to nominate candidates for supervisors of the district. The commission shall have authority to extend the time within which nominating petitions may be filed. No nominating petition shall be accepted by the board, unless it shall be subscribed by twenty-five or more qualified voters within the district who are qualified to vote under the constitution and law of this state. Qualified voters may sign more than one such nominating petition to nominate more than one candidate for supervisor. The commission shall give due notice of an election to be held for the election of three supervisors for the district. The names of all nominees on behalf of whom nominating petitions have been filed within the time herein designated shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an X mark in the square before any three names to indicate the voter's preference. All qualified voters within the district who are qualified to vote under the constitution and laws of this state shall be eligible to vote in the election. Only qualified voters shall be eligible to vote. The three candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district.

The state commission shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election, and shall publish the results thereof.

B. If the total number of candidates duly presented in nominating petitions does not exceed the number of supervisor places to be filled by election, then and in that event, the state commission is authorized and empowered to dispense with the election procedure outlined above and to declare each of said candidates duly qualified as a supervisor without the requirement of an election the same as if his name had been presented to the qualified voters in an election. Candidates so qualified shall be considered for all purposes "elected supervisors" wherever such term appears in this Part.

Amended by Acts 1956, No. 10, §4; Acts 1958, No. 231, §2; Acts 2008, No. 920, §1, eff. July 14, 2008.

§1207. Appointment, qualifications, tenure of supervisors

A. The governing authority of each district shall consist of five supervisors, three elected as provided in R.S. 3:1206 and two appointed as provided in R.S. 3:1205. All such supervisors shall be landowners or farm operators and shall be qualified voters within the state. The supervisors shall annually designate a chairman, vice-chairman, and secretary-treasurer, said secretary-treasurer to give good and sufficient bond for the faithful performance of his duties, and they may from time to time change such designations.

B. The supervisors shall designate a chairman and may from time to time change such designation. The term of office of each supervisor shall be three years, except that the supervisors who are first appointed shall be designated to serve terms of one and two years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of a successor to fill an unexpired term shall be by appointment by the commission; such supervisor's successor, however, shall be selected in the same manner as the supervisor whose unexpired term he was appointed by the commission to fill. The selection of a successor for a full term shall be made in the same manner in which the retiring supervisor was selected. A majority of the supervisors shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor may receive compensation for his services not to exceed thirty-five dollars per day for not more than twenty days annually, and he may be paid expenses, including traveling expenses, necessarily incurred in the discharge of his duties. These costs may be paid from either appropriated funds or from local district funds.

C. The three elected supervisors of the district shall be elected annually, one each year. These elections of supervisors shall be held throughout the state regularly on the second Saturday in June, each year, in accordance with the general procedure and in the manner prescribed in R.S. 3:1206. Terms of office of all supervisors so elected shall begin on July 1st, following the date of their election. All supervisors presently in office and serving on the governing body of a conservation district, shall remain in office until their terms expire, but from and after August 1st, 1956, all vacancies shall be filled in the manner above prescribed, and whenever the term of any supervisor expires, it shall be filled by an election to be held on the second Saturday in June after the expiration of said term.

D. The supervisors may employ such employees and agents, permanent and temporary, as they may require and shall determine their qualifications, duties, and compensation. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the state soil and water conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as may be required in the performance of their duties under this Part.

E. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

F. The supervisors may invite the legislative body of any municipality or parish located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or parish.

G. Any supervisor may be removed by the commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason. A supervisor shall not qualify for reappointment or reelection unless he shall have attended at least sixty-six and two-thirds percent of the scheduled district meetings, provided, however, upon a showing of good cause, this condition may be waived by resolution duly adopted by the state soil and water conservation commission.

Amended by Acts 1956, No. 10, §5; Acts 1958, No. 231, §3; Acts 1966, No. 195, §3; Acts 1970, No. 469, §1; Acts 1978, No. 740, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§1208. Powers of Districts and Supervisors

A soil and water conservation district organized under the provisions of this Part shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this Part:

(1) To carry out preventive and control measures and works of improvement for flood prevention or the conservation, development, utilization and disposal of water within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in R.S. 3:1201(c), on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner as well as occupants of such lands or the necessary rights or interests in such lands;

(2) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any owner of lands within the district, in the carrying on of erosion control and prevention operations and works of improvement for flood prevention or the conservation, development, utilization, and disposal of water within the district, subject to such conditions as the supervisor may deem necessary to advance the purposes of this Part;

(3) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this Part; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this Part;

(4) To make available, on such terms as it shall prescribe, to land occupants within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land occupants to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion, and for flood prevention or the conservation, development, utilization, and disposal of water;

(5) To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this Part;

(6) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion and for flood prevention or the conservation, development, utilization, and disposal of water within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land, and to publish such plans and information and bring them to the attention of occupants of lands within the district;

(7) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, flood-prevention, drainage, irrigation, water management, erosion-control, or erosion-prevention projects, or combinations thereof, located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, flood-prevention, drainage, irrigation, water management, erosion-control, or erosion-prevention project, or combinations thereof, within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, flood prevention, drainage, irrigation, water management, erosion control, or erosion-prevention project, or combinations thereof, within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(8) To sue and be sued in the name of the district; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this Part, to carry into effect its purposes and powers;

(9) As a condition to the extending of any benefits under this Part to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land owners to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent floodwater and sediment damages thereon;

(10) No provision with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

(11) No district organized under the provisions of this Part shall have power to levy, assess, or collect any taxes or special assessments.

Amended by Acts 1956, No. 10, §6.

§1209. Adoption of land-use regulations

The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the owners of land within the district, for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the results of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the

inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which shall appear the words: "For the approval of proposed ordinance No. ___, prescribing land-use regulations for conservation of soil and prevention of erosion", and "Against the approval of proposed ordinance No. ___, prescribing land-use regulations for conservation of soil and prevention of erosion", with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the results thereof. All owners of land within such district shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least a two-thirds majority of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by a two-thirds majority of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this Section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all owners of lands within such districts.

Any owner of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this Section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this Section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this Section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six months.

The regulations to be adopted by the supervisors under the provisions of this Section may include:

(a) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

(b) Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation;

(c) Specifications of cropping programs and tillage practices to be observed;

(d) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

(e) Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in R.S. 3:1201.

The regulations shall be uniform throughout the territory comprised within the district, except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping or tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of

this Section shall be printed and made available to all owners and occupants of lands lying within the district.

§1210. Entry of land for inspection

The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of R.S. 3:1209 are being observed.

§1211. Performance of work under the regulations by the supervisors

Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of R.S. 3:1209 are not being observed on particular lands, and that such non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may seek, according to law, from the district court having jurisdiction, a mandatory injunction ordering the land occupant and the land owner to comply with the land-use regulations, and, in the alternative, authorizing the supervisors to go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirement of such regulations and to recover the costs and expenses thereof, with interest, from the occupant and owner of such land. In all cases where the person in possession of lands, who shall fail to perform such work, operations, or avoidances shall not be the owner, the owner of such lands shall be joined as a party defendant.

When such judgment shall be paid or collected, the proceeds shall be paid over to the district within the boundaries of which the land shall lie.

§1212. Board of adjustment

Where the supervisors of any district organized under the provisions of this Part shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of R.S. 3:1209, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three members, each to be appointed for a term of 3 years, except that the members first appointed shall be appointed for terms of 1, 2, and 3 years, respectively. The members of each such board of adjustment shall be appointed by the state soil conservation committee, with the advice of the supervisors of the district for which such board has been established, and shall be removable, upon notice of hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the state soil conservation committee and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the state soil conservation committee and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board of adjustment shall receive compensation for their services at the rate of three dollars per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

The board of adjustment shall adopt rules to govern its procedure, which rules shall be in accordance with the provisions of this Part and with the provisions of any ordinance adopted pursuant to this Section. The board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two members of the board shall constitute a quorum. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.

Any owner of land within the district may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands owned by the petitioner. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the state soil conservation committee shall have the right to appear and be heard at such hearing. Any owner of land within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing, the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

Any petitioner aggrieved by an order of the board granting or denying, in whole or in part, the relief sought, the supervisors of the district, or any intervening party, may appeal to the appropriate district court of competent jurisdiction wherein the case shall be tried de novo. Power is hereby vested in the courts to grant such temporary relief as shall be just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board.

§1213. Co-operation between districts

The supervisors of any two or more districts organized under the provisions of this Part may co-operate with one another in the exercise of any or all powers conferred in this Part.

§1214. State agencies to co-operate

Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any parish, or other governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any parish-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall co-operate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this Part. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands.

The provisions of land-use regulations adopted pursuant to R.S. 3:1209 shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

§1215. Discontinuance of district

At any time after five years after the organization of a district under the provisions of this Part, any twenty-five owners of land within the district may file a petition with the state soil conservation committee praying that the operation of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall

supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which shall appear the words: "For terminating the existence of the _____ (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the _____ (name of the soil conservation district to be here inserted)", printed with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All owners of land within the district shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the owners of land within the district, the number eligible to vote in such referendum who shall have voted, the proportion of votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupants of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in Section 3:1201; provided, however, that the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the state soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this Section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sales into the State Treasury. The supervisors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of such district and shall transmit with such application the certificate of the state soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as provided in this Section and shall set forth a full accounting of such properties and proceeds of the sale. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book and record in his office.

Upon issuance of a certificate of dissolution under the provisions of this Section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state soil conservation committee shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of R.S. 3:1211, nor the pendency of any action instituted under the provisions of such Section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The state soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this Part, more often than once in five years.

§1216. Certification of district

The state soil conservation committee shall on or before January 1 of such calendar year certify to the State Treasurer or other appropriate official, the number of districts in operation in the state.

§1217. Short title

This Part may be referred to as the "Soil Conservation Districts Law."

§1218. Extension of boundaries to include urban or suburban areas

All cities, towns, villages or other urban or suburban areas lying within the exterior boundaries of a soil and water conservation district established pursuant to the provisions of the Soil and Water Conservation Districts Law, as amended, or lying close to any such district, shall from July 27, 1966 be included in and deemed part of the district in the exterior boundaries of which it lies or the district to which it lies closest. In doubtful cases, the state committee shall determine the district of which any such urban or suburban area has become a part by virtue of this provision.

Added by Acts 1966, No. 195, §1.

§1219. Saving provision

Nothing contained in R.S. 3:1204 and R.S. 3:1207 shall be interpreted to reduce or limit any authorization granted in any act of the legislature of this state to any agency of the government of this state or to any parish, municipality, special-purpose district or other local governmental subdivision of this state, or to any research or educational institution supported wholly or in part with public funds and operating in this state.

Added by Acts 1970, No. 469, §1.

§1221. Carbon sequestration; emissions reduction of carbon dioxide and other greenhouse gases

A. The commissioner is authorized to take all action necessary to ensure Louisiana's participation, to the fullest extent practicable, regarding carbon sequestration or the reduction of emissions of carbon dioxide and other greenhouse gases from agriculture and forestry.

B. The office of soil and water conservation of the Department of Agriculture and Forestry shall function as the state's agency for such participation.

C. The provisions of this Section do not affect the authority of the Louisiana Department of Natural Resources or benefits, credits, or offsets derived from projects approved and undertaken by the Coastal Protection and Restoration Authority in the coastal area.

Acts 2010, No. 527, §1.

PART II. PLANS CONFORMING TO FEDERAL POLICY

§1251. Adoption of federal soil conservation policy

It is hereby recognized and declared, as a matter of legislative determination that the public welfare of this state requires the cooperation of this state with other states and with the federal government in the accomplishment of the policy declared by the Congress of the United States in the Soil Conservation and Domestic Allotment Act, and particularly in Section 7(a) thereof, to-wit:

- (1) preservation and improvement of soil fertility:
- (2) promotion of the economic use and conservation of land:
- (3) diminution of exploitation and wasteful and unscientific use of national soil resources:
- (4) the protection of rivers and harbors against the result of soil erosion in aid of maintaining the navigability of waters and water courses and in aid of flood control: and

(5) re-establishment, at as rapid a rate as the Secretary of Agriculture determines to be practicable and in the general public interest, of the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms that prevailed during the five-year period August 1909--July 1914, inclusive, as determined from statistics available in the United States Department of Agriculture and the maintenance of such ratio. The powers conferred under Sections 7 to 14, inclusive, of this Act shall be used to assist voluntary action calculated to effectuate the purposes specified in this section. Such powers shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trend in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purpose of this section due regard shall be given to the maintenance of a continuous and stable supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers.

The Legislature of the State of Louisiana therefore accepts the provisions and requirements of the said Act, and adopts the policy thereof as the policy of the State of Louisiana and the purposes thereof as the purposes of this Part.

§1252. State university to administer soil conservation plans

The Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College (hereinafter referred to as the University) is hereby designated as the agency of the State of Louisiana to administer any plans designed to carry out the purposes of this Part, including any plan to be carried out in the State of Louisiana submitted to and approved by the Secretary of Agriculture of the United States as provided in said Federal Act.

§1253. Formulation of soil conservation plans

The University is hereby authorized, empowered and directed to formulate for each calendar year a plan designed to carry out in the State of Louisiana the purposes of this Part, and to submit such plan to the Secretary of Agriculture in conformity with the provisions of said Federal Act.

§1254. Financing soil conservation plan

The University is authorized and empowered to accept and receive all grants of money made pursuant to said Federal Act for the purpose of enabling the State of Louisiana to carry out the provisions of any such plan, and all such funds subject to any conditions upon which such funds shall have been granted, together with any monies which may be appropriated by the State for such purposes, shall be available to the University for expenditures necessary in carrying out the plan, including administrative expenses, and expenditures in connection with educational programs in aid of the plan and benefit payments.

§1255. Co-operation with other agencies; administration of plan

In carrying out the provisions of each such plan, the University shall have power to employ such agencies, and to designate such agencies, as it may deem necessary; to co-operate with local and State agencies, and with agencies of other states and of the Federal Government; to provide for the conduct of research and to conduct educational activities in connection with the formulation and operation of such plan; to provide by voluntary methods, for adjustments in the utilization of land and in farming practices, and for payment in connection therewith.

CHAPTER 10. FERTILIZERS

PART I. REGULATIONS FOR SALE OF FERTILIZERS

§§1311 to 1319. *Repealed by Acts 2010, No. 579, §3.*

PART III. LOUISIANA AGRICULTURAL LIMING MATERIALS LAW

§§1361 to 1373. *Repealed by Acts 2010, No. 579, §3.*

CHAPTER 10-A. FEED, FERTILIZERS, AGRICULTURAL LIMING AND SEEDS

PART I. AGRICULTURAL CHEMISTRY AND SEED COMMISSION

§1381. Definitions

In this Chapter, the following definitions shall apply:

- (1) "Commission" means the Agricultural Chemistry and Seed Commission.
- (2) "Commissioner" means the commissioner of agriculture and forestry and his duly authorized representatives.
- (3) "Department" means the Department of Agriculture and Forestry.
- (4) "State chemist" means the director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center, or his designee.

Acts 2010, No. 579, §1; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1382. Commission; creation

A. There is hereby created, within the Department of Agriculture and Forestry, the Louisiana Agricultural Chemistry and Seed Commission. The commission shall consist of seven members as follows:

- (1) The commissioner of agriculture and forestry or his designee.
- (2) One member and an alternate, representing the Louisiana Agricultural Experiment Station, appointed by the commissioner and who shall serve at the pleasure of the commissioner.
- (3) One member and an alternate, representing the Louisiana Cooperative Extension Service, appointed by the commissioner and who shall serve at the pleasure of the commissioner.

(4) The president of Louisiana Farm Bureau Federation, Inc. or his designee, subject to the approval of the commissioner.

(5) One member representing the seed industry appointed by the commissioner from a list of three nominees submitted by the Louisiana Ag Industries Association who shall serve at the pleasure of the commissioner.

(6) One member representing the fertilizer industry appointed by the commissioner from a list of three nominees submitted by the Louisiana Ag Industries Association who shall serve at the pleasure of the commissioner.

(7) One member representing the feed industry appointed by the commissioner from a list of three nominees submitted by the Louisiana Ag Industries Association and a list of three nominees submitted by the Louisiana Cattlemen's Association who shall serve at the pleasure of the commissioner.

B. The commissioner shall be ex officio chairman of the commission and shall be its chief executive officer responsible for enforcement of this Chapter. He is empowered to employ personnel, to purchase supplies, and to make such other expenditures as may be necessary for enforcing this Chapter. The commission may appoint a director and assistant director of the feed program, a director and an assistant director of the fertilizer program, and a director and assistant director of the seed program who shall be appointed by the commission, subject to the approval of the commissioner. The directors and assistant directors shall be in the unclassified service. All employees of the commission shall be under the supervision and direction of the commissioner.

C. Members of the commission shall not receive any salary for their duties as members. The appointed members may receive a per diem for each day spent in actual attendance of meetings of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars per day. The appointed members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

D. The commission is empowered to make such rules and regulations as are necessary to carry out the intent and purpose of this Chapter.

E. The state chemist shall be responsible for making any chemical analysis or other tests necessary for carrying out the provisions of this Chapter. He shall determine annually the values per pound of nitrogen, available phosphoric acid, potash, and any other substance claimed to have value as a fertilizer. The values so determined shall be used in determining and assessing penalties.

Acts 2010, No. 579, §1; Acts 2013, No. 26, §1, eff. May 23, 2013.

PART II. COMMERCIAL FEEDS

§1391. Definitions

For the purposes of this Part the following definitions shall apply:

(1) "Brand name" or "brand" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a registrant and distinguishing it from that of others.

(2) "Byproducts" means secondary products produced in addition to the principal product except ingredients which are a primary source of protein.

(3) "Commercial feed" means all materials including vitamin and mineral mixes, except whole seeds unmixed or physically altered entire unmixed seeds, which are distributed for use as pet food or as feed

for livestock or for mixing in pet food or in feed for livestock and includes cottonseed meal and soybean meal.

(4) "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

(5) "Distribute" means to sell, offer for sale, or expose for sale or trading.

(6) "Distributor" means a person who distributes.

(7) "Guaranteed feeding units" means the minimum crude protein, minimum crude fat, maximum crude fiber, and minimum or maximum minerals expressed as percentages and indicated on the label as being contained in the commercial feed.

(8) "Ingredient" or "ingredients" means any of the constituent materials making up a commercial feed.

(9) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.

(10) "Labeling" means all labels and other written, printed, or graphic matter which is located upon a commercial feed or any of its containers or wrapper or accompanying such commercial feed.

(11) "Livestock" means cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

(12) "Manufacture" means to grind, mix, blend, or further process a commercial feed for distribution.

(13) "Manufacturer" means a person who manufactures a commercial feed or a customer-formula feed.

(14) "Medication" means any drug, antibiotic, or other substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and any substance other than feed ingredients intended to affect the structure or any function of the animal body.

(15) "Official sample" means a sample of feed taken by the commissioner or his agent in accordance with provisions of R.S. 3:1398.

(16) "Package" means a parcel, bag, or other container.

(17) "Percent" or "percentages" mean percentages by weights.

(18) "Person" means any individual, partnership, corporation, and association, or other legal entity.

(19) "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof.

(20) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

(21) "Premises" means any place such as, but not exclusively, warehouses, factories, stores, trucks, railroad cars, boats, etc.

(22) "Protein derived from mammalian tissues" means any protein containing a portion of mammalian animals, excluding: blood and blood products, gelatin, inspected meat products which have been cooked and offered for human food and further heat-processed for feed such as plate waste and used cellulosic food casings; milk products including milk and milk proteins; and any product in which the only mammalian protein consists entirely of porcine or equine protein.

(23) "Registrant" means the person registering a feed with the commission.

(24) "Ruminant" includes any mammal of the suborder Ruminantia, which includes but is not limited to cattle, buffalo, sheep, goats, deer, elk, and antelopes.

(25) "Ton" means a net weight of two thousand pounds avoirdupois.

(26) "Value of the protein deficiency" means the value of the crude protein as set by the state chemist times the difference between the guaranteed protein analysis and the actual protein analysis of the feed sample.

Acts 2010, No. 579, §1.

§1392. Commission; powers and authority

A. The commission may adopt all rules and regulations necessary to carry out the intent and purposes of this Part, in accordance with the Administrative Procedure Act.

B. In the interest of uniformity, the commission by regulation may adopt, unless it determines that they are inconsistent with the provisions of this Part or are not appropriate to conditions which exist in this state, the following:

(1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization.

(2) Any federal regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act.

C. The commission by rule may exempt from the provisions of this Part hay, straw, stover, silage, cobs, husks, hulls, individual chemical compounds or substances, and similar commodities when they are not mixed with substances regulated under this Part.

Acts 2010, No. 579, §1.

§1393. Registration and labeling

A. No person shall manufacture a commercial or customer-formula feed for distribution in this state unless he has registered with the commission by filing on forms provided by the commissioner his name, state of incorporation if incorporated, the location of his principal place of business, and the location of each manufacturing facility in this state when such facilities are so located. Registration shall be renewed annually on July first. Renewal of registration may be denied by the commissioner for cause. A distributor may apply to the commission for registration as a manufacturer and for authority to label feeds for sale in this state. All provisions applicable to a manufacturer shall then apply to the distributor.

B. Registration shall authorize the registrant to distribute in this state any commercial feed for which a label has been approved by the commissioner.

C. No person registering with the commission shall manufacture for distribution in this state or distribute a commercial feed which has not been approved as to labeling pursuant to the provisions of R.S. 3:1394 and such additional regulations of the commission as may be adopted from time to time.

D. Approved labeling shall authorize a registrant to manufacture, sell, or offer for sale in this state a particular commercial feed.

E. The commissioner may refuse approval of the label of any commercial feed not in compliance with the provisions of this Part and may revoke approval of any registration or approval of any label when a commercial feed is found not to be in compliance with any provision of this Part. No registration or label shall be revoked or canceled unless the registrant shall have been given an opportunity to be heard before the commission and to amend his application or label in order to comply with the requirements of this Part.

Acts 2010, No. 579, §1.

§1394. Labeling requirements

A. Before any feed is made available for sale, the registrant shall file with the commission the following information for each brand of feed to be made available for sale in the state:

- (1) The net weight of the content of the package.
- (2) The product name and the brand name, if any, under which the commercial feed is distributed.
- (3) The guaranteed analysis stated in such terms as the commission by regulation determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases, the substances or elements shall be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists.
- (4) A statement expressing the content of nonprotein nitrogen (NPN) and a statement of guaranty as to the maximum percentage thereof if nonprotein nitrogen is an ingredient of the feed.
- (5) A statement of guaranty in a form specified by regulation of the commission in case a feed claims dietary factors in forms not expressible by the foregoing or which are not adequately expressed thereby.
- (6) The common or usual name of each ingredient used in the manufacture of the commercial feed. The commission by regulation may permit the use of a collective term for a group of ingredients which perform a similar function.
- (7) The name and principal mailing address of the manufacturer.
- (8) Adequate directions for use of all commercial feeds containing medication and for such other feeds as the commission may require by regulation as necessary for their safe and effective use.
- (9) Such precautionary statements as the commission by regulation determines are necessary for the safe and effective use of the commercial feed.
- (10) Such other information as may be required by regulation of the commission.
- (11) A statement expressing the content of total sugars as invert on dried molasses products or products sold primarily for their sugar content and a statement of guaranty as to the percentage of sugar as invert in the product.
- (12) If the feed contains medication:
 - (a) The purpose of the medication.
 - (b) The established name and amount contained of each type of medication in the final mixture.
- (13) If the feed contains protein derived from mammalian tissues, a statement that the feed shall not be fed to ruminants.

B. In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

- (1) Name and address of the manufacturer.
- (2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used.

(5) Adequate direction for use of all customer-formula feeds containing medication and of such other feeds as the commission may require by regulation as necessary for their safe and effective use.

(6) Such precautionary statements as the commission by regulation determines are necessary for the safe and effective use of the customer-formula feed.

(7) If the feed contains medication:

(a) The purpose of the medication.

(b) The established name and amount contained of each type of medication in the final mixture.

(8) If the feed contains protein derived from mammalian tissues, the express words "Do not feed to ruminants".

(9) Such other information as may be required by regulation of the commission.

C. Whenever any commercial feed containing protein derived from mammalian tissues is offered for sale, the package shall bear the statement "Do not feed to ruminants" printed in bold, legible English on the front and the back.

Acts 2010, No. 579, §1.

§1395. Misbranding

A commercial feed shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular manner.

(2) If it is distributed under the name of another commercial feed.

(3) If it is not labeled as required in R.S. 3:1394.

(4) If it purports to be or is represented as a commercial feed but has no label filed with the commission or fails to meet any requirement for labeling provided by this Part or any regulation of the commission and purports to contain or is represented as containing a commercial feed ingredient unless such commercial feed or feed ingredient conforms to the requirements of any applicable provision of this Part or of any applicable regulation adopted by the commission.

(5) If any word, statement, or other information required by or under authority of this Part and appearing on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Acts 2010, No. 579, §1.

§1396. Adulteration

A commercial feed shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health. If the substance is not an added substance, the commercial feed shall not be considered adulterated under this Paragraph if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act other than one which is a pesticide chemical in or on a raw agricultural commodity or a food additive.

(3) If it is or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act.

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act. When a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act.

(5) If it is or it bears or contains any color additive which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act.

(6) If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor.

(7) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(8) If it contains a drug or antibiotic and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to good manufacturing practice regulations promulgated by the commission to assure that the drug meets the requirement of this Part as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the commission shall adopt the good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act unless it determines that they are not appropriate to the conditions which exist in this state.

(9) If it contains viable or poisonous weed seeds in amounts exceeding the limits which the commission shall establish by rule or regulation.

Acts 2010, No. 579, §1.

§1397. Prohibited acts

The following acts and the causing thereof are hereby prohibited:

(1) The manufacture for distribution in this state or distribution of any commercial feed that is adulterated or misbranded.

(2) The adulteration or misbranding of any commercial feed.

(3) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls which are adulterated within the meaning of R.S. 3:1396.

(4) The removal or disposal of a commercial feed in violation of an order issued under R.S. 3:1399.

(5) The failure or refusal to register as a manufacturer in accordance with R.S. 3:1393 or to meet the label requirements of R.S. 3:1394.

(6) Any violation of the provisions of R.S. 3:1401.

(7) The manufacture for distribution or distribution for consumption by ruminants of any commercial feeds containing protein derived from mammalian tissue.

(8) Any violation of any provision of this Part or of any rule or regulation of the commission adopted under the provisions of this Part.

(9) Refusing to allow the inspection of premises or records or the taking of samples by the commission, the commissioner, the department, or their representatives.

(10) Any interference with the commission, the commissioner, the department, or their representatives in the performance of their duties in connection with this Part.

(11) Failure to timely pay any fee, penalty, or costs due under the provisions of this Part or of any rule or regulation of the commission adopted under the provisions of this Part.

Acts 2010, No. 579, §1.

§1398. Inspection, sampling, and analysis

A. For the purpose of enforcement of this Part and in order to determine whether its provisions have been complied with including whether or not an operation may be subject to such provisions, officers or employees duly designated by the commissioner upon presenting appropriate credentials to the owner, operator, employee in charge, are authorized to enter, during normal business hours, any premises within the state in which commercial feeds are manufactured, processed, packed, held for distribution, or sold or to enter any vehicle being used to commercially transport or hold such feeds; and to obtain official samples and to inspect at reasonable times and within reasonable limits and in a reasonable manner such premises or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling thereof. The inspection may include the verification of such records and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations for medicated feeds by regulation of the commission. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be notified.

B. If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained an official sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

C. For the purpose of the enforcement of this Part, the commissioner, or his duly designated agent, is authorized to enter upon any premises, including any vehicle of transport, during regular business hours to have access to and to examine records relating to distribution of commercial feeds.

D. If the owner of any premises or his agent refuses to admit the commissioner or his agent to inspect or sample, the commissioner is authorized to obtain from any state court of competent jurisdiction and venue an appropriate order to submit the premises described in such order to inspection.

E. Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or in accordance with other generally recognized methods.

F. The results of all analyses of official samples shall be forwarded by the commissioner to the registrant and to the owner of record at the time of sampling. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within ten days following receipt of the analysis, the commissioner shall furnish to the registrant a portion of the official sample analyzed.

Acts 2010, No. 579, §1.

§1399. Detained commercial feeds; withdrawal from distribution; condemnation and confiscation; stop order

A. When the commissioner or his authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Part or of any of the prescribed regulations of the commission, he may issue and enforce a written or printed stop order warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the stop order when the provisions and regulations have been complied with. If compliance is not obtained within thirty days, the commissioner may begin or upon request of the distributor or registrant shall begin proceedings for condemnation.

B. Any lot of commercial feed not in compliance with the provisions of this Part and regulations of the commission shall be subject to seizure upon the petition of the commissioner to the district court of the parish in which the commercial feed is located. In the event the court finds the commercial feed to be in violation of this Part and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state including sale of the feed at public auction or destruction of the feed at the distributor's expense. In no instance shall the disposition of the commercial feed be ordered by the court without first giving the registrant or distributor an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this Part.

C. The commissioner may stop the sale, distribution, or movement of any commercial or customer-formula feed, whole or cracked unmixed grains or seeds, whole hays, straw, chaff, or hulls from grains or seeds, corn stover, or other materials which are sold for the purpose of feeding livestock and which the commissioner or his authorized agent has reasonable cause to believe contains any disease, toxin, hazardous waste, poisonous residues, or other material which poses an immediate threat to the lives or health of livestock in this state. A stop order may be issued by the commissioner without a court order, and the feed or material which is subject to the stop order may be detained for up to five working days. If an amicable agreement as to the disposition of the feed or material cannot be reached in that time, the commissioner shall begin proceedings for condemnation.

Acts 2010, No. 579, §1; Acts 2012, No. 146, §1, eff. May 14, 2012.

§1400. Deficiency assessments; enforcement

A. If a given lot or shipment of feed is found by official sample and analysis to be deficient in one or more of the guaranteed feeding units, a deficiency assessment of no less than ten dollars shall be assessed against the registrant with respect to the lot or shipment of feed in question in accordance with the following provisions:

(1) Crude protein:

(a) For feeds guaranteed to contain 0-19.99% protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of .3%.

(b) For feeds guaranteed to contain 20-34.99% protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of .4%.

(c) For feeds guaranteed to contain 35-49.99% protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of .5%.

(d) For feeds guaranteed to contain fifty percent or more protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of .6%.

(2) Crude fat: A deficiency assessment of ten percent of the retail purchase price of the feed if the deficiency is greater than ten percent of the guarantee.

(3) Crude fiber: A deficiency assessment of ten percent of the retail purchase price of the feed if the excess is greater than ten percent of the guarantee.

(4) Minerals: A deficiency assessment of ten percent of the purchase price of the feed if the deficiency or excess, where applicable, is greater than the tolerance established by the commission by rule.

B. When the commissioner has evidence which indicates that a person has committed an offense for which the deficiency assessment is found in Subsection A of this Section, the commissioner shall notify the person by certified mail, return receipt requested, of the facts involved in the alleged offense and the deficiency assessment set forth in Subsection A of this Section for the alleged offense. If the alleged violator does not pay the deficiency assessment within thirty days of the notice or the alleged violator disputes the deficiency found, the commissioner may call a hearing to adjudicate the matter as provided in Section E of this Section. All deficiency assessments assessed pursuant to this Section shall be paid to the person who purchased the feed for use when that person can be identified. If the person cannot be identified, the deficiency assessment shall be paid to the commission.

C. The commission may assess a civil penalty of not more than one thousand dollars for any violation of this Part other than those found in Subsection A of this Section. Each day on which a violation occurs shall be considered a separate offense.

D. The commission may suspend or revoke the registration of any manufacturer for any violation of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part.

E. Civil penalties may be assessed and registrations may be suspended or revoked only by a ruling by the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

F. The commissioner may institute civil proceedings to enforce the commission's rulings in the district court for the parish in which the violation occurred.

G. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part in the district court for the parish in which the violation occurred.

Acts 2010, No. 579, §1; Acts 2012, No. 16, §1.

§1401. Fees

A. Each application for registration with the commission shall be accompanied by a registration fee not to exceed forty dollars. The commission by rule shall establish a schedule of registration fees based upon the number of registrants, the volume of commercial feed sold in this state by each, and the estimated expenses incurred by the commissioner in administering the provisions of this Part.

B. Each registrant filing a label with the commission shall pay to the commission a labeling fee not to exceed twenty dollars. The commission by rule shall establish a schedule of labeling fees based upon the number of registrants, the volume of commercial feed sold in this state by each, and the estimated expenses incurred by the commissioner in administering the provisions of this Part.

C.(1) Except as provided in Subsection E of this Section, each registrant who manufactures a commercial or customer-formula feed for distribution in this state shall pay the commission an inspection

fee of one dollar per ton on all commercial feed sold in the state. Payment of the inspection fee shall be made on the basis of tonnage reports submitted to the commission by the registrants of commercial feeds; however, the minimum inspection fee due for each quarter shall be ten dollars.

(2) A registrant shall keep all records necessary to accurately indicate the tonnage and kind of commercial feed sold and shall permit the commissioner or his authorized representatives to examine these records and to verify the statement of tonnage.

(3) Tonnage reports shall be made on forms supplied by the commissioner and suitable for providing the necessary tonnage and statistical information.

(4) The tonnage reports and inspection fees shall be due and payable on the first day of October, the first day of January, the first day of April, and the first day of July. If the report is not filed and payment made within thirty days after the date due, a penalty of twenty-five percent of the amount due shall be assessed against the registrant. If payment is not made within thirty days after the due date, the amount of fees due, plus the penalty, shall constitute a debt and become the basis of a judgment against the registrant.

(5) All information as to the amount of feed sold and business practices of the registrant obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be subject to disclosure as public record.

D. The inspection fee shall be collected only once on each lot of ingredients. To achieve this end, the following provisions shall apply:

(1) No fee shall be paid on a commercial feed if the fee has been paid by a previous manufacturer.

(2) No fee shall be paid on customer-formula feeds if the inspection fee has been paid on the commercial feeds which are used as ingredients therein.

(3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of registered commercial feeds. If the fee has already been paid, credit shall be given for that payment.

E. In the case of a commercial feed which is distributed in this state only in packages of ten pounds or less, an annual fee of two hundred dollars shall be paid in lieu of the inspection fee provided in Subsection C of this Section.

Acts 2010, No. 579, §1; Acts 2012, No. 16, §1.

§1402. Exemptions

The provisions of this Part shall not apply to any commercial feeds that have been manufactured or produced by any person for the purpose of feeding his own livestock.

Acts 2010, No. 579, §1.

§1403. Nonresidents

Every nonresident manufacturer of commercial feed shall at the time of registration and before selling or offering for sale his product in this state designate with the secretary of state an agent for service of process who is a resident of this state.

Acts 2010, No. 579, §1.

§1404. Evidence

In any controversy or prosecution arising under the provisions of this Part, a certificate of the state chemist or other state employee making analyses or inspection, duly sworn to by the state chemist or employee, shall be prima facie evidence of the facts therein certified.

Acts 2010, No. 579, §1.

§1405. Cooperation with other entities

The commissioner may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this Part.

Acts 2010, No. 579, §1.

§1406. Publication

The commission may publish, in written or electronic form accessible to the public, an annual report which shall provide information concerning the sales of commercial feeds together with such data as to their production and use as it may consider advisable, a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label, and a report as to label and license revocation and the commission's findings with respect to inspections for good manufacturing practices. Penalties administered during the year by the commission shall be included in the report. The information concerning the production and sale of commercial feed shall not disclose the operations of any person.

Acts 2010, No. 579, §1.

§1407. Disposition of funds; Feed and Fertilizer Fund

A.(1) All fees, assessments, penalties, and all other funds received by the commission under the provisions of Parts II and III of this Chapter, except for the deficiency assessments paid to the purchaser-user as provided for in R.S. 3:1415 and the consumer as provided for in R.S. 3:1430.13 and subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission under the provisions of Parts II and III of this Chapter into a special fund which is hereby created in the state treasury and designated as the "Feed and Fertilizer Fund".

(3) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

B. Subject to appropriation, the monies in the Feed and Fertilizer Fund shall be used for the following purposes:

(1) To provide for the expenses of the programs established by Parts II and III of this Chapter and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner.

(2) To renovate, maintain, and equip a building on the Baton Rouge campus of the Louisiana State University and Agricultural and Mechanical College to provide administrative offices and analytical laboratories to be used in connection with the programs established by Parts II and III of this Chapter.

(3) To build, equip, and maintain a building to house the offices of the Department of Agriculture and Forestry.

(4) To fund any and all costs related to the fulfillment of the powers, responsibilities, and purposes of Parts I, II, and III of this Chapter.

C. The Department of Agriculture and Forestry or the Louisiana Agricultural Finance Authority on behalf of the Department of Agriculture and Forestry may fund the anticipated funds appropriated from the Feed and Fertilizer Fund into revenue bonds for the purpose of renovating a building on the Baton Rouge campus of the Louisiana State University and Agricultural and Mechanical College to provide administrative offices and analytical laboratories to be used in connection with the programs established by Parts II and III of this Chapter and for the purpose of acquiring, constructing, renovating, and equipping buildings and related facilities for use by the Department of Agriculture and Forestry in connection with promoting and assisting agriculture and forestry in this state. The Department of Agriculture and Forestry may pledge those funds to secure the repayment of revenue bonds or to secure a lease or purchase agreement entered into in connection with the issuance of revenue bonds for those purposes.

Acts 2010, No. 579, §1; Acts 2011, No. 31, §1; Acts 2013, No. 26, §1, eff. May 23, 2013.

PART III. FERTILIZERS

SUBPART A. REGULATIONS FOR SALE OF FERTILIZERS

§1411. Definitions

In this Subpart, the following definitions shall apply:

(1) "Adulteration" means any of the following situations:

(a) Where a commercial fertilizer contains any material not specifically declared to be a component of the fertilizer.

(b) Where materials which are likely to cause injury or damage to crop plants are present.

(c) Where materials containing nitrogen in a form which is but slightly available to plants are added to make up a part of the nitrogen guarantee.

(d) Where the actual analysis is lower than the guaranteed analysis.

(2) "Brand" means name, trademark, or other designation under which a commercial fertilizer is sold.

(3) "Commissioner" means the commissioner of agriculture and forestry and his duly authorized representatives.

(4) "Fertilizer" means all materials, not otherwise excluded from the definition, sold for the purpose of promoting the growth of plants or exerting beneficial action on the soil. Materials specifically excluded from the definition are: lime; limestone; marl; gypsum; sulphur; unground bones when unmixed with other substances; and manure or excrement from any domestic animal, provided it has not been dried or otherwise treated.

(5) "Guarantor" means a person who manufactures, sells, or offers fertilizer for sale under his name or brand.

(6) "Manufacture" means the mixing, comingling of brands, blending, extracting, compounding, or chemical reaction of a substance or substances.

(7) "Package" means parcel, bag, or other container.

(8) "Premise" means place, warehouse, store, truck, railroad car, boat, etc.

(9) "Registrant" means a person who has been registered by the commission, as required by R.S. 3:1413.

(10) "Sell", "sold", or "for sale" means the act of selling, exposing, or offering for sale, trading, using, or distributing.

(11) "Specialty fertilizer" means any commercial fertilizer distributed in packages containing sixteen fluid ounces or less for liquids or one pound or less for solids and designed primarily for use on household plants grown for noncommercial purposes.

(12) "State chemist" means the director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center, or his designee.

Acts 2010, No. 579, §1; Acts 2013, No. 26, §5, eff. May 23, 2013.

§1412. Powers and responsibilities

A. The commissioner, or his representative, shall have access to any premise where there is reason to believe that fertilizer sold, offered, or exposed for sale is present, or where there is bulk storage of dry or liquid fertilizer, and is empowered to examine any fertilizer found there as to labeling or weight and may open any package and take a sample for analysis. Samples taken are to be placed in a suitable container, properly labeled for identification, and submitted to the state chemist for analysis. No cause of action against a guarantor shall result from an analysis of a sample drawn from less than five percent of the original packages at the place of sampling where the lot sampled contains less than one thousand packages. Where the lot sampled contained one thousand or more packages, the sample shall be drawn from fifty packages in that lot. If there are less than ten packages in the lot, each package in the lot must be sampled; however, single samples may be taken from liquid fertilizers or those fertilizers sold in small packages. In case of question as to the accuracy of the analysis, and on written request from the guarantor made within ten days after receipt of the analytical report, another sample may be drawn and submitted to a chemist, agreeable to the commissioner, for analysis. The cost of such analysis is to be borne by the guarantor.

B. The commission may publish, in written or electronic form accessible to the public, at least annually a report of all analyses of official samples made by the state chemist and any information resulting from analysis or inspection of fertilizers which the commission feels to be necessary in the public interest.

C. If a violation of any of the provisions of this Subpart occurs, the commissioner may issue a stop order preventing further sale, movement, or disturbance of any lot of fertilizer involved until settlement of all actions against the guarantor are made. On settlement of an action, the commissioner may take the following measures according to the nature of his findings:

- (1) Release the fertilizer for sale.
- (2) Require the guarantor to take up the fertilizer and reimburse the purchaser.
- (3) Sell the fertilizer at public auction.
- (4) Destroy the fertilizer.

D. The commissioner, or his representative, shall have access to and the authority to inspect any records relating to the storage and distribution of fertilizer.

E. The commission, by regulation, may set design standards for the construction of fertilizer containment facilities in any area where bulk fertilizer, dry or liquid, is stored and to inspect such facilities for compliance with such standards. The purpose of the containment facilities shall be to protect the environment from pollution due to spillage, seepage, or run-off of fertilizer from bulk storage sites.

Acts 2010, No. 579, §1; Acts 2012, No. 146, §1, eff. May 14, 2012.

§1413. Restrictions on sale of fertilizer

A. Each person who manufactures, sells, or offers fertilizer for sale under his name or brand shall register with the commission. Such registration shall be renewed annually on January first. Renewal of registration may be denied by the commissioner for cause.

B. All fertilizers sold in the state must be labeled by tag or printed label if packaged and by invoice if in bulk to show:

(1) Name and address of registrant.

(2) Net weight of contents of package. Bulk deliveries must be accompanied by stamped weight tickets, unless otherwise provided by the commission.

(3) The minimum percent by weight of nitrogen (N).

(4) The minimum percent by weight of available phosphoric acid (P_2O_5).

(5) The minimum percent by weight of soluble potash (K_2O).

(6) In the case of bone, rock phosphate, basic slag, and other materials of low available phosphorus, the total content of phosphoric acid (P_2O_5) shall be guaranteed in lieu of available phosphoric acid (P_2O_5).

(7) The commission shall be authorized to permit guarantees for phosphorus and potassium on an elemental basis and to make such changes in other provisions of this Subpart as are appropriate.

(8) Other elements having value as fertilizer: the minimum percent by weight shall be guaranteed on an elemental basis provided minimum levels set by the commission are met or exceeded.

C.(1) Every person manufacturing or selling fertilizer as defined in R.S. 3:1411 shall pay to the commission an inspection fee of one dollar per ton on all fertilizers sold in the state, provided that in lieu of the inspection fee, those selling small package goods in total amount of less than one hundred tons per year shall pay a one hundred dollar fee.

(2)(a) Payment of the inspection fee shall be on the basis of tonnage reports submitted by the registrant who prior to making sales must file a statement with the commission agreeing to keep such records as are necessary to accurately indicate the tonnage and kind of fertilizer sold and must grant the commissioner the right to examine such records for verification of the statement of tonnage. The tonnage reports shall be made on forms supplied by the commissioner for supplying the necessary tonnage and statistical information. The tonnage reports and inspection fees shall be due and payable on the first day of April, the first day of July, the first day of October, and the first day of January. The minimum inspection fee due for each quarter shall be ten dollars.

(b) If the report is not filed and payment made within thirty days after the due date, a penalty of ten percent of the amount due shall be assessed against the registrant. If payment is not made within thirty days after the due date, the amount of fees due plus the penalty shall constitute a debt and shall become the basis for a judgment against the registrant.

(c) Any information as to the amount of fertilizer sold and business practices of the registrant obtained from tonnage reports and from inspection of records and books shall remain confidential and shall not be subject to disclosure as a public record.

D.(1) No superphosphate containing less than eighteen percent available phosphoric acid (P_2O_5) shall be sold in this state.

(2) The provisions of this Subsection shall not apply to specialty fertilizer as defined in R.S. 3:1411 or to mixtures whose primary purpose is to supply the so-called "minor elements".

E. However, upon a determination by the commissioner that a shortage of fertilizer exists to a degree sufficient to constitute an emergency, he may authorize the sale of basic slag with not less than three units of phosphate and six units of soluble potash to be used as fertilizer during such emergency.

Acts 2010, No. 579, §1; Acts 2012, No. 15, §1.

§1414. Mixtures of graded, registered fertilizers; registration not required; sale prohibited

A. Notwithstanding any other law to the contrary, it shall be lawful for any farmer in this state to mix or cause to be mixed on his farm various grades of fertilizers without having to register the resulting mixture provided that he comply with the following conditions and restrictions:

(1) That he own all the component fertilizers that are to comprise the mixture.

(2) That all of the component fertilizers used in the mixture are registered in accordance with the provisions of this Subpart.

(3) That he use the mixture only for farming purposes on land which he farms.

B. It shall be unlawful for anyone to sell such mixture described in Subsection A of this Section, unless he first complies with the restrictions and conditions set forth in R.S. 3:1413.

Acts 2010, No. 579, §1.

§1415. Deficiency assessment

A. Whenever the commissioner determines, based on an analysis performed by the state chemist, that a given lot or shipment of fertilizer is deficient in one or more guaranteed plant foods, a deficiency assessment shall be assessed against the guarantor in accordance with the following provisions:

(1) Total nitrogen (N): a deficiency assessment of four times the value of the deficiency if such deficiency is in excess of 0.4 of one percent on goods that are guaranteed to contain eight percent or less of total nitrogen; 0.5 of one percent on goods that are guaranteed to contain more than eight percent and less than twenty-one percent; and 0.8 of one percent on goods guaranteed twenty-one percent or more.

(2) Available phosphoric acid (P_2O_5): a deficiency assessment four times the value of the deficiency if the deficiency is more than 0.4 of one percent on goods that are guaranteed to contain ten percent or less of available phosphoric acid; 0.5 of one percent on goods that are to contain more than ten percent and less than twenty-six percent; and 0.8 of one percent on goods that are guaranteed more than twenty-six percent.

(3) Soluble potash (K_2O): a deficiency assessment of four times the value of the deficiency if such deficiency is in excess of 0.5 of one percent on goods that are guaranteed to contain eight percent or less; 0.6 of one percent on goods that are guaranteed to contain more than eight percent and less than twenty-one percent, and 1.00 percent on goods guaranteed over twenty-one percent.

(4) If a fertilizer is deficient in one ingredient, overages in either or both of the other ingredients, in dollar value, may be applied to offset the deficiency, provided that a deficiency may not be cured if the deficiency in any one ingredient is more than twice the present tolerance. A fertilizer deficient in two of the three ingredients may not be cured by overages in the third ingredient.

(5) Other materials of value as fertilizer: the commission may adopt rules and regulations establishing the amount of deficiency in other guaranteed plant foods and a deficiency assessment four times the value of the deficiency.

(6) The minimum deficiency assessment under this Part shall be ten dollars.

(7) All deficiency assessments assessed under this Section shall be paid by the guarantor to the person who purchased the fertilizer for use, if known, within thirty days of notice by the commissioner

to the registrant. If the purchaser-user of the fertilizer cannot be identified, the penalty shall be paid to the commission.

B. An appeal from a deficiency assessment shall be heard and decided in the same manner as provided for in R.S. 3:1418.

Acts 2010, No. 579, §1; Acts 2012, No. 15, §1.

§1416. Cancellation of registration; causes for

Repeated failure of a registrant to meet the guaranteed weight or analysis of a fertilizer, or to fail to make payment of the inspection fee, or to fail to pay penalties assessed shall be considered just cause for cancellation of a manufacturer registration.

Acts 2010, No. 579, §1.

§1417. Violations

A. Failure to comply with the provisions of this Subpart or with the rules and regulations adopted pursuant to this Subpart constitutes a violation, including but not limited to:

(1) Interfering with the commissioner, the state chemist, or their representatives in the performance of their duties in carrying out the provisions of this Subpart.

(2) Falsifying a tonnage report or otherwise avoiding payment of the inspection fee.

(3) Making, on bags or packages or in any printed or advertising matter issued or circulated, any false or misleading statement concerning the value of a fertilizer.

(4) Adulterating any lot or shipment of fertilizer sold in this state.

(5) Failing to register with the commission as required.

(6) Failing to properly label fertilizer sold in this state or to provide labels for fertilizer.

(7) Failing to timely pay the fees, penalties, and other costs imposed.

(8) Failing to timely file the reports required by this Subpart or to fully report the information required by such reports.

(9) Altering, forging, counterfeiting, or using without authority any registration or other document provided for in this Subpart or in the rules or regulations adopted pursuant to the provisions of this Subpart.

B. Each violation shall be considered a separate offense, and each day on which a violation occurs or continues to occur shall be considered a separate offense.

Acts 2010, No. 579, §1.

§1418. Adjudicatory proceedings

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act and this Section.

B. Whenever the commissioner has any reason to believe that a violation of this Subpart or of any rules and regulations adopted pursuant to this Subpart has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed by the office of the attorney general to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, and the conduct of discovery shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

Acts 2010, No. 579, §1.

§1419. Penalty; fines

A. Whoever is found by the commission to have violated a provision of this Subpart or any rules or regulations adopted pursuant to this Subpart shall be fined not more than five hundred dollars per violation.

B. The commission may assess the cost of the adjudicatory proceeding and shall, by rule and regulation, determine the amount of costs to be assessed, which may include the cost of inspections, investigations, and laboratory analysis.

Acts 2010, No. 579, §1.

§1420. Enforcement

A. The commissioner may seek to collect any fee, penalty, or cost that may be due under this Subpart or the rules and regulations adopted pursuant to this Subpart.

B. The commissioner may institute civil proceedings in any court of proper jurisdiction and venue in order to:

(1) Enforce the rulings of the commission; or

(2) Collect any fee, penalty, or cost due under the provisions of this Subpart or the rules and regulations adopted pursuant to this Subpart; or

(3) Seek injunctive relief to restrain and prevent violations of the provisions of this Subpart or of the rules and regulations adopted pursuant to this Subpart.

Acts 2010, No. 579, §1.

§1421. *Repealed by Acts 2013, No. 26, §3, eff. May 23, 2013.*

§1422. Application of Subpart

None of the provisions of this Subpart apply to materials that are to be used in the manufacture of mixed fertilizer nor to fertilizers processed or manufactured in this state intended for sale or distribution in other states nor to fertilizers being transported through this state and destined for use in other states.

Acts 2010, No. 579, §1.

§1423. Local regulations

A. The regulation of fertilizer is preempted by this Subpart. No municipality, parish, local governmental entity, or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area shall enact ordinances, laws, subdivision restrictions, or regulations regarding fertilizers that in any way affect the registration, sale, or application of fertilizer, except as provided herein.

B. Municipalities, parishes, and local governmental entities or governing authorities of any group or association may request that the rules and regulations applicable to the distribution, sale, or application of fertilizer be amended to provide for specific problems encountered in or by the entity, group, or association. The following provisions shall govern any such request:

- (1) The request shall be addressed to the commissioner.
- (2) The commission shall conduct a hearing.
- (3) The commission shall make a preliminary determination as to the advisability of amending the state rules and regulations and shall transmit its determination to the commissioner.
- (4) The commissioner shall make the final determination as to the desirability of amending the state rules and regulations.
- (5) If the commissioner determines that the rules and regulations should be amended, a rule or regulation consistent with the commissioner's determination shall be adopted by the commission in accordance with the Administrative Procedure Act. If the commissioner determines that the rules or regulations should not be amended, a written notice of the decision shall be provided to the requesting party.

C. Municipalities, parishes, and local governmental entities may petition the commissioner for approval of an ordinance applicable to the distribution, sale, or application of fertilizer. The governing authority of a public or private group or association may petition the commissioner for approval of restrictions applicable to the specific geographic area over which the group or association has jurisdiction. The procedure for obtaining such approval shall be as follows:

- (1) The proposed ordinance or restrictions shall be sent to the commissioner who shall refer the ordinance to the commission for a hearing.
- (2) The commission shall make a preliminary determination as to the advisability of amending the state rules and regulations and shall transmit its determination to the commissioner.
- (3) Upon receipt of the recommendation of the commission, the commissioner shall approve or disapprove the proposed ordinance or restriction.
- (4) Both the commission and the commissioner shall be guided by the provisions of this Section in making their respective determinations.
- (5) The requesting party shall be notified by the decision in writing.
- (6) Any governing authority aggrieved by a final decision of the commissioner shall have a right of judicial review of the administrative process pursuant to the provisions of the Administrative Procedure Act.

D. Notwithstanding the provisions of R.S. 3:1422, municipalities, parishes, and local governmental entities or governing authorities of a public or private group or association, having in effect, on July 1, 2008, an ordinance or restriction affecting the registration, sale, or application of fertilizer shall submit the ordinance to the commissioner on or before December 1, 2008, for approval pursuant to this Section. Any such ordinance or restriction received by the commissioner on or before December 1, 2008, shall continue in full force and effect unless the commissioner disapproves the ordinance or restriction in accordance with this Section. Any such ordinance not received by the commissioner on or before December 1, 2008, shall be void.

Acts 2010, No. 579, §1.

SUBPART B. LOUISIANA AGRICULTURAL LIMING MATERIALS LAW

§1430.1. Short title

This Subpart may be cited as the Louisiana Agricultural Liming Materials Law.

Acts 2010, No. 579, §1; Acts 2013, No. 26, §5, eff. May 23, 2013.

§1430.2. Definitions

As used in this Subpart, the following terms shall have the following meanings ascribed to them:

(1) "Agricultural liming materials" or "materials" means solid or liquid materials which contain calcium or magnesium and which are sold, offered for sale, or distributed for use in neutralizing acidity in agricultural soils.

(2) "Aragonite" means a soft calcite obtained from ocean deposits.

(3) "Brand" means any name, trademark, or other designation under which an agricultural liming material is sold.

(4) "Bulk" means in nonpackaged form.

(5) "Burnt lime" means a material made from limestone which consists primarily of calcium oxide or a combination of calcium and magnesium oxides.

(6) "Calcite liming material" means a material composed primarily of calcium carbonate.

(7) "Cement kiln dust" means waste dust produced in the manufacturing of cement.

(8) "Chalk" means a soft, friable, loosely consolidated material composed primarily of calcium carbonate.

(9) "Consumer" means any person who purchases agricultural liming materials for use on fields owned or leased by that person.

(10) "Distributor" means a person who sells, offers for sale, or distributes agricultural liming materials in this state on the wholesale level.

(11) "Dolomitic liming material" means a material composed of calcium and magnesium carbonates.

(12) "Ground shells" means a material obtained by grinding the shells of mollusks.

(13) "Hydrated lime" means a material made from burnt lime which consists primarily of calcium hydroxide and which may contain magnesium oxide or magnesium hydroxide, or both.

(14) "Jobber" means a person who buys or sells agricultural liming materials in this state for another person and who is paid commissions for his services.

(15) "Label" means any written or printed matter on or attached to a package of materials or an invoice for a shipment of bulk materials.

(16) "Lot" means the quantity of materials from which a sample has been taken and which the sample represents.

(17) "Manufacturer" means a person who produces agricultural liming materials which are sold, offered for sale, or distributed in this state.

(18) "Marl" means a granular or loosely consolidated earthy material composed primarily of seashell fragments and calcium carbonate.

(19) "Person" means any individual, partnership, corporation, association, or other legal entity.

(20) "Registrant" means a manufacturer who registers an agricultural liming material.

(21) "Retailer" means a person who sells agricultural liming materials to consumers in this state.

(22) "Ton" means two thousand pounds avoirdupois.

Acts 2010, No. 579, §1.

§1430.3. Applicability

A. The provisions of this Subpart shall apply only to materials which are sold, offered for sale, or distributed in this state for the purpose of decreasing the acidity of soils used for agricultural production.

B. Substances which are sold, offered for sale, or distributed in this state for use in the construction or building industries are specifically exempt from the provisions of this Subpart.

Acts 2010, No. 579, §1.

§1430.4. Administration

A. The commission shall administer and enforce the provisions of this Subpart.

B. The commissioner shall employ such personnel as are necessary to implement the provisions of this Subpart.

C. The commission may adopt such rules and regulations as are necessary to implement the provisions of this Subpart. All rules and regulations adopted under the provisions of this Subpart shall be adopted in accordance with the provisions of the Administrative Procedure Act.

Acts 2010, No. 579, §1.

§1430.5. Registration

A. No agricultural liming material shall be sold, offered for sale, or distributed in this state unless the material is registered with the commission.

B. Each manufacturer of an agricultural liming material sold, offered for sale, or distributed in this state shall be responsible for registering the material.

C. Each brand under which agricultural liming materials are sold, offered for sale, or distributed in this state shall be registered separately.

D. Applications for registration shall be submitted to the commission on or before the first day of April each year. Each application shall be accompanied by the appropriate fee, a copy of the label for the material, and such other information as the commission by rule may require.

E. If the application is approved, the registration shall be issued on or before the first day of July of the year in which the application was received. Each registration shall be valid for one year beginning on the first day of July of the year in which the registration was issued and ending on the last day of June of the following year.

Acts 2010, No. 579, §1; Acts 2012, No. 146, §1, eff. May 14, 2012.

§1430.6. Labeling

Each package of agricultural liming materials sold, offered for sale, or distributed in this state shall contain a conspicuous and legible label attached to the package. If the materials are sold in bulk form, a copy of the label shall be attached to the invoice which is delivered to the person purchasing the materials. The label shall contain the following information:

- (1) The name and the address of the principal office of the manufacturer.
- (2) The brand name of the material.
- (3) The type of the material.
- (4) If the material is dolomitic limestone, the content of elemental magnesium.
- (5) If the material is ground shells, the name of the mollusk from which the shells were obtained.
- (6) The net weight of the material in the package.
- (7) Such other information as the commission by rule may require.

Acts 2010, No. 579, §1.

§1430.7. Reports; records

A. Each manufacturer shall submit quarterly reports to the commissioner. The quarters shall end on the last day of September, December, March and June. Reports shall be on forms supplied by the commissioner and shall be submitted on or before the thirtieth day after the last day of each quarter. Each report shall contain the following information:

- (1) The name and the principal address of the manufacturer.
- (2) The amount of each brand and type of material sold in this state.
- (3) The name and the principal address of the person to whom the material was sold or delivered.
- (4) Such other information as the commission by rule may require.

B. Each distributor, jobber, and retailer who sells, offers for sale, or distributes agricultural liming materials in this state shall keep adequate records to reflect the disposition of all materials in his possession. The records shall be kept for two years. The records required by this Subsection shall be kept in a form acceptable to the commissioner and shall be made available to the commissioner upon request. The records shall contain the following information:

- (1) The name and the principal address of each person from whom the distributor, jobber, or retailer purchases or obtains materials.
- (2) The name and the principal address of each person to whom the distributor, jobber, or retailer sells or delivers materials.
- (3) The amount and type of materials involved in each transaction.
- (4) Such other information as the commission by rule may require.

C. All reports and records required by this Section shall be confidential and shall be exempt from the Public Records Law.

Acts 2010, No. 579, §1; Acts 2012, No. 146, §1, eff. May 14, 2012.

§1430.8. Standards

A. All solid agricultural liming materials other than marl or chalk shall have a neutralizing value of at least ninety percent. All marl and chalk shall have a neutralizing value of at least fifty percent. The commission by rule shall establish minimum neutralizing values for industrial byproducts which are to be used as agricultural liming materials. Such rules shall be based upon the recommendations of the Louisiana Cooperative Extension Service.

B. Liquid or suspension materials shall have a neutralizing value of at least fifty percent.

C. The neutralizing value of a material shall be expressed as a percentage of the calcium carbonate equivalent.

D. The commission by rule shall classify substances which are harmful to plant growth and by rule shall establish the maximum amounts of these materials which may be present in agricultural liming materials which are sold, offered for sale, or distributed in this state.

E. Solid dolomitic liming materials shall contain at least six percent elemental magnesium derived from magnesium carbonate. Liquid or suspension dolomitic liming materials shall contain at least three percent elemental magnesium derived from magnesium carbonate.

F. Calcite liming materials shall contain less than six percent elemental magnesium.

G. Solid liming materials shall contain less than fifteen percent moisture.

H. The following materials shall meet the following screen standards:

- (1) Aragonite: Ninety percent shall pass through a ten-mesh sieve and five percent shall pass through a one-hundred-mesh sieve.
- (2) Burnt lime, finely ground limestone, and marl: Ninety-eight percent shall pass through a ten-mesh sieve and seventy percent shall pass through a one-hundred-mesh sieve.
- (3) Ground limestone: Ninety percent shall pass through a ten-mesh sieve, fifty percent shall pass through a sixty-mesh sieve, and twenty-five percent shall pass through a one-hundred-mesh sieve.
- (4) Ground shells: Fifty percent shall pass through a one-hundred-mesh sieve.
- (5) Suspension materials: One hundred percent shall pass through a twenty-mesh sieve and sixty percent shall pass through a two-hundred-mesh sieve.

I. The state chemist shall determine the neutralizing value, the particle size, and the moisture content of all samples submitted for analysis. The commission in consultation with the state chemist by rule shall establish the method of analysis and the tolerance for all analyses.

Acts 2010, No. 579, §1.

§1430.9. Complaints

A. Any person who believes that he has suffered damages because he purchased materials which do not meet the standards set forth in R.S. 3:1430.8 or because the amount of materials delivered was less than the net weight stated on the package or on the invoice may file a damage complaint with the commissioner.

B. All damage complaints shall be in writing, shall be on forms prescribed by the commissioner, shall be signed by the complainant, and shall be filed within fifteen days after the date of the sale or the date the deficiency was discovered, whichever is later. Failure to file a timely complaint shall not affect the right of the complainant to institute legal proceedings to recover the damages.

C. Each person who files a damage complaint shall allow the commissioner to inspect and sample the allegedly deficient material.

Acts 2010, No. 579, §1.

§1430.10. Violations

The following actions are prohibited:

- (1) The sale, offering for sale, or distribution of materials which are not registered with the commissioner.
- (2) The sale, offering for sale, or distribution of materials which do not meet the standards set forth in R.S. 3:1430.8.
- (3) The sale, offering for sale, or distribution of agricultural materials in packages which contain less material than the net weight listed on the package.
- (4) The sale, offering for sale, or distribution of bulk materials which contain less material than the net weight listed on the invoice.
- (5) The making of false or misleading claims concerning any material on the label of the material, orally, on any printed matter, or through any medium.
- (6) Any action which violates any provisions of this Subpart or any provision of the rules and regulations adopted under the provisions of this Subpart.

Acts 2010, No. 579, §1.

§1430.11. Deficiency assessments; penalties; injunctive relief

A. The commission may impose the following deficiency assessments for the following violations:

(1) The deficiency assessments for the sale, offering for sale, or distribution of solid materials which do not meet the standard for neutralizing value shall be one percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.

(2) The deficiency assessments for the sale, offering for sale, or distribution of solid materials which do not meet the standard for magnesium content shall be one and one-half percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot by which the material fails to meet the standard.

(3) The deficiency assessments for the sale, offering for sale, or distribution of solid materials which do not meet the standard for moisture content shall be one and one-half percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.

(4) The deficiency assessments for the sale, offering for sale, or distribution of solid or suspension materials which do not meet screen standard shall be one percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.

(5) The deficiency assessments for the sale, offering for sale, or distribution of liquid or suspension materials which do not meet the standard for neutralizing value shall be one and one-half percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.

(6) The deficiency assessments for the sale, offering for sale, or distribution of liquid or suspension materials which do not meet the standard for magnesium content shall be two percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.

B. The minimum penalty for the violations set forth in Subsection A of this Section shall be ten dollars. The maximum penalty for the violations set forth in Subsection A of this Section shall be an amount equal to twice the invoice price of the lot from which the sample was taken.

C. When the commission has evidence which indicates that a person has committed an offense for which the deficiency assessment is found in Subsections A through D of this Section, the commission shall notify the person, by certified mail, return receipt requested, of the facts involved in the alleged offense and the penalty set forth in Subsections A through D of this Section for the alleged offense. If the alleged violator contests the deficiency assessment in writing within fifteen days of the notice, the commissioner shall call a hearing to adjudicate the matter as provided in Subsection G of this Section. An appeal from a deficiency assessment shall be heard and decided in the same manner as provided for in this Section for the assessment of civil penalties.

D. All deficiency assessments assessed under this Section shall be paid by the person owing the assessment within thirty days of notice by the commissioner if the deficiency assessment is not contested and within thirty days of notice of the final decision if the assessment is contested.

E. The commission may assess a civil penalty for violations of R.S. 3:1430.10(3) and (4) in an amount equal to four times the value of the missing material. The value of the missing material shall be determined based on the price of the material as shown on the invoice. The commission may assess a civil penalty of not more than one thousand dollars for any other violation of the prohibitions set forth in R.S. 3:1430.10. Each day on which a violation occurs shall be considered a separate offense.

F. The commission may suspend or revoke the registration of any agricultural liming material for any violation of the provisions of this Subpart or of the rules and regulations adopted under the provisions of this Subpart.

G. Civil penalties may be assessed, and registrations may be suspended or revoked, only by a ruling by the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

H. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

I. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Subpart or of the rules and regulations adopted under the provisions of this Subpart in the district court for the parish in which the violation occurred.

Acts 2010, No. 579, §1.

§1430.12. Fees

A. The annual fee for registering agricultural liming materials shall be fifteen dollars payable to the commission.

B. The late fee for each application to register an agricultural liming material, other than an application for initial registration, which is received after the first day of April of each year shall be fifty dollars payable to the commission.

C. Each manufacturer of agricultural liming materials which are sold, offered for sale, or distributed in this state shall pay to the commission a fee of ten cents on each ton of materials delivered in this state. The fee imposed by this Subsection shall be paid quarterly at the same time the tonnage reports required by R.S. 3:1430.7 are submitted to the commissioner; however, the minimum fee due for each quarter shall be ten dollars.

Acts 2010, No. 579, §1; Acts 2012, No. 17, §1.

§1430.13. Disposition of fees and penalties

A. All fees and penalties provided for in this Part shall be paid to the commission and disposed of as provided in this Section.

B. All deficiency assessments imposed under the provisions of R.S. 3:1430.11(A), (B), (C), or (D) shall be paid to the consumer if the identity of the consumer can be ascertained.

C. All fees, all deficiency assessments imposed under the provisions of R.S. 3:1430.11(A), (B), (C), or (D) for which the consumer cannot be ascertained, and all penalties imposed under the provisions of R.S. 3:1430.11(E), subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

D. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of the funds paid into the state treasury under the provisions of Parts II and III of this Chapter into the Feed and Fertilizer Fund. The funds are to be used for the expenses of the programs established for the purposes of Parts II and III of this Chapter and for the other purposes for which funds in the Feed and Fertilizer Fund may be used as determined by the commissioner.

Acts 2010, No. 579, §1; Acts 2011, No. 31, §1; Acts 2013, No. 26, §1, eff. May 23, 2013.

PART IV. SEEDS

§1431. Terms defined

As used in this Part, the following terms have the meanings given:

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Part.

(2) "Agricultural seed" means any lawn, flower, oil, grass, forage, cereal, fiber, or other kinds of crop seed sold, offered for sale, or used in Louisiana for agricultural or other purposes, and any combinations of such seeds.

(3) "Certified seeds", "registered seeds", and "foundation seeds" are seeds which have been inspected and sampled during their period of growth and preparation for market by the commissioner, or by the inspection official of the state in which the seeds were grown, and which have been found to conform to the regulations issued by the commission under this Part.

(4) "Commission" means the Agricultural Chemistry and Seed Commission.

(5) "Commissioner" means the commissioner of agriculture and forestry.

(6) "Crop" means any cultivated plants that produce agricultural produce such as grains, seeds, fruits, vegetables, or flowers.

(7) "Dormant" means viable seed, excluding hard seed, which fails to germinate when provided the specified germination conditions for the kind of seed in question.

(8) "Farm" means a piece or tract of land on which an agricultural, vegetable, or flower crop is grown or allowed to grow.

(9) "Flower seeds" are seeds of all plants grown for ornamental purposes for domestic or commercial use.

(10) "Germination" is the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions. Broken, weak, malformed, and obviously abnormal seedlings are not considered as having germinated.

(11) "Hard seeds" are the percentage of seeds which, because of hardness or impermeability, do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned.

(12) "Hybrid" is one or more crosses of inbreeds of the same kind of seed; for example, hybrid corn.

(13) "Inert matter" is all matter not seeds including pieces of broken and damaged seeds one-half or less than the original size, sterile florets, fungus bodies, stones, and all matter considered as inert by the Association of Official Seed Analysts Rules for Testing Seeds.

(14) "Kind" is one or more related species which singly or collectively is known by one common name; for example, corn, beans, lespedeza.

(15) "Labeling" includes all labels and other written, printed, or graphic representations accompanying and pertaining to any seed, whether in bulk or containers. Labeling includes invoices and other bills of shipment when sold in bulk. The labels shall be uniform in accordance with the standards adopted by the Association of Southern Seed Control Officials.

(16) "Lot of seed" is a definite quantity of seeds identified by a lot number or mark, every portion or bag of which is uniform, within permitted tolerances, relative to the factors which appear in the labeling.

(17) "Minor violation" means a violation of noncompliance that does not create a competitive disadvantage for licensees in full compliance, is not a violation that adversely affects human health, safety or the environment, is not a violation performed with malicious, deliberate or fraudulent intent, and is not a repetitive violation.

(18) "Mixed seeds" are seeds of more than one kind or variety when each kind or variety is present in excess of five percent of the whole.

(19) "Noxious weeds" are weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.

(20) "Origin" means place, state, or foreign country where grown.

(21) "Other crop seeds" are the seeds of all kinds or varieties not of the kind or variety declared on the label.

(22) "Person" means any individual, firm, corporation, association, or partnership.

(23) "Prohibited noxious weed seeds" means any weed seeds that are prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed.

(24) "Pure seeds" are all seeds of the kind and variety under consideration, whether shriveled, cracked, or otherwise injured, and pieces of seeds larger than one-half the original size.

(25) "Retail seedsman" means any person who sells seed at retail directly to the consumer either in quantities of not less than one pound or any quantity including closed containers of less than one pound.

(26) "Seed" is a propagative part of a plant capable of producing a new plant, including but not limited to those parts commonly referred to as seeds, bulbs, roots, tubers, and other propagating stock.

(27) "Stop order" is any written or printed notice given by the commissioner of the Department of Agriculture and Forestry or his authorized agents, to the person with a lot of seed, directing the person not to sell or offer for sale the seed until the requirements of this Part and regulations promulgated hereunder have been complied with and a written release is issued. Such seeds may be released for sale as feed.

(28) "Treated" means that the seed has received an application of a substance or that it has been subjected to a process for which a claim is made.

(29) "Variety" is a subdivision of a kind characterized by growth, plant, fruit, seed, or other characteristic by which it can be differentiated from other seeds of the same kind.

(30) "Vegetable seeds" are seeds of vegetable crops grown in gardens or on truck farms.

(31) "Weed seeds" are seeds of all plants that are considered to be undesirable or troublesome in an area where the plant is not wanted.

Amended by Acts 1954, No. 439, §1; Acts 1975, No. 766, §1; Acts 1977, No. 149, §1; Acts 1978, No. 34, §1; Acts 1988, No. 229, §1; Acts 1990, No. 28, §1; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 146, §1, eff. May 14, 2012; Acts 2013, No. 26, §§1 and 6, eff. May 23, 2013.

§1432. *Repealed by Acts 2013, No. 26, §3, eff. May 23, 2013.*

§1433. Powers and responsibilities of commission

A. The commission shall:

(1)(a) Make rules and regulations governing the methods of sampling, inspecting, and making analysis tests and examinations of all seeds and other propagating stock;

(b) Establish the standards and tolerances to be allowed in the administration of this Part;

(c) Make rules and regulations governing the conditions for growing, harvesting, processing, preparing for market, labeling, distributing, and marketing seeds and propagating stock as certified, registered, or foundation;

(d) Set forth in its rules the minimum requirements of varietal purity and mechanical standards as a condition to sale or distribution as certified, registered, or foundation seeds or other propagating stock;

(e) Make rules and regulations establishing a reasonable schedule of charges to persons for each sample of seed tested by the Louisiana Seed Testing Laboratory, establishing a reasonable fee schedule to be charged for making application for inspection and field inspection for certification of seed, and establishing a reasonable fee schedule to be charged for printing certified tags, provided there shall be no charge for the testing of official samples submitted by duly authorized agricultural inspectors for law enforcement purposes; and

(f) Make all rules and regulations pertaining to the enforcement of this Part.

(2) Limit the sale and distribution of seeds for the production of agricultural, vegetable, or flower crops to certified seeds or planting stock when the commission determines that the limitation will best serve the crop industry.

(3) In making rules and regulations, give consideration to the following with respect to each kind of seed or other propagating stock regulated by this Part:

(a) The minimum requirements of varietal purity and mechanical standards.

(b) The kind, quality, and estimated amounts to be available for sale in Louisiana during the next succeeding crop season.

(c) The demand in Louisiana.

(d) The agricultural practices for production in Louisiana as compared with the practice in other states.

(e) The accepted cultural and trade practices prevailing in other states with respect to offering and displaying for sale, labeling, sampling, and making analyses.

(f) The general welfare of growers in Louisiana.

(4) Hold hearings on alleged violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(5) Advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(6) Perform such other advisory functions as the commissioner may assign to the commission.

(7) Declare plants to be weeds or noxious weeds in all or part of the state and to prohibit, restrict, or regulate the sale, distribution, movement, and use of weed seeds or noxious weed seeds by regulations adopted pursuant to this Part.

B. The commission may adopt rules establishing user fees to be charged for all services provided by the commission and establishing regulatory fees to be charged for all regulatory functions performed by the commission. The rules shall be adopted in accordance with the Administrative Procedure Act. The amount of the user fees shall be based on the cost of the services provided. The amount of the regulatory fees shall be based on the cost of the regulatory functions performed.

Amended by Acts 1952, No. 372, §1; Acts 1954, No. 439, §2; Acts 1975, No. 766, §2; Acts 1977, No. 149, §2; Acts 1988, No. 163, §1; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1434. Powers and duties of the commissioner

The commissioner shall:

(1) Enforce this Part and all rules and regulations made and adopted by the commission.

(2) Sample, inspect, test, and make analyses of agricultural, vegetable, and flower seeds transported, offered for sale, sold, or distributed in Louisiana for planting purposes; determine whether the seeds are in compliance with this Part and with rules and regulations made under this Part; and notify promptly the person who transported, distributed, sold, or offered for sale the seeds of any violation.

(3) Carry out and enforce the rules and regulations made pertaining to certified, registered, or foundation seeds or planting stock and to the limiting of planting of a crop to certified seed, when such is prescribed.

(4) Require reports necessary to administer this Part and rules and regulations made under this Part.

(5) Collect, administer, and disburse the proceeds of the assessment, fees, interest, penalties, and other monies collected pursuant to this Part.

Amended by Acts 1977, No. 149, §2; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1435. Authority of the commissioner

The commissioner may:

(1) Employ agents necessary to enforce this Part and the rules and regulations made under this Part.

(2) In order to have access to seeds subject to this Part, enter, during regular business hours, any public or private premises where agricultural, vegetable, or flower seeds or other propagating stock is sold, offered for sale, or distributed.

(3) Issue and enforce a stop order to the person with a lot of seed or other propagating stock that the commissioner finds, or has good reason to believe, is in violation of this Part or the rules and regulations made under this Part.

(4) Establish and maintain a seed laboratory; employ a State seed analyst, other analysts, and other personnel whose work he shall direct and supervise; and incur such other expenses necessary to comply with this Part.

(5) Make purity and germination tests of seeds for persons on request. The analyses shown by this test shall be for the information of the person requesting the test only and shall not be made the basis of the guaranteed analysis of the seeds required by R.S. 3:1436.

(6) Enter, either directly or through a duly authorized agent, the premises of any person producing, processing, distributing, or selling seeds and examine that person's books, accounts, and records, and obtain any other information necessary, for purposes of enforcing the provisions of this Part and the regulations adopted pursuant to this Part.

(7) Seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part, or rules and regulations adopted pursuant to this Part, or orders and rulings issued by the commissioner pursuant to this Part.

(8) Institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties, or costs due under this Part or to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

Amended by Acts 1977, No. 149, §3; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2012, No. 146, §1, eff. May 14, 2012; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1436. Labeling of seeds

Each container of agricultural, vegetable, or flower seeds, or other propagating stock that is sold or offered for sale in Louisiana for planting purposes shall bear thereon or have attached thereto in a conspicuous place a label plainly written or printed in the English language. The label shall give the following information:

(1) For all agricultural, vegetable, and flower seeds treated as defined in this Part for which a separate label may be used:

(a) A word or statement indicating that the seed has been treated.

(b) The commonly accepted coined, chemical or abbreviated chemical or generic name of the applied substance or description of the process used.

(c) If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do not use for food, feed, or oil purposes". The caution for mercurials and similarly toxic substances shall be a poison statement or symbol.

(d) If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

(2) On agricultural seeds:

(a) Except as otherwise provided herein, the commonly accepted name of the kind and variety of each agricultural seed component in excess of five percent of the whole, and the percentage of weight of each in the order of its predominance. The provisions of this Subparagraph shall not prohibit the sale of wheat and oat seeds that are labeled "variety not stated" and that meet the other requirements of this Part. The commission may adopt rules and regulations governing the sale and labeling of variety not stated wheat and oat seeds. Hybrids shall be labeled as hybrids.

(b) The number or other lot identification.

(c) The origin of the seed. If the origin is not known, that fact shall be stated.

(d) The percentage by weight of all weed seeds.

(e) The name and number per pound of each kind of noxious weed seed.

(f) The percentage by weight of crop seeds other than those required to be on the label.

(g) The percentage by weight of inert matter.

(h) For each named agricultural seed: the percentage of germination, exclusive of hard seed; the percentage of hard seed when present; and the calendar month and year the test was completed to determine such percentages.

(i) Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.

(3) On vegetable seeds in containers of more than one pound:

(a) The name of the kind and variety of the seed.

(b) The number or other lot identification.

(c) The percentage of germination.

(d) The calendar month and year the test to determine the percentages was completed.

(e) Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.

(f) For seeds which germinate less than the standards established by the commission, the words "Below Standard" printed or written in ink, in not less than eight-point type, on the face of the label in addition to all other information required.

(4) On vegetable seeds in containers of one pound or less which germinate equal to or above the standards established by the commission under the provisions of R.S. 3:1433(3)(a):

(a) The name of each kind and variety of seed, and if there are two or more kinds or varieties present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label.

(b) The lot number or other lot identification.

(c) The name and address of the person who transports, delivers for transportation, sells, offers for sale, or exposes for sale the seed in this state.

(d) The calendar month and year of the germination test.

(5) On vegetable seeds in containers of one pound or less that germinate less than the standards established by the commission under the provisions of R.S. 3:1433(3)(a):

(a) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label.

(b) For each named kind and variety of seed, the percentage of germination.

(c) The word "Below Standard" in not less than eight-point type.

(d) The lot number or other lot identification.

(e) The calendar month and year the germination tests were completed.

(f) The name and address of the person who transports, delivers for transportation, sells, offers for sale, or exposes for sale the seed in this state.

(6) On every separate package of flower seeds and other propagating stock:

(a) The name of the kind and variety of the seeds.

(b) The lot number or other lot identification.

(c) The year for which the seeds were packed for sale.

(d) The name and address of the person who labels, distributes, offers for sale, exposes for sale, or sells the seed in this state.

(7) On combination mulch, seed, and fertilizer products:

(a) The word "combination" followed by the words "mulch-seed-fertilizer" must appear on the upper thirty percent of the principal display panel. The word "combination" must be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "mulch-seed-fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination". These products shall contain a minimum of seventy percent mulch.

(b) Analysis label - Agricultural, lawn, and turf seeds placed in a germination medium, mat, tape, or other device or mixed with mulch shall be labeled as follows:

(i) Product name.

(ii) Lot number.

(iii) Percentage by weight of pure seed of each kind and variety named which may be less than five percent of the whole.

- (iv) Percentage by weight of other crop seeds.
- (v) Percentage by weight of inert matter which shall not be less than seventy percent.
- (vi) Percentage by weight of weed seeds.
- (vii) Name and number of noxious weed seeds per pound, if present.
- (viii) Percentage of germination and hard seed of each kind or kind and variety named and date of test.
- (ix) Name and address of the person who labels the seed.

Amended by Acts 1952, No. 127, §1; Acts 1975, No. 766, §3; Acts 1977, No. 149, §4; Acts 1978, No. 34, §2; Acts 1986, No. 190, §1; Acts 1988, No. 213, §1; Acts 1993, No. 140, §1; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1437. Registration of seed dealers

A. Every person, except persons exempt by R.S. 3:1445, who sells, distributes, or offers or handles for sale agricultural, vegetable, or flower seeds or other propagating stock of one pound or more in weight shall register with the commissioner as a seed dealer. Every seed dealer shall register the number and location of each place of business at which the seeds are sold, distributed, or offered or handled for sale. The commissioner shall issue to the registered seed dealer a license to engage in the business.

B. The commissioner shall issue a license on an annual basis with licenses expiring on the first day of July of each year following the issuance date. The commissioner shall establish the fee for the license. The fee shall be established by rule adopted in accordance with the Administrative Procedure Act. The amount of the fee shall not exceed one hundred dollars.

Amended by Acts 1975, No. 766, §4; Acts 1977, No. 149, §5; Acts 1988, No. 162, §1; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1438. Suspension or revocation of seed dealer license

Any licensee who violates any of the provisions of this Part or the regulations adopted under the provisions of this Part shall be subject to having his license suspended, revoked, or placed on probation, in addition to any other penalties authorized by this Part.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1439. Failure of seed dealer to register; effect

The commissioner may issue a stop order against any seed dealer who fails to comply with R.S. 3:1437.

Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2012, No. 146, §1, eff. May 14, 2012.

§1440. Stop order

A stop order shall prohibit further sale, exchange, movement, or distribution of seeds included in the order until the commissioner is satisfied that this Part and rules and regulations of the commission have been complied with and the commissioner has issued a written release to the person with such seed. After a stop order is given, the person receiving the stop order shall have thirty days within which to comply and to obtain a written release of the order. This Section shall not prevent the commissioner from proceeding in accordance with other Sections in this Part.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 146, §1, eff. May 14, 2012; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1441. Seizure

When the commissioner issues a stop order to a person with a lot of seed and such person fails to comply with this Part or the regulations of the commission, the commissioner shall seize the lot of seed and shall destroy the lot within thirty days, or shall dispose of it in the manner prescribed by the rules and regulations made by the commission.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2012, No. 146, §1, eff. May 14, 2012; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1442. *Repealed by Acts 2003, No. 175, §2, eff. July 1, 2003.*

§1443. Disclaimer or nonwarranty clause of no effect

The use of a disclaimer or nonwarranty clause in any invoice, advertisement, or label pertaining to seeds shall not exempt a person from the provisions of this Part.

Amended by Acts 1977, No. 149, §5; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1444. Prohibitions

No person shall:

(1) Sell, offer for sale, transport, or distribute any agricultural, vegetable, or flower seeds unless the seeds have been tested in accordance with the rules and regulations adopted by the Agricultural Chemistry and Seed Commission. The commission by rule may require information relative to the test to be affixed to the packaging of the seeds.

(2) Sell, offer for sale, transport, or distribute any agricultural, vegetable or flower seeds that are not labeled in accordance with this Part or that have false or misleading labeling.

(3) Sell, offer for sale, transport, or distribute any agricultural, vegetable, or flower seeds for which there has been false or misleading advertisement.

(4) Sell, offer for sale, transport, or distribute any agricultural seeds containing noxious weed seeds, subject to tolerances and methods of determinations, in excess of those prescribed under this Part.

(5) Detach, deface, destroy, or use a second time any label provided for in this Part or the rules and regulations made by the commission.

(6) Alter or falsify any seeds, seed labels, seed tests, laboratory reports, records, or other documents to create a misleading impression as to kind, kind of variety, history, quality, or origin of seed.

(7) Disseminate any false or misleading advertisement concerning agricultural, vegetable, or flower seeds.

(8) Obstruct in any way any authorized person in the performance of his duties under this Part.

(9) Fail to comply with a stop order or to move or otherwise handle or dispose of any lot of seed held under a stop order, except with express permission of the commissioner for the purposes specified by him.

(10) Use relabeling stickers without having both the calendar, month, and year the germination test was completed and the lot number that matches the existing, original lot number.

(11) *Repealed by Acts 2013, No. 26, §3, eff. May 23, 2013.*

Amended by Acts 1977, No. 149, §5; Acts 1978, No. 34, §1; Acts 1986, No. 190, §1; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2012, No. 146, §1, eff. May 14, 2012; Acts 2013, No. 26, §§1, 3, eff. May 23, 2013.

§1445. Exemptions

A. The provisions of R.S. 3:1436 shall not apply:

(1) To common carriers with respect to seeds transported in the ordinary course of business as a carrier. R.S. 3:1436 shall apply to carriers engaged in processing or merchandising seeds subject to the provisions of this Part.

(2) To seeds sold from a duly labeled container and taken therefrom in the presence of the purchaser. In such case the container in which the seeds are sold may be unlabeled unless the purchaser requests a label.

(3) To agricultural seeds when grown, sold, and delivered by the producer on his own premises when the growing of crops for reproductive purposes is not the primary farming occupation of the producer. If the seeds are advertised for sale through any medium or if the seeds are delivered by a common carrier, except for the purpose of recleaning, they shall be labeled in accordance with this Part.

B. The provisions of R.S. 3:1444 shall not apply:

(1) To seeds not intended for planting purposes.

(2) To seeds in storage in, consigned to, or being transported to seed cleaning or processing establishments for cleaning and processing only. Any labeling or representation that is made with respect to the unclean seeds shall be subject to this Part.

(3) To agricultural seeds when grown, sold, and delivered by the producer on his own premises when the growing of crops for reproductive purposes is not the primary farming occupation of the producer. If the seeds are advertised for sale through any medium or if the seeds are delivered by a common carrier, except for the purpose of recleaning, they shall be labeled in accordance with this Part.

(4) To seeds which are incorrectly labeled or represented as to kind, variety and origin if the seeds cannot be identified by examination, unless the person responsible for labeling failed to obtain an invoice or grower's declaration giving kind, variety, and origin.

Amended by Acts 1977, No. 149, §5; Acts 1987, No. 167, §1; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1446. Penalty for violation; procedures for imposition of penalties

A. Whoever violates this Part or the rules and regulations made under this Part may be subject to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commission based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this Part as follows:

(1) The commission shall be convened by the commissioner for the purpose of hearing any alleged violation of this Part or any rule and regulation adopted pursuant to this Part.

(2) The commissioner shall appoint a hearing officer to preside over the hearing.

(3) The commission shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(4) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the commission, the commissioner shall issue a written opinion based on the record of the hearing.

(5) Nothing in this Section shall be construed as requiring the commission to institute adjudicatory proceedings for minor violations of this Part when the department believes that the public interest will best be served by a suitable notice of noncompliance in writing.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2013, No. 26, §1, eff. May 23, 2013.

§1447. Secretary of state as agent for service

Any person who is not a resident of or domiciled within the state of Louisiana, and who, having no duly appointed agents for service of process within the state, engages in the business of distributing, selling, or packaging seeds within the state of Louisiana, does by such act appoint the secretary of state as his agent for service of process of any legal document and submits to the jurisdiction of any court within the parish where he engages in that business, as if such person were a citizen of or domiciled within said parish.

Amended by Acts 1977, No. 149, §5.

§1448. Regulatory fee

The commission may charge a regulatory fee on all seeds sold in Louisiana. The fee shall be established by rule adopted in accordance with the Administrative Procedure Act. The proceeds of the fee shall be used to defray the costs of regulating the seed industry in Louisiana. The fee shall be collected at the first point of sale in Louisiana. The amount of the fee shall be based on the cost of regulating the seed industry and shall not exceed twenty cents per one hundred pounds of seed.

Added by Acts 1988, No. 178, §1; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1449. Disposition of funds; Seed Fund

A. All assessments, fees, penalties, and other funds received under the provisions of this Part shall be disposed of in accordance with the following provisions:

(1) All assessments, fees, penalties, and all other funds received under the provisions of this Part, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state that become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Part into a special fund which is hereby created in the state treasury and designated as the Seed Fund.

(3) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

B. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part, as determined by the commissioner.

(2) To fund any and all costs related to the carrying out of the powers and duties granted to the commission and the commissioner of agriculture and forestry under this Part.

Acts 2003, No. 175, §1, eff. July 1, 2003; Acts 2013, No. 26, §1, eff. May 23, 2013.

PART II. FRAUD OF NURSERYMEN

§§1551, 1552. *Repealed by Acts 2013, No. 26, §3, eff. May 23, 2013.*

CHAPTER 12. PLANT DISEASES

PART I. BOLL WEEVIL ERADICATION LAW

§1601. Short title

This Part may be cited as the "Louisiana Boll Weevil Eradication Law".

Acts 1992, No. 58, §1.

§1602. Legislative findings and purpose

The legislature hereby finds and declares that the boll weevil has for many years been a public nuisance, a pest, and a menace to the cotton industry. The boll weevil has caused the destruction of vast quantities of cotton and thereby imposed severe economic losses upon cotton producers in the state. Due to the interstate nature of the boll weevil infestation, it is necessary to secure the cooperation of cotton producers and other state and federal governments to carry out a program of boll weevil suppression and eradication. The purpose of this Part is to secure the suppression or eradication of the boll weevil and to cooperate with state and federal agencies in the administration of cost-sharing programs for the suppression or eradication of the boll weevil.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1603. Definitions

As used in this Part, the following terms shall have the following meanings, except where the context expressly indicates otherwise:

(1) "Affected cotton producer" means a cotton producer as defined herein and the term "affected cotton producer" as used herein shall also include landlords of share tenants and landlords of cash tenants.

(2) "Assessment" means the amount charged to each cotton producer to finance, in whole or in part, a program to suppress or eradicate the boll weevil in the state. The charge to the producer will be calculated on a per acre basis.

(3) "Boll weevil" means any *Anthonomus grandis* Boheman in any stage of development.

(4) "Certificate" means a document issued or authorized by the commissioner indicating that a regulated article is not contaminated with boll weevils.

(5) "Commission" means the Louisiana Boll Weevil Eradication Commission established in this Part.

(6) "Commissioner" means the commissioner of the Department of Agriculture and Forestry, or his duly authorized designee.

(7) "Cotton" means any cotton plant or cotton plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.

(8) "Cotton producer" means any person who is actively and directly engaged in the production, planting, growing, or farming of cotton for market, or otherwise actively causing cotton to be produced for market.

(9) "Department" means the Louisiana Department of Agriculture and Forestry.

(10) "Eradication zone" means any area or areas of the state, designated by the commissioner, where boll weevil eradication programs will be undertaken.

(11) "Host" means any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.

(12) "Infested" means actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.

(13) "Move" means to ship, offer for shipment, deposit for transmission by mail, receive for transportation, carry, or otherwise transport, move or allow to be moved.

(14) "Noncommercial cotton" means any cotton intended for purposes other than processing, including but not limited to cotton planted for ornamental purposes and volunteer cotton.

(15) "Permit" means a document issued or authorized by the commissioner to provide for the movement of regulated articles to restricted designations for limited handling, utilization, or processing.

(16) "Person" means any individual, firm, company, corporation, partnership, society, association, or other business or public entity.

(17) "Regulated article" means any article of any character carrying or capable of carrying the boll weevil, including but not limited to cotton plants, seed cotton, cottonseed, other hosts, gin trash, gin equipment, mechanical cotton pickers, and other equipment associated with cotton production, harvesting, or processing.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1604. Boll Weevil Eradication Commission

A. In accordance with R.S. 36:901, the Boll Weevil Eradication Commission is hereby created within and is transferred to the Department of Agriculture and Forestry and shall consist of eight members as follows:

(1) Two cotton producers appointed by the commissioner from a list of six persons nominated by the Louisiana Farm Bureau Federation.

(2) Two cotton producers appointed by the commissioner from a list of six persons nominated by the Louisiana Cotton and Grain Association.

(3) One cotton producer to be appointed by the commissioner from a list of nominees submitted by the chairman of the House Committee on Agriculture, Forestry, Aquaculture and Rural Development and a list of nominees submitted by the chairman of the Senate Committee on Agriculture, Forestry, Aquaculture and Rural Development.

(4) The chancellor of the LSU Agricultural Center, or his designee, who shall serve as an ex officio member in an advisory capacity.

(5) A member of the Louisiana Agricultural Consultants Association selected by the executive board of the association, who shall serve as an ex officio member in an advisory capacity.

(6) The commissioner, or his designee, who shall serve as an ex officio member and shall have all of the same rights and responsibilities as the appointed members.

B. The commissioner shall appoint an alternate member for each member he appoints. The alternate member shall be appointed from the same list of nominees and in the same manner as the appointed member. Any designee or alternate who attends a meeting as a representative of a member shall have the same rights, powers, and privileges, including voting rights, as the member he represents.

C. In the event that any cotton producer member of the commission ceases to be a cotton producer, that member shall not be eligible to continue membership on the commission, and his alternate member shall fill the member's vacancy, on an interim basis, until such time as the vacancy is filled as provided in Subsection G of this Section.

D. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

E. Members shall serve terms concurrent with the commissioner making the appointment. The organizations authorized to make nominations for appointment to the commission shall file the initial list of nominees for appointment within thirty days after August 21, 1992. Thereafter, each organization shall file a list of nominees with the commissioner no later than June thirtieth of the year of the governor's inauguration.

F. The commissioner shall make all appointments no later than thirty days following the last day for submission of lists of nominees.

G. Whenever a vacancy of a member or alternate member occurs, the organization authorized to make nominations for appointment to the vacant position shall submit another list of nominees to the commissioner within thirty days of receipt of notice of the vacancy, and the commissioner shall appoint a nominee from the list to fill the vacancy of the member or alternate member. In the event of any failure to submit a list of nominees, the commissioner shall submit a person of his choice to the Senate for confirmation.

H. All books and records of account and minutes of proceedings of the commission shall be available for inspection and audit by the legislative auditor at any reasonable time.

I. The commissioner, upon recommendation of the commission, may appoint, subject to Senate confirmation, a director who shall be in the unclassified service of the state. The commissioner may employ all personnel necessary for the efficient and proper administration of this Part.

J. Members or alternate members of the commission shall not receive any salary or per diem for performing their duties as members. Members may receive a mileage allowance for mileage traveled in attending meetings, at a rate not to exceed that paid to state employees.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 2003, No. 116, §1, eff. May 28, 2003; Acts 2008, No. 64, §1, eff. June 5, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 310, §1, eff. May 25, 2012.

§1604.1. Powers and duties of the commission and commissioner

A. The commission shall have the following powers:

(1) To conduct investigations and hold hearings on alleged violations of rules or regulations of this Part.

(2) To advise the commissioner of the requirements involved in eradicating and controlling boll weevils.

(3) To advise the commissioner as to the findings of the commission.

(4) To advise the commissioner on the penalties to be imposed or the injunctive relief to be sought for violations.

(5) To adopt rules or regulations concerning quarantines, eradication zones, movement of regulated articles, regulation of activities affecting the boll weevil eradication program, and such other rules or regulations authorized by this Part.

(6) To call for and direct referendums authorized by this Part.

(7) To set penalties for failure to pay assessments.

(8) To adopt rules or regulations needed for the commission to carry out its duties and responsibilities pursuant to this Part.

B. The commissioner shall have the following powers:

(1) To administer and enforce the provisions and the rules or regulations adopted pursuant to this Part.

(2) To enter into any cooperative endeavor or cooperative agreement with any federal, state, or local agency as he deems necessary to further the purposes of this Part.

(3) To call, arrange, and manage any referendum under the direction of the commission.

(4) To collect, administer, and disburse the proceeds of the assessment levied and collected pursuant to this Part.

(5) To enter property to conduct inspections, examine and copy records, and carry out suppression or eradication activities as provided in this Part.

(6) To make final determinations regarding violations of any provision of this Part or of the rules or regulations adopted pursuant to this Part and to impose penalties for any such violations.

(7) To institute civil proceedings to enforce orders or rulings or other civil relief to collect any assessments, late fees, fines, penalties or costs due under this Part or otherwise enforce the provisions of this Part or rules or regulations adopted pursuant to this Part.

(8) To exercise any power authorized by this Part and to adopt rules or regulations necessary to carry out the duties and responsibilities pursuant to this Part.

Acts 2008, No. 64, §1, eff. June 5, 2008.

§1605. Cooperative agreements

The commissioner, through the commission, is authorized to carry out programs to suppress or eradicate the boll weevil in the state. The commissioner is authorized to cooperate with any agency of the federal government, any state, any other agency in the state or in the region, or any person engaged in growing, processing, marketing, handling cotton, or any group of such persons in programs to effectuate the purposes of this Part and may enter into written agreements, including cooperative endeavor agreements, to effectuate such purposes. Such agreements may provide for cost sharing, and for division of duties and responsibilities under this Part and may include other provisions generally to effectuate the purposes of this Part.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1606. Entry of premises; eradication activities; inspections

A. The commissioner may enter cotton fields, cotton processing facilities, any means of conveyance within this state, and any other property or premises, other than dwellings, to inspect for boll weevil infestations, to examine and copy records, and to carry out suppression or eradication activities, including but not limited to treatment with pesticides, sampling, monitoring, and destruction of growing cotton or other host plants, as may be necessary to carry out the provisions of this Part.

B. In circumstances not covered by Subsection A of this Section, the commissioner may apply to the district court for the parish in which the entry is to occur for a warrant or warrants authorizing the right of entry to any dwelling for the purpose of carrying out the provisions of this Section or other activities authorized by this Part.

C. The commissioner may issue subpoenas to compel the attendance of witnesses or the production of records or things anywhere in the state at a deposition or at a hearing before the commission for the purposes of carrying out the provisions of this Part.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1607. Reports

Every person growing cotton in the state shall furnish to the commissioner, on forms specified by the commissioner, such information as the commissioner may require concerning the size and location of all commercial cotton fields and of noncommercial patches of cotton grown as ornamentals or grown for any other purposes.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1608. Quarantine; rules and regulations

A. The commission may adopt rules and regulations concerning quarantines including procedures for quarantining, the storage or other handling of regulated articles, and the movement of regulated articles into or from quarantined areas.

B. The commission shall determine when such action is necessary, or appears reasonably necessary, to prevent or retard the spread of the boll weevil.

C. The commission may adopt rules and regulations governing the movement of articles from other states or portions thereof into this state when such state is known to be infested with the boll weevil.

D. The adoption of all rules and regulations shall be done in accordance with the Administrative Procedure Act and sound principles of quarantine.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1609. Eradication zones; participation in eradication program; penalty fees

A. The commission may designate by rule or regulation, one or more areas of the state as eradication zones where boll weevil eradication programs will be undertaken.

B. The commission may adopt rules and regulations regarding areas where cotton cannot be planted within an eradication zone when there is reason to believe it will jeopardize the success of the program or present a hazard to public health or safety.

C. The commission may adopt rules and regulations prohibiting the planting of noncommercial cotton in such eradication zones, and requiring that all cotton producers of commercial cotton in the eradication zones participate in a program of boll weevil eradication, including payment of assessments, as prescribed in the rules and regulations. Notice of such prohibition and requirement shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

D. The commission may set, by rule or regulation, a reasonable schedule of penalty fees to be assessed when cotton producers in designated eradication zones do not meet the requirements of rules or regulations adopted by the commission with respect to reporting of acreage and participation in the payment of assessments as prescribed by regulation. Such penalty fees shall not exceed a charge of twenty-five dollars per acre per year.

E. When a cotton producer fails to meet the requirements of rules and regulations adopted by the commission, the commissioner may destroy cotton in eradication zones which is not in compliance with such rules and regulations, provided notification of such proposed action by the commissioner, not less than twenty-one days prior to such action being taken, has been properly filed and maintained in accordance with the central registry provisions of R.S. 3:3651 et seq., and any secured party of any cotton producer has been notified by the commissioner of such proposed action by registered or certified mail, return receipt requested, within said delay. Costs incurred by the commissioner shall be assessed against the cotton producer.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1610. Destruction or treatment of cotton in eradication zones

A. The commissioner may destroy or, at his discretion, cause to be treated with pesticides, volunteer or other noncommercial cotton and may establish procedures for the purchase and destruction of commercial cotton in eradication zones when the commissioner deems such action necessary to effectuate the purposes of this Part.

B. No payment shall be due from or made by the commissioner to anyone, including the cotton producer, owner, or lessee for the destruction or injury of any cotton which was planted in an eradication zone after publication of notice as provided in this Part, or was otherwise handled in violation of this Part, or the rules and regulations adopted under the provisions of this Part.

C. The commissioner shall pay for losses resulting from the destruction of cotton which was planted in such zones prior to publication of such notice.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1611. Rules and regulations

A. The commission may adopt rules and regulations prohibiting or restricting the pasturage of livestock, entry by persons, and location of honeybee colonies or other activities affecting the boll weevil eradication program in any premises in an eradication zone which have been or are to be treated with pesticides or otherwise treated to cause the eradication of the boll weevil, or in any other area that may be affected by such treatments.

B. The commission may adopt such other rules and regulations as it deems necessary to further effectuate the purposes of this Part. The adoption of all rules and regulations under the provisions of this Part shall be done in accordance with the Administrative Procedure Act.

Acts 1992, No. 58, §1.

§1612. Penalties

A. Any person who violates any of the provisions of this Part or the rules or regulations adopted under the provisions of this Part, or who alters, forges, or counterfeits, or uses without authority, any certificate or permit or other document provided for in this Part or in the rules or regulations adopted under the provisions of this Part, or who, except in compliance with the rules or regulations adopted by the commission, moves any regulated article which the commissioner found is infested by the boll weevil into this state from any other state shall be subject, in addition to any unpaid assessments or other unpaid fees associated with the eradication program, to a civil penalty of not more than five thousand dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the violator. The commissioner, by rule, shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part, or of the rules and regulations adopted under the provisions of this Part, in the district court for the parish in which the violation occurred.

Acts 1992, No. 58, §1.

§1613. Referendum; assessments

A. At the request of the commission, the commissioner shall call a referendum among affected cotton producers on the question of whether an assessment shall be levied upon cotton producers in the eradication zone or zones to offset, in whole or in part, the cost of boll weevil suppression or eradication programs, including but not limited to all costs of any regulatory and enforcement activities of the department, authorized by this Part or any other law of the state. Such a referendum may be held on a regional basis.

B. The assessment levied under this Part shall be based upon the number of acres of cotton planted in the eradication area. The amount of the assessment, the period of time for which it shall be levied, how it shall be levied, and when it shall be paid shall be established by the commission by rules and regulations adopted in accordance with the Administrative Procedure Act.

C. All persons who were affected cotton producers in the calendar year prior to the referendum shall be entitled to vote in any such referendum and the commission shall determine any questions of eligibility to vote.

D. Each affected cotton producer shall be provided a ballot upon which to cast a vote for or against the boll weevil suppression or eradication program.

E. If two-thirds of those voting vote in favor of the assessment then the assessment shall be collected by the commissioner on behalf of the commission from the cotton producers.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 1995, No. 299, §1, eff. June 14, 1995; Acts 1997, No. 7, §1.

§1614. Conduct of referendum; subsequent referendum

A. The arrangements for and management of any referendum held under this Part shall be under the direction of the commission. The commission shall bear all expenses incurred in conducting the referendum, to include furnishing the ballots and arranging for the necessary poll holders.

B. In the event any referendum conducted under this Part fails to receive the required number of affirmative votes, the commissioner, at the request of the commission, shall call other referendums or a re-vote of the same referendum.

C. After the passage of any referendum, the affected cotton producers, upon petition by one-third of the cotton producers within a designated eradication zone, shall be allowed, by subsequent referendums, to vote on whether to modify or eliminate the assessments. Passage of the question called in any subsequent referendum requires that a two-thirds majority of those voting approve the question. All the requirements for an initial referendum must be met in subsequent referendums.

D. If any assessment is modified or eliminated for any reason, then all assessments approved, levied, or otherwise collectible under this Part on the last date prior to any such modification or elimination of assessments taking effect shall remain valid and collectible as necessary to pay the financial obligations of the commission, until the financial obligations of the commission incurred in regard to that eradication zone are paid in full.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 2003, No. 138, §1, eff. May 28, 2003.

§1615. Boll Weevil Eradication Fund; disposition of funds

A. All assessments, fees, penalties, and other funds received under the provisions of this Part shall be disposed of in accordance with the following provisions:

(1) All fees, penalties, and all other funds received by the commission under the provisions of this Part, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall

be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission under the provisions of this Part into a special fund which is hereby created in the state treasury and designated as the Boll Weevil Eradication Fund.

(3) All unexpended and unencumbered monies received from fees and penalties in the fund at the end of each fiscal year shall remain in the Boll Weevil Eradication Fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

(4) All monies received from assessments shall be transferred directly to the Louisiana Agricultural Finance Authority to provide for the expenses of the program established by this Part.

B. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part, as determined by the commissioner.

(2) To fund any and all costs related to the eradication of boll weevils, utilizing any or all powers granted to the Louisiana Agricultural Finance Authority.

C. The Louisiana Agricultural Finance Authority, on behalf of the commission or commissioner, may fund the anticipated funds appropriated from the Boll Weevil Eradication Fund, and fees, assessments, penalties, and funds excepted from deposit into the state treasury pursuant to Article VII, Section 9 of the Constitution of Louisiana into revenue bonds or other evidence of indebtedness for the purpose of financing the costs of the programs established in this Part, including without limitation any and all costs related to the eradication of boll weevils in any or all eradication zones. The Louisiana Agricultural Finance Authority may pledge those funds to secure the repayment of revenue bonds or other evidence of indebtedness issued by the Louisiana Agricultural Finance Authority in connection with this Part or to secure any agreement entered into in connection with the issuance of revenue bonds or other evidence of indebtedness for those purposes.

D. If fees, penalties, assessments, or funds are pledged by the Louisiana Agricultural Finance Authority to secure the repayment of revenue bonds or other evidence of indebtedness or are pledged to secure any other agreement entered into in connection therewith as permitted by this Part, the assessments levied at the time of delivery of the bonds or other evidence of indebtedness shall not be reduced until the bonds or other evidence of indebtedness have been repaid.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 2011, No. 332, §1, eff. June 29, 2011; Acts 2012, No. 157, §1, eff. July 1, 2012.

§1616. Failure to pay assessments

A cotton producer who fails to pay, when due and upon reasonable notice, any assessment levied under this Part, shall be subject to a per acre penalty as provided for by rules and regulations, in addition to the assessment.

Acts 1992, No. 58, §1; Acts 1994, 3rd Ex. Sess., No. 124, §1.

§1617. Liens

A. The commissioner shall have a lien on cotton, or its proceeds, for the payment of assessments under this Part, which shall be of equal dignity with liens for ad valorem property taxes in favor of the state, provided notification of: (1) the name and address of each cotton producer subject to an

assessment within fifteen days after determination thereof, (2) the imposition of any penalty and the name and address of the cotton producer subject thereto within ten days after the determination thereof, and (3) the date and location of any proposed execution or foreclosure action applicable to any cotton by a sheriff or the commissioner not less than twenty-one days prior to any sale or other disposition of the cotton, have been properly filed and maintained in accordance with the central registry provisions of R.S. 3:3651 et seq., and any secured party of any cotton producer has been notified by the commissioner of all actions described in (2) and (3) above by registered or certified mail, return receipt requested, within said delays. The commissioner is authorized to issue executions for the collections of such assessments in like manner as executions are issued for ad valorem property taxes due the state. It shall be the duty of each and every sheriff of this state and their lawful deputies, upon request of the commissioner, to levy and collect such executions and to make their return thereof to the commissioner in like manner as such tax executions are levied and return thereof made to parish tax collectors and tax commissioners; however, the commissioner shall be authorized to levy and collect his own executions. The commissioner may enforce the lien on cotton in the manner provided by law for enforcement of liens.

B. In the event that revenue bonds or other evidence of indebtedness are issued by the Louisiana Agricultural Finance Authority to finance the costs of programs established by this Part, the commissioner, or the Louisiana Agricultural Finance Authority on behalf of the commissioner, may pledge amounts collected in connection with the lien created by Subsection A of this Section to secure such revenue bonds or other evidence of indebtedness.

Acts 1994, 3rd Ex. Sess., No. 124, §1; Acts 2003, No. 138, §1, eff. May 28, 2003.

§§1621 to 1642. *Repealed by Acts 1982, No. 198, §6, eff. Jan. 1, 1983.*

PART II. CROP PESTS AND DISEASES

§1651. Distribution of entomological work between entomologist of experiment stations and state entomologist

A. All of the entomological work of the state relating to demonstration, inspection, and quarantine work shall be conducted by the Department of Agriculture and Forestry and all of the investigational, experimental, and research work of an entomological nature shall be conducted by the experiment stations of Louisiana State University Agricultural Center. The head of the Department of Entomology at the Louisiana State University Agricultural Center shall have charge and direction of the entire entomological work of the stations.

B. There shall be a state entomologist appointed by the commissioner of agriculture and forestry who shall have charge of the entomological work of the department. The state entomologist shall be under the supervision and control of the commissioner of agriculture and forestry.

Amended by Acts 1952, No. 272, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§1652. Power of the Department of Agriculture and Forestry to control pests and diseases; rules and regulations; restricting importation

The Department of Agriculture and Forestry shall have full and plenary power to deal with all crop and fruit pests and such contagious and infectious crop and fruit diseases as in the opinion of the entomologist, may be prevented, controlled, or eradicated; with full power to make, promulgate and enforce such rules, ordinances and regulations, and to do and perform such acts as, in the judgment of the entomologist, may be necessary to control, eradicate, or prevent the introduction, spread, or dissemination of all injurious crop and fruit pests and diseases. The rules, ordinances and regulations

of the department shall have the force and effect of law five days after their promulgation in the official journal of the state. The department may prohibit or regulate the shipment or bringing into this state of any plants, farm products, or other articles of any nature or character whatsoever from any state, territory, or foreign country, when in the opinion of the entomologist the prohibition or regulation is necessary.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§1653. Penalty for violating rules and regulations; enforcement of rules and regulations in court

A. A violator of any provisions of this Part or of any rule or regulation adopted under the provisions of this Part shall be subject to a civil penalty of not more than five thousand dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner of the Department of Agriculture and Forestry based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner, by rule, shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part, or of the rules and regulations adopted under the provisions of this Part, in the district court for the parish in which the violation occurred.

Acts 1990, No. 115, §1.

§1654. Listing dangerous pests and diseases; bulletins; measures authorized in preventing spread of pest or disease; obstructing preventive measures

A. The entomologist shall prepare and publish a list of dangerous crop and fruit pests, and infectious and contagious plant diseases, known or suspected to be present within the state, or which might be introduced, and may, at any subsequent time, amend the list. The entomologist, with the approval of the commissioner of agriculture and forestry, shall have printed from time to time bulletins containing such information, remedies, preventatives, etc., as he may consider necessary, including also the rules, ordinances, and regulations of the Department of Agriculture and Forestry, which bulletins shall be distributed to all farmers and other interested persons in the state.

B. When the entomologist suspects that any pest or plant disease, listed by him as dangerous, exists in any part of the state, he shall verify such suspicion and, if it be well-founded, said entomologist shall take immediate charge of infested or infected property and adopt such measures for the treatment or extermination of pest or disease as he may deem advisable.

C. The entomologist, or any of his duly authorized assistants, may inspect any building, warehouse, depot, or other place where property is located, or premises, nurseries, orchards, groves, or fields suspected to be infested or infected by any crop pest or disease, listed or bulletined by said entomologist, and if in his opinion it is necessary to destroy the property so infested or infected in order to prevent the further spread of the injurious crop pest or disease, he may destroy the property and without compensation to the owner of the infested or infected property.

D. Anyone who seeks to prevent any inspection under the direction of the Department of Agriculture and Forestry by the entomologist, or his authorized assistants, or who otherwise interferes with the agents or employees of the department or the entomologist while in the performance of their duties, shall be subject to the penalties provided in R.S. 3:1653.

Acts 1990, No. 115, §1.

§1655. Entomologist to prepare rules and regulations; fees; Horticulture and Quarantine Fund; disposition of funds

A. The state entomologist shall prepare rules and regulations in accordance with this Part, which shall become effective on the approval of the commissioner of agriculture. Such rules and regulations may be amended by the state entomologist upon the approval of the commissioner.

B. The state entomologist, with the approval of the commissioner of agriculture and forestry, may charge reasonable fees to help defray the expenses incurred for salaries for inspecting nursery stock grown or propagated for sale or distribution. The fees shall be established by rule adopted in accordance with the Administrative Procedure Act. The fee shall not exceed one hundred dollars per nursery location and ten cents per nursery permit shipping tag.

C.(1) The state entomologist, with the approval of the commissioner of agriculture and forestry, shall establish procedures for inspecting and collecting the fees.

(2) All assessments, fees, penalties, and all other funds received under the provisions of this Part, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(3) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from the fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Part into a special fund which is hereby created in the state treasury and designated as the Horticulture and Quarantine Fund.

(4) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

(5) Subject to appropriation, the monies in the fund shall be used for the following purposes:

(a) To provide for the expenses of the program established by this Part and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner of agriculture and forestry.

(b) To fund any and all costs related to the carrying out of the powers and duties granted to the Department of Agriculture and Forestry and the commissioner of agriculture and forestry under this Part to control crop pests and diseases.

D. The state entomologist, with the approval of the commissioner of agriculture and forestry, may assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. If the fee is assessed in connection with a federal program, the amount of the fee assessed shall be based on the fee which would be assessed by the federal government.

Amended by Acts 1978, No. 217, §1; Acts 1988, No. 179, §1; Acts 1993, No. 137, §1; Acts 2003, No. 143, §1, eff. Jan. 1, 2004; Acts 2011, No. 31, §1.

§1656. Permitting of growers of nursery stock; definitions; rules and regulations

A. The state entomologist shall issue permits or certifications to growers of nursery stock.

B. For the purposes of this Section, "nursery stock" means all trees, shrubs, ornamental plants, grass sod, foliage plants, or marsh plants grown or propagated for sale or distribution.

C. The state entomologist shall adopt such rules and regulations as necessary to implement the provisions of this Section.

Acts 1995, No. 253, §1.

PART III. SWEET POTATO DEALERS

§1731. Sweet potato dealer's permit requirement; application; exception; denial, suspension, revocation, and probation of dealer's permit

A. All persons, including sweet potato growers and farmers, commercially growing, selling or offering for sale sweet potatoes shall not grow, move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes without a valid sweet potato dealer's permit.

B. Applicants for a sweet potato dealer's permit shall complete and file the application required by the department, which shall set forth the following conditions:

(1) A guarantee to reimburse any purchase price of sweet potatoes which are confiscated because of sweet potato weevil infestation or unauthorized sale, offer for sale, or movement.

(2) An agreement to permit, at the dealer's cost, the disposal or destruction by the department or the return to point of origin of any sweet potatoes sold, offered for sale, moved or moving without authorization, or infested with sweet potato weevils.

(3) A signed agreement to comply with any and all sweet potato quarantine regulations and any conditions specified in the agreement.

C. The provisions of this Section do not apply to retail grocers and other retail outlets selling or offering for sale sweet potatoes possessing a valid certificate permit or certificate permit tags indicating that the sweet potatoes have been inspected, and that are sold or offered for sale directly to the consumer from a permanent building at a permanent location.

D. A sweet potato dealer's permit may be suspended, revoked, or placed on probation if the holder thereof fails to comply with the provisions of Parts III and III-A of Chapter 12 of this Title or with the provisions of a signed compliance agreement with the department, subject to a finding in support of such action in a properly conducted adjudicatory hearing.

E. The department may refuse to renew a sweet potato dealer's permit if the person or business applying for such permit owes unpaid sweet potato fees, taxes, or civil penalties.

Acts 2013, No. 332, §1, eff. June 17, 2013.

§1732. Terms defined

The terms used in Parts III and III-A of this Chapter shall have the following meanings:

(1) "Certificate permit" means a written document, stamp, or other form of identification approved by the department that authorizes the movement, sale, offer for sale or storage of sweet potato plants, plant products or parts thereof, or regulated materials.

(2) "Certificate permit tag" means a tag that authorizes the movement, sale, or offer for sale or storage of sweet potato plants, plant products or parts thereof, or regulated materials.

(3) "Commissioner" means the commissioner of the Department of Agriculture and Forestry.

(4) "Department" means the Department of Agriculture and Forestry.

(5) "Processing plants" means canning, freezing, and dehydrating facilities.

(6) "Sweet potato" means all plants, plant parts, and plant products in the genus *Ipomoea* and any other plants, plant parts, or plant products that commonly are referred to as sweet potato, that can harbor injurious pests or diseases affecting said plants, plant parts, and plant products.

Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2013, No. 332, §1, eff. June 17, 2013.

§1733. Fee for shipment of sweet potatoes; amount

For the purposes of Parts III and III-A of this Chapter, the commissioner may charge a fee of not more than six cents per bushel on every bushel of sweet potatoes moved or shipped within or out of the state and a fee of not more than ten cents per thousand on all vines, plants, and slips moved or shipped within or out of the state. The fees shall be established by rule adopted in accordance with the Administrative Procedure Act.

Acts 2013, No. 332, §1, eff. June 17, 2013.

§1734. Promulgation of rules and regulations

In accordance with the Administrative Procedure Act, the commissioner may adopt rules and regulations necessary to enforce the provisions of Part III or III-A of this Chapter.

Acts 2013, No. 332, §1, eff. June 17, 2013.

PART III-A. SWEET POTATO PESTS AND DISEASES

§1736.1. Certificate of inspection required for sweet potato shipments

All sweet potatoes, vines, plants, and slips, shipped or moved into, out of, or within the state shall be accompanied by a certificate of inspection signed by the commissioner.

Acts 2013, No. 332, §1, eff. June 17, 2013.

§1736.2. Sale of sweet potatoes for certain purposes prohibited

In order to prevent the spread of sweet potato weevils, no person shall sell or provide raw sweet potatoes for the purpose of feeding, offering to feed, or depositing for food the sweet potatoes to wild game quadrupeds.

Acts 2013, No. 332, §1, eff. June 17, 2013.

§1736.3. Promulgation of rules and regulations

The commissioner shall have full and plenary power to deal with sweet potato pests and diseases that may be prescribed, controlled, or eradicated. He shall have full power to promulgate and enforce the rules, ordinances, and regulations and to do and perform such acts through agents or otherwise, as in his opinion may be necessary to control, eradicate, or prevent the introduction, spread, or dissemination of any and all contagious diseases and pests as far as may be possible and all such rules, ordinances, and regulations shall have the force of law.

Acts 2013, No. 332, §1, eff. June 17, 2013.

§1736.4. Investigation to discover diseased or infested sweet potatoes or plants

The commissioner, his agents and employees, may enter any depot, express office, storeroom, warehouse, or premises for the purpose of inspecting any sweet potatoes, vines, plants, and slips, therein or thought to be therein for the purpose of ascertaining whether the sweet potatoes, vines, plants, and

slips are infected with any contagious or infectious diseases or pests that they may have reason to believe have been or are being transported in violation of the provisions of this Part.

Acts 2013, No. 332, §1, eff. June 17, 2013.

§1736.5. Penalty for violations

A. A violator of any provision of Part III or III-A of this Chapter or of any rule or regulation adopted under the provisions of Part III or III-A of this Chapter shall be subject to a civil penalty of not more than five thousand dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner, by rule, shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of Part III or III-A of this Chapter, or of the rules and regulations adopted under the provisions of Parts III and III-A of this Chapter, in the district court for the parish in which the violation occurred.

Acts 2013, No. 332, §1, eff. June 17, 2013.

§1736.6. Sweet Potato Pests and Diseases Fund; disposition of funds

A. All assessments, fees, penalties, and other funds received under the provisions of Parts III and III-A of this Chapter shall be disposed of in accordance with the following provisions:

(1) All assessments, fees, penalties, and all other funds received under the provisions of Parts III and III-A of this Chapter, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state, which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of Parts III and III-A of this Chapter into a special fund which is hereby created in the state treasury and designated as the Sweet Potato Pests and Diseases Fund.

(3) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

B. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by Parts III and III-A of this Chapter, as determined by the commissioner.

(2) To fund any and all costs related to the carrying out of the powers and duties granted to the commissioner under Parts III and III-A of this Chapter.

Acts 2013, No. 332, §1, eff. June 17, 2013.

PART III-B. SWEET POTATO PROMOTION

§1741. Purpose

The purpose of this Part is to expand the market and increase consumption of sweet potatoes by acquainting the general public with the health giving qualities and the food value of the sweet potatoes grown in Louisiana, thereby promoting the general welfare of our people.

Acts 2009, No. 24, §8C, eff. June 12, 2009.

§1742. Terms defined

The terms used in this Part shall be construed to mean as follows:

(1) "Sweet potatoes" means all sweet potatoes of the grades as recommended by the United States Department of Agriculture and such other grades as may be promulgated by the Louisiana Sweet Potato Advertising and Development Commission;

(2) "Bushel" means 50 pounds of sweet potatoes whether such potatoes are in crates, sacks or other containers, or in bulk;

(3) "Shipper" means any person, partnership, association, or corporation, engaged in the packaging and shipping or either packaging or shipping, of sweet potatoes or transporting sweet potatoes whether as owner, agent, or otherwise;

(4) "Shipment" shall be deemed to take place when the sweet potatoes are loaded within the state in a railroad car, boat, truck or other conveyance in which sweet potatoes are to be transported;

(5) "Commission" means the Louisiana Sweet Potato Advertising and Development Commission.

(6) "Handler" shall mean any person handling sweet potatoes in the primary channels of trade.

(7) "Processor" shall mean any person, partnership, association, or corporation engaged in the canning, freezing, or dehydrating of sweet potatoes.

Amended by Acts 1975, No. 134, §§1, 2; Acts 2009, No. 24, §8C, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§1743. Louisiana Sweet Potato Advertising and Development Commission; creation and organization

A. The Louisiana Sweet Potato Advertising and Development Commission is created with its domicile at Baton Rouge, Louisiana, to be composed of eleven members, ten of whom shall be appointed by the commissioner of agriculture and forestry. The eleventh member shall be the commissioner, or his designee, who shall serve as an ex officio member of the commission with the same rights and privileges, including voting rights, as other members. Four of the ten members to be appointed shall be practical sweet potato growers, four shall be handlers or shippers of sweet potatoes, and two shall be commercial processors.

B. After the expiration of the initial terms, appointments shall be made for four years and no member of the commission shall serve for more than two consecutive terms. Vacancies in the membership shall be filled by appointment of the commissioner from a list of nominations supplied to him by the Louisiana Sweet Potato Association, the Louisiana Farm Bureau Federation, and the Louisiana Sweet Potato Advertising and Development Commission.

C. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of duties of the commission. Each member shall take and subscribe to the

oath of office prescribed for state officers. No member of the commission shall receive any salary, but each appointed member shall receive the sum of fifteen dollars per day for each day spent in actual attendance of meetings of the commission, or of meetings of duly appointed committees or subcommittees thereof, and such allowance for traveling expenses in attending the meetings as is allowed other state employees for traveling expenses.

D. The members of the commission shall meet and organize immediately after their appointment, and annually thereafter shall elect a chairman, vice chairman, and a secretary-treasurer from the membership of the commission, whose duties shall be those customarily exercised by such officers, or specifically designated by the commission. The commission may establish rules and regulations for its own government and the administration of the affairs of the commission, and is authorized to employ the necessary personnel to carry into effect the rules, regulations, and ordinances that it may adopt and to carry on the work of the commission. The commission shall employ a director and assistant director who shall be appointed by the commission, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service.

E. *Repealed by Acts 1976, No. 109, §2.*

Amended by Acts 1952, No. 272, §1; Acts 1952, No. 389, §1; Acts 1954, No. 327, §1; Acts 1968, No. 434, §1; Acts 1972, No. 545, §1; Acts 1975, No. 134, §1; Acts 1976, No. 109, §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 1997, No. 61, §1; Acts 2009, No. 24, §8C, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 310, §1, eff. May 25, 2012.

§1744. Powers

The commissioner of agriculture and forestry shall administer the terms of this Part and control and disburse the proceeds of the tax levied and collected thereunder; however, disbursements may be authorized only by a majority of the members of the commission. He may continue to maintain a field office at Opelousas, Louisiana, to carry on the work of the commission, at which office meetings of the commission may be held, and he may establish rules and regulations, in accordance with the Administrative Procedure Act, for the administration and implementation of the provisions of this Part. To assist in the collection of the tax, the commission may cause its duly authorized agent or representative to go upon the premises of any grower, shipper, dealer, or handler of sweet potatoes and examine or cause to be examined by any such agent or representative any books, papers, records, or memoranda bearing on the amount of taxes payable, and to secure other information directly or indirectly concerned in the enforcement of this Part.

Amended by Acts 1952, No. 389, §2; Acts 1968, No. 434, §1; Acts 1975, No. 134, §1; Acts 1976, No. 109, §1; Acts 1997, No. 61, §1; Acts 2009, No. 24, §8C, eff. June 12, 2009.

§1745. Tax on sweet potato shipments

There is imposed and levied a tax at the rate of four cents per bushel of fifty pounds or fraction thereof on all Louisiana sweet potatoes inspected for shipment to fresh market outlets and to processing plants, and on sweet potatoes produced out-of-state and moved into Louisiana; except that a ten percent discount will be allowed on all processing stock to compensate for waste.

Amended by Acts 1950, No. 210, §1; Acts 1958, No. 235, §1; Acts 1963, No. 63, §1; Acts 1968, No. 434, §1; Acts 1975, No. 134, §1; Acts 2009, No. 24, §8C, eff. June 12, 2009.

§1746. Collection, deposit, and disbursement of sweet potato tax money

A. The tax imposed and levied by this Part shall be collected by the Louisiana Department of Agriculture and Forestry from the shipper or processor along with the fee collected in connection with the inspection of sweet potatoes and issuance of certificates and tags required for shipment thereof.

B. The proceeds of the tax collected from the shippers and processors by the department, together with the proceeds from the sale of any authorized publications of the commission, shall be deposited with the state treasurer in a special fund to be established by him for the Louisiana Sweet Potato Advertising and Development Commission in the administration of this Part, and disbursements thereof shall be made on the warrant of the commissioner drawn on the state treasurer out of the funds; however, disbursements may be authorized only by a majority of the members of the commission. The interest earned on the investment of monies in this fund shall be credited to the fund.

C. The proceeds of one cent of the four-cent per bushel tax collected each year shall be disbursed by the commissioner when authorized by a majority of the commission as follows:

(1) One-fourth of the above amount to finance activities and services initiated by the Louisiana Sweet Potato Association as approved by a majority of the members of the commission.

(2) Three-fourths of the above amount to the Louisiana Agricultural Experiment Station to finance sweet potato research work as approved by a majority of the members of the commission.

Amended by Acts 1952, No. 389, §3; Acts 1960, No. 555, §1; Acts 1963, No. 63, §2; Acts 1968, No. 434, §1; Acts 1975, No. 134, §1; Acts 1997, No. 61, §1; Acts 2009, No. 24, §8C, eff. June 12, 2009.

§1747. Advertising sweet potatoes; contracts

The commission shall plan and conduct a campaign for advertising, publicizing and promoting the increased consumption of sweet potatoes and as an incident thereto may prepare, print and publish for distribution and sale cookbooks which emphasize the value and uses of sweet potatoes. It may contract for any advertising, publicity and sale promotion services, the amount of the contract to be limited each year to the estimated amount of the tax for the year less the estimated cost of administering this Part. The commissioner is authorized and empowered to carry out any and all contracts made by the commission.

Amended by Acts 1952, No. 389, §4; Acts 1960, No. 555, §1; Acts 2009, No. 24, §8C, eff. June 12, 2009.

§1748. Offenses; penalty for nonpayment of tax

Any handler, processor, or shipper of sweet potatoes who willfully evades the payment of the tax provided for in R.S. 3:455, or who violates any other provisions of this Part, shall be fined not more than five hundred dollars. If any shipper or processor fails to pay any tax due under the provisions of this Part within thirty days after the tax payment is due, he shall be liable to a penalty of twenty percent thereof, and the attorney general shall enforce payment of the tax and penalty by civil action against the shipper or processor for the amount of the tax and penalty.

Amended by Acts 1968, No. 434, §1; Acts 1975, No. 134, §1; Acts 2009, No. 24, §8C, eff. June 12, 2009.

PART IV. RECIPROCAL QUARANTINES OR EMBARGOES

§1771. Prohibition of importation of plants from area prohibiting importation from Louisiana

In order to provide a system of reciprocal quarantines or embargoes between this state and other states, territories, and foreign countries, it shall be unlawful for any person, firm or corporation to ship or transport into this state, or to sell, deal in, or handle in any manner within this state, any agricultural or horticultural plant or plant product from any state, territory, or foreign country which prohibits the shipment from this State of any such agricultural or horticultural plant or plant product by reason of quarantine or embargo of any kind or nature.

§1772. Responsibility for law enforcement

The commissioner of agriculture and forestry and the state entomologist shall carry out all provisions of the law relative to pests and diseases affecting agricultural and horticultural plants and plant products and quarantines and embargoes resulting therefrom.

Acts 2009, No. 24, §1, eff. June 12, 2009.

§1773. Duty to prosecute violators

The Attorney General and district attorneys, whenever called upon to do so by the commissioner or entomologist or upon judicial affidavit of any responsible citizen and presented with evidence of a violation of this Part, shall prosecute the person, firm, or corporation charged with a violation hereof.

§1774. Liability of principal

In construing and enforcing the provisions of this Part, the act of, or violation hereof by, any official, agent, or other person acting for or employed by any person, firm, corporation, or other principal within the scope of his employment or office, in every case is the act or violation of such person, firm, corporation, or other principal as well as that of the individual violator.

§1775. Penalty for violations

Whoever violates this Part shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

PART V. NOXIOUS PLANTS

§1791. Chinese tallow; declaration as a noxious plant; destruction

The Chinese tallow (*sapium sebiferum*) is hereby recognized as a noxious plant harmful to growth and development of beneficial plants and pasture and may be destroyed wherever found in this state.

Acts 1995, No. 497, §1.

§1792. *Repealed by Acts 1990, No. 80, §1.*

PART VI. NODDING THISTLE LAW

§§1801 to 1805. *Repealed by Acts 1990, No. 80, §2.*

CHAPTER 13. PESTICIDE WASTE CONTROL

§§1821 to 1832. *Repealed by Acts 1982, No. 198, §6, eff. Jan. 1, 1983.*

CHAPTER 14. COMMERCIAL FEEDS

§§1891 to 1907. *Repealed by Acts 2010, No. 579, §3.*

CHAPTER 15. PRODUCTION AND MARKETING OF LIVESTOCK

PART I. REGULATION OF USE OF STALLIONS AND JACKS

§§1961 to 1971. *Repealed by Acts 2012, No. 8, §1.*

PART II. IMPROVEMENT OF BREEDS OF LIVESTOCK

§2001. Parish regulations to aid improvement of breeds

The governing authorities of the several parishes may pass reasonable regulations for the protection of those engaged in the livestock industry in improving the breeds of livestock.

§2002. Ordinances for control of bulls authorized

The parishes may provide by ordinance for the control of all bulls by their owners and to require that the owners of all scrub bulls keep them in enclosures.

§2003. Castration or impounding of scrub bulls

Parishes may also provide by ordinance for the castration of, or the impounding of, any scrub bull whose owner fails to comply with any regulations authorized by this Part.

§2004. Scrub bull defined

For the purpose of this Part the term "scrub bull" means any bull not entitled to pedigree or registration, as such terms are ordinarily understood in registry associations, societies, or companies recognized by the United States Department of Agriculture and approved by the Louisiana Board of Animal Health.

Acts 2012, No. 811, §1, eff. July 1, 2012.

§2005. Obtaining list of approved pedigree or registry associations

The Louisiana Board of Animal Health shall, upon the request of the police jury of any parish, furnish a list of pedigree or registry associations as satisfy the requirements of R.S. 3:2004.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2006. Right to notice and opportunity to prove bull not subject to castration

No animal shall be castrated under the authority of this Part without notice to the owner thereof; except where the owner of any scrub bull who fails to keep such animals enclosed in violation of any police jury ordinance or regulation cannot be found with reasonable diligence within twenty days, the police jury may castrate the animal.

When the owner of any animal declared to be a scrub bull by a police jury contends that the animal is entitled to pedigree under the provisions of R.S. 3:2004, he shall, upon reasonable assurance of paying all costs of impounding, be entitled to a reasonable time, not exceeding sixty days, to prove that the animal is not a scrub bull as defined by this Part. If he is unable to prove such fact within such period of time the animal shall be castrated.

§2007. Impounding scrub bull not restrained

The several parishes may impound any scrub bull whose owner fails to keep it enclosed and to hold the same until all charges are paid, whether or not the owner resides within the parish where the animal is impounded.

§2008. Authority of parishes to impose penalties

The several parishes may impose reasonable penalties for violation of any ordinance authorized by this Part.

§2009. Compensation on castration of scrub bull

The owner of any scrub bull castrated under the authority of this Part shall be entitled to no compensation unless provision has been made therefor.

§2010. Sale of improved varieties of livestock by state institutions

In order to encourage the propagation of improved breeds of livestock in the state the director of the state experiment stations of Louisiana State University and Agricultural and Mechanical College and the directors of all other state institutions, may authorize the sale at public auction of any varieties of livestock whose propagation in the state they may deem advantageous to its agricultural interests, and such sales shall be exempt from all the state duties or taxes imposed on other auction sales.

§2011. Persons conducting sales of livestock exempt from usual requirements

The director of the experiment stations of Louisiana State University and Agricultural and Mechanical College may authorize any suitable person to conduct sales of improved breeds of livestock for the purpose set out in R.S. 3:2041, and the person authorized to conduct such sales shall be exempt from the requirements as to oath, bond, and from other regulations prescribed for licensed auctioneers.

PART III. LIVESTOCK EXHIBITIONS

§2041. Facilities for livestock shows

Out of funds made available for such purpose, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College shall acquire or erect buildings and procure facilities on land donated in accordance with R.S. 3:2042 to be used in holding annual livestock shows at Alexandria, Delhi, and Arabi for the purpose of aiding, encouraging, and fostering the development, production, and marketing of livestock in Louisiana.

§2042. Donation of land for livestock shows

The parishes of Rapides, Richland, and St. Bernard may each donate any land to the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College for the purposes set out in R.S. 3:2041.

§2043. Maintenance of facilities for livestock shows

The governing authority of each parish shall maintain the buildings and facilities acquired or constructed in its respective parish by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College on lands donated in accordance with R.S. 3:2042.

§2044. Disposition of donated lands on discontinuance of shows

In the event the annual livestock show or exhibition is discontinued in any one of the parishes named in this Part, title to the lands donated in accordance with R.S. 3:2042 shall be returned by the board of supervisors to the donor parish in which the annual event is terminated.

PART IV. BEEF PROMOTION AND RESEARCH PROGRAM**§2051. Legislative intent**

The legislature intends by this Part to authorize the cattle production and feeding industry of this state to establish a self-financed, self-governed program to help develop, maintain, and expand the state, national, and foreign markets for cattle and beef products produced, processed, or manufactured in this state and to permit the cattle production and feeding industry of this state to contribute otherwise to the development and sustenance of a Louisiana coordinated promotion program and nationally coordinated programs of product improvement through research in consumer marketing via the accepted industry organization of the National Livestock and Meat Board and its Beef Industry Council, thus benefiting the entire United States cattle industry and the American public.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2052. Name and purpose

A. The name of the program created and organized by this Part shall be the Louisiana Beef Promotion and Research Program.

B. The purpose of this Part is to promote the growth and development of the cattle industry in Louisiana by research, advertisement, promotions, education, and market development, thereby promoting the general welfare of the people of this state.

C. The Louisiana Beef Promotion and Research Program is hereby established as Louisiana's qualified state beef council as a self-financed, self-governed program to help develop, maintain, and expand the state, national, and foreign markets for cattle and beef products produced, processed, or manufactured in this state, and such program shall be administered by the council.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 1995, No. 298, §1; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2053. Definitions

In this Part, unless the context otherwise requires, the following definitions shall have these meanings:

(1) "Cattle and beef products" mean the meat intended for human consumption from any bovine animal, regardless of age, including veal.

(2) "Cattle" means all bovine animals, regardless of age, including calves.

(3) "Council" means the Louisiana Beef Industry Council established under this Part to administer and govern the program.

(4) "Person" means any natural person, partnership, corporation, company, association, society, trust, or other business unit or organization.

(5) "Market agent," "market agency," "collection agent," or "collection agency," means any licensed person who sells, offers for sale, markets, distributes, trades, or processes cattle which have been

purchased or acquired from a producer, or which are marketed on behalf of a producer, and further includes all licensed marketing agents, including all order buyers, all meat packing firms, and their agents which purchase or consign to purchase cattle.

(6) "Fiscal year" means the calendar period beginning July 1 and ending June 30 following.

(7) "Collecting person" means:

(a) Any person who makes payment to a producer for cattle purchased in Louisiana.

(b) Any producer marketing to consumers cattle of the producer's own production in the form of beef or beef products.

(c) Any commission, firm, or marketing agency representing the seller in the delivery of cattle for cattle delivered on future contracts.

(d) Any producer selling cattle to be used in a custom slaughter operation.

(8) "Producer" means any person who owns or acquires ownership of cattle, except that a person shall not be considered to be a producer if the person's only share in the proceeds of a sale of cattle or beef is a sales commission handling fee or other service fee.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 1995, No. 298, §1; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2054. Creation and organization

A. The Louisiana Beef Industry Council is hereby created and shall be within the Department of Agriculture as provided for agencies transferred to said department by R.S. 3:629(E). The council shall be domiciled in the city of Port Allen, West Baton Rouge Parish, Louisiana.

B.(1) The council shall be composed of eleven members, ten of whom shall be cattle producers. The ten cattle producer members are as follows:

(a) The president of the Louisiana Cattlemen's Association.

(b) Five cattle producer members, one of which shall be a pure bred breeder, shall be appointed by the executive committee of the Louisiana Cattlemen's Association, subject to approval of the Board of Directors of the Louisiana Cattlemen's Association to serve on the council for rotating three-year terms.

(c) One representative of the Louisiana Livestock Auction Markets Association shall be appointed by the Board of Directors of the Louisiana Livestock Auction Markets Association and shall serve a three-year term.

(d) Three representatives of the Louisiana Farm Bureau Federation shall be appointed by the Louisiana Farm Bureau Federation president and shall serve for rotating three-year terms.

(2) In addition, the commissioner of agriculture shall serve as an ex officio member of the council in an advisory capacity only.

C. The terms of the initial appointees shall be designated by the president of the Louisiana Cattlemen's Association at the time of appointment in such manner that three of the initial appointees shall serve a one-year term; three of the initial appointees shall serve a two-year term; and three of the initial appointees shall serve a three-year term. Thereafter, all subsequent appointments shall be for three-year terms. No appointee shall serve more than two consecutive three-year terms on the council.

D. Thereafter and not less than thirty days prior to the expiration of the term of office, except for those serving by virtue of their elective office, the aforementioned organizations and agencies shall submit the names of appointments to the council. Vacancies which occur shall be filled in the same manner as the original appointments and for the unexpired term.

E. The council shall meet and organize immediately after appointment of the members, and shall elect the chairman, vice chairman, and secretary-treasurer from the membership of the council, whose duties shall be those customarily exercised by such officers or specifically designated by the council. The officers shall serve a one-year term. The council may establish rules and regulations for its own government and for the administration of the affairs of the council.

F. Council members shall receive no salary for their services as members, but shall be reimbursed for actual travel and other expenses incurred in attendance at meetings of the council or while on official business of the council assigned by the council. The reimbursement shall be paid out of funds available to the council.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2055. Powers and duties of the council; quorum

A. The council shall:

(1) Receive and disburse funds, as prescribed elsewhere in this Part, to be used in administering and implementing the provisions and intent of this Part.

(2) Meet regularly, not less often than once in each calendar quarter or at such other times as called by the chairman, or when requested by six or more members of the council.

(3) Maintain a permanent record of its business proceedings.

(4) Maintain a permanent and detailed record of its financial accounts.

(5) Prepare periodic reports and an annual report of its activities for the fiscal year.

(6) Prepare periodic reports and an annual accounting for the fiscal year of all receipts and expenditures of the council and shall retain a certified public accountant for this purpose.

(7) Appoint a licensed banking institution as the depository for program funds and disbursements.

(8) Maintain frequent communications with officers and industry representatives of the National Livestock and Meat Board.

(9) Establish reasonable rules and regulations for its own government and the administration of the affairs of the council.

B. Six members of the council shall constitute a quorum for the purpose of conducting business.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2056. Use of funds

A. The council may expend the funds available to it to:

(1) Contract for scientific research with any accredited university, college, or similar institution and enter into other contracts or agreements which will aid in carrying out the purposes of the program, including cattle and beef promotion, consumer market development, research advertising and, including contracts for the purpose of acquisition of facilities or equipment necessary to carry out purposes of the program.

(2) Disseminate reliable information benefiting the consumer and the cattle and beef industry on such subjects as, but not limited to, purchase, identification, care, storage, handling, cookery, preparation, serving, and the nutritive value of beef and beef products.

(3) Provide information to such government bodies as request it on subjects of concern to the cattle and beef industry and act jointly or in cooperation with the state or federal government and agencies

thereof in the development or administration of programs deemed by the council to be consistent with the objectives of the program.

(4) Cooperate with any local, state, regional, or nationwide organization or agency engaged in work or activities consistent with the objectives of the program.

(5) Pay funds to other organizations for work or services performed which are consistent with the objectives of the program.

B. All funds available to the council shall be expended only to effectuate the purposes of this Part and shall not be used for political purposes in any manner. A report of all expenditures shall be made annually to the state conventions of the Louisiana Cattlemen's Association and the Louisiana Farm Bureau Federation.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2057. Additional powers of council

The council may:

(1) Sue and be sued as a council, without individual liability of the members for acts of the council when acting within the scope of the powers of this Part, and in the manner prescribed by the laws of this state.

(2) Borrow money from licensed lending institutions in amounts which are not cumulatively greater than fifty percent of anticipated annual income.

(3) Appoint advisory groups composed of representatives from organizations, institutions, governments, or business related to or interested in the welfare of the cattle and beef industry and consumers.

(4) Employ subordinate officers and employees of the council and prescribe their duties and fix their compensation and terms of employment.

(5) Accept grants, donations, contributions, or gifts from any source, but only if the use of such resources is not restricted in any manner which is deemed inconsistent with the objectives of the program.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2058. Levies, assessments, collection, and enforcement

A. The council is authorized to collect any assessment in accordance with the Federal Beef Promotion and Research Act of 1985 on all Louisiana cattle purchased or sold within or outside of Louisiana. This assessment shall be known as the "federal assessment" for the purposes of this Part. The collecting person shall deduct the amount of the federal assessment subject to any credits due to the producer from the gross receipts of the producer at the time of sale. The purpose of the federal assessment shall be for the producer's participation in the Federal Beef Promotion and Research Program and by virtue of the federally authorized credit for the producer's participation in the Louisiana Beef Promotion and Research Program.

B. The council may also levy an additional assessment at the rate of fifty cents per head on all Louisiana cattle marketed within or outside Louisiana. This assessment shall be known as the "state assessment" for the purposes of this Part. The collecting person shall deduct the amount of the state assessment subject to any credits due to the producer from the gross receipts of the producer at the time of the sale. The purpose of this state assessment shall be for producer's participation in the Louisiana Beef Promotion and Research Program.

C. The fifty cent state assessment shall be refundable as provided for in R.S. 3:555.9.

D. If more than one producer shares the proceeds received for the cattle sold, each such producer shall pay that portion of the assessments which are equivalent to his proportionate share of the proceeds.

E. Failure of the collecting person to collect the assessment on each head of cattle sold shall not relieve the producer of his obligation to pay the assessment authorized to be levied by this Part.

F. The collecting person shall collect and remit the state and federal assessments authorized to be levied by this Part provided that:

(1) The refundable portion of the state assessment shall not be collected on any cattle which sell for one hundred fifty dollars or less per head.

(2) Notwithstanding anything hereto to the contrary, in no event, nor at any time, shall more than one dollar and fifty cents be paid or collected for the promotional programs described in this Part on any one head of cattle.

G. Each collecting person shall transmit the assessments and a report of the assessments collected to the council in the manner provided for in this Subsection:

(1) Each collecting person shall make such reports as are approved by the council on forms made available by the council. A separate report shall be prepared for each reporting period. The report shall be mailed to the council and shall contain the following information:

(a) The number of cattle purchased or transferred and the number of transactions which are in any way subject to the assessment provided for in this Part, along with the dates of such transactions.

(b) The amount of the assessment remitted.

(c) The reason, if any, that the remittance is less than the number of head of cattle involved in transactions multiplied by the assessment rate.

(d) The date any assessment was paid.

(2) Each calendar month shall be a reporting period. The period shall end on the close of business on the last day of the month.

(3) The collecting person shall remit all assessments to the council with the report no later than the fifteenth day of the month following the close of the period. All remittances shall be by check or money order made payable to the Louisiana Beef Industry Council. All remittances shall be received subject to collections and payment at par.

H. Each collecting person responsible for remitting the assessments, other than a producer slaughtering cattle of his own production for sale, shall give the producer from whom an assessment was collected written evidence of the payment of the assessment. The written evidence shall contain the following information:

(1) The name and address of the collecting person.

(2) The name of the producer who paid the assessment.

(3) The number of cattle sold.

(4) The total assessments paid by the producer.

(5) The date of the receipt.

I.(1) The assessment levied on each head of cattle shall not apply to cattle owned by a person if either:

(a) The person certifies that the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

(b) The person does all of the following:

(i) Certifies that he has acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party.

(ii) Establishes that such cattle were resold not later than ten days from the date on which the person acquired ownership.

(iii) Certifies that the assessment levied upon the person from whom the cattle were purchased has been collected and remitted, or will be so, if an assessment is due or that the assessment is being levied against cattle which sold for one hundred fifty dollars or less per head.

(2)(a) Each person seeking nonproducer status pursuant to Paragraph (1) of this Subsection shall provide the collecting person with a statement certifying his nonproducer status on a form approved by the council.

(b) A copy of such form shall be forwarded by the collecting person to the council upon its request.

J. Records showing the amount of the assessments collected and the number of cattle consigned to the market agents or individuals shall be preserved by such market agencies or individuals for a period of two years and shall be made available for inspection at any time upon oral or written demand by the commissioner of agriculture and forestry or any duly authorized agency or representative of the commissioner or by the council only after review of the Department of Agriculture and Forestry records. Every market agency licensed to do business in Louisiana or other person or organization purchasing cattle in Louisiana, at such time or times as the council may designate, shall submit a monthly sales report to the council, and also shall submit such additional reports or other documentary information as the commissioner or the council deems necessary for the efficient and equitable collection of the assessments imposed in this Part. Copies of these records shall be furnished to the council by the commissioner upon request. The council shall regulate and enforce the collection of the assessments and matters pertaining thereto and shall use the monthly sales reports as a means of regulating the collection of the funds.

Added by Acts 1978, No. 320, §1. Acts 1985, No. 694, §1; HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 1989, No. 166, §1; Acts 1993, No. 587, §1, eff. July 1, 1993; Acts 1995, No. 298, §1; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2059. Refunds

A.(1) Any producer of Louisiana cattle marketed within or outside Louisiana shall be entitled to a refund of fifty cents from the state assessment levied and collected under the authority of this Part.

(2) The council shall notify each producer by mail of the refund provisions and procedures on or before August 15, 1995 and on or before August fifteenth of each year thereafter. The producers shall be notified from a list, provided by each collecting person, of persons who have made payment for cattle to the collecting person.

B. Any request for a refund shall be submitted to the council in written form by the cattle producer or owner on or before the fifteenth day of the month following the month in which the sale of the cattle that were the subject of assessment took place. The request for a refund shall include the following information: the date and place of the sale, number of cattle sold, amount of the assessment collected, and signature of the seller of the related cattle. The request for a refund shall be accompanied by a copy of the relevant check-in sheet.

C. If the council has reasonable doubt that a refund claim is valid, the council may withhold payment and take such action as it deems necessary to determine its validity. Any person who makes

a false claim shall be subject to a civil penalty of not more than one thousand dollars payable to the council.

Acts 1995, No. 298, §1; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2060. Penalty

A. Any collecting person who fails to collect any assessment or remit any assessment collected, to the council, within the time required by this Part, may be assessed a civil penalty of up to five hundred dollars for each violation plus all reasonable costs. Reasonable costs may be deemed to include the amount of the assessments remaining uncollected where it is determined that the noncollection of the assessment was caused by the collecting person. Each day on which a violation occurs shall be considered a separate offense. The penalty shall be paid to the council and shall be disposed of in the same manner as funds derived from the payment of the assessment imposed herein.

B. Any determination of civil penalties and reasonable costs shall be made by an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 1993, No. 587, §1, eff. July 1, 1993; Acts 1995, No. 298, §1; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2061. Bonding

Any member or employee of the council authorized to receive, handle, or disburse funds shall be bonded. The cost of the bond shall be paid from the funds received under the provisions of this Part. The bond shall be a security for any illegal act of the member or employee of the council under the provisions of this Part, and recovery thereon may be had by the council for any injury by such illegal act of such person.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 2009, No. 24, §8K, eff. June 12, 2009.

§2062. Referendum vote

Sections 2055 through 2061 of this Part shall take effect and be in force at such time as approved in a referendum by eligible cattle producers in which a majority of those voting approve the measure. The date of voting shall be established by the commissioner of agriculture and the Louisiana Beef Industry Council and must be held at the office of the county agent in each parish under the supervision of the county agent and two producers, who shall register those producers that cast their ballots, count the ballots for and against at the time designated for the polls to close, sign the report forms, and send all ballots with the list of those voting and the report forms to the office of the commissioner of agriculture by registered or certified mail, return receipt requested, on the morning following the day of the election. The envelopes containing the election reports and ballots shall be well identified and shall remain sealed until the fifth day following the date of said election. On the fifth day following the election, the Louisiana Beef Industry Council shall schedule its quarterly meeting and at that meeting shall make the official count of the ballots. In all such referenda, in order to be eligible to vote, the proposed voter shall have produced cattle in the calendar year immediately preceding the referendum. This program may be extended for an indefinite period of time, in increments not to exceed five years each, by ratification and approval of a majority of the Louisiana cattle producers who vote in referenda to be called and held by the council in the manner set forth hereinabove.

Added by Acts 1978, No. 320, §1. HCR 187, 1987 R.S.; HCR 201, 1988 R.S.; Acts 2009, No. 24, §8K, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§2063. Severability clause

If any provision in this Part is held invalid or suspended, such invalidity or suspension shall not affect other provisions, and to this end the provisions of this Part are hereby declared severable.

Acts 1995, No. 298, §1; Acts 2009, No. 24, §8K, eff. June 12, 2009.

CHAPTER 16. DISEASES OF ANIMALS

PART I. LOUISIANA BOARD OF ANIMAL HEALTH

§2091. Louisiana Board of Animal Health

A. The Louisiana Board of Animal Health is hereby created within the Department of Agriculture and Forestry. The board shall be domiciled in Baton Rouge.

B. The board shall consist of the following eighteen members appointed by the commissioner of agriculture and forestry in accordance with the following provisions:

(1) One member appointed from a list of three persons nominated by the Louisiana Livestock Marketing Association.

(2) One member appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation.

(3) One member appointed from a list of three persons nominated by the Louisiana Veterinary Medical Association.

(4) One member who is a breeder of purebred cattle appointed from a list of three persons nominated by the Louisiana Cattlemen's Association.

(5) One member who is a breeder of commercial cattle appointed from a list of three persons nominated by the Louisiana Cattlemen's Association.

(6) One member appointed from a list of three persons nominated by the Louisiana Thoroughbred Breeders' Association.

(7) One member appointed from a list of three persons nominated by the Louisiana Pork Producers' Association.

(8) One member appointed from a list of three persons nominated by the Louisiana Sheep Producers' Association.

(9) One member appointed from a list of three persons nominated by the Louisiana Poultry Federation.

(10) One member appointed from a list of three persons nominated by the commissioner of agriculture.

(11) One member representing the meat industry appointed from a list of three persons nominated by the Independent Meat Packers Association.

(12) One dairy farmer to be selected from persons nominated by organized dairy cooperatives domiciled in Louisiana, each of which cooperatives may nominate one dairy farmer.

(13) One member who is a livestock dealer appointed from the livestock dealers permitted by the board.

(14) One member who is a poultry grower appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation.

(15) One member who is an exotic animal farmer licensed pursuant to R.S. 3:3102.

(16) Two members appointed by the commissioner, one from a list of nominees submitted by the chairman of the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development and one from a list of nominees submitted by the chairman of the House Committee on Agriculture, Forestry, Aquaculture, and Rural Development.

(17) One member appointed from a list of three persons nominated by the Louisiana Meat Goat Association.

C. The commissioner of agriculture and forestry shall serve on the board as ex officio member with the same rights, powers, duties, responsibilities, and privileges as appointed members.

D. Members shall be appointed for terms which shall end at the same time as the term of the commissioner making the appointment. Members shall serve until their successors in office are appointed and sworn in. Each member shall take and subscribe to the oath of office prescribed for state officers.

E.(1) Members shall be appointed no later than the sixtieth day after the commissioner takes office, or the sixtieth day after a vacancy occurs, or the sixtieth day after nominations are received by the commissioner, whichever is later.

(2) The initial appointment of the member who is an exotic animal farmer shall be no later than the sixtieth day after August 15, 1997. Thereafter, such appointment shall be made pursuant to Paragraph (1).

F. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

G. Vacancies in the offices of the members shall be filled in the same manner as the original appointments for the unexpired portion of the term of the office vacated.

H. A majority of the members of the board shall constitute a quorum for the transaction of business. All official actions of the board shall require the affirmative vote of a majority of the members of the board. However, no member may vote to deny a charter, permit, or license to any person applying for such if the applicant would be in direct competition with the member's business operation.

I. Members may designate representatives to attend meetings of the board. Members who appoint representatives shall provide notice to the board of such action. Representatives shall present written authorization, signed by a member, to the board prior to attending a meeting. Representatives shall not have voting rights.

J. The board, by a vote of two-thirds of the members, may expel a member who has accumulated three consecutive unexcused absences from board meetings.

K. Members of the board shall not receive any salary for their duties as members. Members may receive a per diem for each day spent in actual attendance of meetings of the board or of duly appointed committees or subcommittees of the board. The amount of the per diem shall be fixed by the board in an amount not to exceed forty dollars. Members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the board in an amount not to exceed the mileage rate for state employees.

L. The board may meet on the call of the chairman or upon the request of any three members.

M. The board may authorize the commissioner, and the commissioner hereby shall be so authorized, to direct livestock brand inspectors to assist in the enforcement of the provisions of this Chapter and the rules and regulations adopted pursuant to the provisions of this Chapter; and any such livestock brand inspector shall have such additional power and authority in accordance with the provisions of this Chapter.

Acts 1995, No. 233, §1; Acts 1995, No. 242, §1; Acts 1995, No. 613, §1; Acts 1997, No. 5, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §8N, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2010, No. 645, §1, eff. June 29, 2010.

§2092. Officers and employees

A. The members of the board shall elect a chairman, a vice-chairman, and such other officers as they deem necessary. All officers shall be members of the board.

B. The board, subject to the approval of the commissioner of agriculture, shall employ a director, an assistant director, and a state veterinarian, all of whom shall be in the unclassified service. The state veterinarian shall be the executive secretary of the board. The commissioner of agriculture shall employ such other personnel of the board as are necessary. All employees of the board shall be under the direction and supervision of the commissioner of agriculture.

C. The state veterinarian shall be licensed to practice veterinary medicine in this state, shall be a graduate of a recognized school of veterinary medicine, and shall have at least five years experience as a veterinarian.

Amended by Acts 1954, No. 689, §1; Acts 1980, No. 330, §1; Acts 1982, No. 443, §1, eff. Jan. 1, 1983; Acts 2013, No. 200, §1.

§2092.1. Domicile

The board shall be domiciled in the city of Baton Rouge, and no suit may be filed against the board at any place other than the parish of East Baton Rouge. In suits against the board, all service shall be made on the commissioner of agriculture.

Added by Acts 1981, No. 169, §1. Acts 1982, No. 443, §7, eff. Jan. 1, 1983; Acts 2013, No. 200, §1.

§2093. Powers

The Louisiana Board of Animal Health shall have the following powers and duties:

(1) To adopt such rules and regulations as are necessary to implement and enforce the powers and duties assigned to the board by law. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

(2) To hold hearings and conduct investigations. All adjudicatory hearings shall be held in accordance with the Administrative Procedure Act.

(3) To issue subpoenas to compel the attendance of witnesses or the production of documents and records anywhere in the state in any hearing before the board.

(4) To issue charters and determine sale days for public livestock markets in accordance with R.S. 3:665.

(5) To compel owners of livestock subject to regulation by the board to quarantine, test, or vaccinate the livestock whenever necessary to prevent, control, or eradicate any infectious disease present in the livestock.

(6) To issue cease and desist orders when a violation that is endangering or causing significant damage to animal health or commerce is occurring or is about to occur.

(7) To institute civil proceedings seeking injunctive relief to restrain and prevent violations of the laws or of administrative rules administered or enforced by the board.

(8) To impose civil penalties of up to one thousand dollars for each violation of the laws and administrative rules administered and enforced by the board. Each day on which a violation occurs shall be considered a separate offense. Civil penalties shall be assessed only by a ruling of the board based on an administrative hearing conducted in accordance with the Administrative Procedure Act. The board may institute civil proceedings to enforce its rulings in the district court for the parish in which the violation occurred.

(9) To advise the state Department of Agriculture and Forestry, the United States Department of Agriculture, and the legislature with respect to all phases of the meat industry in Louisiana, including but not limited to the slaughtering and processing of meat and the implementation of the Federal Meat Inspection Act, the Federal Poultry Products Inspection Act, and the state meat inspection program.

(10) To adopt such rules and regulations as may be necessary to monitor compliance with the prohibition against tampering with livestock at a public livestock exhibition as set forth in R.S. 14:102.1(B)(2).

(11) To adopt such rules and regulations as may be necessary to establish standards governing the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. The board shall consider the following when adopting the standards:

- (a) The health and husbandry of the bovine, equine, ovine, caprine, porcine, and poultry.
- (b) Generally accepted farm management practices.
- (c) Generally accepted veterinary standards and practices.

(d) The economic impact the standards may have on bovine, equine, ovine, caprine, porcine, and poultry farmers, the affected bovine, equine, ovine, caprine, porcine, and poultry sectors, and consumers.

Amended by Acts 1952, No. 273, §1; Acts 1952, No. 425, §2; Acts 1954, No. 689, §2; Acts 1982, No. 443, §1, eff. Jan. 1, 1983; Acts 1997, No. 461, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 113, §1, eff. June 8, 2010; Acts 2012, No. 204, §1.

§2094. Powers of the state veterinarian

The state veterinarian may:

(1) Establish, maintain, and enforce quarantine lines and place movement restrictions on intrastate and interstate travel of livestock.

(2) Place any livestock in quarantine until the necessary inspections or tests or epidemiological investigations have been completed.

(3) Appoint inspectors to enter premises, to inspect and disinfect livestock premises, and enforce quarantines.

(4) Make a determination based on epidemiological evaluation of current disease risks that additional requirements are needed to prevent the introduction or spread of disease.

(5) Direct a person to comply with the entry or additional requirements in writing or orally and confirmed in writing.

Acts 2013, No. 200, §1.

§2095. *Repealed by Acts 2012, No. 204, §2.*

§2095.1. Local regulations

A. No municipality, parish, local governmental entity or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area shall enact ordinances, laws, subdivision restrictions or regulations establishing standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market, except as provided in this Section.

B. Municipalities, parishes, and local governmental entities or governing authorities of any group or association may request that the rules and regulations establishing standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market be amended to provide for specific problems encountered in or by the entity, group or association. The following provisions shall govern any such request:

- (1) The request shall be addressed to the commissioner.
- (2) The Louisiana Board of Animal Health shall conduct a hearing.

(3) The Louisiana Board of Animal Health shall make a preliminary determination as to the advisability of amending the state rules and regulations and shall transmit its determination to the commissioner.

(4) The commissioner shall make the final determination as to the desirability of amending the state rules and regulations.

(5) If the commissioner determines that the rules and regulations should be amended, a rule or regulation consistent with the commissioner's determination shall be adopted by the commission in accordance with the Administrative Procedure Act. If the commissioner determines that the rules or regulations should not be amended, a written notice of the decision shall be provided to the requesting party.

C. Municipalities, parishes, and local governmental entities may petition the commissioner for approval of an ordinance establishing standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. The governing authority of a public or private group or association may petition the commissioner for approval of restrictions applicable to the specific geographic area over which the group or association has jurisdiction. The procedure for obtaining such approval shall be as follows:

(1) Any proposed ordinance or restriction shall be sent to the commissioner who shall refer the ordinance to the Louisiana Board of Animal Health for a hearing.

(2) The Louisiana Board of Animal Health shall make a preliminary determination as to the advisability of amending the state rules and regulations and shall transmit its determination to the commissioner.

(3) Upon receipt of the recommendation of the Louisiana Board of Animal Health, the commissioner shall approve or disapprove the proposed ordinance or restriction.

(4) Both the Louisiana Board of Animal Health and the commissioner shall be guided by the provisions of this Section in making their respective determinations.

(5) The requesting party shall be notified of the decision in writing.

(6) Any governing authority aggrieved by a final decision of the commissioner shall have a right of judicial review of the administrative process pursuant to the provisions of the Administrative Procedure Act.

D. Municipalities, parishes, and local governmental entities or governing authorities of a public or private group or association, having in effect, on July 1, 2010, an ordinance or restriction establishing standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market, shall submit the ordinance to the commissioner on or before December 1, 2010, for approval pursuant to this Section. Any such ordinance or restriction received by the commissioner on or before December 1, 2010, shall continue in full force and effect unless the commissioner disapproves the ordinance or restriction in accordance with this

Section. Any such ordinance not received by the commissioner on or before December 1, 2010, shall be void.

E. Nothing contained in this Section shall prohibit a municipality, parish, local governmental entity or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area from enacting ordinances, laws, subdivision restrictions or regulations regarding possession of bovine, equine, ovine, caprine, porcine, or poultry.

Acts 2010, No. 113, §1, eff. June 8, 2010.

§2096. *Repealed by Acts 2012, No. 204, §2.*

§2098. Reports of action and expenditures

The secretary of the board shall make on or before the 10th day of January of each year an itemized statement of all expenditures to the governor, and biennially to the legislature within ten days from date of convening, a full and complete report of all actions, and disbursements.

§2099. *Repealed by Acts 2012, No. 204, §2.*

PART II. PREVENTING SPREAD OF DISEASE

§2130. Definitions

As used in this Chapter, the following terms shall have the following meanings, except where the context expressly indicates otherwise:

(1) "Adulterated meat" means any animal carcass, part thereof, meat or meat product, or any human or animal food additive or supplement containing or derived from animal protein, that bears or contains any bacteria, disease, microorganism, virus, or other pest that could cause serious illness or death in humans or animals or could cause animals to become economically unproductive.

(2) "Diseased livestock" means any livestock that is infected with or carries any bacteria, disease, microorganism, virus, or other pest that could cause serious illness or death in humans or animals or could cause animals to become economically unproductive.

(3) "Livestock" means any animal bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. This definition includes cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

Acts 2013, No. 115, §1.

§2131. Cremation or burial of animal carcasses

In order to prevent, control, and eradicate anthrax or charbon, glanders, blackleg, hemorrhagic septicemia, hog cholera, and all other contagious or communicable diseases of mules, horses, cattle, sheep, goats, swine, and poultry throughout the state, the carcasses of all animals shall be disposed of in a sanitary manner by cremation or deep burial. Burial in this sense means that the animal carcass shall be placed in a hole or pit not less than six feet deep in the disposition of carcasses of cows, mules,

poultry, and horses, and not less than four feet as applying to carcasses of sheep, goats, and swine. The owners, agents, firms, or corporations, or persons in charge of any or all livestock on ranges, pastures, or other premises shall be responsible for disposition of all carcasses in those herds over which they have jurisdiction, with reference to complying to the provisions of this Part. The provisions of this Part shall not apply to animal carcasses within the limits of a city or town which is provided with an incinerator or in which a rendering plant is operated, provided such incinerator or rendering plant is equipped with facilities to properly transport or handle carcasses in a manner to prevent dissemination of infection.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2132. Restraint of sick animals

It shall be unlawful for any owner, person, firm, or corporation, or agent in charge to permit any animal or animals affected with or which have been exposed to anthrax or charbon, glanders, blackleg, hemorrhagic septicemia, hog cholera, or any other contagious or communicable disease, to run at large or to go upon any public road or range. The animal shall be kept on premises of owners, agent, or person in charge of the animal in proper enclosure until all danger of infection has passed.

§2133. Authority to maintain quarantine lines, appoint inspectors, accept federal aid and enter into agreements to pay indemnity

A. The board or the commissioner or his designee, may establish and maintain quarantine lines; appoint as many inspectors as may be deemed necessary and the funds at its disposal will permit; and delegate authority to inspectors to enter premises, to inspect and disinfect livestock premises, and enforce quarantine including parishes, farms, pens, and stables. The board or commissioner may also appoint as its inspectors representatives of the United States Department of Agriculture, and may accept from the United States government such assistance, financially and otherwise, for carrying out the purposes of this Part, as may be available from time to time.

B. The board shall have authority to enter into agreements with the United States Department of Agriculture for the purpose of paying indemnities on livestock destroyed or slaughtered by these agencies to prevent, control, or eradicate foreign or domestic diseases that may threaten the livestock industry of Louisiana.

Amended by Acts 1954, No. 722, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §3(B).

§2135. Power to deal with contagious diseases of animals

The Board of Animal Health shall have plenary powers to deal with all contagious and infectious diseases of animals as in the opinion of the board may be prevented, controlled, or eradicated, and with full power to make, promulgate, and enforce such rules and regulations as in the judgment of the board may be necessary to control, eradicate, and prevent the introduction of contagious and infectious diseases of animals.

Acts 2012, No. 204, §1.

§2137. Unlawful transportation of diseased animals or livestock or adulterated meat

A. It shall be unlawful for anyone to knowingly bring into the state or to transport through this state or to move within this state any adulterated meat or diseased livestock or animals without the express written approval of the commissioner of agriculture and forestry or his designee. The board shall adopt rules and regulations in accordance with this Chapter for the enforcement of this Section.

B. Any person who knowingly violates any of the provisions of this Section or any rule or regulation administered and enforced by the board pursuant to this Section shall be subject to a civil penalty of five thousand dollars imposed in accordance with R.S. 3:2093. Each act of bringing, transporting, or moving

diseased livestock or adulterated meat into, through, or within this state shall be a separate violation. Each day or partial day shall be a separate violation.

C. In addition to the civil penalties and civil relief provided for in this Chapter, whoever intentionally, or in a criminally negligent manner, violates the provisions of this Section or the rules and regulations adopted pursuant to this Section shall be guilty of a crime and, upon conviction, shall be fined not less than five thousand, nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year, nor more than ten years, or both.

Acts 2001, No. 650, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 204, §3(B); Acts 2013, No. 115, §1.

§2139. Penalty for violations

Whoever willfully violates this Part shall be fined not less than three hundred dollars nor more than one thousand dollars or imprisoned for not less than thirty days nor more than sixty days, or both.

Amended by Acts 1954, No. 722, §1; Acts 2004, No. 39, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §3(B) and (D).

PART III. CATTLE FEVER TICK ERADICATION

§§2171 to 2188. *Repealed by Acts 2012, No. 204, §2.*

PART IV. BRUCELLOSIS DISEASE ERADICATION

§2221. Establishment of brucellosis eradication procedures

A. Any person owning or having charge of any male or female cattle over eight months of age in a herd which has shown evidence of brucellosis infection, or has intermingled with or otherwise been exposed to brucellosis infected animals, upon at least thirty days prior written notification by an employee or authorized agent of the Louisiana Board of Animal Health shall present and restrain the cattle for identification and testing, and such infected herds shall be retested until these herds have become classified brucellosis negative as defined in rules and regulations of the Louisiana Board of Animal Health. Cattle in open range country shall be worked at a time to correspond to the normal procedure for handling such cattle.

B. Evidence of infection includes finding one or more reactors to an official brucellosis agglutination test on animals bred on the farm, at livestock auction market, at a slaughter establishment or concentration point, or upon official report of a positive brucellosis milk ring test of a dairy herd.

C. *Repealed by Acts 2012, No. 204, §2.*

Amended by Acts 1956, No. 118, §1; Acts 1966, No. 291, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §2.

§2222. *Repealed by Acts 1956, No. 118, §5.*

§2223. Rules and regulations for brucellosis eradication

The Louisiana Board of Animal Health may promulgate necessary rules and regulations to carry out the eradication of brucellosis, and necessary quarantine regulations to prevent the reinfection of livestock.

Amended by Acts 1966, No. 291, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2224. Cooperation with United States Department of Agriculture, Agricultural Research Service, Animal Disease Eradication Branch

The Louisiana Board of Animal Health may cooperate with the United States Department of Agriculture, APHIS Veterinary Services, in the expenditure of state and federal funds for the employment of necessary personnel, purchase of equipment and supplies, in the payment of indemnity on brucellosis diseased cattle slaughtered under the program, and in the supervision of personnel and enforcement of regulations governing the eradication program.

Amended by Acts 1956, No. 118, §2; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2225. *Repealed by Acts 1966, No. 291, §2.*

§2226. Branding cattle affected with Brucellosis disease

Any person owning or having charge of any cattle affected with Brucellosis disease, as determined by official tests made by an employee or authorized agent of the Louisiana Board of Animal Health, shall on notification by the Louisiana Board of Animal Health present and restrain the cattle for identification and branding by an employee or authorized agent of the Louisiana Board of Animal Health.

Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 9, §1.

§2227. Separation and slaughter of cattle affected with brucellosis

Any person owning or having charge of any cattle affected with brucellosis, as determined by the official brucellosis diagnostic test, shall permit the identification and branding of these animals and shall cause said animals to be immediately separated and kept separated from all other cattle and be slaughtered not more than forty-five days after date of test.

Amended by Acts 1956, No. 118, §3; Acts 1966, No. 291, §1; Acts 1970, No. 626, §1.

§2228. *Repealed by Acts 2012, No. 204, §2.*

§§2229 to 2231. *Repealed by Acts 1966, No. 291, §2.*

§2232. Penalty for violations; civil liability

In addition to the penalties and provisions hereinbefore provided for in this Part, whoever violates any provisions set forth in this Part or any rule or regulation duly promulgated by the Louisiana Board of Animal Health or interferes with an employee or authorized agent while in the performance of his official duties, shall be fined not less than fifty dollars nor more than one thousand dollars, or in default thereof, shall be imprisoned for not less than thirty days nor more than one year, or both, and shall also be liable to any person injured for all damages resulting from the violations.

Amended by Acts 1954, No. 118, §4; Acts 2008, No. 920, §1, eff. July 14, 2008.

PART V. TUBERCULOSIS CONTROL AND ERADICATION

§2261. Rules and regulations; quarantine

Power and authority is hereby delegated to the Louisiana Board of Animal Health to promulgate the necessary rules and regulations, including quarantine regulations, to carry out a tuberculosis control and eradication program for cattle.

Acts 1950, No. 179, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §§2, 3(E).

§2262. Cooperation with federal agencies; expenditure of funds

Authority is hereby delegated to the Louisiana Board of Animal Health to cooperate with the United States Department of Agriculture, APHIS Veterinary Services, in a tuberculosis control and eradication program for livestock; and the Louisiana Board of Animal Health is authorized to expend funds for the operation of the state-federal cooperative tuberculosis control and eradication program for livestock, including indemnity payments when funds permit, for animals slaughtered under the program. State indemnity shall not exceed that paid by the United States Department of Agriculture, APHIS Veterinary Services.

Acts 1950, No. 179, §2; Acts 1970, No. 571, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §§2, 3(E).

§2263. Identifying, testing, and branding

Any person or persons owning or having charge of cattle shall, upon notification by an authorized agent of the Louisiana Board of Animal Health or the United States Department of Agriculture, APHIS Veterinary Services, have such cattle presented and restrained for the purpose of identifying, testing, and branding, at such times and places as are designated by these authorized agents in carrying out the tuberculosis control and eradication program aforesaid.

Acts 1950, No. 179, §3; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §§2, 3(E).

§2264. Branding and disposition of reactors

All cattle reacting to the official test for tuberculosis shall be branded with the letter "T" on the left jaw and shall be disposed of by slaughter, according to the rules and regulations of the Louisiana Board of Animal Health and the United States Department of Agriculture, APHIS Veterinary Services.

Acts 1950, No. 179, §4; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §§2, 3(E).

§2265. Appraisal

Cattle reacting to the official test for tuberculosis shall be appraised by a representative of the Louisiana Board of Animal Health and, when thus appraised, due consideration shall be given to the breeding value as well as the dairy and meat value of these cattle.

Acts 1950, No. 179, §5; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §§2, 3(E).

§2266. Indemnity

The Louisiana Board of Animal Health is authorized to cooperate with the United States Department of Agriculture, APHIS Veterinary Services, in the payment of indemnity, when funds permit, to owners of livestock that react to the official tuberculosis test as well as on those animals exposed to disease in a heavily infected herd. State indemnity shall not exceed that paid by the United States Department of Agriculture, APHIS Veterinary Services.

Acts 1950, No. 1979, §6; Acts 1970, No. 571, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §§2, 3(E)

§2267. Violations and penalties

Any person or persons who shall violate any provisions set forth in this Part, or any rule or regulation duly promulgated by the Louisiana Board of Animal Health or interferes with any employee or authorized agent of the board while in the performance of his official duties, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined a sum not less than ten dollars nor more than two hundred dollars, or in default thereof, imprisonment in the

parish jail for a term of not less than ten nor more than thirty days, or both, at the discretion of the court, and shall also be liable to any person or persons injured for all damages resulting from such violations.

Acts 1950, No. 179, §7; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 204, §§2, 3(E).

PART VI. REGULATION OF APIARIES

§2301. Purpose of Part

The purpose of this Part is to prevent the introduction into and dissemination within this state of contagious and infectious diseases of honeybees by providing for the registration, inspection, and control of honeybees and apiaries, which activity is hereby found and declared by the legislature to promote agriculture in the state of Louisiana.

Amended by Acts 1984, No. 529, §1.

§2302. Definitions

When used in this Part, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

- (1) "Apiary" means the assembly of one or more colonies of bees at a single location.
- (2) "Beekeeper" means a person who owns one or more colonies of bees.
- (3) "Beekeeping equipment" means anything that is used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards, and extractors.
- (4) "Colony" or "hive" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones; and includes brood, combs, honey, and the receptacle inhabited by the bees.
- (5) "Comb package" means a package of bees shipped or moved on a comb containing honey and/or brood, with or without a queen.
- (6) "Commissioner" means the commissioner of agriculture of the state of Louisiana.
- (7) "Nucleus" means bees, brood, combs, and honey in or inhabiting a small hive or portion of a standard hive or other dwelling place.
- (8) "Person" means any individual, firm, or corporation.
- (9) "State entomologist" means the entomologist of the Louisiana Department of Agriculture.

Amended by Acts 1984, No. 529, §1; Acts 1992, No. 32, §1.

§2303. Administration and enforcement, rules and regulations

The commissioner of agriculture, or the state entomologist as his designee, shall administer and enforce this Part. The commissioner shall adopt rules and regulations setting forth the requirements for apiaries and other persons interested in apiary industry in this state. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

Amended by Acts 1984, No. 529, §1.

§2304. Power to fight diseases and pests of bees

The commissioner shall have full and plenary power to deal with all contagious and infectious diseases of bees and all other pests of bees, including but not limited to American and European Foulbrood, Acarine mite, Varroa mite, and Africanized bees. The state entomologist, through agents or otherwise, may do and perform such acts as may be necessary to control, eradicate, or prevent the

introduction, spread, or dissemination of any and all contagious and infectious diseases of bees and all other pests of bees.

Amended by Acts 1984, No. 529, §1.

§2305. Annual registration; permits, fees

A.(1) On or before October 1 of each year, or prior to bringing any honeybees or beekeeping equipment into the state, every beekeeper shall register with the commissioner every colony or apiary in his possession or under his control, on a form furnished by the commissioner. The beekeeper shall indicate the number and location of each colony with each apiary location together with other information deemed necessary by the commissioner for the administration of this Part.

(2) Any colony or apiary acquired after October 1 during the calendar year and not previously registered shall be registered as required under this Section. Any colony or apiary acquired after December 31 shall not be required to be registered until the following October 1, unless the beekeeper does not possess a current registration permit.

B. If any colony or apiary is transferred from a registered beekeeper to another person, the permit may be transferred without the payment of a registration fee as follows:

(1) A Class A permit is transferrable if the person possesses the qualifications necessary for the issuance of a Class A permit.

(2) A Class B permit is transferrable; however, the beekeeping operation by the person shall be considered a new operation in determining the person's eligibility to obtain a Class A permit.

C. A Class A permit may be issued to any applicant who meets the requirements of either Paragraph (1) or Paragraph (2):

(1) The applicant is a person domiciled in the state. "Domicile" as used herein means the applicant's fixed, permanent, and principal home for legal purposes. No firm or corporation will be considered domiciled in the state unless its principal owner or owners is domiciled in the state.

(2) The applicant has conducted beekeeping operations in the state, and has been registered with the commissioner for three consecutive years, has been inspected as provided by law, and has demonstrated his ability to control diseases and pests considered to be detrimental to the state's apiary industry by the state entomologist.

D. A fee shall accompany the application for registration, the amount of the fee to be based upon and determined by the number of colonies owned by the applicant as follows:

Number of Colonies	Class A Permit	Class B Permit
1 to 10	\$ 0	\$ 16.00
11 to 25	4.00	16.00
26 to 100	10.00	40.00
101 to 300	20.00	80.00
301 to 500	30.00	120.00
501 or more	50.00	200.00

E. Failure or refusal to comply with this Section shall constitute a violation of this Part.

Amended by Acts 1984, No. 529, §1; Acts 1992, No. 32, §1; Acts 2003, No. 122, §1, eff. July 1, 2003.

§2306. Shipment of bees or beekeeping equipment into the state

A. No person shall move, ship, or bring into this state any colony, honeybees, or beekeeping equipment except as provided in this Section.

B. Honeybees and used or secondhand beekeeping equipment may be shipped into the state by a person possessing a current Class A permit, but only when accompanied by certification of inspection signed by the state entomologist, state apiary inspector, or similar official of the state or country of such bees' origin. The certificate shall certify to the apparent freedom of the bees from contagious or infectious diseases and pests and shall be based upon an actual inspection of the bees to be shipped or moved within a period of sixty days preceding the date of shipment.

C. Combless honeybees may be shipped into the state by a person possessing a current Class B permit but only when accompanied by a certificate of inspection signed by the state entomologist, state apiary inspector, or similar official of the state or country of such bees' origin. The certificate shall certify to the apparent freedom of the bees from contagious or infectious diseases and shall be based upon an actual inspection of the bees to be shipped or moved within a period of sixty days preceding the date of shipment.

D. When honeybees are to be shipped or moved into the state from other states or countries where no official state apiary inspector or state entomologist is available, the commissioner, by rule, may permit the shipping into Louisiana of such bees upon presentation of suitable evidence showing the bees to be free from disease.

E. Notwithstanding Subsections B and C, the commissioner may inspect any honeybees or beekeeping equipment being shipped into this state, even if the honeybees or beekeeping equipment are accompanied by a certificate of inspection issued by another state. If an inspection of honeybees or beekeeping equipment accompanied by a certificate of inspection of another state reveals the presence of contagious or infectious disease, the commissioner may declare a moratorium on this state's recognition of any certificate of inspection issued by that state until the commissioner determines that the standards of inspection of that state are adequate to ensure the health and safety of Louisiana honeybees at least equal to the standards established by this state.

F. Except as otherwise permitted in this Section, the movement or shipment into this state of colonies of bees, nuclei, comb package of bees, or used or secondhand beekeeping equipment is prohibited.

Acts 1984, No. 529, §1.

§2307. Inspection; application; fees

A. No bees or used beekeeping equipment shall be moved unless accompanied by a certificate of inspection by the state entomologist. Beekeepers who desire a certificate authorizing the movement of bees or used beekeeping equipment shall apply to the commissioner for inspection prior to any movement of the bees or used beekeeping equipment.

B. The commissioner, by rule, shall prescribe the time and manner in which an application for inspection shall be filed.

C. The commissioner, by rule, may impose an inspection fee schedule provided that the fee for an inspection does not exceed the actual costs of the inspection.

Acts 1984, No. 529, §1; Acts 2003, No. 122, §1, eff. July 1, 2003.

§2308. Authority to search for and destroy infected bees and beekeeping equipment

A. The state entomologist, or his agents and employees, may enter any depot, express office, storeroom, warehouse, or other premises for the purpose of inspecting any honeybees or beekeeping

equipment therein when there is probable cause to conclude that the bees or beekeeping equipment are infected with any contagious or infectious diseases or to ascertain whether such bees may have been or are being transported in violation of this Part.

B. No person shall interfere with the state entomologist or any of his agents who are making such inspection of properties or premises.

C. If the state entomologist, or his agents, find any honeybees or beekeeping equipment infected with or exposed to any contagious or infectious diseases, he may require the destruction, treatment, or disinfection of such infected or exposed bees or beekeeping equipment.

D. If the state entomologist, or his agents, find that any honeybees or beekeeping equipment has been brought into the state in violation of this Part, he may require the removal of the honeybees or beekeeping equipment from the state.

Acts 1984, No. 529, §1.

§2309. Assessment on bees, enforcement

For the purpose of enforcing this Part, the commissioner may annually levy and collect a fee of fifteen cents per colony of bees within the state, provided that such assessment shall not be levied on noncommercial apiaries.

Acts 1984, No. 529, §1.

§2310. Penalties, enforcement

A. The commissioner may impose a civil penalty of up to five hundred dollars for each violation of this Part or of the rules and regulations adopted under this Part. Each day on which a violation occurs shall be a separate offense.

B. Civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

C. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

Acts 1984, No. 529, §1.

§2311. Disposition of funds

A. All assessments, fees, penalties, and all other funds received under the provisions of this Part, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

B. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Part into a special fund which is hereby created in the state treasury and designated as the Horticulture and Quarantine Fund.

C. All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

D. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner.

(2) To fund any and all costs related to the carrying out of the powers and duties granted to the commissioner of agriculture and forestry under this Part.

Acts 1984, No. 529, §1; Acts 1992, No. 984, §18; Acts 2003, No. 122, §1, eff. July 1, 2003; Acts 2011, No. 31, §1.

PART VIII. ERADICATION AND CONTROL OF THE IMPORTED FIRE ANT (*SOLENOPODIS SAEVISSIMA RICHTERI FOREL*)

§2351. Rules and regulations

Power and authority is hereby delegated to the state entomologist to prepare and promulgate rules and regulations necessary and proper to establish a program for the eradication and control of the imported fire ant (*Solenopsis saevissima richteri Forel*), subject to the approval of the commissioner of agriculture and forestry.

Added by Acts 1960, No. 180, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§2352. Expenditure of funds; cooperation with federal agencies

Authority is hereby delegated to the state entomologist to expend funds to establish and carry out a program for the eradication and control of the imported fire ant, and to cooperate with and to receive cooperation from the United States Department of Agriculture, including the expenditure of federal funds for that purpose, subject to the approval of the commissioner of agriculture and forestry.

Added by Acts 1960, No. 180, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§2353. Creation of eradication areas

The state entomologist, subject to the approval of the commissioner of agriculture and forestry, shall have authority to create and designate imported fire ant eradication areas. The commissioner of agriculture and forestry may declare all state laws and all regulations of the department pertaining to the eradication and control of imported fire ants to be in full force and effect in the designated area on and after the date stated. Treatment will begin after this declaration by the commissioner and after all property owners residing within the designated area have been notified. Official notice of the establishment of imported fire ant eradication areas shall be published in the official journal of the state of Louisiana.

Added by Acts 1960, No. 180, §1. Amended by Acts 1962, No. 268, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§2354. Penalty for violation; civil liability

Whoever violates any provision set forth in this Part or any rule or regulation promulgated by the Department of Agriculture and Forestry, or interferes with any authorized agent of the Department of Agriculture and Forestry while in the performance of his official duty, is guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars for each offense, or imprisoned for not less than ten days nor more than thirty days, or by both fine and imprisonment, in the discretion of the court having jurisdiction, and shall also be liable to any persons injured for all damages resulting from the violation.

Added by Acts 1960, No. 180, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

PART IX. CATFISH DISEASE CONTROL

§2355. Purpose

The purpose of this Part is to prevent the introduction into and dissemination within this state of contagious and infectious diseases of catfish by providing for the inspection and control of catfish to be used for stocking purposes, which activity is hereby found and declared by the legislature to promote agriculture in the state of Louisiana.

Acts 1985, No. 729, §1.

§2356. Shipment of catfish to be used for stocking purposes into the state; inspection; fees; penalties

A. No person, firm, or corporation shall move, ship, or transport into this state any catfish to be used for stocking purposes, of any species, whether farm raised or caught in the waters from any other state, except as provided in this Section.

B. Catfish to be used for stocking purposes may be shipped into this state by a person, firm, or corporation possessing all necessary wholesale licenses, but only when accompanied by certification of inspection issued by the state or country of origin. The certificate shall certify the apparent freedom of the catfish to be used for stocking purposes from contagious or infectious diseases and shall be based upon an actual inspection of the catfish to be used for stocking purposes to be shipped or moved within a period of forty-eight hours preceding the date of shipment.

C. Notwithstanding the provisions of Subsection B, the commissioner of agriculture may inspect any catfish to be used for stocking purposes being shipped into this state, even if the catfish to be used for stocking purposes are accompanied by a certificate of inspection issued by another state or country, unless the facility receiving the catfish to be used for stocking purposes is inspected or the catfish to be used for stocking purposes on hand in such facility is inspected by the state and/or federal food and drug administration. If an inspection of catfish to be used for stocking purposes accompanied by a certificate of inspection of another state or country reveals contagious or infectious disease, the commissioner may declare a moratorium on this state's recognition of any certificate of inspection issued by that state or country until the commissioner determines that the standards of that state or country are adequate to insure the health and safety of catfish to be used for stocking purposes in that state or country at least equal to the standards established by this state.

D. Except as otherwise permitted in this Section, the movement or shipment of catfish to be used for stocking purposes into this state shall be prohibited.

E. In cases where the commissioner inspects catfish to be used for stocking purposes pursuant to this Section, he may by rule impose an inspection fee, provided that the fee schedule is uniform as to all similar inspections and the funds are used to defray the cost of inspections.

F. Any person, firm, or corporation who violates this Section shall be fined not more than two hundred dollars or imprisoned for not more than sixty days, or both.

Acts 1985, No. 729, §1.

PART X. REGULATION OF TURTLES

§2358.1. Legislative findings

The purpose of this Part is to prevent the introduction into and dissemination within this state of contagious and infectious diseases of turtles by providing for the regulation, inspection, and control of

turtles, which activities are hereby found and declared by the legislature to promote agriculture and aquaculture within the state of Louisiana.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.2. Administration and enforcement; rules and regulations

A. The provisions of this Part shall be administered by the Department of Agriculture and Forestry through the office of animal health and food safety.

B. The commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Part. The rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

C. The commissioner may employ such personnel as are necessary to administer the provisions of this Part.

Acts 1990, No. 770, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§2358.3. Definitions

When used in this Part, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Antibiotic" means any bactericide or other organic substance which can kill bacteria.

(2) "Certificate of inspection" means a document which verifies species, destination, turtle group number, and utilization of the Siebeling method and which is signed by a veterinarian who is licensed in this state, federally accredited, and approved by the Department of Agriculture and Forestry. The certificate of inspection shall be used for movement in intrastate commerce only.

(3) "Certified laboratory" means a laboratory which has a current certification by the Federal Food and Drug Administration or other national accrediting agency to perform microbiological or residue testing of organic or inorganic samples and has a microbiologist on staff, and has been approved by the Department of Agriculture and Forestry.

(4) "Commissioner" means the commissioner of the Department of Agriculture and Forestry.

(5) "Health certificate" means a document which verifies a certificate of inspection, attaches a laboratory report and certifies that the turtles or turtle eggs are free of visible signs of infectious, contagious, or communicable diseases, and which is signed by a veterinarian who is licensed in this state, federally accredited and approved by the Department of Agriculture and Forestry. A health certificate shall be required before turtles or turtle eggs may be shipped or transported or before they are moved from a certified turtle farm into interstate commerce. A health certificate may be used in place of a certificate of inspection for movement of turtles or turtle eggs in intrastate commerce.

(6) "Licensed turtle farm" means any individual, firm, corporation, or entity engaged in the collection, hatching, sale, shipping, or distribution of turtles using the Siebeling method or any other sanitization method which may be required by the Department of Agriculture and Forestry.

(7) "Person" means any individual, partnership, association, organization, or corporation engaged in any phase of the pet turtle industry.

(8) "Siebeling method" means a process by which turtle eggs are cleaned, their surfaces disinfected, and a bactericide forced through the pores of the shells without violating the natural structural integrity of the shell, thereby rendering the hatchling free of *Salmonella Arizona*, or any other species of bacteria harmful to humans or other turtles.

(9) "Turtle group" means any amount, either multiple or single units, consisting of no more than twenty thousand turtles or turtle eggs.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.4. Licensing; fees; renewal

A. No person shall breed, hatch, propagate, raise, grow, receive, ship, transport, export, or sell turtles or turtle eggs without possessing a turtle farmer license.

B. Turtle farmer licenses shall expire annually on the thirty-first day of December, and must be renewed no later than the last day of January of the following year.

C. The commissioner shall adopt, by rule in accordance with the Administrative Procedure Act, the fee to be charged for the issuance of a turtle farmer license. The amount of the fee shall not exceed two hundred fifty dollars per license issued annually.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §1, eff. June 12, 2009.

§2358.5. Requirements for licensure

A turtle farmer license shall be issued only upon meeting the following requirements:

(1) Each person applying for a turtle farmer license must complete a written application as provided by the commissioner.

(2) An application fee, to be established by the commissioner by rule and not to exceed two hundred fifty dollars, must accompany each application. Such application fee shall be applied to the fee for licensure.

(3) The applicant must have all necessary equipment and materials for implementation of sanitization or other procedures as may be required by the commissioner. The commissioner may provide for on-site inspection of such arrangements before the issuance of the license.

(4) The applicant must comply with any other requirements which may have been adopted by rules and regulations.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.6. Identification

The commissioner shall adopt rules and regulations establishing standards and documentation necessary for the identification of groups of turtles or turtle eggs of the licensed turtle farmers.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.7. Records

A. Each licensed turtle farmer shall maintain accurate records including the source, identity, treatment, health, inspection, and disposal of the turtles and turtle eggs, as well as any other information that may be required by the commissioner.

B. Each licensed turtle farmer shall maintain accurate records including information as to production, sales, shipping, and laboratory certification so as to satisfy the standards established under the Federal Food and Drug Act.

C. All records shall be open for inspection by the commissioner during regular working hours.

D. The commissioner shall adopt rules and regulations governing the form and content of these records.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.8. Sanitization; disposal

A. Unless otherwise provided by the commissioner, the Siebeling method of prevention of diseases shall be the accepted method of sanitization to be used by all licensed turtle farmers.

B. No person shall dispose of spent medication into the environment without treating the substance by a process of heating, filtration, or otherwise rendering the medication sterile before disposal.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.9. Monitoring

The commissioner, by rule, shall establish a program for monitoring turtle farms for the purpose of ensuring sanitization and safety to humans and the environment.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.10. Transportation of turtles

A. The commissioner shall, by rule, establish procedures for the movement, identification, packaging, and random collection of samples for submission to a certified laboratory of turtles or turtle eggs.

B. No turtles or turtle eggs shall be shipped or transported from the premises of a licensed turtle farmer, for any purpose other than for testing, without a certificate of inspection or a health certificate.

C. No person shall receive a shipment of turtles or turtle eggs into this state through the United States mail, or by any other means, from any other state or foreign country, unless such turtles or turtle eggs are accompanied by the following:

(1) A health certificate issued by a duly authorized veterinarian certifying that the turtles or turtle eggs are free from *Salmonella Arizona*, and any other species of bacteria which might be harmful to humans or other turtles; and

(2) An affidavit executed by a duly authorized representative of a university, research laboratory, or other similar entity, attesting to the proposed use of the turtles or turtle eggs, and identifying the type, quantity, duration, and purpose of the research project.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.11. Quarantine

A. Whenever the results of laboratory analysis of turtles or turtle eggs indicate the presence of *Salmonella Arizona*, or any other species of bacteria harmful to humans or other turtles, the commissioner shall immediately place all of the turtles or turtle eggs in the same group under quarantine.

B. The commissioner shall immediately notify the licensed turtle farmer of the imposition of the quarantine, followed by written notification within five days, containing specific information as to the basis of the quarantine.

C. The licensed turtle farmer shall, upon notice of quarantine, immediately seal and identify all turtles or turtle eggs in the quarantined group.

D. No turtles or turtle eggs which have been placed under quarantine shall be transported, commingled, shipped, or moved to any other location on the premises, or disposed of without the prior written authorization of the commissioner.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.12. Procedures for testing; disposal

A. The commissioner shall establish, by rule in accordance with the Administrative Procedure Act, procedures for testing turtles and eggs and methods for allowing more than one random sample of turtles or eggs to be submitted to a certified laboratory for a final disposition of the indicated group. The commissioner shall establish guidelines in accordance with state and federal criteria for laboratory analysis and procedures.

B. Turtles or turtle eggs which have been found to be infected with *Salmonella Arizona*, or any other species of bacteria harmful to humans or other turtles, shall be removed from the premises of the licensed turtle farmer and disposed of under the supervision of the commissioner, within twenty-one days after imposition of a quarantine.

C. The commissioner may establish, by rule, requirements for the disposal of diseased turtles or turtle eggs.

D. After disposal of diseased turtles or turtle eggs, the turtle farmer shall disinfect the area where the turtles or turtle eggs were quarantined in the manner prescribed by rule. The commissioner may conduct a thorough inspection after disinfection and prior to authorizing introduction of any future groups of turtles or turtle eggs into the quarantined area.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.13. Violations

Violations of this Part shall include but shall not be limited to the following:

- (1) Engaging in the farming of turtles or turtle eggs without first obtaining a turtle farmer license.
- (2) Failing to dispose of all turtles or turtle eggs in a quarantined group as provided in R.S. 3:2358.12.
- (3) Shipping or moving turtles or turtle eggs without a certificate of inspection or a health certificate for any purpose other than testing.
- (4) Commingling, transporting, shipping, or disposing of any diseased turtles or turtle eggs from a farm which is under quarantine, without written approval from the commissioner.
- (5) Willfully failing to maintain complete and accurate records.
- (6) Falsifying documents or records.
- (7) Willfully failing to follow or willfully misapplying sanitization methods.
- (8) Importing of any turtles or turtle eggs of any species from any other state or foreign country, except as provided in R.S. 3:2358.10.
- (9) Willfully disposing of improperly any antibiotic solution.
- (10) Violating any provision of this Part or of any rule or regulation adopted under the provisions of this Part.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2358.14. Penalties

A. A civil penalty of not more than one thousand dollars may be assessed for any violation of this Part, by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the Administrative Procedure Act. Each day on which a violation occurs shall be considered a separate offense.

B. The commissioner may deny renewal or cancel the license of a licensed turtle farmer for any violation of the provisions of this Part, or of the rules and regulations adopted under the provisions of this Part, after an adjudicatory hearing held in accordance with the Administrative Procedure Act.

C. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

D. The commissioner may seek injunctive relief to restrain and prevent the violation of any of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part by civil proceedings in the district court for the parish in which the violation occurred.

Acts 1990, No. 770, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

CHAPTER 17. CRUELTY TO ANIMALS

PART I. IN GENERAL

§2361. Horses and mules which may not be sold

No person shall sell either at private sale or public auction, or offer or receive for sale any horse or mule which by reason of debility, disease, or lameness, or for any other cause could not be worked in the city in which it is offered for sale without violating the laws against cruelty to animals. This section shall apply only in cities in this state having a population of ten thousand or more.

§2362. Penalty for illegal sale

Whoever violates this Part shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned for not more than six months.

§2363. Sale of dyed chicks, ducklings, goslings, or rabbits; requirements for maintenance; penalties

A. No person shall sell or offer for sale any dyed chick, duckling, gosling, or rabbit.

B. Stores, shops, vendors, and others offering chicks, ducklings, goslings, or rabbits for sale, or displaying chicks, ducklings, goslings, or rabbits to the public, shall provide and operate brooders or other devices that may be necessary to maintain the chicks, ducklings, or goslings in good health, and shall make adequate food and water available to such birds or rabbits at all times.

C. Whoever violates the provisions of this Section shall be fined not more than one hundred dollars, or imprisoned for not more than thirty days, or both. Each day on which a violation occurs shall constitute a separate offense.

Acts 1985, No. 760, §1.

§2364. Louisiana Animal Welfare Commission

A. For purposes of this Section, "animal" shall mean dogs and cats.

B. Creation and membership. (1) The Louisiana Animal Welfare Commission is hereby created within the office of the governor for the purpose of assisting the governor's office of community programs to ensure and promote the proper treatment and well-being of animals. The commission shall receive no direct funding from the state, but may receive incidental services from state agencies in order to carry out its purpose.

(2) Members of the commission shall serve four-year terms and shall not receive any compensation or reimbursement of expenses. Each member of the commission shall hold office until the appointment and qualification of his successor. Whenever a vacancy occurs in an appointed position, the vacancy shall be filled in the same manner and under the same terms and conditions as required for the original appointment. The commission shall meet at the call of the chairman at least quarterly and more often if necessary.

(3) The executive director of the governor's office of community programs or his designee shall be a member of the commission. Other members of the commission shall be appointed by the governor in accordance with the following provisions:

- (a) One representative of the Department of Health and Hospitals.
 - (b) One small animal veterinarian, appointed at large.
 - (c) One member who is a director of a public animal control agency.
 - (d) One commercial breeder of dogs.
 - (e) Three representatives from separately operating humane societies or private animal shelters.
 - (f) One representative from the Louisiana State Police.
 - (g) One member of the public, appointed at large.
 - (h) Two representatives appointed from a list of five nominations submitted by the Louisiana Veterinary Medical Association.
 - (i) One representative of the Louisiana Quarterhorse Association.
 - (j) One representative of the Louisiana Thoroughbred Breeders Association.
- (4) The governor shall appoint the initial chairman and initial vice chairman of the commission from members appointed by the governor. Thereafter, the members shall elect the chairman and vice chairman every odd-numbered year.

(5) The domicile of the commission shall be in East Baton Rouge Parish.

C. Transaction of business. A majority of the membership shall constitute a quorum for the transaction of official business. All official actions of the commission shall require the affirmative vote of a majority of the members of the commission.

D. Duties and functions. The commission shall have powers and duties necessary to carry out its purpose, including but not limited to the following:

- (1) To support local and municipal animal control enforcement efforts.
- (2) To support law enforcement in the investigation and prosecution of animal cruelty cases.
- (3) To make recommendations concerning the care and keeping of animals.
- (4) To coordinate a statewide voluntary pet database that will assist animal owners in recovering lost animals.
- (5) To provide a centralized public animal information, education, and communication service.
- (6) To formulate and implement proposals to deal with pet overpopulation.
- (7) To make recommendations for rules and regulations, which may be adopted by parish and local authorities for the proper care and treatment of animals.
- (8) To gather information from public records pertaining to the animals within the purview of the commission. The government custodians of such records shall make them accessible to the commission upon request under the provisions of R.S. 44:1 et seq.
- (9) To inspect any animal impoundment facility for the purpose of making recommendations to the appropriate governing authority for improvements to those facilities and their operations wherever such facilities are operated by a government animal control agency or designated by municipal or parish governments to be used for the purpose of impoundment of animals. The governing authority shall provide to the commission reasonable access to the facility, its records, and personnel within seven days of receipt of a written request.

(10) To request, in the form of a letter to the appropriate governing authority, an animal control agency to produce public records pertaining to animal intake, adoption, and euthanasia.

E. Louisiana Animal Welfare Fund. (1) The commission may accept and solicit advice, services, and donations. Donations shall be remitted immediately to the state treasury. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, the monies shall be deposited in the Louisiana Animal Welfare Fund, hereinafter referred to as the "fund", which is hereby created within the state treasury and shall be used solely to carry out the functions and duties of the Louisiana Animal Welfare Commission.

(2) The commission shall maintain a checking account in a Louisiana licensed banking establishment for holding and distributing money that may be transferred from the fund to be used by the commission in fulfillment of its purposes. The checking account shall be entitled "Louisiana Animal Welfare Commission". It shall be held jointly in the names of the current chairman and treasurer of the commission. All checks shall require joint signatures.

(3) The treasurer of the state of Louisiana shall transfer monies from the fund upon receiving a written order signed by the chairman and treasurer of the commission. If the funds are insufficient to meet the full amount of the order, the treasurer of the state of Louisiana may transfer the remaining balance in the fund. The transfer of monies in the fund to the commission's checking account shall be made within five business days of receiving the written order.

(4) The financial records of the commission shall be maintained by the treasurer of the commission. A copy of the records, jointly certified by the treasurer and the chairman, shall be provided by the chairman to the legislative auditor for inspection within twenty business days of the close of the state's fiscal year. The legislative auditor shall report the findings of the inspection to the governor and the chairman of the commission within ninety days of receiving the certified copy of the records.

Acts 2001, No. 656, §1; Acts 2004, No. 74, §1; Acts 2004, No. 189, §1; Acts 2005, No. 248, §1, eff. June 29, 2005; Acts 2008, No. 796, §1.

§2365. Louisiana Pet Registry

A. The Louisiana Animal Welfare Commission shall establish and maintain a voluntary registry for animals called the Louisiana Pet Registry. The current owner of any animal may register that animal with the commission.

B.(1) The registration shall include the name and address of the owner and the name and a description of the animal. If the animal has been fitted with a microchip, the registration shall also include the brand of commercial microchip and the animal's microchip identification number. If the animal is tattooed with an identification number, the registration shall include the tattoo number.

(2) The commission shall assign to each registered animal a unique identification number and provide to the owner of each registered animal a license tag bearing the identification number.

(3) The manner in which the license number is affixed to the registered animal is at the discretion of the owner.

(4) The owner of each registered animal shall notify the commission of any changes in registration information within thirty days.

C. The owner of each registered animal shall pay a fee of fifteen dollars to the commission for the registration of that animal.

D. Fees shall be paid directly to the commission and deposited into the Louisiana Animal Welfare Fund for use by the commission. The commission may waive or reduce fees if it deems necessary.

E. Applications for registration with the Louisiana Pet Registry shall be made available by the commission. The commission shall provide public notices pertaining to the registry.

Acts 2006, No. 771, §1.

PART II. CORPORATIONS FOR PREVENTION OF CRUELTY TO ANIMALS

§2391. Agents of corporation as special police officers; compensation; aid from regular police force

Whenever, in any incorporated city or town or in any parish, a corporation for the prevention of cruelty to animals shall be organized, the mayor of the city or town and the police jury of the parish, respectively, as the case may be, shall appoint and commission as special police officers such agents as the corporation for the prevention of cruelty to animals may nominate; and agents being so commissioned shall have the usual power of policemen and peace officers. No city, town, or parish shall be liable hereunder for any compensation to the special officers, and the police force of all incorporated cities and towns in the state shall aid any such corporation, its members or agents, in the enforcement in its respective locality of all laws enacted for the protection of animals.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2392. Municipalities to provide punishment for cruelty to animals

Municipal corporations shall provide by ordinance for the punishment of cruelty to animals, when committed in any street, park, levee, or other public place in the limits of the corporation, by fine or imprisonment, or both, as a police offense.

§2393. Corporation to receive one half of fines

Whenever a fine is imposed on any person as a penalty for violation of any law of this state or municipal ordinance respecting cruelty to animals, and the prosecution shall have been initiated, conducted, assisted, or appeared in by any officer, member, agent, or counsel of any society for the prevention of cruelty to animals in the parish where the offense is committed, incorporated under the general law of this state, one half of the fine shall be paid to the society and the receipt of its treasury shall be a full acquittance to the officer collecting the fine.

PART III. CARE OF SUFFERING ANIMALS

§2431. Humane society may arrange for care of animals

All officers of incorporated humane societies, in cities over twenty-five thousand and under one hundred thousand inhabitants, and all officers of the law in the cities, who are hereby made special officers of the societies, when in their judgment cruelty is being practiced towards any animal or the animal is bruised, wounded, crippled, abraded, sick, or diseased, may remove the animal whenever found to any stable designated by the humane society, for care and treatment, there to remain until sufficiently recovered to resume service.

§2432. Arrangement with stable for care of animals

Before any humane society can avail itself of the provisions of this Part, the humane society shall arrange with some stable for the care of animals and charges shall be fifty cents per day, provided however, the medical attendance shall be extra. If the society maintains its own stable the charges shall be as above set out.

§2433. Employment of veterinarian

The humane society after complying with R.S. 3:2432 shall arrange with some veterinarian, and agree upon a scale of uniform charges, and the society may employ veterinarians to attend any animals that in their judgment need treatment.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2434. Stable to register animals cared for

The stable designated or owned by the humane society shall keep a special book for the purpose of registering any animal entrusted to their care under this Part, and the book shall be open to inspection at all times.

§2435. Determination whether animal may leave stable

Animals removed to stables in accordance with this Part shall remain until pronounced suitable to resume service by the humane society's officer, and in case the owner of the animal disagrees with the society's officer on this point, the president of the society shall call in a veterinarian, and if the officer and veterinarian cannot agree, the president shall call in a disinterested experienced person whose decision as to the condition of the animal shall be final.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2436. Sale of animal on owner's failure to pay for treatment

After the animal has been cared for and treated the owner of the stable as well as the veterinarian treating the animal shall notify the president of the society by sending a statement of their charges, and the president of the society shall cause a registered notice to be sent to the owner of the animal, apprising him of the fact that the animal is ready to resume service and advising him as to the amount of the charges. Should the owner not take the animal and pay the charges within five days after the receipt of the notice, the society may sell the animal at public auction in the manner now provided by law for judicial sales; the excess of the charges and expenses shall go to the owner of the animal.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2437. Liability of society to stable or veterinarian; privilege upon animals

The humane society shall be liable to the stable or veterinarian for their expenses and services under this Part, but only as per the scale of charges agreed upon, and the society may remove the animals and change surgeons at its pleasure. A privilege is created upon all animals treated as above set out, in favor of the humane society, and it shall be superior to any other privilege on the animals.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2438. Opportunity to owner to treat animal if proper treatment is given

No officer of any humane society, or other officer, shall remove any animal to their stable or one designated by them, or to engage any veterinarian to treat any animals as provided herein, without first giving the owner the privilege of removing the animal to his own stable or a stable designated by him; the owner may furnish his own treatment or veterinarian, at all times, but the officer of the humane society may inspect the animal at all times, and if in his opinion the treatment accorded the animal is not proper or beneficial, the officer may place him in the society's stable or designated stable and under the care of their own surgeon as herein above set out. Should there be a disagreement as to the merits of the treatment of the animal, it shall be decided as set out in R.S. 3:2435.

Acts 2008, No. 920, §1, eff. July 14, 2008.

§2439. Court review of humane society's treatment of animal; damages limited to costs

Any person feeling himself aggrieved at the action of the humane society or its officers may try the issues before a court of competent jurisdiction, but the issues meant herein shall only be as to whether the animal's condition is such as to warrant action by the society or whether the animal is in condition to be used, before or after treatment, or whether the treatment accorded the animal by the owner, as set out in R.S. 3:2438 is proper or beneficial; no damages except the actual court costs shall be assessed against the society.

§2440. Resisting officers; penalty

Whoever resists the officers empowered herein, in carrying out the provisions of this Part, shall be fined not less than five nor more than twenty-five dollars, or imprisoned not less than five nor more than twenty-five days, or both.

PART IV. ABANDONED ANIMALS**§2451. Short title**

This Part may be referred to as the Louisiana Abandoned Animals Act.

Added by Acts 1978, No. 692, §1.

§2452. Abandoned animals

A. An animal shall be considered abandoned when the owner thereof has not paid the charge for veterinary services, including medical, or for boarding, within ten days after rendition to the owner of the invoice for such services or boarding and no other agreement with the owner has been reached for the payment of such charge for services or boarding. The person to whom the charges are due may then give notice, as provided in R.S. 3:2453.

B. The owner of an abandoned animal shall be deemed to have relinquished all rights and claims to such animal by virtue of such abandonment, except as provided in R.S. 3:2454(B).

Added by Acts 1978, No. 692, §1; Acts 1997, No. 976, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2453. Notice requirements; freedom from liability

A. The notice required in R.S. 3:2452(A) above shall be given to the owner of the animal or the owner's agent at his last known address by registered mail or by certified mail, return receipt requested, and shall contain a statement that if the animal is not claimed within ten days after receipt of the notice, the animal may be sold, donated, turned over to the nearest humane society or animal control center, or otherwise disposed of as the person having custody of the animal may deem proper.

B. In the event that the notice described in Subsection A cannot be delivered for any reason, or in the event that such notice is returned as "refused", "addressee unknown", "not at this address", or other similar designation, then the animal may be sold, donated, turned over to the nearest humane society or animal control agency, or otherwise disposed of as the person having custody of the animal may deem proper.

C. The receipt of notice by the owner or his agent, or the return as "refused", "addressee unknown", "not at this address", or other similar designation, whichever is applicable, shall relieve the custodian of any liability for the sale, donation, euthanasia, or other disposal of the animal.

Added by Acts 1978, No. 692, §1; Acts 1997, No. 976, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2454. Sale or disposal of animal; disposition of sale proceeds

A. If, in accordance with the notice, the animal is sold at public or private sale, the proceeds shall be applied to the amount, if any, due the custodian for any goods or services furnished to the animal, including all reasonable charges of notice, advertisement, and sale. The balance, if any, shall be paid to the owner of the animal, and the custodian shall retain the right to proceed against the owner for any deficiency.

B. Prior to the time of sale of such animal or transfer thereof to the nearest humane society or animal control agency, or other disposal thereof, any person claiming the right of property or possession of such animal may pay the amount necessary to satisfy the charges for services rendered to the animal, or on behalf of the animal, including all reasonable charges of notice and sale. Upon payment of this amount, the animal shall be delivered to the person making the demand, if he is entitled to possession. Otherwise the animal shall be retained according to the terms of the notice, and shall be sold, or otherwise disposed of.

Added by Acts 1978, No. 692, §1; Acts 1997, No. 976, §1.

PART V. MINIMUM STANDARDS FOR ANIMAL SHELTERS**§2461. Authority of parish governing authorities to adopt Part**

In addition to and supplemental with any other authority granted to parish governing authorities by law, a parish governing authority may adopt an ordinance establishing minimum standards for animal shelters within the parish consistent with the provisions of this Part.

Acts 1985, No. 806, §1, eff. July 22, 1985.

§2462. Definitions

As used in this Part, the following words shall have the following meanings ascribed to them:

(1) "Animal shelter" means any building, structure, site, enclosure or other facility used or operated for the housing or keeping of any stray, homeless, abandoned or unwanted animals including any facility designated by the parish governing authority, for the keeping or housing of any impounded animals.

(2) "Cruelty" means every act or failure to act whereby unjustifiable physical pain or suffering is caused or permitted.

(3) "Euthanasia" means the act of inducing a painless death upon an animal in a humane manner.

(4) "Person" means an individual, corporation, or association.

(5) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

Acts 1985, No. 806, §1, eff. July 22, 1985.

§2463. General shelter standards

A. Shelters shall be open for redemption and adoption of animals during posted or normal business hours. Hours of operation and emergency telephone number shall be prominently displayed.

B. Sewage disposal of waste matter shall comply with existing parish and state codes for sanitation.

C. Shelters shall be inspected at least once every six months by an authorized representative of the parish to determine compliance with the requirements of this Part. Additional inspections shall be made promptly upon receipt of a bonafide complaint.

D. Fees must be visibly posted and registered with the parish governing authority.

E. Shelter personnel should be trained as to animal health, disease control, humane care and treatment, animal control and transportation of animals. Shelter workers shall be fundamentally humane, shall be able to identify and understand the principal animal diseases and injuries, and should have good judgment and even temperament.

Acts 1985, No. 806, §1, eff. July 22, 1985.

§2464. Shelter construction

A. Floors and walls of animal holding areas shall be constructed of smooth, moisture impervious material and shall be accessible for cleaning.

B. All animal holding areas shall be sloped to a drain connected to a sanitary sewer or an approved individual sewerage system.

C. Rabies quarantine kennels shall be constructed such that they are isolated from all other kennels.

D. All animal rooms must have operable floor drains.

E. Facilities, general.

(1) Structural strength. Housing facilities for dogs or cats shall be structurally sound and shall be maintained in good repair, to protect the animal from injury, to contain the animals, and to restrict the entrance of other animals.

(2) Water and electric power. Reliable and adequate electric power, if required to comply with other provisions of this Part, and adequate potable water shall be available.

(3) Storage. Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(4) Waste disposal. Provisions shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestations, odors, and disease hazards.

(5) Washrooms and sinks. Facilities, such as washrooms, basins, or sinks, shall be provided to maintain cleanliness among animal caretakers.

F. Facilities, indoor.

(1) Heating. Indoor housing facilities for dogs or cats shall be sufficiently heated when necessary to protect the dogs or cats from cold, and to provide for their health and comfort. The ambient temperature shall not be allowed to fall below fifty degrees Fahrenheit for dogs and cats not acclimated to lower temperatures.

(2) Ventilation. Indoor housing facilities for dogs or cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents of air conditioning, shall be provided when the ambient temperature is eighty-five degrees Fahrenheit or higher.

(3) Lighting. Indoor housing facilities for dogs or cats shall have ample light, by natural or artificial means, or both, of good quality and well distributed. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Primary enclosures shall be so placed as to protect the dogs and cats from excessive illumination.

(4) Interior surfaces. The interior building surfaces of indoor housing facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

(5) Drainage. A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage onto the floor of the room.

G. Facilities, outdoor.

(1) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all dogs and cats kept outdoors to protect themselves from the direct rays of the sun.

(2) Shelter from rain or snow. Dogs and cats kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.

(3) Shelter from cold weather. Shelter shall be provided for all dogs and cats kept outdoors when the atmospheric temperature falls below fifty degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which a dog or cat is acclimated.

(4) Drainage. A suitable method shall be provided to rapidly eliminate excess water.

H. Primary enclosures for dogs and cats shall meet the following requirements:

(1) Primary enclosures shall be structurally sound and maintained in good repair to protect the dogs and cats from injury, to contain them, and to keep predators out.

(2) Primary enclosures shall be constructed and maintained so as to enable the dogs and cats to remain dry and clean.

(3) Primary enclosures shall be constructed and maintained so that the dogs and cats will have convenient access to clean food and water as required in this Part.

(4) The floors of primary enclosures shall be constructed so as to protect the dogs' and cats' feet and legs from injury.

(5) Primary enclosures shall be constructed and maintained so as to provide sufficient space to allow each dog and cat to turn about freely and to easily stand, sit, and lie in a comfortable, normal position.

(6) Primary enclosures for housing cats which have a solid floor shall contain a receptacle with sufficient clean litter to contain excreta.

(7) Primary enclosures for housing cats shall be provided with a solid resting surface or surfaces which, in the aggregate, shall be of adequate size to comfortably hold all of the occupants of the primary enclosure at the same time. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(8) Primary enclosures for housing cats shall provide a minimum of two and one-half square feet of floor space per cat.

(9) Primary enclosures for housing dogs shall provide a minimum floor space for each dog equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches expressed in square feet. This requirement shall be computed as follows: (length of dog in inches plus six inches) times (length of dog in inches plus six inches) divided by one hundred forty-four inches equals minimum square footage per dog.

(10) No more than twelve adult dogs shall be housed in the same primary enclosure.

(11) Dog houses with chains. If dog houses with chains are used as primary enclosures for dogs kept outdoors, the chains used shall be so placed or attached that they cannot become entangled with the

chains of other dogs or any other objects. Such chains shall be of a type commonly used for the size dog involved and shall be attached to the dog by means of a well-fitted collar. Such chains shall be at least three times the length of the dog as measured from the tip of its nose to the base of its tail and shall allow the dog convenient access to the dog house.

I. All animal cages or holding pens shall allow sufficient room for all animals to lie down, turn around, stand, or sit in a normal position.

J. Adequate office space for record keeping shall be provided and maintained.

K. A receiving area shall be provided for the public to bring in, reclaim, or adopt animals.

L. A room and table shall be provided for euthanasia and for holding carcasses.

M. Each shelter shall have running hot water (at least one hundred eighty degrees Fahrenheit) and cold water available for cleaning at all times.

N. Self-feeders, if used, shall be mounted so animals cannot urinate or defecate in them.

O. Animals housed in primary enclosures with wire floors shall be provided a solid resting platform constructed of a smooth surface and moisture impervious material.

Acts 1985, No. 806, §1, eff. July 22, 1985.

§2465. Operating procedures

A. Separation of animals:

(1) Dogs shall be separated from cats.

(2) Sick animals shall be separated from healthy animals.

(3) Puppies and kittens must be separated from adult animals unless nursing.

(4) Unneutered males shall be separated from females.

(5) Injured animals shall be separated from uninjured animals.

(6) Animals involved in bite or scratch cases shall be separated from all other animals with a maximum of one such animal per cage.

(7) Nursing mothers with litter shall be separated from all other animals.

B. Animal care:

(1) All dogs over three months of age shall be fed at least once daily; providing at least one-half pound of food per twenty-five pounds of bodyweight per dog. All dogs under three months shall have appropriate dry food available at all times or be fed a minimum of three times per day.

(2) All kittens and adult cats shall have appropriate dry or semi-moist food available at all times.

(3) Clean, fresh water shall be available at all times for all animals.

(4) Animals other than dogs and cats shall be fed and watered as required by the species.

(5) Each animal shall be observed daily for sickness, disease, injury, abnormal behavior, external parasites, or lameness by the animal caretaker in charge, or by someone under his direct supervision.

(6) Any ill or injured animal shall be isolated and made as comfortable as possible until veterinary care is obtained or the animal is euthanized if in legal compliance.

(7) Any dead animals shall be removed from kennel area and immediately and properly disposed of.

(8) The following procedures shall be performed daily:

(a) Isolate animals prior to cleaning so that no animal is exposed to water and/or disinfectant while cleaning.

- (b) Pick up droppings and dispose of properly.
- (c) Disinfect floor and wash down animal holding areas with water under pressure.
- (d) All standing water shall be removed before returning animals.
- (e) Provide fresh food and water.
- (f) Clean cat litter boxes (replace cat litter at least weekly).
- (g) Clean gutters and check drains.
- (h) Clean aisles, floors, sinks, and kitchen.
- (i) Clean inside area of debris, trash, and dirt.
- (j) Shelter grounds shall be kept mowed and free of standing water, trash, and debris.
- (k) Clean beds and resting boards.
- (l) Wash food and water dishes with hot soapy water and cleanse with water to remove disinfectant or soap.

C. Euthanasia:

(1) Euthanasia methods and procedures must conform with recommendations outlined in the report of the American Veterinary Medical Association on Euthanasia, dated July 1, 1978, or as revised except as provided in Paragraphs (2) and (3) of this Subsection.

(2) Euthanasia by carbon monoxide gas chambers on cats and dogs shall be prohibited beginning on January 1, 2013 and thereafter.

(3) Euthanasia by intracardiac injection on cats and dogs shall be prohibited unless the animal is unconscious or rendered completely unconscious and insensitive to pain through the injection of an anesthetic.

(4) Euthanasia personnel shall attend the Humane Society of the United States Academy on Euthanasia or an equivalent program within one year of date of employment.

D. Records:

(1) A record shall be prepared for every animal that enters the shelter and shall include description of animal; veterinary treatment; length of time held; fees collected; and date euthanized, died, reclaimed, or adopted.

(2) Daily receipts for donations, animal impoundment fees, and adoptions shall be permanently recorded and filed.

(3) Records shall be available for inspection at all times.

Acts 1985, No. 806, §1, eff. July 22, 1985; Acts 2010, No. 764, §1, eff. June 30, 2010.

§2466. *Repealed by Acts 1997, No. 1116, §2.*

PART VI. PET OVERPOPULATION CONTROL

§2471. Definitions

As used in this Part the following words shall have the following meanings ascribed to them:

(1) "Adopter" means a person who is legally competent to enter into a contract and who is adopting or buying a dog or cat from a releasing agency.

(2) "Adult animal" means any dog or cat that has reached the age of one hundred eighty days or six months or more.

(3) "Releasing agency" means an animal pound, shelter, humane organization, or animal control agency, whether public or private. The term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat.

(4) "Sterilization" means the surgical removal of the reproductive organs of a dog or cat in order to render the animal unable to reproduce.

Acts 1990, No. 567, §1, eff. July 19, 1990.

§2472. Sterilization required

A. Provisions shall be made for the sterilization of all dogs and cats sold or released for adoption or purchased from any public or private animal shelter or animal control agency operated by a humane society or by a parish, city, or other political subdivision by either:

(1) Providing sterilization by a Louisiana licensed veterinarian before relinquishing custody of the animal.

(2) Entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed by a Louisiana licensed veterinarian in compliance with a sterilization agreement that shall contain the following information:

(a) The date of the agreement.

(b) The name, address, and signature of the releasing agency and the adopter.

(c) A description of the animal to be adopted.

(d) A sterilization completion date which shall be either:

(i) The thirtieth day after the date of adoption in the case of an adult animal.

(ii) The thirtieth day after a specified date estimated to be the date an adopted infant female or male puppy or kitten becomes six months of age.

(iii) If the releasing agency has a written policy recommending sterilization of certain infant animals at an earlier date, the thirtieth day after the date contained in the written policy.

(e) A statement, printed in conspicuous bold print, that sterilization of the animal is required under R.S. 3:2472.

B. Except as provided by this Subsection, an adopter that signs an agreement under R.S. 3:2472(A)(2) shall have the adopted animal sterilized on or before the sterilization date stated in the agreement. If the sterilization completion date stated in the agreement falls on a Saturday, Sunday, or legal holiday, the deadline shall be extended to the first day that is not a Saturday, Sunday, or legal holiday. The releasing agency may extend the deadline for thirty days on the presentation of a letter or telephone report from a Louisiana licensed veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. There shall be no limit to the number of extensions that may be granted for this reason.

Acts 1990, No. 567, §1, eff. July 19, 1990.

§2473. Adoption standards

A. Each releasing agency shall agree to give title, possession, and control of the animal as long as the adopter complies with the terms and conditions of the agreement as set forth in R.S. 3:2472.

B. Failure by either party to comply with any provision of the adoption agreement as set forth in R.S. 3:2472 may give rise to a cause of action in a court of competent jurisdiction.

Acts 1990, No. 567, §1, eff. July 19, 1990.

§2474. Confirmation of sterilization

The releasing agency shall consider the animal sterilized upon receipt of written confirmation signed by the Louisiana licensed veterinarian who performed the sterilization.

Acts 1990, No. 567, §1, eff. July 19, 1990.

§2475. Exceptions

A. The sterilization requirements of this Part do not apply to a dog or cat that is claimed from a releasing agency by a person who already owns the animal.

B. This Part does not apply to a releasing agency located in a municipality that has in effect an ordinance providing standards for dog and cat sterilization that exceed the requirements of this Part.

C. The provisions of this Part shall not apply to animals sold or released from any humane society, public or private shelter, or animal control agency to the United States armed forces, police or other law enforcement agencies, licensed veterinary facilities, or to licensed medical facilities.

D. *Repealed by Acts 2011, No. 225, §1.*

Acts 1990, No. 567, §1, eff. July 19, 1990; Acts 2011, No. 225, §1.

§2476. Fees

All costs of sterilization pursuant to this Part shall be paid by the prospective adopter or purchaser, unless otherwise provided.

Acts 1990, No. 567, §1, eff. July 19, 1990.

PART VII. ANIMAL CONTROL AGENCY OFFICERS

§2501. Animal control agency control officers; applicable parishes; P.O.S.T. certification; commissions; powers

A. Any animal control agency maintained by a parish governing authority described in Subsection B of this Section shall be authorized to commission such animal control officers as provided in Subsection B of this Section as animal control investigators or specialists of the agency who, if P.O.S.T. certified, shall exercise regular police powers of the state granted to law enforcement officers. Any such investigator or specialist shall be empowered to enforce all animal-related crimes defined by ordinance or state law including but not limited to animals at large, animal cruelty, dog fighting, animal theft, or any law or ordinance governing animal disease control.

B. The commissioning of animal control officers designated in Subsection A of this Section shall be applicable only to those parishes who maintain animal control agencies with a population of over fifty thousand, according to the most recent federal decennial census as follows, subject to the following limitations:

(1) An animal control agency maintained by the parish governing authority in a parish with a population of over fifty thousand, according to the most recent federal decennial census, but less than one hundred thousand according to the most recent federal decennial census, may commission one P.O.S.T. certified animal control officer.

(2) An animal control agency in a parish with a population of over one hundred thousand, according to the most recent federal decennial census but less than one hundred fifty thousand according to the most recent federal decennial census, may commission two P.O.S.T. certified animal control officers.

(3) An animal control agency in a parish with a population of over one hundred fifty thousand according to the most recent federal decennial census may commission three P.O.S.T. certified animal control officers.

C. Any officer designated in Subsection A of this Section who has met the qualifications of P.O.S.T. and was P.O.S.T. certified on or after January 1, 2000, and has maintained firearm qualifications and worked continuously for an animal control agency designated in Subsection B of this Section shall be deemed to be P.O.S.T. certified.

Acts 2006, No. 807, §1; Acts 2009, No. 21, §1.

CHAPTER 18. ANIMALS RUNNING AT LARGE

PART I. MUNICIPAL REGULATION OF LIVESTOCK RUNNING AT LARGE

§2531. Municipalities authorized to prohibit livestock from running at large

All cities and towns having a population of more than one thousand, and all towns and villages in this state having a population of one thousand or less and situated within three miles of the corporate limits of any city having a population of twenty-five thousand or more, may regulate, restrict, and prohibit by proper ordinances, the running at large of livestock of all kinds within the corporate limits of the cities, towns, and villages; establish impounding pens and yards, and employ pound keepers; fix impounding fees and charges; and provide for the sale or disposition of impounded animals or stock.

§2532. Livestock running at large in municipalities not having one thousand inhabitants

All municipalities within this State having less than one thousand inhabitants and not provided for in R.S. 3:2531 may prohibit by ordinance the running at large of any and all kinds of livestock within the corporate limits of such municipalities, provided the questions shall have first been submitted to the voters qualified by law to vote at municipal elections within the municipality proposing to adopt such an ordinance and the voters at an election shall have authorized the adoption of the ordinance by a majority vote.

§2533. Special election on whether to restrain livestock

The governing authority of any municipality having less than one thousand inhabitants, and not provided for in R.S. 3:2531, desiring to adopt such an ordinance may order a special election to be held within the municipality at which the question shall be submitted to the qualified voters of the municipality, to hold the election as now provided by law, and to canvass and promulgate the returns thereof.

§2534. Adoption of ordinance

If at a special election a majority of the voters of the municipality vote in favor of the enactment of such an ordinance, the governing authority of the municipality may adopt such an ordinance and provide proper penalties, including the impounding of livestock and the appointment of pound keepers, and to secure the enforcement of the ordinance.

§2535. General powers of municipality unaffected

Nothing herein contained shall limit in any manner other powers granted to municipalities to prohibit the running at large of livestock within the corporate limits.

PART II. LIVESTOCK ON LEVEES

§2571. Livestock allowed on levees; conditions

A. Horses, mules, cattle, hogs, sheep, or livestock of any description may go on the levees, or the space between the base of the levees and the draining ditch at any time, except where, in the judgment of the levee commissioners of a district and the office of engineering, damage would occur to the levees from exposure to wear, tear, and abuse.

B. In cases where the water is against the levee on both sides, that is, where the grounds on the river and land side are both covered with water, people living in the vicinity may put stock on these levees temporarily.

Acts 1995, No. 385, §1; Acts 2012, No. 753, §1.

§2572. Impounding livestock; sale if not redeemed

The levee commissioners of a district and the office of engineering may impound or cause to be impounded any horses, mules, cattle, hogs, sheep, or other livestock of any description found violating this Part, and hold them impounded until the owner of the livestock shall redeem them by paying the expenses of impounding and keeping the stock. In case the stock is not redeemed from impoundment within eight days of notification to the owner of the impoundment and pending sale, then it shall be the duty of the constable to proceed to the place of impounding, and there, without previous advertisement, sell the animals thus impounded for cash to the highest bidder, except that in the cases of horses and mules, they shall be disposed of as is now provided by law in the several parishes for strays.

Acts 1995, No. 385, §1; Acts 2012, No. 753, §1.

§2573. Fees and costs

The fees and costs under this Part shall be as follows except for sheep and goats: for impounding, one dollar; for keeping, fifty cents per head, for each day the stock are kept by the impounder or keeper; for making the sale, fifty cents per head for each animal sold; for proceeding, as in case of estrays, such costs as are now allowed by law in cases of estrays in the several parishes. For sheep and goats the charge for impounding shall be ten cents per head; for keeping, five cents per head for each day; for making the sale, ten cents per head.

§2574. Proceeds of sale insufficient to pay costs

In case proceeds of the sale are not sufficient to pay all costs, they shall be paid pro rata

§2575. Impounded animals, release of prohibited; penalty

No person shall by force, threats, or fraud release any animal impounded under the provisions of R.S. 3:2572.

Whoever violates this Section shall be fined not more than one hundred dollars, or imprisoned not more than sixty days, or both.

PART III. DOGS HARASSING OR INJURING LIVESTOCK

SUBPART A. LIABILITY OF OWNER OF DOG

§2651. Definitions

As used in this Part, "livestock" means any animal bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products

for market. The term "livestock" shall include cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

Acts 2003, No. 4, §1, eff. May 8, 2003; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2652. Liability for injury to livestock caused by dog

Any owner, harbinger, or possessor of any dog that kills, harasses, or wounds livestock shall be liable to the owner of the livestock for the damages sustained, to be recovered before any court of competent jurisdiction.

Acts 2003, No. 4, §1, eff. May 8, 2003.

§2653. Unnecessary to prove knowledge that dog would injure livestock

In the prosecution of actions under this Subpart, it shall not be necessary for the plaintiff to show that the owner, harbinger, or possessor of the dog had knowledge of the fact that the animal would kill, harass, or wound livestock.

Acts 2003, No. 4, §1, eff. May 8, 2003.

§2654. Right to kill dog harassing livestock

Any person finding any dog not on the premises of its owner, harbinger, or possessor, which is harassing, wounding, or killing livestock, may, at the time of finding the dog, kill him, and the owner shall not be able to sustain any action for damages against the person killing the dog.

Acts 2003, No. 4, §1, eff. May 8, 2003.

SUBPART B. AUTHORITY OF POLICE JURY TO PROTECT LIVESTOCK

§2691. Police juries authorized to protect livestock

The police juries of the different parishes may enact such ordinances as they in their discretion deem necessary for the protection of the livestock industries in their respective parishes.

Acts 2003, No. 4, §1, eff. May 8, 2003.

PART IV. DOGS--REGULATION BY LOCAL AUTHORITIES

§2731. Parishes and municipalities may regulate

The governing bodies of all parishes and municipalities may adopt ordinances regulating dogs running at large; regulating or prohibiting vicious or dangerous dogs; or to limit the enforcement of said ordinances or the imposition of fees and fines thereunder. In addition, such ordinances may provide for the utilization of the proceeds of dog and cat license fees and fines for the operation of its animal control program or for the effective enforcement of its animal control ordinances.

Acts 2010, No. 108, §1.

§2732. *Repealed by Acts 1982, No. 101, §4, eff. July 11, 1982.*

§§2733 to 2737. *Repealed by Acts 2010, No. 108, §2.*

PART V. DOG LICENSE TAX

§2771. Dogs not to run at large

No person shall suffer or permit any dog in his possession, or kept by him about his premises, to run at large on any unenclosed land, or trespass upon any enclosed or unenclosed lands of another.

§2772. Dog, cat, and kennel licenses fee and certificate; records

A. Each parish or municipality that levies a license fee on dogs and cats shall issue a metallic license tag to each dog or cat owner who applies therefor and pays the dog or cat license fee imposed by the issuing parish or municipality. The license tag shall contain a license number, the name of the issuing body and the calendar year for which such tag is issued. The tag shall be fastened upon the collar worn by the dog or cat owned or kept by such person. A license certificate shall also be issued for such license fee showing the name and address of the owner, a description of the dog or cat by sex and color, the breed of the dog or cat if known, and the year and number of the license tag. A record of all such information shall be kept by the issuing authority which shall be open to the public during regular business hours.

B. The governing body of each municipality or parish may, by ordinance, fix the sum to be paid annually for the dog or cat license fee, which sum shall not be more than ten dollars for each spayed or neutered dog or cat and not more than twenty dollars for each unspayed or unneutered dog or cat. However, notwithstanding any provisions to the contrary, the governing body of any municipality or parish with a population in excess of four hundred seventy-five thousand persons may, by ordinance, fix the sum to be paid annually for the dog or cat license fee, which sum shall not be more than ten dollars for each spayed or neutered dog or cat and not more than twenty dollars for each unspayed or unneutered dog or cat, and any such funds derived from said license fee shall be dedicated solely for the capture, control, and housing of stray animals.

C. For the purposes of this Section, a dog or cat shall be considered spayed or neutered whenever any of the following is applicable:

(1) Upon presentation of a certificate issued by any licensed veterinarian stating that the dog or cat, if female, was made incapable of producing young by spaying by the veterinarian, or, the dog or cat, if male, was made incapable of producing young by sterilization by the veterinarian.

(2) Upon examination by a licensed veterinarian any dog or cat, whether male or female, is certified by the veterinarian to be incapable of producing young.

(3) If the dog or cat has been previously licensed as a spayed or neutered dog or cat.

D. Dogs used as guides for blind persons and commonly known as "seeing-eye" dogs or dogs used to assist deaf persons and commonly known as "hearing-ear" dogs, may be licensed as other dogs herein provided for, except that the owner or keeper of such dog shall not be required to pay any fee therefor.

E. The owner or keeper of five or more dogs may procure a kennel license and pay a kennel license fee in lieu of the individual dog licenses and license fees provided for herein. The governing body of each municipality or parish, may by ordinance, fix the sum to be paid annually for the kennel license fee, which sum shall be a minimum of:

(1) Fifteen dollars if no more than five dogs over the age of six months are harbored on the owner's premises at the time of the application.

(2) Twenty-five dollars if more than five dogs but no more than ten dogs over the age of six months are harbored on the owner's premises at the time of the application.

(3) Thirty dollars if more than ten dogs over the age of six months are harbored on the owner's premises at the time of the application.

A licensed veterinarian or a veterinary clinic shall be exempt from this provision in the conduct of their regular business.

F. Upon the issuance of a kennel license, the owner shall be furnished a number of license tags equal to the number of dogs harbored on the owner's premises. All of the provisions contained in Subsection (A) of this Section with regard to issuance of license tag, license certificates and the keeping of records shall also apply to kennel licenses.

G. Any individual or business with five or more dogs and who breeds and sells dogs retail, wholesale, or to the public is required to procure a kennel license and pay a kennel license fee in lieu of the individual dog licenses and license fees provided for herein. The governing body of each municipality or parish may, by ordinance, fix the sum to be paid annually for the kennel license fee, which sum shall be dedicated solely for animal impoundment facilities and be a minimum of:

(1) Fifteen dollars, if no more than five dogs over the age of six months are harbored on the owner's premises at the time of the application.

(2) Twenty-five dollars, if more than five dogs but no more than ten dogs over the age of six months are harbored on the owner's premises at the time of the application.

(3) Thirty dollars, if more than ten dogs over the age of six months are harbored on the owner's premises at the time of the application.

H. No individual or business that breeds, buys, or sells dogs retail, wholesale, or to the public shall maintain more than seventy-five dogs over the age of one year at any time for breeding purposes.

I. Any person who violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Amended by Acts 1982, No. 101, §1, eff. July 11, 1982; Acts 1991, No. 940, §1; Acts 2008, No. 894, §1; Acts 2010, No. 92, §1.

§2773. Dogs as personal property; seizure of dogs running at large or on property fenced as a fox pen; notice to owner; dangerous or vicious dogs

A. Dogs owned by citizens of this state and by citizens of other states and situated and located in this state are declared to be personal property of such citizens.

B. Any citizen may, or the sheriff, constable, or other police officers of any parish, ward, or municipality shall seize any dog found unaccompanied by its owner or keeper and running at large on any road, street, or other public place, or trespassing on any premises other than the premises of the owner. If the dog is wearing a collar bearing a tag showing the name and address of its owner, it shall be impounded and the citizen or officer so seizing and impounding the dog shall immediately thereafter by written notice notify the owner of the dog, at the address disclosed by the tag on the dog's collar, that the dog has been seized and impounded by him, and unless the owner or keeper of the dog shall, within seven days from the receipt of the notice, claim the dog and pay the citizen or officer a fee of one dollar for seizing and a fee of twenty-five cents for each day it is impounded, it shall be disposed of in a humane manner.

C. Except in the parishes of St. Helena, St. Tammany, Tangipahoa, and Washington, any citizen may, or the sheriff, constable, or other police officers of any parish, ward, or municipality shall, seize any dog found unaccompanied by its owner or keeper and trespassing on any premises that is fenced with at least a two-inch by four-inch wire mesh that is a minimum of four feet high. If the dog is wearing a collar bearing a tag showing the name and address of its owner, it shall be impounded and the citizen or officer so seizing and impounding the dog shall immediately thereafter, by written notice, notify the owner of the dog, at the address disclosed by the tag on the collar of the dog, that the dog has been seized and impounded by him, and unless the owner or keeper of the dog shall, within seven days from receipt of the notice, claim the dog and pay a seizing fee of twenty dollars and an impoundment fee of one dollar for each day it is impounded, it shall be disposed of in a humane manner. Ten dollars of the seizing fee shall be paid to the law enforcement agency called upon to seize the dog. The remainder of the seizing fee shall be donated to a recognized nonprofit conservation group. This Subsection shall apply only to fox pens.

D. Any citizen or officer may kill any dangerous or vicious dog, and no citizen or officer shall be liable for damages or to prosecution by reason of killing any dangerous or vicious dog.

Amended by Acts 1950, No. 231, §1; Acts 1992, No. 1131, §1.

§2774. Parishes to provide animal facilities

Each parish shall provide suitable shelters or facilities for dogs seized under the provisions of this Part.

Acts 2003, No. 133, §1, eff. May 28, 2003.

§2775. Use of dogs for hunting

Nothing in this Part shall prevent any citizen of this state from lawfully hunting with a dog, provided the dog is accompanied by the owner or keeper.

§2776. Time for paying dog license tax

All license taxes on dogs are due annually on the anniversary date of the administration of the rabies vaccination; provided that as soon as a dog becomes no more than six months of age the owner of the dog shall be liable to pay the license tax for the year in which the dog reaches such age.

Acts 1992, No. 131, §1.

§2777. Penalty for violating this Part or disturbing dog's collar or license tax tag

Whoever violates any provision of this Part, or fails or neglects to perform any duty imposed by it, shall be fined not less than twenty-five dollars nor more than one hundred dollars and the cost of prosecution, or imprisoned for not more than thirty days, or both.

Whoever removes from any dog a collar bearing a license tax tag as provided for in this Part, or alters or removes any such license tax tag from a dog properly registered as herein provided for, shall be fined not more than one hundred dollars and the cost of the prosecution, or imprisoned for not more than thirty days, or both.

§2778. Municipal and parish governing authorities

Nothing contained in this Part shall be construed to prevent or otherwise limit the governing authority of a municipality or parish from setting fees and fines in amounts sufficient for the operation of its animal control program or for the effective enforcement of its animal control ordinances; however, in the absence of the adoption of such ordinances, the parish or local governing authority shall rely on the provisions of R.S. 3:2773.

Acts 2003, No. 133, §1, eff. May 28, 2003; Acts 2010, No. 108, §1.

PART VI. STOCK AT LARGE ON PUBLIC HIGHWAYS

SUBPART A. IN GENERAL

§2801. Legislative findings

There is hereby found and declared a necessity for a stock law embracing certain public highways of the state of Louisiana and necessity th at its application be uniform throughout the state.

Added by Stats.1950, No. 443, §1. Amended by Acts 1954, No. 202, §1.

§2802. Definitions

As used in this Subpart, the following terms are defined as follows:

(1) "Livestock" means cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

(2) "Public highway" means a public way for vehicular traffic, including the entire area dedicated thereto and the bridges, culverts, structures, appurtenances and features necessary to or associated with its purpose, and refers to those highways designated in R.S. 3:2803.

(3) "Owner of livestock" means any person owning livestock.

(4) "Manager of livestock" means any person other than an owner of livestock having the care and control of livestock.

Added by Acts 1950, No. 443, §1. Amended by Acts 1954, No. 202, §1, eff. July 1, 1955; Acts 1978, No. 528, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§2803. Livestock at large upon certain highways

No person owning livestock shall knowingly, willfully, or negligently permit his livestock to go at large upon the following public highways of this state:

Route	Section
1. US 11	Mississippi State Line to Jct. US 90, east of New Orleans
2. US 51	Mississippi State Line to Laplace
3. US 61	New Orleans to Mississippi State Line
4. US 65	Vidalia to Ferriday to Arkansas State Line
5. US 71	Jct. US 190, near Krotz Springs to Arkansas State Line
6. US 79	Texas State Line to Jct. US 80, at Greenwood
7. US 79	Minden to Arkansas State Line

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8. US 80 Texas State Line to Mississippi State Line
 9. US 84 Texas State Line to Jct. US 71, at Coushatta
 10. US 84 Jct. US 71, at Clarence, to Jct. US 65 at Ferriday
 11. US 90 Texas State Line to Mississippi State Line
 12. US 90 Business US 90 west of Westwego to New Orleans
 13. US 165 Jct. US 90 east of Lake Charles to Arkansas State
Line
 14. US 167 Abbeville to Arkansas State Line
 15. US 171 Lake Charles to Shreveport
 16. US 190 Texas State Line to Jct. US 171 at DeRidder
 17. US 190 Jct. US 171 at Ragley to Jct. US 90 near
Mississippi State Line
 18. LA 1 Grand Isle to Jct. US 190 north of Port Allen
 19. LA 1 Jct. US 190 near Erwinville to Shreveport
 20. LA 1 Jct. La. 71 north of Shreveport to Arkansas State
Line
 21. LA 2 Texas State Line to Jct. La. 1 at Lewis
 22. LA 2 Vivian to Hosston
 23. LA 2 Plain Dealing to Sarepta
 24. LA 2 Farmerville to Jct. US 165 southeast of Sterlington
 25. LA 2 Mer Rouge to Jct. US 65 north of Lake Providence
 26. LA 3 Bossier City to Plain Dealing
 27. LA 4 Friendship to Jonesboro
 28. LA 4 Winnsboro to US 65 west of Newellton
 29. LA 5 Logansport to US 171 west of Gloster
 30. LA 6 Texas State Line to US 71 at Clarence
 31. LA 7 Coushatta to US 80 at Minden
 32. LA 7 US 80 at Dixie Inn to Arkansas State Line
 33. LA 8 Boyce to Colfax
 34. LA 8 Bentley to Trout
 35. LA 8 Harrisonburg to Sicily Island
 36. LA 10 Vernon Parish Line to Beaver
 37. LA 10 Nuba to Lebeau
 38. LA 10 St. Francisville to Clinton
 39. LA 10 Franklinton to Mississippi State Line
 40. LA 12 Texas State Line to Beauregard Parish Line

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41. LA 13 La. 14, west of Kaplan, to La. US 167 at
Turkey Creek
42. LA 14 Lake Charles to New Iberia
43. LA 15 Monroe south to La. 1
44. LA 16 Denham Springs to Amite
LA 16 The Eastern Line of Tangipahoa Parish
to Franklinton
45. LA 17 La. 4, east of Winnsboro to Epps
46. LA 17 Pioneer to Kilbourne
47. LA 18 Donaldsonville-Edgard-Luling-
Mississippi River Bridge
48. LA 19 Scotlandville to Mississippi State Line
49. LA 20 Gibson to Vacherie
50. LA 21 Madisonville to Mississippi State Line
51. LA 22 Springfield to US 190 at Chinchuba
52. LA 23 Gretna to Venice
53. LA 24 Bourg to Schriever
54. LA 25 Covington to Franklinton
55. LA 26 Lake Arthur to Elton
56. LA 27 Northern line of Cameron Parish line
to Juanita
57. LA 27 Northern line of Cameron Parish line
to Holmwood
58. LA 28 Catahoula Parish LaSalle Parish
59. *Repealed by Acts 1975, No. 293, §2*
60. LA 29 Eunice to Ville Platte
61. LA 29 Bunkie to La. 115 west of Evergreen
62. LA 31 New Iberia to Breaux Bridge
63. LA 31 Arnaudville to Opelousas
64. LA 33 Farmerville to Marion
65. LA 34 Chatham to West Monroe
66. LA 35 Forked Island to La. 700, north of
Kaplan
67. LA 35 Acadia-Lafayette Parish line south of
Rayne, to US 190 at Lawtell
68. LA 37 Baton Rouge to La. 63 NE of Baywood

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69. LA 39 Bertrandville to Arabi
 70. LA 41 Pearl River to La. 21, south of Sun
 71. LA 42 US 61, near Oak Grove to Port Vincent
 72. LA 44 Laplace to St. James Parish Line
 73. LA 45 Marrero to Crown Point
 74. LA 46 Poydras to Reggio
 75. LA 55 Montegut to Bourg
 76. LA 56 Chauvin to Presque Isle
 77. LA 67 Baton Rouge to Clinton
 78. LA 82 Esther to Abbeville
 79. LA 91 Gueydan to Midland
 80. LA 91 Estherwood to La. 100 east of Egan
 81. LA 91 Egan via Iota to Acadia-St. Landry
Parish Line south of Eunice
 82. LA 92 Mermentau to Morse
 83. LA 92 La. 91, south of Morse, to La. 13,
east of Lyons Point
 84. LA 92 La. 13 south of Crowley to Acadia-
Vermilion Parish line
 85. LA 94 Lafayette to Breaux Bridge
 86. LA 95 Acadia-Lafayette Parish line via Mire
and Church Point to Acadia-St.
Landry Parish line northwest of
Prudhomme
 87. LA 97 Acadia-Jefferson Davis Parish line to
Basile
 88. LA 98 La. 97 west of Iota via Iota, Maxie,
Rayne and Mire to Acadia-Lafayette
Parish line east of Mire
 89. LA 100 La. 97 west of Evangeline to La. 13
north of Crowley
 90. LA 107 Pineville to Marksville
 91. LA 115 Intersection with La. 29 west of
Evergreen to intersection with La.
28 at Holloway and from its junction
with La. 106 to the Avoyelles Parish

- Line
92. LA 124 Jonesville to Harrisonburg
93. LA 126 Intersection with La. US 165 in Grayson
to LaSalle Parish Line
94. LA 127 Nebo to Olla
95. LA 133 Columbia northward to Richland Parish
line
96. LA 137 Archibald to Rayville
97. LA 139 Sicard to La. 142 southeast of Beekman
98. LA 143 La. 2 northwest of Sterlington to Marion
99. LA 158 Colfax to US 71 north of Colfax
100. LA 175 Intersection of La. US 171 west of
Many to intersection with La. US 84
101. LA 178 Church Point to Acadia-St. Landry
Parish line
102. LA 315 Theriot to Houma
103. LA 342 La. 35 south to Rayne to La. 700 west
of Ridge
104. LA 343 Acadia-Lafayette Parish line, north of
Duson to La. 98 east of Mire
105. LA 347 Breaux Bridge to Arnaudville
106. LA 356 La. 95 at Peach Bloom to Acadia-St.
Landry Parish line
107. LA 357 Opelousas to Church Point
108. LA 358 La. 367 southwest of Prudhomme to
Pitreville
109. LA 365 La. 370 northeast of Iota to La. 13
north of Maxie
110. LA 365 La. 13 at Judd via Branch and
Higginbotham to La. 98, east of Mire
111. LA 367 La. 98 northwest of Rayne via Link to
the Acadia-St. Landry Parish line
112. LA 368 La. 97 to Redich via Frey to La. 13
east of Mowata
113. LA 370 Iota via Frey and Richard to La. 35
southwest of Church Point

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114. LA 460 Nebo to Whitehall
115. LA 628 Laplace to St. Charles Parish line
116. LA 700 La. 35 north of Kaplan to La. 322 west
of Ridge
117. LA 722 La. 98 east of Rayne to Acadia-
Lafayette Parish line west of Duson
118. LA 754 La. 95 southeast of Church Point to
Acadia-St. Landry Parish line east
of Church Point
119. LA 755 La. 368 northwest of Frey to Acadia-
St. Landry Parish line south of
Eunice
120. LA 845 Clarks to Sikes Road
121. LA 848 Hebert to Cat Island
122. LA 1096 La. 722 east of Rayne to La. 95 south
of Mire
123. LA 1098 La. 95 south of Higginbotham to La.
365 east of Higginbotham
124. LA 1099 La. 1098 southeast of Higginbotham to
La. 365
125. LA 1100 La. 98 east of Castille to La. 95
south of Higginbotham
126. LA 1101 La. 98 at Castille to La. 365 east of
Branch
127. LA 1102 La. 35 south of Branch to La. 1101
128. LA 1104 La. 178 near Church Point to La. 754
129. LA 1105 La. 367 north of Link via Richard to
La. 95 southeast of Prudhomme
130. LA 1106 La. 367 north of Link westerly
approximately two miles to a
junction with a parish road
131. LA 1107 La. 367 north of Link to La. 1105
132. LA 1108 La. 95 northwest of Church Point to
Pitreville
133. LA 1109 La. 98 east of Maxie to La. 365 east
of Judd

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134. LA 1110 La. 98 east of Maxie to Link
135. LA 1111 La. 13 north of Crowley to La. 98
136. LA 1112 From La. 1111 northerly and easterly
back to La. 1111
137. LA 1113 La. 98 northwest of Rayne to La. 367
138. LA 1117 La. 92 near Mermentau to US 90 west of
Estherwood
139. LA 1118 La. 1117 southeast of Mermentau
southerly approximately 1.7 miles to
a junction with parish road
140. LA 1119 La. 92 south of Mermentau southerly
approximately 1.0 mile to a junction
with parish road
141. LA 1120 La. 100 east of Egan to La. 98
southeast of Iota
142. LA 1121 Lawson to La. 13 northwest of Crowley
143. LA 1123 La. 97 and La. 98 west of Iota to La.
97 south of Redich
144. LA 1124 Estherwood southerly approximately 3.9
miles to a junction with a parish road
145. LA 1165 In Evangeline Parish
146. LA 3007 La. 13 south of Crowley easterly
approximately 3.5 miles to a parish
road near Ebenezer
147. LA 3067 La. 91 north of Iota to La. 370 south
of Frey
148. LA 3068 La. 97 north of Redich to US 190 east
of Basile
149. LA 3070 La. 100 west of Lawson to La. 370 east
of Iota
150. LA 3076 US 90 to La. 13 and US 90 in Rayne
151. LA 3042 Ville Platte to Bayou Chicot
152. LA 106 Bayou Chicot to Morrison Station
junction of La. 106 and La. 29 and
from its intersection with U.S. 167
to its intersection with La. 13

- 153. LA 181 From its intersection with La. 115 to
the Rapides Parish Line
- 154. LA 1153 North from city limits of Oakdale to
the cattle guard immediately
preceding the intersection of LA
1153 and LA 1154.
- 155. LA 417 Legonier to Red Cross
- 156. LA 1 Legonier to New Roads, New Roads to
intersection with U.S. 190
- 157. LA 415 New Roads to West Baton Rouge Parish
line
- 158. LA 418 Torras to Innis
- 159. LA 10 New Roads to Pointe Coupee
- 160. LA 447 within Livingston Parish.
- 161. LA 111 US 171 near Anacoco west to La. 392.

Added by Acts 1950, No. 443, §1. Amended by Acts 1954, No. 202, §1; Acts 1955, No. 114, §1; Acts 1956, No. 368, §1; Acts 1958, No. 166, §1; Acts 1958, No. 274, §1; Acts 1959, No. 126, §1; Acts 1960, No. 574, §1; Acts 1962, No. 105, §1; Acts 1965, No. 30, §1; Acts 1970, No. 427, §1; Acts 1974, No. 634, §§1, 2; Acts 1975, No. 293, §1; Acts 1976, No. 280, §1; Acts 1976, No. 322, §1; Acts 1986, No. 508, §1; Acts 1992, No. 415, §1; Acts 2014, No. 27, §1.

§2804. Impounding livestock found at large upon highways

A. The deputy secretary of Department of Public Safety shall, and all sheriffs, deputy sheriffs, constables, and justices of the peace may, cause any livestock found at large upon any highway of the state of Louisiana, as defined in R.S. 3:2803, to be taken into custody and impounded. Any livestock so taken into custody shall be impounded in the nearest official state police impoundment area. Any officer taking custody of and impounding livestock shall immediately notify the deputy secretary of Department of Public Safety or his duly authorized representative in the parish in which the livestock is impounded and shall, within twenty-four hours after such notification, notify the owner or manager of such livestock, if known, personally or by leaving written notice at his place of residence.

B. The owner or manager of livestock so impounded shall have the right to secure his livestock upon the payment to the superintendent* of state police or officer impounding the livestock of a fee of twenty dollars per head of livestock. He shall also pay to the officer impounding such livestock the cost of feeding and caring for such livestock at the rate of two dollars per day for each animal and the cost of any necessary veterinary and advertisement fees incurred.

C. The governor is authorized to establish, by executive order, in the Department of Public Safety, a suitable patrol force to enforce the provisions of this Subpart. The members of the patrol shall be employees of the Department of Public Safety, and their salaries and expenses shall be paid in the same manner as is provided for other employees.

D. The provisions of this Section and of R.S. 3:2805 and 2806 shall be effective for any fiscal year or portion of a fiscal year only if sufficient funds have been appropriated to the deputy secretary of the Department of Public Safety and Corrections for the purpose of enforcing those Sections for the fiscal year or the portion of the fiscal year. If sufficient funds have not been appropriated the deputy secretary

shall provide written notice to the Senate and House Committees on Transportation, Highways and Public Works.

Added by Acts 1950, No. 443, §1. Amended by Acts 1954, No. 202, §1, eff. July 1, 1955; Acts 1976, No. 323, §1; Acts 1977, No. 503, §1, eff. July 13, 1977; Acts 1978, No. 528, §1; Acts 1983, 1st Ex. Sess., No. 33, §1, eff. Jan. 19, 1983; Acts 1989, No. 494, §1.

**See R.S. 3:405.*

§2805. Advertisement of impounding when owner is unknown

A. If the owner or manager of any livestock found at large on a public highway is not known or if the owner or manager has no residence in the parish where the livestock is impounded a statement shall be filed with the superintendent of state police or his authorized representative in the parish in which the livestock is impounded, setting forth:

- (1) The name and address of the person impounding the livestock;
- (2) A description of the livestock as to kind, sex, marks, brand, color and apparent age;
- (3) The place of taking custody of and the place where livestock is impounded;
- (4) The amount of the charges due for feeding and caring for the livestock;
- (5) The amount of the fee for impounding the livestock.

B. The superintendent of state police or his representative shall then give notice by advertising in a newspaper of general circulation within the parish setting forth the fact of the impoundment, a description of the livestock, and that the owner or manager is unknown or, if known, that he cannot be located. This advertisement shall notify any person claiming to be the owner or manager of such livestock to appear before the superintendent of state police or his representative at a place named and a time not less than three days nor more than six days from the date of notice to prove such claim of ownership or authority to manage. If the owner or manager appears and proves to the satisfaction of the superintendent of state police or his representative that he is the owner or manager of the stock impounded, the superintendent of state police or his representative shall require the owner or manager to pay the fee provided in R.S. 3:2804, the cost of feeding and caring for the stock at the rates hereinabove specified in R.S. 3:2804, and the cost of advertisement.

Added by Acts 1950, No. 443, §1. Amended by Acts 1954, No. 202, §1, eff. July 1, 1955.

§2806. Sales of unclaimed livestock

A. If, after the notice provided in R.S. 3:2804 and R.S. 3:2805, the owner or manager does not appear within twenty calendar days, the deputy secretary of state police or his representative shall proceed to sell such impounded livestock in the following manner:

(1) The deputy secretary of Department of Public Safety or his representative shall advertise in a newspaper of general circulation in the parish where the sale is to take place, the fact of such sale, the date, and the place of the sale. The place of the sale shall be at some public place open to the general public within the parish of impoundment or the nearest sale barn in the vicinity of the place of impoundment and the sale shall take place within ten days after publication of one notice of said sale. The impounded livestock shall be auctioned to the last and highest bidder for cash.

(2) From the price of said sale shall be deducted the fee provided in R.S. 3:2804, the cost of feeding and caring for the livestock at the rate hereinabove specified in R.S. 3:2804 and all expenses incurred in the sale. The deputy secretary of Department of Public Safety shall pay the fee provided for feeding and caring for the livestock and the remainder shall be paid to the office of state police.

B. The governing authority of any parish affected by R.S. 3:2801 through R.S. 3:2807 shall have the right to fence any highway or highways affected hereby at the cost and expense of the police jury.

Added by Acts 1950, No. 443, §1. Amended by Acts 1954, No. 202, §1, eff. July 1, 1955; Acts 1978, No. 528, §1.

§2807. Penalties

Any person convicted of violating the provisions of R.S. 3:2803 shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense. The auditor of the Department of Public Safety shall receive all of the fines imposed and collected for such violation.

Added by Acts 1950, No. 443, §1. Amended by Acts 1954, No. 202, §1, eff. July 1, 1955; Acts 1978, No. 528, §1.

§2808. Legislative findings

There is hereby found and declared a necessity for fencing certain public highways of the state of Louisiana and necessity that its application be uniform throughout the state.

Added by Acts 1954, No. 187, §1.

§2809. *Repealed by Acts 1999, No. 364, §1, eff. June 16, 1999.*

§2810. Closing of gates in fences constructed with state aid

It shall be the obligation of users of property contiguous to state highways upon which fences have been erected with state aid to ascertain that the gates from the owner's private property to the public road be kept closed except when actually in use and tended by a competent person. Failure of the user of the private property to keep the gates closed shall subject him to the same penalties as provided in R.S. 3:2807.

Added by Acts 1962, No. 94, §1.

§2811. Fences erected upon public highways with state aid; damaging, removal and destruction prohibited; exceptions; penalties for violation

A. Fences erected upon state highways with a contribution from the Department of Highways of the State of Louisiana are the property of the State of Louisiana. The damaging, removal or destruction of such fences, except as permitted in Sub-section B of this Section is specifically prohibited.

B. Owners of property bounded by a highway upon which such a fence has been erected may remove the fence from that portion of the highway in front of their property if they have erected similar connecting fences to prevent livestock from their lands and lands contiguous to their lands from roaming at large upon the public road. Responsibility for the effectiveness of such connecting fences shall rest upon the landowner. The state shall have no title to the connecting fences.

C. The department of public safety of the state of Louisiana shall be charged with the responsibility for administering the provisions of this Section.

D. Whoever damages, removes or destroys any fence covered by Sub-section A hereof, without previously erecting connecting fences, so as to permit the roaming of cattle upon the highways, shall, upon conviction therefor, be fined not more than one hundred dollars or be imprisoned in the parish jail for a period not to exceed thirty days, or both, in the discretion of the court.

Added by Acts 1962, No. 79, §1.

§§2812 to 2814. *Repealed by Acts 1954, No. 202, §1, eff. July 1, 1955.*

§2815. Impoundment pens or areas

The State Department of Public Safety shall designate and establish within each parish of the state, where necessary, an impoundment pen or area which shall be maintained by the department or by a person designated by the Superintendent of State Police solely for the purpose of impounding and retaining within the parish all livestock, swine and other cattle or animals subject to impoundment under the laws of this state. Animals impounded under such laws shall be retained and cared for in said impoundment pens or areas until disposed of in the manner provided by law.

The Superintendent of State Police is authorized to deputize or otherwise obtain the services of one farmer in each parish who shall be responsible for maintaining and caring for all animals impounded.

Acts 1960, No. 290, §1.

SUBPART B. HORSES, MULES, DONKEYS OR ASSES**§2851. Livestock not to go on paved, black-topped and asphalt treated highways**

It shall not be lawful for horses, mules, donkeys, or asses to go on the paved, black-topped and asphalt treated highways of the state system and the rights of way therefor.

Added by Acts 1950, 2nd Ex.Sess., No. 12, §1.

§§2852, 2853. *Repealed by Acts 1978, No. 528, §3.*

§2854. Impounding pens, yards and keepers

The department in which the patrol is established by the governor shall establish impounding pens and yards, and employ pound keepers.

Added by Acts 1950, 2nd Ex.Sess., No. 12, §1.

§2855. Fees and costs

The fees and costs under this Sub-part shall be as follows: for the first impounding, per head, ten dollars; for the second impounding, per head, twenty-five dollars; for keeping, one dollar per head for each day the stock are kept by the impounder or keeper; for making the sale, five dollars per head for each animal sold; for proceeding, as in case of estrays, such costs as are now allowed by law in cases of estrays in the several parishes. Provided, that no charge shall be made for the first impounding of an animal where it is shown to the satisfaction of the patrol that the animal has escaped from his enclosure or gone upon the highway through no fault of the owner.

Added by Acts 1950, 2nd Ex.Sess., No. 12, §1.

§2856. Branding of animals impounded

Every animal impounded shall be branded with a distinctive brand, burned into the hide of the animal, which, together with a description of the animal, shall be entered on a record to be kept by the patrol and the pound keeper.

Added by Acts 1950, 2nd Ex.Sess., No. 12, §1.

§2857. *Repealed by Acts 1978, No. 528, §3.*

§2858. Impounded animals, release of prohibited; penalty

No person shall by force, threats, or fraud release any animal impounded under the provisions of R.S. 3:2572.

Whoever violates this Section shall be fined not more than one hundred dollars, or imprisoned not more than sixty days, or both.

Added by Acts 1950, 2nd Ex.Sess., No. 12, §1.

§2859. Adoption and donation of unclaimed horses; rules and regulations

A. Notwithstanding any provisions of law to the contrary, following a diligent attempt to locate the owner and proper advertisement, the animal control authority or the sheriff in parishes where there is no other animal control authority may provide for the adoption or donation of any unclaimed horse or may transfer the horse to an animal control agency in another parish prior to resorting to any other means of disposition of the animal, provided the horse is determined to be free of those diseases for which the Louisiana Board of Animal Health would otherwise require that the horse be destroyed by euthanasia.

B. Each parish animal control authority or sheriff in parishes where there is no other animal control authority shall establish guidelines for the proper adoption or donation of unclaimed horses. Any recommendations made by the Louisiana Animal Control Association shall be taken into consideration by the authority or sheriff when establishing the guidelines.

C. As used in this Section, "unclaimed horse" means any domesticated member of the family "equidae", including horses, burros, asses, donkeys, zebras, and similar other species, and crossbred hybrids of these including mules, in which no one claims ownership after reasonable notice has been provided regarding its custody.

D. "Proper advertisement" for purposes of this Section means giving notice by advertising in a newspaper having general circulation within the parish once a week for two consecutive weeks. The notice shall set forth all of the following:

- (1) A description of the horse.
- (2) A statement that the owner is unknown or if known, that he cannot be located.
- (3) A statement indicating when and where the horse was found.
- (4) A location where the owner can prove ownership and reclaim the horse.

Acts 2001, No. 715, §1, eff. June 25, 2001; Acts 2008, No. 920, §1, eff. July 14, 2008.

SUBPART C. SWINE

§2891. Swine prohibited from running at large

No person owning swine shall knowingly, willfully, or negligently permit his swine to run at large upon public property or upon private property of another person.

Added by Acts 1954, No. 130, §1. Amended by Acts 1972, No. 419, §1; Acts 2010, No. 980, §1.

§2892. Impoundment of swine running at large; notice to and recovery by owner

Any landowner or lessee, or their agents, employees, or representatives or the sheriff, constable, or other police officer of any parish, ward, or municipality may seize any swine found unaccompanied by its owner or keeper and running at large on any public or private property. These swine so seized shall be impounded and the citizen or officer so seizing and impounding the swine shall cause the owner or keeper thereof, if known, to be notified personally or by leaving written notice at the place of his

residence within twenty-four hours after the seizure, and the owner or keeper of the swine may forthwith claim the swine upon the payment of the fees hereinafter specified.

Added by Acts 1954, No. 130, §1. Amended by Acts 1972, No. 419, §2; Acts 2010, No. 980, §1.

§2893. Disposition of swine

If the owner or keeper fails to come forward and claim the swine within five days after mailing or delivery of said notice and pay all fees and costs hereinafter provided, or if the ownership of such swine cannot be readily determined, notice of impoundment of the same and the place thereof shall be published at least once in an official journal in the parish where the swine are taken into possession, together with notice that such swine will be sold by the sheriff or constable at public auction to the highest bidder for cash and without appraisalment at a specified time, date, and place, not less than five days after publication of such notice. In either event, the original owner thereof may claim such swine and recover the same prior to public sale upon the payment to the officer or citizen impounding the same a fee of two dollars per animal for seizure and a fee of one dollar to pay the cost of food and keep for each day it is impounded, and in the event the same has been advertised, the reasonable cost of such advertisement. If the owner fails to claim the animal and pay the fees as hereinbefore specified, the swine shall be offered for sale at public auction to the highest bidder for cash and without appraisalment.

The fee of the sheriff or constable shall be five percent of the amount of such sale, and in addition, twenty-five cents per animal for giving of notice.

Added by Acts 1954, No. 130, §1. Amended by Acts 1972, No. 419, §3.

§2894. Disposition of proceeds of sale

From the price of the sale, the sheriff or constable shall deduct the fee of the person impounding the swine, the cost of feeding and caring for the swine at the rates hereinabove specified in R.S. 3:2893, and all expenses incurred in the sale. He shall pay the person taking up the swine the fee due him and the person feeding and caring for the swine the fees provided for such services and the remainder shall be paid into the parish treasury for the use and benefit of the parish. If the swine cannot be sold as herein specified, they may be donated by the auctioning officer to any charitable or public institution or welfare recipient or, if none be willing to accept them, disposed of forthwith as the auctioning officer sees fit, except that they shall not be released to run at large.

Added by Acts 1954, No. 130, §1. Amended by Acts 1972, No. 419, §4.

§2895. Penalties

Any person convicted of violating the provisions of R.S. 3:2891 shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Added by Acts 1972, No. 419, §5.

§2896. Liability for damages

A. The owner of any swine who knowingly, willfully, or negligently permits his swine to run at large upon public property or upon the private property of another person shall be liable for any damage caused by such swine while running at large.

B. The provisions of this Section shall not apply in the Sabine River Swamp in ward 1 and all of ward 2 of Beauregard Parish, in the Little River area north of Catahoula Lake in Grant Parish and LaSalle Parish south of Highway 84, in wards 1, 2, 3, and 4 of LaSalle Parish, in that area of Allen Parish, ward 5, west of the Calcasieu River, in wards 1, 2, 3, 5, 6, and 8 of Vernon Parish, in the Catahoula Lake area of Catahoula Parish, and in the parishes of Winn, Union, St. Tammany, Livingston,

St. Helena, Cameron, and Caldwell Parish, except wards 1, 2, 7, and 8 of Caldwell Parish, and state representative district 27, unless a referendum of the people is held to approve it.

C. The provisions of Subsection B of this Section shall become null and void on January 1, 2020.

Added by Acts 1972, No. 419, §6; Acts 2010, No. 980, §1.

PART VII. LOCAL REGULATION OF LIVESTOCK ON PUBLIC HIGHWAYS

§3001. Legislative findings

There is hereby found and declared a necessity for providing a means whereby each ward of every parish in the state shall have the right, by local option election, to prohibit livestock from roaming at large in each said ward on those public highways other than those provided for in R.S. 3:2803.

Added by Act 1958, No. 399, §1.

§3002. Definitions

As used in this Part, the following terms are defined as follows:

(1) "Livestock" means cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation or any such animal.

(2) "Owner of livestock" means any person owning or having control of livestock.

(3) "Public highway" means any public way except those highways provided for in R.S. 3:2803 for vehicular traffic including the entire area dedicated thereto and the bridge, culverts, structures, appurtenances and features necessary to or associated with its purpose.

Added by Acts 1958, No. 399, §1. Amended by Acts 1978, No. 528, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§3003. Livestock at large on highways unlawful

No person owning livestock shall knowingly, willfully or negligently permit his livestock to go at large upon the public highways of any ward of any parish where livestock is presently prohibited from roaming at large or any ward of any parish that shall hereafter adopt a stock law as hereinafter provided for.

Added by Acts 1958, No. 399, §1.

§3004. Impounding livestock found at large upon highways

A. All sheriffs, deputy sheriffs, constables, and justices of the peace shall, and any other person may, take possession of and impound any livestock found at large upon any public highway of this state in any ward where livestock is presently prohibited from roaming at large or may hereafter be prohibited from roaming at large as hereinafter provided for. Any livestock so taken and impounded shall be impounded in the parish in which taken and when taken by a sheriff, deputy sheriff, constable, or justice of the peace, the owner thereof shall be notified personally or by leaving written notice at the place of his residence within twenty-four hours after taking possession of such livestock. Any person other than

a sheriff, deputy sheriff, constable, or justice of the peace taking possession of and impounding livestock shall immediately notify the sheriff of the parish in which the livestock is taken and said sheriff shall, within twenty-four hours of such notification, notify the owner in the manner hereinabove provided.

B.(1) Except as provided in Paragraph (2) of this Subsection, the owner of livestock so taken shall have the right to secure his livestock upon the payment to the officer or person taking up the livestock a fee of ten dollars for each head of livestock taken. He shall also pay to the person taking and impounding such livestock the cost of feeding and caring for such livestock at the rate of two dollars per day for each animal.

(2) Except during a gubernatorially declared state of emergency, in Vermilion Parish, the owner of livestock so taken shall have the right to secure his livestock upon the payment to the officer or person taking up the livestock a fee of one hundred dollars for the first head of livestock taken and twenty dollars for each head taken thereafter if the officer secures the livestock. He shall also pay to the person taking and impounding such livestock the cost of feeding and caring for such livestock at the rate of three dollars per day for each animal. During a gubernatorially declared state of emergency, the provisions of Paragraph (1) of this Subsection shall apply to Vermilion Parish.

Added by Acts 1958, No. 399, §1. Amended by Acts 1977, No. 503, §1, eff. July 13, 1977; Acts 1999, No. 1065, §1; Acts 2006, No. 756, §1.

§3005. Advertisement of impounding when owner is unknown

A. If the owner of any livestock found at large on any public highway of any ward where the roaming at large of stock is prohibited, is unknown or if the owner has no residence in the parish where the livestock is taken, a statement shall be filed with the sheriff of the parish in which the livestock is taken setting forth:

- (1) The name and address of the person taking up the livestock;
- (2) A description of the livestock as to kind, sex, marks, brand, color, and apparent age;
- (3) The place of taking up and the place where the livestock is impounded;
- (4) The amount of the charges due for feeding and caring for the livestock;
- (5) The amount of the fee for taking the livestock.

B. The sheriff shall then give notice by advertising in a newspaper of general circulation within the parish setting forth the fact of the taking of possession, a description of the livestock, that the owner is unknown or if known that he cannot be located. This advertisement shall notify any person claiming to be the owner of such livestock to appear before the sheriff at a place named and a time not less than three days nor more than six days from the date of notice to prove such claim or ownership. If the owner appears and proves to the satisfaction of the sheriff that he is the owner of the stock impounded, the sheriff shall require the owner to pay the fee of the person taking the stock, the cost of feeding and caring for the stock at the rates hereinabove specified in R.S. 3:3004 and the cost of advertisement.

Added by Acts 1958, No. 399, §1.

§3006. Sale of unclaimed livestock

If after the notice provided for in R.S. 3:3004 and R.S. 3:3005 the owner does not appear at the time specified the sheriff shall proceed to sell such impounded livestock in the following manner:

The sheriff shall advertise in a newspaper of general circulation in the parish where the sale is to take place the fact of such sale, the date and place of the sale. The place of the sale shall be at the court house or at some other public place in the vicinity of the court house and the sale shall be made not less than ten nor more than twenty days after publication of one notice of said sale. Said sale shall be by auction

to the last and highest bidder for cash. From the price of said sale the sheriff shall deduct the fee of the person impounding the livestock, the cost of feeding and caring for the livestock at the rates herein above specified in R.S. 3:3004 and all expenses incurred in the sale. He shall pay the person taking up the livestock the fee due him and the person feeding and caring for the livestock the fees provided for such services and the remainder shall be paid into the state treasury.

Added by Acts 1958, No. 399, §1.

§3007. Election

A. The provisions of this Part shall not apply to those highways provided for in R.S. 3:2803 or be enforced in any ward of any parish of this state unless and until so ordered and authorized by a majority in number of the voters of said ward voting in an election held in said ward as hereinafter provided for in R.S. 3:3011.

B. Any ward of any parish of this state may at any time hold a local option election as hereinafter provided for in R.S. 3:3011 provided that such election may not be held for the same ward oftener than once a year.

Added by Acts 1958, No. 399, §1.

§3008. Petition for elections; notice of election

Upon the petition of twenty-five percent of the qualified electors in any ward of any parish of the state, the governing authority of the parish in which the ward is situated shall, within sixty days after the date on which the petition is filed, order and set the date for an election. The election shall be held not more than sixty days after the date on which it is ordered. Notice of the election shall be published in the official journal of the parish in which the ward is located at least once a week for four consecutive weeks. The first publication shall be not less than thirty days prior to the date of the election. All elections provided for in this Part shall be at the expense of the parish in which the ward calling the election is situated.

Added by Acts 1958, No. 399, §1. Amended by Acts 1977, No. 258, §1.

§3009. Contents and requisites of petition

A. The petition for a referendum election shall be addressed to the governing authority of the parish in which the ward is situated and shall state in essence that the signers thereof request that an election be called to submit to the qualified electors of the ward the proposition of prohibiting any or all of the species of livestock enumerated in R.S. 3:3001 from roaming at large on the public highways of said ward.

B. The petition shall be signed by twenty-five percent of the electors of the ward qualified to vote on the date on which the first signature is attached to the petition and shall state the date of signing and the address of each signing elector.

C. Said petition shall also state the species of livestock which it is proposed to prohibit from roaming at large on the public highways of the ward in which the election is to be held.

Added by Acts 1958, No. 399, §1. Amended by Acts 1977, No. 258, §1.

§3010. Filing of petition with registrar of voters

The petition for such local option election shall be filed with the registrar of voters of the parish in which the ward is situated within sixty days of the date of the first signature affixed thereto and when so filed shall become a public record.

Added by Acts 1958, No. 399, §1; Acts 2009, No. 186, §1, eff. June 29, 2009.

§3011. Election and effect

The governing authority of the parish in which the ward is situated shall then proceed to call a special election on the question of prohibiting the type or types of livestock specified in the petition for election from roaming at large on the public highways of the ward. If a majority of the voters of the ward participating in an election called for the purpose of submitting to the voters of said ward the proposition of prohibiting the type or types of livestock specified in the petition for election, from roaming at large on the public highways of the ward, vote in favor of prohibiting said type or types of livestock from roaming at large, it shall be unlawful for the type or types of livestock specified to roam at large on the public highways of said ward, commencing six months from the date of said election. If a majority of the voters of the ward participating in the election vote against prohibiting livestock from roaming at large on the public highways of said ward then the provisions of this Part shall not apply to or be enforced in said ward.

Added by Acts 1958, No. 399, §1.

§3012. Publication of election results

The results of any election required or authorized by this Part shall be promulgated by the governing authority of the parish by publishing same one time in the official journal of the parish in which the ward is situated, which publication shall be made not more than fifteen days after the date of said election.

Added by Acts 1958, No. 399, §1.

§3013. Penalties

Any person convicted of violating the provisions of R.S. 3:3003 shall be fined not more than twenty-five dollars or imprisoned in the parish jail for not more than thirty days or both fined and imprisoned in the discretion of the court.

Added by Acts 1958, No. 399, §1.

§3014. Saving clause

All parish or ward stock laws or ordinances in effect on July 30, 1958, shall remain in full force and effect, it being the intention of the legislature to provide by this Part an additional method by which stock laws may be voted and enforced.

Added by Acts 1958, No. 399, §1.

PART VIII. REGULATIONS IN URBAN AREAS**§3021. Regulations in governing authority of the city of New Orleans, Orleans Parish, or Jefferson Parish**

Nothing contained in this Chapter shall be construed to prevent or limit the governing authority of the city of New Orleans, Orleans Parish, or Jefferson Parish from adopting ordinances for the operation of its own program for the control of animals nor to prevent or limit the enforcement of the ordinances or the imposition of fees and fines thereunder; however, in no event shall the fees or fines be less than similar fees or fines imposed under this Chapter.

Acts 2003, No. 133, §1, eff. May 28, 2003; Acts 2011, 1st Ex. Sess., No. 3, §1.

CHAPTER 19. BEAVER CONTROL

§3031. Bounty on beaver

A. The department may, when funds are provided, offer a bounty of a minimum of five dollars for each beaver destroyed. Upon presentation of the beaver to any bona fide or licensed alligator farm, a receipt shall be issued in such form as prescribed by the department to the person presenting the animal. The department shall redeem such receipt by paying to such person upon presentation of the receipt, whether in person or by mail, a sum of five dollars, or such greater amounts as may be established by the department, for each such receipt as bounty. The redemption of such receipts shall be paid only from funds especially appropriated for this purpose, and it is expressly provided that no such bounty shall be paid from any regular receipts, funds or appropriations of the department.

B. The commissioner shall promulgate such rules and regulations, pursuant to the Administrative Procedure Act, as necessary to the extent that funds are provided to implement this Section.

C. No bounty shall be paid when funds, personnel, or equipment of the department are employed in capturing and killing any beaver.

D. The provisions of the Chapter shall not be applicable in St. Tammany Parish.

Acts 1990, No. 999, §1.

§3032. Pilot program

A. The governing authority of the parishes of East Carroll, West Carroll, Morehouse, Madison, and Richland, in cooperation with the Department of Agriculture and Forestry, shall create a pilot program to offer a bounty on beaver. The purpose of the pilot program shall be to explore the benefits of offering a bounty on beaver in order to control the beaver population and the damage caused by beaver.

B. The bounty offered shall total fifteen dollars for each pelt, ten dollars to be paid by the state, provided that funds are appropriated therefor, and five dollars to be paid by the parish governing authority.

C. The governing authority of each of the parishes shall provide a collection point or points for collection of the beaver pelts. The bounty shall be paid upon presentation of the pelt at the collection site.

D. Each individual presenting a pelt or pelts must show proof of residence in that parish. Persons presenting pelts from another parish will be rendered ineligible for further participation in the program.

Acts 1991, No. 979, §1.

CHAPTER 19-A. REGULATION OF FARM-RAISED EXOTIC ANIMALS

PART I. IMPORTED EXOTIC DEER AND ANTELOPE, ELK, AND FARM-RAISED WHITE TAIL DEER AND OTHER EXOTIC CERVIDAE

§3101. Administration; enforcement

The commissioner of agriculture and forestry, or his designee, shall administer and enforce this Part. The commissioner shall adopt rules and regulations setting forth the requirements for the raising, slaughtering, and sale of imported exotic deer and antelope, elk, farm-raised white tail deer and other exotic cervidae for commercial purposes in this state. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

Acts 1991, No. 110, §1; Acts 1995, No. 461, §1; Acts 2010, No. 17, §1, eff. May 26, 2010.

§3102. Definitions; identification

A. As used in this Part, "farm-raised white-tailed deer" means any animal of species and genus *Odocoileus virginianus* which is bred, born, raised, and/or kept within closed circumscribed fenced premises for the purpose of buying, selling, or trading in commerce. Farm-raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit where the primary purpose of the same is the exhibition of white tail deer and/or other animals.

B. On and after August 15, 1995, any white-tailed deer which is born into, bought, sold, traded, or otherwise becomes farm-raised white tail deer shall be identified by means of an electronic implant. The commissioner shall promulgate rules and regulations concerning the specifications and location of the implantation device.

Acts 1995, No. 461, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2012, No. 214, §2(E).

§3103. Imported exotic deer, antelope, elk, farm-raised white tail deer, and other exotic cervidae; licensing

A. Any person who engages in owning, raising, selling, or harvesting imported exotic deer, antelope, elk, farm-raised white tail deer, and other exotic cervidae, for any purpose, on farms or preserves of which he is the owner or lessee shall apply to the commissioner for a license to do so.

B. The license shall permit the licensee to own, breed, and propagate such animals and sell them alive, or sell their parts, and to kill and transport them and sell their carcasses for food. This Subsection shall not apply to the sale of white tail deer meat.

C. Each license shall be valid for a period of one year and may be renewed in accordance with rules adopted by the commissioner.

D. Licensees receiving a license under this Section shall not be required to comply with R.S. 56:171.

Acts 1991, No. 110, §1; Acts 1992, No. 41, §1; Acts 1995, No. 461, §1; Acts 2010, No. 17, §1, eff. May 26, 2010; Acts 2012, No. 214, §2(A); Acts 2014, No. 110, §1, eff. May 16, 2014.

§3104. Reporting

Each licensee shall maintain records which include the total number of animals, or the parts thereof, killed, sold, or transported, and the name of the person to whom the animals were sold or transported.

Acts 1991, No. 110, §1; Acts 2012, No. 214, §2(B).

§3105. Fencing requirements

The fencing requirements for owning or breeding of imported exotic deer, elk, and antelope pursuant to this Part shall be specified pursuant to rule and regulation by the commissioner. The fencing requirements for farm-raised white tail deer and other exotic cervidae shall be specified pursuant to rule and regulation by the commissioner.

Acts 1991, No. 110, §1; Acts 1992, No. 41, §1; Acts 1995, No. 461, §1; Acts 2010, No. 17, §1, eff. May 26, 2010; Acts 2012, No. 214, §2(C); Acts 2014, No. 110, §1, eff. May 16, 2014.

§3107. Regulatory fee

The commissioner may charge a service fee on alternative livestock programs in Louisiana. The fee shall be established by rule adopted in accordance with the Administrative Procedure Act. The proceeds of the fee shall be used to defray the costs of services to the alternative livestock industry in Louisiana. The fee shall be collected annually upon the renewal of the license in the state of Louisiana. The amount of the fee shall be based on the cost of regulating the alternative livestock industry.

Acts 2012, No. 214, §1.

§3108. Violations; revocation of license

A. The commissioner may revoke the license of any person violating any provision of this Part.

B. The commissioner may impose a civil penalty of up to one thousand dollars for each violation of this Part or of the rules and regulations adopted under this Part. Each day on which a violation occurs shall be a separate offense.

C. Civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. The commissioner may institute civil proceedings to enforce his ruling in the district court for the parish in which the violation occurred.

Acts 1991, No. 110, §1; Acts 2012, No. 214, §2(E); Acts 2014, No. 110, §1, eff. May 16, 2014.

PART II. DOMESTIC FARM-RAISED RATITES

§3111. Legislative findings

The purpose of this Part is to classify and regulate the growing of nonnative wildlife species of domestic farm-raised ratites including but not limited to ostrich, rhea, emu, and cassowary for the purpose of producing meat, skins, hides, feathers, oil, and progeny.

Acts 1993, No. 134, §1.

§3112. Definitions

As used in this Part, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Commissioner" means the commissioner of agriculture and forestry or his duly authorized representative acting at his direction.

(2) "Department" means the Louisiana Department of Agriculture and Forestry.

(3) "Ratite" means a flightless bird with a flat chestbone of the order Ratitae including but not limited to ostrich (*Struthio camelus*), rhea (*Rhea americana*), emu (*Dromaius novaehollandiae*), and cassowary (*Casuarius*). Domestic farm-raised ratites shall be considered livestock if identified and maintained for the commercial purpose of producing meat, hides, feathers, oil, or progeny.

Acts 1993, No. 134, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§3113. Administration and enforcement

A. The provisions of this Part shall be administered by the commissioner of agriculture and forestry through the office of animal health and food safety.

B. The commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Part or to administer the ratite program.

C. The commissioner may employ such personnel as is necessary to administer the provisions of this Part.

Acts 1993, No. 134, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3114. Diseases and pests

The commissioner shall have the full and plenary power to deal with all contagious and infectious diseases of ratites and all other pests of ratites including but not limited to internal and external parasites. The state veterinarian may do and perform such acts as may be necessary to control, eradicate, or prevent

the introduction, spread, or dissemination of any and all contagious and infectious diseases of ratites and all other pests of ratites.

Acts 1993, No. 134, §1.

§3115. Information

The commissioner may request information, statistics, production figures, and any other information from owners of ratites for commercial purposes in order to formulate policy, programs, promotions, and any other activities involving ratites.

Acts 1993, No. 134, §1.

§3116. Identification and transportation of ratites

A. The commissioner may, by rule, establish procedures for the identification of ratites, including but not limited to guidelines and requirements for the use of marks, bands, tattoos, or electronic identification.

B. Ratites may be shipped into the state only when accompanied by a certificate of veterinary inspection signed by a United States Department of Agriculture accredited veterinarian or other similar official of the country of such ratites' origin. The certificate shall certify the apparent freedom of the ratites from contagious or infectious diseases and shall be based upon an actual inspection or specific serologic testing of the ratites to be shipped or moved within a period of thirty days preceding the date of shipment.

C. Notwithstanding Subsection B of this Section, the commissioner may inspect any ratites shipped into this state, even if the ratites are accompanied by a certificate of veterinary inspection issued by another state or country. If such an inspection reveals the presence of contagious or infectious disease, the commissioner may declare a moratorium on Louisiana's recognition of any certificate of veterinary inspection issued by a representative of that state or country, until the commissioner determines that the standards of inspection of that state or country are adequate and equal to those health standards established by the state of Louisiana.

D. The commissioner, by rule, may establish other procedures for the shipment or movement of ratites within or into this state.

Acts 1993, No. 134, §1.

§3117. Violations; penalties

A. The commissioner may impose a civil penalty of up to one thousand dollars for each violation of this Part or of the rules and regulations adopted under the provisions of this Part.

B. Civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

Acts 1993, No. 134, §1.

CHAPTER 20. LOUISIANA PESTICIDE LAW

PART I. GENERAL

§3201. Short title

This Chapter may be cited as the "Louisiana Pesticide Law".

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3202. Definitions

(1) "Active ingredient" means:

(a) In the case of a pesticide, other than a plant regulator, defoliant, or dessicant, an ingredient which will prevent, destroy, repel, or mitigate any pest.

(b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof.

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

(d) In the case of a dessicant, an ingredient which will artificially accelerate the drying of plant tissue.

(2) "Agricultural commodity" means any plant, or part thereof, or animal or animal product, produced by any person primarily for sale, consumption, propagation, or other use by man or animals.

(3) "Agricultural consultant" means a person who, for a fee, provides technical advice, supervision, or recommendation in one or more of the categories under which agricultural consultants are licensed under this Chapter.

(4) "Antidote" means a practical, immediate treatment for poisoning and includes first-aid treatment.

(5) "Brand" means any name, trademark, or other designation under which a pesticide is sold.

(6) "Commercial applicator" means an individual who is certified to apply or supervise the application of restricted use pesticides in the course of his employment.

(7) "Commission" means the Advisory Commission on Pesticides as set forth in Part II of this Chapter.

(8) "Commissioner" means the commissioner of agriculture and forestry or his duly authorized representatives acting at his direction.

(9) "Competent" means properly qualified to perform functions associated with pesticide sales or application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

(10) *Repealed by Acts 1990, No. 136, §2.*

(11) "Department" means the Louisiana Department of Agriculture and Forestry.

(12) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any pesticide waste into or on any land or water so that such pesticide waste, or any constituent thereof, may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(13) "Division" means the division of pesticide and environmental programs within the office of agricultural and environmental sciences.

(14) "E.P.A." means the United States Environmental Protection Agency.

(15) "Farmer" means any person engaged in the commercial production of agricultural products.

(16) "Field scout" means an individual who is employed by an agricultural consultant and who enters fields on a regular basis to make pest counts without making recommendations.

(17) "F.I.F.R.A." means the Federal Insecticide, Fungicide, and Rodenticide Act, P.L. 92-516, as amended.

(18) "General use pesticide" means a pesticide which is classified for general use by the commissioner or by the E.P.A. under the F.I.F.R.A.

(19) "Hazard" means the probability that a given pesticide will have an adverse effect on man or the environment in a given situation.

(20) "Inert ingredient" means an ingredient which is not active.

(21) "Label" means the written, printed, or graphic material on, or attached to the pesticide or any of its containers or wrappers.

(22) "Labeling" means all labels and all other written, printed, or graphic matter accompanying the pesticide at any time or to which reference is made on the label or in literature accompanying the pesticide.

(23) "Manufacturer" means the person who owns or holds the rights to any brand under which a pesticide is sold.

(24) "Nontarget organism" means a plant or animal other than the one against which the pesticide is applied.

(25) "Owner-operator" means a person who is licensed to own or operate a business which engages in the application of pesticides for a fee.

(26) "Package" means any parcel, bag, bottle, can, or other container which contains a pesticide.

(27) "Person" means any individual, corporation, partnership, association, or other legal entity.

(28) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or combination of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner determines to be a pesticide.

(29) "Pesticide dealer" means a person who is licensed to own or operate a business which engages in the sale of restricted use pesticides.

(30) "Pesticide salesperson" means an individual who is certified to sell or supervise the sale of restricted use pesticides.

(31) "Pesticide waste" means any pesticide or substance containing a pesticide or any container thereof when it is discarded or is meant to be discarded.

(32) "Pesticide waste generation" means the act or process of producing pesticide wastes.

(33) "Pesticide with restricted uses" means any pesticide for which the commissioner has established restrictions on the application of the pesticide during certain times or in certain locations.

(34) "Pests" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganism in living humans or other living animals, which the commissioner declares to be a pest.

(35) "Phenoxy herbicide" means any herbicide which contains a phenoxy derivative or lower aliphatic acid as an ingredient.

(36) "Private applicator" means an individual who is certified to apply or supervise the application of any restricted use pesticide for the purpose of producing any agricultural commodity on land owned or leased by the private applicator or for the purpose of applying or supervising the application of any restricted use pesticide on lands owned by another without compensation. Producing an agricultural commodity shall include related aspects of production, such as storage or transportation of an agricultural commodity produced by the private applicator.

(37) "Restricted use pesticide" means a pesticide which is classified for restricted use by the commissioner or by the E.P.A. under the F.I.F.R.A.

(38) "Shipping containers" means the smallest unit in which a manufacturer ships a particular pesticide.

(39) "Storage" means the containment of pesticide waste in such manner as not to constitute disposal of such pesticide waste.

(40) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any pesticide waste so as to neutralize such waste or so as to render such waste innocuous, safe for transport, amenable for recovery, amenable for storage, or reduced in volume.

(41) "Weed" means any plant which grows where not wanted or serves no useful purpose.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983. Acts 1983, No. 130, §1; Acts 1990, No. 136, §2; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3203. Commissioner of agriculture

A. The commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Chapter, including but not limited to rules and regulations governing the registration, distribution, sale, offering for sale, and application of pesticides; the making of recommendations by agricultural consultants; the disposal of pesticide containers and wastes; and the disposition of agricultural commodities and other materials contaminated with pesticide residues. The commissioner by rule shall establish procedures for use in emergencies involving imminent danger to human health or to the environment. All rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.

B. The commissioner shall administer and enforce the provisions of this Chapter and the rules and regulations adopted under the provisions of this Chapter.

C. The commissioner by rule may provide for the appointment of ad hoc committees to advise the commissioner on the implementation of the provisions of this Chapter.

D. The commissioner by rule may declare any type of plant, animal, or other type of life to be a pest.

E. The commissioner by rule may declare a substance to be a pesticide.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3204. Inspections; investigations

A. When the commissioner believes that a violation of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter has occurred, the commissioner may apply to the district court for the district in which the alleged violation occurred for a warrant to search the premises in which the alleged violation occurred and to obtain, at no cost to the state, samples of any pesticides or other materials involved in the alleged violation.

B. The commissioner shall have access, during normal working hours, to any premises where there is reason to believe that pesticides are sold, offered for sale, or held for distribution or application. The commissioner may examine any pesticide and may open any package and take a sample for analysis, at no cost to the state. Samples shall be taken in accordance with procedures established by the commissioner and shall be submitted to the state chemist for analysis. On completion of the analysis, the report shall be submitted to the manufacturer and the purchaser. If either person questions the validity of the analysis, that person may request in writing that another analysis be performed by a chemist approved by the commissioner. The person requesting the second analysis shall pay the costs

of the second analysis. Entrance on the premises under the provisions of this Subsection shall not be deemed to be criminal trespass under any state law or local ordinance.

C. Subject to Subsection A of this Section, the commissioner may investigate any circumstances which the commissioner has reasonable grounds to believe has caused or resulted in a violation of the provisions of Parts I through V of this Chapter or the rules or regulations adopted under Parts I through V of this Chapter. In connection with any investigation conducted under this Subsection:

(1) The commissioner may issue subpoenas to compel the attendance of witnesses or the production of documents and records anywhere in the state.

(2) The sheriff of the parish in which the witness or the documents or records are located shall serve the subpoenas.

(3) The records of investigations conducted under the provisions of this Subsection shall be confidential and shall not be public records for the purposes of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1985, No. 468, §1; Acts 1985, No. 637, §1.

§3205. Stop order

A. When the commissioner believes that a violation of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter has occurred, the commissioner may issue a stop order prohibiting the distribution, sale, offer for sale, application, movement, or disturbance of the pesticide, pesticide wastes, or contaminated agricultural commodities or material.

B. Any person aggrieved by a stop order may petition the commission to hold a hearing on the matter. The hearing shall be held in accordance with the provisions of Section 3214 of this Chapter.

C. Based on the results of the hearing, or based on a consent agreement mutually entered into by the commissioner and a violator, the commissioner may take one or more of the following actions:

(1) Release the pesticide for sale.

(2) Require the manufacturer or distributor to dispose of the pesticide and reimburse the purchaser.

(3) Sell the pesticide at public auction, if the manufacturer refuses to dispose of the pesticide and reimburse the purchaser.

(4) Destroy the pesticide.

(5) Provide for the disposition of the pesticide wastes or contaminated agricultural commodities or materials.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3206. Cooperative agreements

The commissioner may enter into any cooperative agreement with any person in order to further the intent and purposes of this Chapter. Each cooperative agreement shall be a public record and shall be subject to the provisions of R.S. 44:1 et seq.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Amended by Acts 1988, No. 217, §1; Acts 2010, No. 495, §1, eff. June 24, 2010.

§3207. Appointment of agent for service of process

Any person who is not a resident of or domiciled in this state or who has not appointed an agent for service of process in this state and who engages in any activity regulated by this Chapter does by that action appoint the secretary of state as his agent for service of process of any legal document. Venue

for any legal action against any person initiated by service of process on the secretary of state shall be in the parish or parishes in which the violation occurred or the damages were sustained.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3208. Physicians' reports

Each physician who treats a medical complaint which the physician diagnoses as caused by pesticide poisoning shall provide notice of the poisoning to the commissioner. The notice shall be provided in accordance with rules adopted by the commissioner for that purpose.

Acts 1985, No. 32, §1.

§3209. Penalty schedule for minor violations

A. The commissioner by rule shall adopt a schedule of penalties for minor violations of Parts I through VI and VIII of this Chapter, or of the rules or regulations adopted thereunder. The maximum penalty for a minor violation shall be five hundred dollars.

B. As used in this Section, a "minor violation" is one which does not endanger human health or safety, or which does not endanger the environment.

C. When the commissioner has evidence which indicates that a minor violation which appears in the schedule has been committed, the commissioner shall notify the alleged offender by certified mail, return receipt requested, of the facts involved in the alleged offense and the penalty set forth in the schedule. The alleged offender may admit, or not contest, the existence of the alleged facts and may pay the penalty. If the alleged offender does not pay the prescribed penalty within thirty days after receipt of notice, the commissioner shall call a hearing to adjudicate the matter in accordance with R.S. 3:3214.

Acts 1985, No. 469, §1; Acts 1988, No. 216, §1; Acts 1990, No. 127, §1; Acts 1995, No. 237, §1.

§3210. Pesticide Fund

A. Funds received under Parts I through VI and VIII of this Chapter shall be deposited immediately upon receipt in the state treasury.

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subsection A hereof shall be credited to a special fund hereby created in the state treasury to be known as the "Pesticide Fund". The monies in this fund shall be used solely as provided in Subsection C hereof and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall be returned to the state general fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the state general fund.

C. The monies in the Pesticide Fund shall be used solely for the following purposes:

(1) To provide for the programs and activities provided for in Parts I through VI and VIII of this Chapter and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner.

(2) To construct, renovate, maintain, and equip a building on the Baton Rouge campus of Louisiana State University to provide administrative offices and analytical laboratories to be used in connection with the programs provided for in Parts I through VI and VIII of this Chapter.

(3) To build, equip, and maintain a building to house the offices of the department.

(4) The department, or the Louisiana Agricultural Finance Authority on behalf of the department, may fund the anticipated funds appropriated from the Pesticide Fund into revenue bonds for the purpose

of renovating or constructing a building on the Baton Rouge campus of Louisiana State University to provide administrative offices and analytical laboratories to be used in connection with the programs established in Parts I through VI of this Chapter and for the purpose of acquiring, constructing, renovating, and equipping buildings and related facilities for use by the department in connection with promoting and assisting agriculture and forestry in this state. The department may pledge those funds to secure the repayment of revenue bonds or to secure a lease or purchase agreement entered into in connection with the issuance of revenue bonds for those purposes.

(5) If the revenues in the Pesticide Fund are pledged to secure the repayment of revenue bonds, or are pledged to secure a lease or purchase agreement entered into in connection with the issuance of revenue bonds, the fees which provide the funds shall not be reduced below those levels existent at the time of the pledge until the bonds have been repaid.

(6) Monies received from the registration of pharmaceuticals administered to livestock may be used to provide for the expenses of the office of animal health and food safety.

Acts 1986, No. 510, §1, eff. July 1, 1986; Acts 1990, No. 127, §1; Acts 1992, No. 15, §1; Acts 1995, No. 237, §1; Acts 2003, No. 120, §1, eff. Jan. 1, 2004; Acts 2003, No. 230, §1, eff. June 5, 2003; Acts 2011, No. 31, §1; Acts 2012, No. 147, §1, eff. May 14, 2012.

PART II. LOUISIANA ADVISORY COMMISSION ON PESTICIDES

§3211. Louisiana Advisory Commission on Pesticides

A. The Louisiana Advisory Commission on Pesticides is hereby created within the Department of Agriculture and Forestry. The commission shall be domiciled in Baton Rouge.

B. The commission shall consist of the following eleven members appointed by the commissioner in accordance with the following provisions:

(1) One aerial applicator who is a commercial applicator appointed from a list of three persons nominated by the Louisiana Agricultural Aviation Association.

(2) One ground applicator who is a commercial applicator appointed from a list of three persons nominated by the Louisiana Vegetation Management Association.

(3) One chemical representative appointed from a list of three persons nominated by the Louisiana Ag Industries Association.

(4) One agricultural consultant appointed from a list of three persons nominated by the Louisiana Agricultural Consultants' Association.

(5) One pesticide salesperson appointed from the state at large.

(6) One person appointed from a list of three persons nominated by the Louisiana Mosquito Control Association.

(7) One farmer who is a private applicator appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation.

(8) One farmer who is a private applicator appointed from the state at large.

(9) Two persons appointed from a list of six persons, two of whom shall be nominated by the Louisiana Wildlife Federation, two of whom shall be nominated by the Sierra Club, and two of whom shall be nominated by the Audubon Society.

(10) One Louisiana member of the Society of Toxicology with an advanced degree in toxicology appointed from a list of three persons nominated by the Louisiana members of the Society of Toxicology.

C. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

D. Members shall be appointed for terms which shall end at the same time as the term of the commissioner making the appointment. Members shall serve until their successors in office are appointed and sworn into office.

E. Vacancies in the offices of the members shall be filled in the same manner as the original appointments for the unexpired portion of the term of the office vacated.

F. A majority of the members of the commission shall constitute a quorum for the transaction of business. All official actions of the commission shall require the affirmative vote of a majority of the members of the commission.

G. The commissioner may appoint an alternate member for each member. If the member is appointed from a list of nominees, the alternate member shall be appointed from the same list. If the member cannot attend a meeting, the alternate member may serve as the member's representative if the member notifies the commission that he is unable to attend and that he wishes the alternate member to serve as his representative. Alternate members who serve as the representative of a member shall have voting rights.

H. The commission, by a vote of two-thirds of the members, may expel a member who has accumulated three consecutive unexcused absences from commission meetings.

I. Members of the commission shall not receive any salary for their duties as members. Members or representatives may receive a per diem for each day spent in actual attendance of meetings of the commission or of duly appointed committees or subcommittees of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. Members or representatives may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

J. The commission shall meet twice in each calendar year and may meet on the call of the chairman or upon the request of any three members. The commission shall not meet more than twelve times in any calendar year.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1988, No. 309, §1; Acts 1988, No. 218, §1; Acts 1993, No. 138, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§3212. Officers and employees

A. The members of the commission shall elect a chairman, a vice chairman, and such other officers as they deem necessary. All officers shall be members of the commission.

B. The commission shall employ a director and an assistant director, who shall be appointed by the commission subject to the approval of the commissioner of agriculture. The director and assistant director shall be in the unclassified service. The commissioner may employ such other personnel of the commission as he deems appropriate. All employees of the commission shall be under the direction and supervision of the commissioner.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3213. Powers

The commission shall have the following powers:

(1) To advise the commissioner on the adoption of such rules and regulations as are necessary to enforce the provisions of this Chapter.

(2) To hold hearings and conduct investigations.

(3) To advise the commissioner on the qualifications for licenses, certificates, and permits required to sell or apply pesticides, to engage in business as an agricultural consultant, or to dispose of pesticide wastes.

(4) To advise the commissioner on the requirements for the registration of pesticides.

(5) To hold hearings on alleged violations of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter.

(6) To advise the commissioner on the civil penalties to be imposed or the injunctive relief to be sought to punish and restrain violations of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter.

(7) To recommend that the commissioner suspend or revoke licenses, certificates, and permits or impose probation on holders of licenses, certificates, or permits.

(8) To work jointly with the Department of Health and Hospitals to establish and develop a state mosquito control program.

(9) To adopt bylaws for the orderly management of the affairs of the commission.

(10) To employ a director and assistant director, subject to the approval of the commissioner.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3214. Adjudicatory hearings

All adjudicatory hearings held by the commission shall be conducted in accordance with the following provisions:

(1) The commissioner shall convene the commission for the purpose of hearing the matter.

(2) The commissioner shall appoint a hearing officer, who shall preside over the hearing.

(3) The commissioner may issue subpoenas to compel the attendance of witnesses or the production of documents and records anywhere in the state in any hearing before the commission.

(4) The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

(5) The commission shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(6) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the commission, the commissioner shall issue a written opinion based on the record of the hearing.

(7) Except as otherwise provided in this Paragraph, appeals from rulings of the commissioner shall be taken in accordance with the provisions of the Administrative Procedure Act. Notwithstanding the provisions of R.S. 49:964(B), any appeal from a determination of the commissioner, when filed in forma pauperis, shall be by civil proceedings in the district court for the parish in which the violation occurred.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1983, No. 228, §1; Acts 1985, No. 168, §1.

PART III. REGISTRATION OF PESTICIDES

§3221. Registration of pesticides

A. Each pesticide which is sold, offered for sale, or distributed in this state shall be registered annually with the commissioner. Each manufacturer shall register each pesticide prior to the pesticide

being sold, offered for sale, or distributed. Registration shall expire on the last day of December of each year. Each manufacturer shall pay an annual registration fee of four hundred dollars for each pesticide registered.

B. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which the label has been changed shall be accompanied by the following information:

- (1) The brand of the pesticide.
- (2) The name and address of the manufacturer of the pesticide.
- (3) Two complete copies of the labeling of the pesticide, containing:
 - (a) The specific name of each active ingredient in the pesticide.
 - (b) The percentage of the active ingredients in the pesticide.
 - (c) The percentage of the inert ingredients in the pesticide.
 - (d) The net contents of each package in which the pesticide will be sold.
 - (e) A statement of claims made for the pesticide.
 - (f) Directions for the use of the pesticide, including warnings or caution statements.
- (4) The Material Safety Data Sheet prepared in accordance with the requirements of the Environmental Protection Agency.
- (5) Such other information as the commissioner by rule may require.

C. All information relative to the formulas of pesticides registered with the commissioner shall be exempt from the public records law and shall be confidential information.

D. The commissioner may refuse to register any pesticide. Any manufacturer who has been refused registration of a pesticide may request a hearing before the commission. The hearing shall be held in accordance with the provisions of Section 3214 of this Chapter.

E. Prior to registering a pesticide, the commissioner shall determine whether:

- (1) The composition of the pesticide is sufficient to support the claims made for the pesticide.
- (2) The label on the pesticide complies with state and federal requirements.
- (3) Use of the pesticide will produce unreasonably adverse effects on the environment.

F. As part of the registration of any pesticide, the commissioner may impose the following conditions:

(1) Each package of pesticides sold or offered for sale shall carry a label which shall state the brand of pesticide, the name and address of the manufacturer of the pesticide, the specific name of each active ingredient contained in the pesticide, and such other information as the commissioner shall require.

(2) The commissioner may require each shipping container in which a manufacturer ships pesticides which are sold or offered for sale in this state to carry a label with the following information:

- (a) The lot or batch number of the pesticide, from which the date of manufacture can be determined.
- (b) Such other information as the commissioner shall require.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1985, No. 167, §1; Acts 1986, No. 510, §2, eff. July 1, 1986; Acts 1988, No. 220, §1; Acts 1988, No. 219, §1; Acts 1992, No. 15, §1; Acts 1992, No. 67, §1; Acts 1997, No. 198, §1; Acts 2003, No. 120, §1, eff. Jan. 1, 2004.

§3222. Special registrations, permits, exemptions

A. The commissioner may issue a special local needs registration for a pesticide for use in a specified location based on a specified local need. The composition and label of the pesticide shall

comply with state and federal requirements. The special local needs registration shall be issued in accordance with Section 24(c) of the F.I.F.R.A. Each applicant for a special local needs registration shall submit five copies of the application and the documents supporting the application. Each applicant shall pay a fee of one hundred dollars for each application for a special local needs registration.

B. The commissioner may apply to the Environmental Protection Agency for authority to issue state experimental use permits. If the Environmental Protection Agency authorizes the commissioner to issue state experimental use permits, the following terms and conditions shall apply:

(1) The commissioner must find that the applicant needs the permit in order to accumulate information necessary to register a pesticide under Section 3221 of this Chapter.

(2) The commissioner may refuse to issue the permit if he finds that the issuance is not warranted or if he finds that the use of the pesticide under the proposed terms and conditions may cause unreasonably adverse effects on the environment.

(3) The commissioner shall prescribe the terms, conditions, and period of time for the permit.

(4) All actions of permit holders and applications of pesticides pursuant to each permit shall be subject to supervision by the Department of Agriculture.

(5) An application for a state experimental use permit may be filed at the time of, before, or after an application for registration is filed.

(6) The state experimental use permit shall be issued in accordance with Section 5(f) of the F.I.F.R.A.

(7) Each applicant for a state experimental use permit shall pay a fee of two hundred dollars for each application submitted.

C. The commissioner may apply to the E.P.A. for an emergency exemption to allow the application of a pesticide if the commissioner finds that an emergency exists or will exist, that a pesticide is available which will alleviate the effects of the emergency, and that the pesticide cannot be used because of state or federal laws or rules and regulations. The application shall be in accordance with the provisions of Section 18 of the F.I.F.R.A. If the E.P.A. grants the emergency exemption, all actions and applications shall be subject to supervision by the Department of Agriculture.

D. The commissioner may revoke or impose stricter conditions on any special registration, permit, or exemption if the commissioner finds that the terms and conditions of the special registration, permit, or exemption are being violated or that the terms and conditions are not adequate to avoid unreasonably adverse effects on the environment.

E. The commissioner by rule may delegate the authority to issue registrations and permits under this Section to a committee composed of:

(1) The director of the Advisory Commission on Pesticides.

(2) The director of the Louisiana Cooperative Extension Service, or his designee.

(3) The director of the Louisiana State Experimental Station, or his designee.

(4) One agricultural consultant appointed by the commissioner. The agricultural consultant shall not be engaged in any research project involving a pesticide which would create a conflict of interest with respect to the pesticide for which the registration or permit is sought.

(5) One farmer appointed by the commissioner.

(6) Such other members appointed by the commissioner as the commissioner deems necessary.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1988, No. 221, §1; Acts 1990, No. 29, §1.

§3223. Classification of pesticides

A. The commissioner may classify all pesticides in one of the following classifications:

(1) General use. The use of the pesticide, when applied in accordance with its directions for use, warnings, and cautions, and for the uses for which it is registered, or for one or more of those uses, or in accordance with a widespread and commonly recognized practice, will not generally cause, without additional restrictions, unreasonably adverse effects on the environment, or injury to the applicator.

(2) Restricted use. The use of the pesticide, when applied in accordance with its directions for use, warnings, and cautions, and for the uses for which it is registered, or for one or more of those uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional restrictions, unreasonably adverse effects on the environment, or injury to the applicator.

(3) Pesticide with restricted uses. The commissioner has established restrictions on the use of the pesticide during certain times of the year or in certain locations.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3224. Local regulations

A. The regulation of pesticides is preempted by this Chapter. The governing authority of a political subdivision shall not adopt any ordinance in any way affecting the registration, sale, or application of pesticides, or the disposal of pesticide wastes, except as provided herein.

B. The governing authorities of parishes and municipalities may request that the rules applicable to the distribution, sale, or application of pesticides be amended to provide for specific problems encountered in the parish or municipality. The following provisions shall govern requests by parish or municipal governing authorities:

(1) The request shall be addressed to the commissioner.

(2) The commission shall hear the request.

(3) The commission shall make a preliminary determination as to the advisability of amending the state rules and shall transmit its determination to the commissioner.

(4) The commissioner shall make the final determination as to the desirability of amending the state rules.

(5) The standards to be used by the commission and the commissioner in making their determinations shall be as follows:

(a) The gravity of the threat to the environment or to human, plant, or animal health sought to be alleviated by the proposed rule.

(b) The economic impact on the agricultural community caused by the proposed rule.

(c) The impact of the proposed rule on statewide uniformity of rules affecting pesticides.

(d) The availability of alternative pesticides.

(e) Whether the benefits of the proposed rule outweigh the liabilities of the proposed rule.

(6) If the commissioner determines that the rules should be amended, the rule shall be adopted in accordance with the Administrative Procedure Act.

C. Any governing authority of a political subdivision may petition the commissioner for approval of an ordinance applicable to the distribution, sale, or application of pesticides, or the disposal of pesticide wastes. The procedure for obtaining such approval shall be as follows:

(1) The governing authority shall transmit the proposed ordinance to the commissioner who shall refer the ordinance for hearing in accordance with R.S. 3:3224(B)(2) and (3).

(2) Upon receipt of the recommendation of the commission, the commissioner shall approve or disapprove the proposed ordinance.

(3) Both the commission and the commissioner shall be guided by the standards in R.S. 3:3224(B)(5) in making their respective determinations.

(4) Any governing authority aggrieved by a final decision of the commissioner, shall have a right of judicial review of the administrative process pursuant to the provisions of the Administrative Procedure Act.

D. Notwithstanding the provisions of R.S. 3:3224(A), any governing authority of a political subdivision having in effect, on September 1, 1983, an ordinance affecting the registration, sale or application of pesticides, or the disposal of pesticide wastes shall submit the ordinance to the commissioner on or before November 1, 1983, for approval pursuant to R.S. 3:3224(C). Any such ordinance received by the commissioner on or before November 1, 1983, shall continue in full force and effect until a final disapproval of the ordinance is rendered. Any such ordinance not received by the commissioner on or before November 1, 1983, shall be void effective November 1, 1983.

Acts 1983, No. 702, §1.

§3225. State chemist

A. The director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center shall be the state chemist.

B. The state chemist, or his designee, shall perform the chemical and other analyses necessary to implement the provisions of this Part and the rules and regulations adopted under the provisions of this Part. Such analysis shall be performed according to the most reliable methods available.

C. The state chemist, or his designee, shall establish analytical tolerances for label claims or guarantees of chemical composition of pesticides and analytical tolerances for pesticide residues.

D. Each manufacturer who registers a pesticide shall make available to the commissioner, at no cost to the state, sufficient samples of the pesticides for the enforcement of this Part.

E. The commissioner shall publish, at least annually, a report of all analyses performed by the state chemist under the provisions of this Section. The commissioner may publish such other reports resulting from inspections and analyses by the state chemist as the commissioner deems appropriate.

F. In all civil and criminal actions, all reports by the state chemist, when certified and sworn to by him, shall be prima facie evidence of the facts contained therein and shall be admitted into evidence without further foundation.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3226. Prohibitions, enforcement

A. The following actions are prohibited:

(1) The sale, offering for sale, or distribution of a pesticide which fails to meet its declared chemical composition.

(2) The sale, offering for sale, or distribution of any pesticide which is not registered with the commissioner.

(3) Any interference with the commission, the commissioner, the state chemist, or their representatives in the performance of their duties in connection with this Part.

(4) Any evasion of payment of any fines legally imposed by the commissioner.

(5) The making of false or misleading statements concerning the value of a pesticide on labels, packages, or in any printed or advertising matter.

(6) The adulteration or contamination of any pesticide sold in this state.

(7) The sale, offering for sale, or distribution of any pesticide without a label or of any pesticide which bears an illegible or inaccurate label.

(8) Violations of a stop order issued by the commissioner.

(9) Any violation of any provision of this Part or of any rule or regulation adopted under the provisions of this Part.

B. The commissioner may assess a civil penalty of not more than five thousand dollars for each violation of any of the prohibitions in Subsection A of this Section. Each day on which a violation occurs shall be considered a separate offense. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner by rule shall determine the amount of costs to be assessed.

C. The commissioner may suspend or revoke the registration of a pesticide for any violation of the provisions of Subsection A of this Section.

D. Penalties may be assessed, and registration suspended or revoked, only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the provisions of Section 3214 of this Chapter.

E. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

F. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part, or of the rules and regulations adopted under the provisions of this Part, in the district court for the parish in which the violation occurred.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1986, No. 509, §1.

§3227. Notice

The commissioner shall notify each person who is affected by a suspension or revocation of a registration, or by civil penalties, by certified mail, return receipt requested.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3228. Exclusions

Except as otherwise provided in specific agreements between the commissioner and the E.P.A., the provisions of this Part shall not apply to:

(1) Chemical components to be used in the manufacture of pesticides.

(2) Pesticides processed or manufactured in this state and intended for sale or distribution in other states or countries.

(3) Pesticides being transported through this state and destined for use in other states or countries.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

PART IV. SALE AND APPLICATION OF PESTICIDES

§3241. Certification of private applicators

No person shall apply or supervise the application of any restricted use pesticide as a private applicator unless that person has the proper certification. Certification shall be issued only after the applicant has satisfactorily passed an examination or has satisfactorily demonstrated his knowledge of the laws, rules and regulations, and safety practices governing the sale and application of restricted use

pesticides in accordance with the rules and regulations adopted by the commissioner. Certification shall be valid for three years and may be renewed in accordance with rules adopted by the commissioner. Private applicators may supervise the application of restricted use pesticides by competent uncertified individuals who are under the direct supervision of the private applicator.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3242. Certification of commercial applicators

A. No person shall apply or supervise the application of any restricted use pesticide as a commercial applicator unless that person has the proper certification. Certification shall be issued only after the applicant has satisfactorily passed an examination. The commissioner shall establish categories and subcategories for certification in different areas of commercial application and shall establish specific standards for each category and subcategory. Certification shall be valid for three years and shall be renewed in accordance with rules adopted by the commissioner. The commissioner by rule shall provide for the issuance of annual certification cards. Commercial applicators may supervise the ground application of restricted use pesticides within the commercial applicator's certification by competent uncertified individuals who are under the direct supervision of the commercial applicator. Commercial applicators shall not supervise the aerial application of any pesticide by any uncertified person.

B. No person shall apply or supervise the application of any herbicide, rodenticide, insecticide, or restricted use pesticide, on a non-fee basis for grass and weed control, and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing, unless that person owns, leases, or rents the property or has proper certification as provided in Subsection A of this Section and the rules and regulations adopted thereunder.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1995, No. 237, §1.

§3243. Licensing of owner-operators

A. No person shall own or operate a business engaged in the application of pesticides for a fee unless that person has the proper license. Licenses shall be valid for one year and shall be renewed in accordance with rules adopted by the commissioner. There shall be three classes of licenses:

- (1) Ground applicators
- (2) Aerial applicators who do not apply phenoxy herbicides
- (3) Aerial applicators who apply phenoxy herbicides

B. All aerial applicators employed by the owner-operator shall be commercial applicators. All ground applicators employed by the owner-operator shall be commercial applicators or shall work under the direct supervision of a commercial applicator.

C. Prior to obtaining a license, each owner-operator shall post a surety bond with the commissioner. The amount of the bond for owner-operators engaged in ground applications shall be twenty-five thousand dollars. The amount of the bond for owner-operators engaged in aerial applications who apply phenoxy herbicides shall be fifty thousand dollars. The amount of the bond for owner-operators engaged in aerial applications who do not apply phenoxy shall be twenty-five thousand dollars. The bond shall be in favor of the commissioner and shall be conditioned on the licensee fulfilling his obligations to persons who suffer damages as a result of the application of pesticides by the owner-operator or his employees. The bond shall be written by a bonding company approved by the commissioner. Bonds shall not be cancelled except by ninety days written notice to the commissioner. Each person who suffers damages caused by any action of an owner-operator in connection with any application of a pesticide may sue on the bond in any court of competent jurisdiction to recover the damages. The aggregate liability of the surety shall not exceed the principal amount of the bond. Cash bonds,

certificates of deposit, property bonds, or irrevocable letters of credit may be used to satisfy the bond requirement.

D. Each owner-operator may obtain liability insurance in lieu of the surety bond. The amount of the insurance shall be equal to the amount of the bond otherwise required. The commissioner by rule shall provide for the requirements for insurance.

E. All mechanically powered equipment used by an owner-operator shall be inspected annually by the commissioner and shall have the inspection decal prominently displayed.

F. Each aircraft and each rotorcraft which is used to apply pesticides shall be identified with numerals, or letters, or both, which shall be in accordance with the Federal Aviation Administration's rules and regulations.

G. Owner-operators shall keep records for three years accurately reflecting the application of pesticides. The records shall be furnished to the commissioner upon his request. These records shall include:

- (1) The name of the pesticide applied.
- (2) The rate of each application.
- (3) The date of each application.
- (4) The place of application.
- (5) Such other information as the commissioner may require.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983. Acts 1983, No. 130, §1; Acts 1987, No. 452, §1; Acts 1990, No. 30, §1; Acts 2012, No. 147, §1, eff. May 14, 2012.

§3244. Certification of pesticide salespersons

No person shall sell or supervise the sale of restricted use pesticides as a pesticide salesperson unless that person has the proper certification. Certification shall be issued only after the applicant has satisfactorily passed an examination. Certification shall be valid for three years and shall be renewed in accordance with rules adopted by the commissioner. The commissioner by rule shall provide for the issuance of annual certification cards. Pesticide salespersons may supervise the sale of restricted use pesticides by competent uncertified individuals who are under the direct supervision of the pesticide salespersons.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3245. Licensing of pesticide dealers

A. No person shall own or operate a business engaged in the sale of restricted use pesticides unless that person has the proper license. Licenses shall expire on December thirty-first of each year and may be renewed in accordance with rules adopted by the commissioner. Each pesticide dealer shall obtain a license for each location at which restricted use pesticides are sold.

B. Each person who is employed by a pesticide dealer and who sells restricted use pesticides shall be a pesticide salesperson or shall work under the direct supervision of a pesticide salesperson.

C. Pesticide dealers shall keep records for three years accurately reflecting their possession and disposition of restricted use pesticides. The records shall be furnished to the commissioner upon his request. These records shall include:

- (1) The name of the pesticide purchased and sold.
- (2) The amount of the pesticide purchased and sold.
- (3) The date of transactions.

- (4) The name, address, and certification number of the purchaser.
- (5) Such other information as the commissioner may require.

D. Each pesticide dealer shall maintain records of the storage of pesticides by that dealer. The commissioner shall adopt rules and regulations governing the records required by this Subsection. The rules and regulations shall require the pesticide dealers to maintain sufficient records to comply with the Hazardous Material Information Development, Preparedness, and Response Act, shall specify the length of time the records shall be maintained, and may require the dealer to report to the commissioner the information in the records which are required to be maintained.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1988, No. 222, §1; Acts 1988, No. 224, §1; Acts 2012, No. 147, §1, eff. May 14, 2012.

§3246. Certification and licensing of agricultural consultants

A. No person shall be employed as an agricultural consultant unless that person has the proper certification. Certification shall be issued only after the applicant has satisfactorily passed an examination. Certification shall be valid for three years and shall be renewed in accordance with rules adopted by the commissioner. The commissioner by rule shall provide for the issuance of annual certification cards.

B. Applicants for certification as agricultural consultants shall elect to be examined for certification in one or more of the following categories:

- (1) Control of insects, mites, nematodes, or other invertebrates.
- (2) Control of plant pathogens.
- (3) Control of weeds.
- (4) Soil management.
- (5) Such other categories as the commissioner by rule may establish.

C. The commissioner by rule may establish such other categories as he deems necessary.

D. No new applications for an agricultural consultant's certificate shall be accepted unless the applicant furnishes satisfactory evidence that he meets the following requirements:

- (1) He holds a bachelor's, master's, or a doctor's degree from an accredited college or university.
- (2) He has earned at least thirty semester hours of college credit in agronomy, soil science, weed science, entomology, plant pathology, horticulture, plant physiology, or other biological science, or any combination of such.
- (3) He has earned at least four hours of college credit in each discipline area for which certification is sought. The four discipline areas requiring certification are entomology, plant pathology, weed science, and soil science.
- (4) He has, with a master's or doctor's degree, at least one crop season of experience, and with a bachelor's degree, at least two crop seasons of experience, in the field for which he requests certification, employed by a certified agricultural consultant.

E. All experience shall be documented in such manner as the commissioner may require. The commissioner may waive the requirement of experience while employed by an agricultural consultant for applicants with a master's or doctor's degree who demonstrate other comparable experience.

F. Every field scout employed by a licensed agricultural consultant shall be registered with the Department of Agriculture. This registration shall be valid only as long as the individual is employed by the agricultural consultant indicated on the face of the registration certificate.

G. Agricultural consultants shall put all recommendations in writing with two copies each. One copy shall be signed, dated, and furnished to the person for whom the recommendation is being made. The consultant shall, for three years, retain one copy which shall be furnished to the commissioner upon his request. When a pesticide use is recommended, the recommendation shall include:

- (1) The pesticide or pesticides recommended.
- (2) The recommended rate of application.
- (3) The date on which each application is recommended.
- (4) The area to be treated.
- (5) A brief statement of the reason or reasons for the recommendations.
- (6) Such other information as the commissioner may require.

H. No person shall engage in business as an agricultural consultant for a fee unless that person holds a license as an agricultural consultant. The commissioner by rule shall provide for the requirements for an agricultural consultant's license. Each agricultural consultant's license shall expire on December thirty-first of each year and may be renewed in accordance with rules adopted by the commissioner.

I. The provisions of this Section shall not apply to employees of the state or federal government conducting research or demonstrations in their official capacities.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1983, No. 347, §1; Acts 1988, No. 223, §1; Acts 1997, No. 57, §1, eff. Jan. 1, 1998; Acts 2012, No. 147, §1, eff. May 14, 2012.

§3247. Use of certificates

The commissioner by rule may provide that persons who hold more restrictive certificates may use those certificates in lieu of less restrictive certificates.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3248. Direct supervision

Persons who hold certificates issued under the provisions of this Chapter may provide direct supervision for the application or sale of a restricted use pesticide by competent uncertified persons. The certified person shall be fully responsible for the actions of the uncertified persons under his direct supervision. The certified person shall give instruction and direction to the uncertified persons and shall be available when and if his presence is needed. The certified person need not be physically present at all times unless the commissioner by rule requires the physical presence of the certified person at the time the restricted use pesticide is sold or applied.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3249. Examinations

A. Each applicant for a certificate issued under the provisions of this Chapter shall satisfactorily pass an examination prior to being issued a certificate. The commissioner by rule shall provide for the preparation, administration, and grading of all examinations. The commissioner shall review and approve all proposed examinations and shall determine the minimum score necessary to satisfactorily pass each examination.

B. The commissioner may designate individuals or associations who may submit proposed questions for examinations.

C. The commissioner shall fix the dates for all examinations and may establish a date prior to each examination which shall be the last date on which applications to take examinations will be accepted.

The commissioner may refuse to administer examinations to persons whose applications are received after the cutoff date.

D. The commissioner by rule may require holders of certificates to attend a course of instruction or satisfactorily pass an examination in order to renew the certification.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3250. Applications

A. Each application for examination shall be in writing and shall be on forms prescribed by the commissioner. Each application shall be accompanied by the examination fee and such information and documents as the commissioner may require.

B. Each application for a license, certificate, or registration shall be in writing and shall be on forms prescribed by the commissioner. Each application shall be accompanied by the license, certificate, or registration fee, proof of passing the examination, proof of financial responsibility where required, and such other information and documents as the commissioner may require.

C. Each applicant shall indicate on each application the street address of his place of business. If the place of business does not have a street address, the applicant shall provide sufficient information to establish the physical location of the place of business.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3251. Fees

A. The examination fee for each examination shall be established by the commissioner by rule in an amount not to exceed two hundred dollars. In establishing the amount of the examination fee, the commissioner shall consider the cost incurred in obtaining, administering, and grading the examination.

B. The fees for the licenses and certificates issued or reissued by the commissioner shall be as follows:

(1) The resident license fee shall be two hundred dollars. For the purposes of this Paragraph, a "resident" means any person who has been domiciled in Louisiana for a period of at least ninety days immediately preceding the date of application for the license and who has not claimed residence in any other state for any other purpose.

(2) The nonresident license fee shall be five hundred dollars. For the purposes of this Paragraph, a "nonresident" means any person who does not qualify as a resident under Paragraph (1) above.

(3) The certification fee, except as provided in Subsection C of this Section, shall be twenty dollars.

(4) The fee for issuing the annual certification card shall be twenty dollars. This provision shall not apply to private applicators.

(5) The fee for inspecting each item of mechanically powered equipment shall be fifty dollars.

(6) The fee for registering each field scout shall be ten dollars.

C. The certification fee for private applicators shall be twenty-five dollars. The certification fee for employees of local, state, and federal governments for the application of pesticides in the course of their public employment shall be twenty-five dollars.

D. The commissioner by rule shall establish procedures for the payment of fees.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1988, No. 156, §1; Acts 2003, No. 120, §1, eff. Jan. 1, 2004.

§3252. Violations, enforcement

A. Violations of this Part shall include but shall not be limited to the following:

(1) Making false or fraudulent claims not in accordance with the label through any media misrepresenting the efficacy of pesticides or methods to be utilized.

(2) Making a pesticide recommendation or application inconsistent with the labeling or in violation of the E.P.A. or state restrictions on the use of that pesticide.

(3) Knowingly operating faulty or unsafe equipment.

(4) Operating in a faulty, careless, or negligent manner.

(5) Neglecting or, after notice, refusing to comply with the provisions of this Chapter or rules and regulations adopted under the provisions of this Chapter.

(6) Refusing or neglecting to keep and maintain the records required by this Part.

(7) Knowingly making false or fraudulent records or invoices.

(8) Selling or supervising the sale of any restricted use pesticide to a person who does not have the proper certification.

(9) The application of a restricted use pesticide by a ground applicator who does not hold the appropriate certification or who is not under the direct supervision of a person who holds the appropriate certification, or the application of any pesticide by an aerial applicator who does not hold the appropriate certification.

(10) Supervising the sale or application of a restricted use pesticide without the proper certification.

(11) Allowing the application of restricted use pesticides by uncertified persons without the physical presence of a certified applicator, when the physical presence of the certified applicator is required by the commissioner.

(12) The aiding or abetting, or conspiring to aid or abet, by any licensed or certified person, of the violation of the provisions of this Chapter, or of the rules and regulations adopted under the provisions of this Chapter, by any unlicensed or uncertified person.

(13) Allowing a license or certificate to be used by another person.

(14) Impersonating any federal, state, parish, or city inspector or official who has authority to enforce pesticide laws, ordinances, rules, or regulations.

(15) Interference with the commission, the commissioner, the state chemist, or their representatives in the performance of their duties in connection with this Part.

(16) Performance of a service or function by any person whose license or certificate has been suspended or revoked, or by any person who has been denied a license or certificate, or failure by any person to obtain the necessary license or certificate for any activity requiring a license or certificate under the provisions of this Chapter.

(17) Application of phenoxy herbicides by any aerial applicator who does not have the proper license or the proper bond or insurance.

(18) Any violation of any provision of this Chapter or of any rule or regulation adopted under the provisions of this Chapter.

(19) The sale of a restricted use pesticide by a person who does not hold the appropriate certification or who is not under the direct supervision of a person who holds the appropriate certification.

(20) The purchase of a restricted use pesticide by a person who does not hold the appropriate certification.

(21) Any evasion of payment of any fines legally imposed by the commissioner.

B. The commissioner may assess a civil penalty of not more than five thousand dollars for each violation of any of the prohibitions in Subsection A of this Section. Each day on which a violation occurs shall be considered a separate offense. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner by rule shall determine the amount of costs to be assessed.

C. The commissioner may suspend or revoke any license or certificate issued under the authority of this Part, or impose probation on any person who holds a license or certificate, for any violation of any of the prohibitions in Subsection A of this Section.

D. Civil penalties may be assessed, licenses and certificates may be suspended or revoked, and probation may be imposed, only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the provisions of Section 3214 of this Chapter.

E. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

F. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part in the district court for the parish in which the violation occurred.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983. Acts 1983, No. 130, §1; Acts 1985, No. 166, §1; Acts 1986, No. 509, §1.

§3253. Notice

A. The commissioner shall notify each person who is affected by a suspension or revocation of a license or certificate, or by probation, or by civil penalties, by certified mail, return receipt requested.

B. Each person whose license or certificate has been revoked or suspended shall return the license or certificate to the commissioner within fifteen days of the date on which the notice was received.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3254. Special exemptions for certain applications and recommendations of pesticides

As used in R.S. 3:3252(A)(2), the reference to recommendations or applications inconsistent with the labeling of a pesticide shall not include the following:

(1) The application of a pesticide at any dosage, concentration, or frequency less than that specified on the labeling.

(2) The application of a pesticide against any target pest not specified on the labeling, if the application is to the crop, animal, or site specified on the labeling, unless the E.P.A. has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling.

(3) The use of any method of application not prohibited by the labeling.

(4) The mixing of a pesticide or pesticides with a fertilizer when the mixture is not prohibited by the labeling.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3255. Complaints

A. Any person who believes that he has suffered damages as a result of any action by any person regulated by the provisions of this Part may file a damage complaint with the commissioner.

B. All damage complaints shall be in writing, shall be on forms prescribed by the commissioner, shall be signed by the complainant, and shall be filed within fifteen days of the action by the alleged offender or the discovery of the damage, whichever occurs later. Failure to file a timely complaint shall not affect the right of the person to institute legal proceedings for the damages.

C. Each person who files a damage complaint shall permit the commissioner, the alleged offender, or the representative of either, such as bondsmen or insurers, to observe within reasonable hours the lands, crops, or nontarget organisms alleged to have been damaged in order to determine any damages. Failure of the claimant to permit such observation and examination of the damaged property shall automatically bar the claim against the alleged offender under this Section.

D. The commissioner may undertake such monitoring activities, including but not limited to monitoring of the air, soil, water, plants, and animals as may be necessary for the administration and enforcement of this Section.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

§3256. Exemptions

A. The commissioner by rule shall delegate to the Structural Pest Control Commission the authority to examine and certify all structural pest control operators required to be certified under the provisions of R.S. 3:3301 et seq.

B. No governmental entity or employee thereof shall be exempt from the certificate, enforcement, or record-keeping provisions of this Part, except as otherwise provided herein.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983. Acts 1983, No. 82, §1; Acts 1984, No. 800, §2, eff. July 13, 1984.

§3257. Reciprocal agreements

The commissioner may waive all or part of the examination requirements for applicants for certification on a reciprocal basis with any other state which has substantially the same requirements for examinations.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983.

PART V. PESTICIDE WASTES

§3271. Administration

A. The provisions of this Part shall be administered by the Department of Agriculture and Forestry through the division of pesticide and environmental programs within the office of agricultural and environmental sciences.

B. The commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Part. The rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

C. The commissioner may employ such personnel as are necessary to administer the provisions of this Part.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1990, No. 136, §1.

§3272. Cooperative agreements

In order to accomplish the objectives of this Part, the commissioner may enter into cooperative agreements with appropriate governmental agencies.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1990, No. 136, §1.

§3273. Monitoring

The commissioner shall establish a program for monitoring pesticide wastes in the state.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1990, No. 136, §1.

§3274. Determinations

A. When the commissioner determines that the concentrations of pesticide wastes exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner shall determine the appropriate action to be taken under the provisions of this Part.

B. The commissioner shall adopt rules to establish procedures for making determinations under the provisions of Subsection A of this Section.

C. The determinations made under Subsection A of this Section shall be based on scientific and technical information, including but not limited to information from the following sources or concerning the following subjects:

- (1) The history of the levels of concentration of the pesticide or pesticides, based on scientifically valid monitoring studies.
- (2) The gravity of the threat to human health or to the environment.
- (3) Standards for contamination levels promulgated by appropriate governmental agencies.
- (4) Information published or made available by appropriate governmental agencies.
- (5) Information published or made available by pesticide manufacturers.
- (6) Information published or made available by institutions of higher education.
- (7) The availability of alternative pesticides.
- (8) The availability of alternative methods of application of the pesticide.
- (9) The economic impact of limiting, restricting, or prohibiting the use of the pesticide.
- (10) Other criteria established by the commissioner by rule.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1990, No. 136, §1.

§3275. Investigations

A. The commissioner shall investigate any circumstances relating to the presence of pesticide waste in the state in concentrations which the commissioner has determined pose a threat or reasonable expectation of a threat to human health or to the environment under R.S. 3:3274.

B. In connection with any investigation conducted under Subsection A of this Section, the commissioner may take the following actions:

- (1) Enter, during working hours, any property or premises within which the commissioner has reason to believe pesticide contamination or pesticide waste is a threat to human health or to the environment.
- (2) Take samples of any pesticides, pesticide wastes, or any substance which has come into contact with pesticides.

C. In circumstances not covered by Subsection B of this Section, the commissioner may apply to the district court for the parish in which the pesticide waste is located for a warrant, or warrants, authorizing an investigation and the taking of samples.

D. Entrance upon property or premises under the provisions of Subsection B of this Section shall not be deemed to be criminal trespass under any state law or local ordinance.

E. The commissioner may issue subpoenas to compel the attendance of witnesses or the production of documents or records anywhere in the state which are relevant to an investigation pursuant to this Part. The sheriff of the parish in which the witness or the documents or records are located shall serve the subpoena if requested by the commissioner.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1990, No. 136, §1.

§3276. Public participation

A. Citizen complaints concerning the treatment, storage, or disposal of pesticide wastes may be filed with the Department of Agriculture and Forestry at any time during normal working hours. Complaints shall be in writing and shall be signed by the complainant.

B. The Department of Agriculture and Forestry shall investigate any citizen complaint involving the treatment, storage, or disposal of pesticide wastes. The investigation shall be initiated within thirty days of the receipt of the complaint.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1986, No. 509, §1; Acts 1990, No. 136, §1.

§3277. Orders and communications

When the commissioner makes a determination under the provisions of R.S. 3:3274, the commissioner may take one or more of the following actions:

(1) Issue appropriate protective orders to mitigate the further contribution to the accumulation of the pesticide or pesticide wastes. The protective order may limit, restrict, or prohibit any application of the pesticide in the area where the application of the pesticide would contribute to the accumulation of the pesticide or pesticide wastes.

(2) Issue remedial orders directing any responsible person to take prompt remedial action to correct any situation in which any substance, action, or condition has caused or is causing any threat to human health or to the environment.

(3) Communicate his determination to any appropriate governmental agency.

(4) Participate in issuing a public communication concerning the determination. Each public communication shall be issued in accordance with a cooperative agreement with the appropriate governmental agency entered into under the provisions of this Part.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1990, No. 136, §1.

§3278. Enforcement

A. The commissioner may seek and obtain injunctive relief to restrain and prevent violations of orders issued under the provisions of this Part or in accordance with the rules and regulations adopted under the provisions of this Part.

B. The commissioner may impose civil penalties for violations of the orders issued under the provisions of this Part or in accordance with the rules or regulations adopted under the provisions of this Part. The civil penalties shall not exceed twenty-five thousand dollars per offense. Each day on which a violation occurs shall be considered a separate offense. Civil penalties shall be imposed only on the basis of an adjudication of violations pursuant to an adjudicatory hearing held in accordance with the provisions of R.S. 3:3214. The commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner by rule shall determine the amount of costs to be assessed.

C. Whoever violates the provisions of this Part or the rules and regulations adopted under the provisions of this Part shall be fined not more than twenty-five thousand dollars for each day on which a violation occurs, or, imprisoned, with or without hard labor, for not more than five years, or both.

D. The commissioner may institute civil proceedings to enforce the rulings of the commissioner in the district court for the parish in which the violation occurred.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1990, No. 136, §1.

§3279. Violations

A. No person shall violate any provision of this Part or of any rule or regulation adopted under the provisions of this Part.

B. Nothing in this Part shall be construed to affect any chemical manufacturing facility being regulated by the Department of Environmental Quality under Title 30 of the Louisiana Revised Statutes of 1950 as of May 1, 1990.

Added by Acts 1982, No. 198, §1, eff. Jan. 1, 1983; Acts 1986, No. 735, §1; Acts 1990, No. 136, §1.

§3280. *Repealed by Acts 1990, No. 136, §2.*

PART VI. WATER PROTECTION

§3301. Legislative findings

The legislature hereby finds and declares that clean water is a vital necessity for the people of our state. The legislature further finds and declares that the establishment of a program for monitoring the presence of pesticides in the waters of this state and for alleviating excessive levels of pesticides in the waters of this state by minimizing, mitigating, and preventing the potential for those excessive levels of pesticides is a reasonable exercise of the police power of the state and is for a public purpose.

Added by Acts 1988, No. 349, §1.

NOTE: *See Acts 1988, No. 349, §§2 and 3.*

§3302. Definitions

As used in this Part, the following words shall have the following meanings ascribed to them:

(1) "Affected waters" means any waters of the state in which the levels of pesticides pose a threat or a reasonable expectation of a threat to human health or to the environment.

(2) "Appropriate governmental agency" means any federal, state, or local agency which has jurisdiction over or expertise in the subject matter affected by this Part, and includes but is not limited to, the United States Department of Agriculture, the United States Environmental Protection Agency, the United States Geological Survey, the Department of Environmental Quality, the Department of Health and Hospitals, the Department of Natural Resources, the Department of Wildlife and Fisheries, and the Department of Transportation and Development.

(3) "Commissioner" shall have the same meaning as provided in R.S. 3:3202.

(4) "Person" shall have the same meaning as provided in R.S. 3:3202.

(5) "Pesticide" shall have the same meaning as provided in R.S. 3:3202.

(6) "Waters of the state" means both the surface and the underground waters within the state of Louisiana including all rivers, streams, lakes, ground waters, and all other water courses and waters within the confines of the state, and all bordering waters and the Gulf of Mexico.

Added by Acts 1988, No. 349, §1.

§3303. Administration

A. The provisions of this Part shall be administered by the Department of Agriculture and Forestry through the division of pesticide and environmental programs within the office of agricultural and environmental sciences.

B. The commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Part. The rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

C. The commissioner shall employ such personnel as are necessary to administer the provisions of this Part.

Added by Acts 1988, No. 349, §1.

NOTE: See Acts 1988, No. 349, §§2, 3.

§3304. Cooperative agreements

In order to accomplish the objectives of this Part, the commissioner may enter into cooperative agreements with appropriate governmental agencies.

Added by Acts 1988, No. 349, §1.

§3305. Monitoring

The commissioner shall establish a program for monitoring the waters of the state for the purpose of determining the levels of pesticides in those waters. The provisions of this Part shall not preclude or prevent the monitoring of the waters of the state by any other agency.

Added by Acts 1988, No. 349, §1.

§3306. Determinations

A. When the commissioner determines that the concentrations of pesticides in any of the waters of the state exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides in any of the waters of the state pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner shall determine the appropriate action to be taken under the provisions of this Part.

B. The commissioner shall adopt rules to establish procedures for making determinations under the provisions of Subsection A of this Section.

C. The determinations made under Subsection A of this Section shall be based on scientific and technical information, including but not limited to information from the following sources or concerning the following subjects:

(1) The history of the levels of concentration of the pesticide or pesticides, based on scientifically valid monitoring studies.

(2) The gravity of the threat to human health or to the environment.

(3) Standards for contamination levels promulgated by appropriate governmental agencies.

(4) Information published or made available by appropriate governmental agencies.

(5) Information published or made available by pesticide manufacturers.

(6) Information published or made available by institutions of higher education.

(7) The availability of alternative pesticides.

(8) The availability of alternative methods of application of the pesticide.

(9) The economic impact of limiting, restricting, or prohibiting the use of the pesticide.

- (10) The purpose or purposes for which the affected waters are used.
- (11) Other criteria established by the commissioner by rule.

Added by Acts 1988, No. 349, §1.

§3307. Investigations

A. The commissioner may investigate any circumstances relating to the presence of pesticides in the waters of the state in concentrations which the commissioner has determined pose a threat or reasonable expectation of a threat to human health or to the environment under R.S. 3:3306.

B. In connection with any investigation conducted under Subsection A of this Section, the commissioner may take the following actions:

(1) The commissioner may enter, during working hours, any property or premises within which the commissioner has reason to believe are located any affected waters or any substance which has caused or is causing any waters of the state to be affected.

(2) The commissioner may take samples of any affected water, or of any substance which has come in contact with the affected water, or of any substance which has caused or is causing any waters of the state to be affected.

C. In circumstances not covered by Subsection B of this Section, the commissioner may apply to the district court for the parish in which the affected water is located for a warrant, or warrants, authorizing an investigation and the taking of samples.

D. Entrance upon property or premises under the provisions of Subsection B of this Section shall not be deemed to be criminal trespass under any state law or local ordinance.

E. The commissioner may issue subpoenas to compel the attendance of witnesses or the production of documents or records anywhere in the state which are relevant to an investigation pursuant to this Part. The sheriff of the parish in which the witness or the documents or records are located shall serve the subpoena if requested by the commissioner.

Added by Acts 1988, No. 349, §1.

§3308. Orders and communications

When the commissioner makes a determination under the provisions of R.S. 3:3306, the commissioner may take one or more of the following actions:

(1) The commissioner may issue appropriate protective orders to mitigate the further contribution to the accumulation of the pesticide or pesticides. The protective order may limit, restrict, or prohibit any application of a pesticide in the area where the application of the pesticide would contribute to the accumulation of the pesticide or pesticides.

(2) The commissioner may participate in issuing remedial orders directing any responsible person to take prompt remedial action to correct any situation in which any substance, action, or condition has caused or is causing any waters of the state to be affected. Each remedial order shall be issued in accordance with a cooperative agreement with the appropriate governmental agency entered into under the provisions of this Part.

(3) The commissioner may communicate his determination to any appropriate governmental agency.

(4) The commissioner may participate in issuing a public communication concerning the determination. Each public communication shall be issued in accordance with a cooperative agreement with the appropriate governmental agency entered into under the provisions of this Part.

Added by Acts 1988, No. 349, §1.

§3309. Enforcement

A. The commissioner may seek and obtain injunctive relief to restrain and prevent violations of orders issued under the provisions of this Part or in accordance with the rules and regulations adopted under the provisions of this Part.

B. The commissioner may impose civil penalties for violations of the orders issued under the provisions of this Part or in accordance with the rules or regulations adopted under the provisions of this Part. The civil penalties shall not exceed twenty-five thousand dollars per offense. Each day on which a violation occurs shall be considered a separate offense. Civil penalties shall be imposed only on the basis of an adjudication of violation pursuant to an adjudicatory hearing held in accordance with the provisions of Section 3214 of this Chapter.

Added by Acts 1988, No. 349, §1.

§3310. Violations

No person shall violate any provision of this Part or of any rule or regulation adopted under the provisions of this Part.

Added by Acts 1988, No. 349, §1.

PART VII. STRUCTURAL PEST CONTROL

§3361. Short title

The provisions of this Part shall be known and may be cited as the Structural Pest Control Law.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3362. Definitions

As used in this Part, the following terms shall have the following meanings ascribed to them:

- (1) "Avicide" means any pesticide, other than a fumigant, which is used for the control of pest birds.
- (2) "Commission" means the Structural Pest Control Commission.
- (3) "Commissioner" means the commissioner of agriculture and forestry.
- (4) "EPA" means the United States Environmental Protection Agency.
- (5) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.
- (6) "Fumigant" means any pesticide which either by itself or in combination with any other substance:
 - (a) Emits or liberates gas, fumes, or vapors which will destroy pests.
 - (b) Is usually lethal, poisonous, or noxious.
 - (c) May be dangerous to human life.
 - (d) Emits or releases any chilled or heated gas or atmosphere.
- (7) "Insecticide" means any pesticide, other than a fumigant, which is used for the control of insects and similar pests.
- (8) "Person" means any individual, corporation, partnership, association, or other legal entity.
- (9) "Pesticide" means any substance or combination of substances which is a pesticide under the Louisiana Pesticide Law, R.S. 3:3201 et seq.

(10) "Repellant" means any pesticide, other than a fumigant, which is noxious to and has the property of repelling pests.

(11) "Restricted use pesticide" means any pesticide which is classified for restricted use by the EPA under FIFRA or by the commissioner under the Louisiana Pesticide Law, R.S. 3:3201 et seq.

(12) "Rodent" means any of several mammals such as rats and mice commonly associated with man-made structures and characterized by constantly growing incisors.

(13) "Rodent control" means the use of a rodenticide to control rodents.

(14) "Rodenticide" means any pesticide, other than a fumigant, which is used for the control of rodents.

(15) "Structural pest" means any member of any species of wood-destroying insects, vermin, rodents, vertebrates, and pest birds which attack and damage wood.

(16) "Structural pest control" means any procedure intended to effect the prevention, regulation, extermination, or eradication of structural pests in household, commercial, and vacant structures, including adjacent outside areas and the contents of such structures. The term includes advertising or soliciting structural pest control work; making inspection; identifying infestations; supervision of work; issuance of wood-infestation reports; application or other use of pesticides; fumigation, including vacuum fumigation of products and fumigation of railroad cars, trucks, ships, airplanes, docks, warehouses, common carriers, and the contents thereof; and the use of any other substance, mechanical device, or structural modification under whatever name known for the purpose of preventing, prescribing remedies, controlling, or eradicating structural pests. The term does not, however, include any procedure for the control of agricultural pests.

(17) "Wood-destroying insect" means any and all species of insects which attack and damage wood.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1991, No. 103, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§3363. Structural Pest Control Commission

A. The Structural Pest Control Commission is hereby created within the Department of Agriculture and Forestry. The commission shall be domiciled in Baton Rouge.

B. The commission shall be composed of the following five members:

(1) Two persons who are licensed structural pest control operators appointed by the commissioner from a list of four licensed pest control operators submitted by the Louisiana Pest Control Association. Each appointee shall be a resident of this state and shall be actively engaged in structural pest control work. The two appointments shall not be associated with the same business entity.

(2) One member of the faculty of the Entomology Department at Louisiana State University who shall be appointed by the commissioner.

(3) The commissioner and the assistant commissioner for agricultural and environmental sciences of the Louisiana Department of Agriculture and Forestry, or their designees, who shall serve ex officio and shall have all of the same rights and responsibilities as the appointed members.

C. The appointed members shall serve at the pleasure of the appointing commissioner for terms concurrent with that of the appointing commissioner. Appointed members shall serve until their successors are appointed and qualified. Vacancies in the terms of the appointed members shall be filled in the same manner as the original appointment.

D. Three members shall constitute a quorum for the transaction of business. Except as otherwise specifically provided in R.S. 3:3372(B), all official actions of the commission shall require the affirmative vote of three members.

E. The appointed members shall be subject to removal for nonperformance of duty or malfeasance in office.

F. Members of the commission shall not receive any salary for their duties as members. The appointed members may receive a per diem for each day spent in actual attendance of meetings of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. The appointed members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

G. The commission shall meet quarterly and may meet on the call of the chairman or any two members. The commission shall not meet more than twelve times in any calendar year.

H. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1997, No. 1032, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§3364. Officers and employees

A. The commissioner or his designee shall serve as chairman of the commission. The members shall elect such other officers as they deem necessary.

B. The commission shall employ a director and an assistant director who shall be appointed by the commission subject to the approval of the commissioner. The director and the assistant director shall be in the unclassified service. The commissioner may employ such other personnel of the commission as he deems appropriate. All employees of the commission shall be under the direction and supervision of the commissioner.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3365. Administration

A. The commission shall administer the provisions of this Part and the rules and regulations adopted under the provisions of this Part.

B. The commission shall keep a record of all hearings held and all determinations made by the commission.

C. The employees of the commission shall have access to any premises where there is reason to believe that structural pest control work is being conducted for the purpose of sampling pesticides and inspecting and observing the application of any pesticide. This right of access shall be exercised only during reasonable hours and only upon presentation of proper credentials.

D. The commission shall develop and administer all examinations required under this Part.

E.(1) The commission may issue subpoenas to compel the attendance of witnesses or the production of documents and records anywhere in the state.

(2) The sheriff of the parish in which the witness or the documents or records are located shall serve the subpoenas.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 2012, No. 147, §1, eff. May 14, 2012.

§3366. Administrative rules

A. The commission shall adopt rules and regulations for the implementation of this Part. The rules and regulations shall include, but shall not be limited to:

(1) Rules and regulations to protect the interests, health, safety, and welfare of the public.

(2) Rules and regulations governing the different phases of the structural pest control operator's license.

(3) Rules and regulations to provide minimum specifications for the application of pesticides for the control of specific structural pests.

(4) Rules and regulations governing the transportation and handling of pesticides and pesticide applying equipment.

(5) Rules and regulations governing the treatment of pesticide residues and the handling and disposal of solid wastes generated in the course of structural pest control work.

(6) Any other rules and regulations required for the implementation and administration of this Part.

B. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act and the following special provisions:

(1) The commission shall conduct a public hearing on all proposed rules and regulations.

(2) The commission shall notify each licensee in writing at his or her last known address at least seven days prior to any public hearing. Such notification may be sent by electronic mail.

(3) *Repealed by Acts 2010, No. 495, §2, June 24, 2010.*

C. Persons engaged in structural pest control work shall be governed exclusively by the rules and regulations adopted by the commission. If the rules and regulations adopted by the commission conflict with any rules or regulations adopted by any other agency, including but not limited to the Department of Natural Resources, the Department of Environmental Quality, or the Department of Public Safety and Corrections the rules and regulations adopted by the commission shall prevail.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 2010, No. 495, §§ 1,2, eff. June 24, 2010.

§3367. Place of business permit

A. No person shall own or operate a business engaged in structural pest control work unless that person has a place of business permit for each location at which the person conducts business.

B. Each place of business permit shall expire annually on the last day of June.

C. Prior to being issued a place of business permit, each applicant shall file with the commission the following documents as evidence of financial responsibility:

(1) A certificate of insurance written by an admitted or nonadmitted insurance company which has complied with the requirements of the Insurance Code, covering the applicant's public liability for not less than two hundred and fifty thousand dollars per accident and not less than one hundred thousand dollars property damage. The certificate of insurance shall provide for ten days written notice to the commission prior to cancellation.

(2) A surety or fidelity bond issued by a bonding, surety, or insurance company authorized to do business in this state conditioned upon the faithful performance of all duties and obligations to clients and customers of the business and compliance with this Part and the rules and regulations adopted under the provisions of this Part. The bond shall be in the amount of two thousand dollars and of tenor and solvency acceptable to the commission and shall provide for ten days written notice to the commission prior to cancellation. A certified copy of the bond shall be received as evidence in any court in lieu of the original.

D. Each applicant for a place of business permit shall be a licensed structural pest control operator or shall employ at least one full-time licensed pest control operator. No place of business permit shall be issued by the commission unless there is a licensee employed on a full-time basis at the place of business for which the permit is sought.

E. If a person who holds a place of business permit no longer has a license or no longer employs a person who has a license on a full-time basis, the person who holds the place of business permit shall

have ninety days or until the next meeting of the commission, whichever is longer, to obtain a license or to employ a person who has a license on a full-time basis.

F. Each person who holds a place of business permit shall maintain accurate records for at least three years covering the possession, use, and disposition of restricted use pesticides and of all recommendations relative to the application of restricted use pesticides.

G. Place of business permits are not transferable.

Acts 1984, No. 800, §1, eff. July 13, 1984; HCR 259, 1985 R.S.; Acts 1986, No. 300, §1; Acts 2012, No. 147, §1, eff. May 14, 2012.

NOTE: *See Acts 1984, No. 800, §5.*

§3368. Structural pest control operator's license

A. Except as otherwise provided in R.S. 3:3369, no person shall apply pesticides in connection with structural pest control work unless that person has a structural pest control operator's license.

B. A structural pest control operator's license shall be issued only after the applicant has satisfactorily passed a written examination. The examination shall include the general standards examination required by the EPA and a separate examination for the category in which the applicant desires to be licensed.

C. Each applicant for examination shall possess one of the following qualifications in order to take the examination:

(1) A degree from an accredited four-year college or university with a major in entomology.

(2) A degree from an accredited four-year college or university with at least twelve semester hours of coursework in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the license category for which the applicant desires to take the examination.

(3) Four years of experience as a registered technician under the supervision of a licensee in the license phase for which the applicant desires to take the examination.

(4) Four years of experience as a technician under the supervision of a structural pest control operator in another state in the license category for which the licensee desires to take the examination. Experience with an out of state structural pest control operator shall be substantiated by evidence acceptable to the commission.

D. Each applicant for examination shall submit a written application which shall contain such information as the commission by rule may require and which shall be accompanied by the examination fee and by proof of experience and education acceptable to the commission.

E. The examination shall be administered at the domicile of the commission within forty-five days after the application for examination is received by the commission.

F. The examination shall test the applicant's practical and scientific knowledge of structural pest control including the ability to recognize and control hazardous conditions which might have an adverse effect on human health and safety.

G. Persons who successfully complete the examination may apply for a structural pest control operator's license. The application shall be in writing, shall contain such information as the commission by rule may require, and shall be accompanied by the license fee.

H. A structural pest control operator's license shall not be issued unless the applicant has applied for and is eligible to receive a place of business permit or submits evidence acceptable to the commission that the applicant will be employed by a person who holds a place of business permit.

I. The commission shall issue a license and a commercial applicator's certification card to each person who successfully completes the examination and meets the other requirements of this Section.

J. Each licensee shall participate in continuing educational programs as a condition of obtaining recertification as a certified commercial applicator. The commission by rule shall establish requirements for continuing education for licensees, including the substantive content of the course and the amount of time which must be spent attending the course.

K. Structural pest control licenses are not transferable.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 149, §1.

§3369. Registered technicians

A. Persons who hold a place of business permit may employ unlicensed technicians to apply pesticides in connection with structural pest control work in accordance with the provisions of this Section.

B. The commission by rule may provide for different categories of registration of technicians including categories for technicians who apply pesticides and for technicians who prescribe treatment.

C. Each technician shall be registered with the commission within thirty days of the date he is employed. The application for registration shall contain the technician's name, residence address, date of birth, the employer's name and business address, the name of the licensed structural pest control operator who will provide direct supervision for the technician, and such other information as the commission by rule may require.

D. Each registered technician shall be under the direct supervision of a licensed structural pest control operator. The licensed structural pest control operator shall give instruction and direction to the registered technician and shall be fully responsible for the actions of the registered technicians who are under his direct supervision. The commission by rule may provide additional requirements for direct supervision.

E. Each registered technician shall carry his registration card on his person while performing structural pest control work and shall display his registration card upon the request of any person for whom structural pest control work is being performed by any employee of the commission.

F. Each person who employs a registered technician shall notify the commission within ten days after the termination of the employment of the registered technician or after any change in the assignment of the registered technician to a licensed structural pest control operator.

G. The registration of a technician shall be valid only while the technician remains employed by the person who registered the technician with the commission.

H. Each registered technician shall successfully complete an examination. Each registered technician shall take the examination within ninety days of the date he was employed. If the registered technician fails to pass the examination within ninety days after he is employed, he shall be allowed to work as a registered technician for another ninety days during which time he shall take the examination again. If the registered technician fails to pass the examination within one hundred eighty days after he is employed, he shall not be allowed to work as a registered technician until he has passed the examination.

I. The terms of each employment agreement between each licensed structural pest control operator or person who holds a place of business permit (employer) and each registered technician (employee) who is employed by that employer shall meet each of the requirements set forth in this Subsection. Any employment agreement between an employer and an employee which does not meet the requirements of this Subsection is prohibited. The requirements are:

(1) Each employee shall remit to each employer all funds collected in connection with structural pest control work performed by that employee.

(2) Each employer shall pay each employee in accordance with the terms of the employment agreement between them.

(3) Each employer shall withhold from the pay of each employee the amounts which employers are required to withhold from employees by applicable state and federal law.

(4) Each employer shall keep complete records of all structural pest control work performed by each employee. These records shall be maintained for at least two years. These records shall include the address of the structure treated, the name of the person for whom the treatment was performed, the brand name of the pesticide applied, and all other information required by the commission by rule.

J. Persons who fail to pass the examination shall not be allowed to retake the examination for thirty days.

K. Each registered technician shall participate in continuing educational programs as a condition of maintaining his or her status as a registered technician. The commission by rule, approved by the commissioner of agriculture and forestry and in accordance with the Administrative Procedure Act, shall establish requirements for continuing education for technicians, including the substantive content of the course and the amount of time which must be spent attending the course.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 210, §§1 and 2; Acts 1988, No. 287, §1.

§3370. Written contracts

A.(1) Each person who holds a place of business permit who treats any property for subterranean termites, dry wood termites, powder post beetles, or old house borers shall enter into a written contract with the owner of the property. This contract shall be referred to as a "standard contract". The contract shall be in a form acceptable to the commission, shall guarantee that the property was treated in accordance with the minimum specifications adopted by the commission for the type of pest being treated, and shall guarantee that if the property becomes reinfested with the type of pest for which treatment was made within one year of the date of treatment, the property will be retreated.

(2) Any currently effective standard contract and all terms and conditions contained therein shall be transferable to a subsequent owner of the property covered by such contract.

(3) Each person who holds a place of business permit shall issue a copy of any standard contract currently in effect to the owner of the treated property or to an agent of the property owner within thirty days of receiving a written request.

B. Each person who holds a place of business permit shall report to the commission on or before the tenth day of each month each contract described in Subsection A of this Section which was completed during the previous month.

C. Each person who holds a place of business permit and who issues a report on the presence of wood destroying insects, which is customarily referred to as a "wood destroying insect report", shall issue the report in writing and in a form which has been approved by the commission.

D. Each person who holds a place of business permit shall report to the commission on or before the tenth day of each month each report described in Subsection C of this Section which was issued during the previous month. The commission by rule may require each person who files a report to attach a copy of each wood destroying insect report.

E. All information and all documents transmitted to the commission in accordance with the requirements of this Section shall be confidential and shall be exempt from the Public Records Law, R.S.

44:1 et seq. The commission may discard or destroy all documents received under the provisions of this Section after ninety days.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 148, §1; Acts 2001, No. 551, §1.

NOTE: *See Acts 1984, No. 800, §5.*

NOTE: *See Acts 1988, No. 148, §§2, 3, & 4.*

§3371. Violations

A. Violations of this Part shall include but shall not be limited to the following:

(1) Engaging in any form of structural pest control work without first obtaining the proper permit, license, or registration.

(2) Advertising, soliciting, or otherwise attempting to obtain in any form structural pest control work without first obtaining the proper permit, license, or registration.

(3) Any application of any pesticide in violation of the label, the provisions of this Part, or the rules and regulations adopted under the provisions of this Part.

(4) Failure by a person who holds a place of business permit to maintain the bond and insurance required by this Part.

(5) Knowingly permitting any person under direct supervision to violate any provision of this Part or any rule or regulation adopted under the provisions of this Part.

(6) Intentional misrepresentation of any matter involved in or related to structural pest control work.

(7) Failure to enter into or report any contract required by this Part.

(8) Knowingly making any false or misleading statement in a wood-infestation report.

(9) Gross negligence in conducting an inspection or failing to make an inspection prior to issuing a wood-infestation report.

(10) Failure to appear at an adjudicatory hearing after receiving proper notice.

(11) A licensee transacting business without complying with the continuing education requirements adopted by the commission.

(12) Failure of a registered technician to comply with the continuing education requirements adopted by the commission.

(13) Any failure to timely pay any civil penalty imposed by the commission or any failure to timely pay any fee collected by the commission.

(14) Any violation of any provision of this Part or of any rule or regulation adopted under the provisions of this Part.

B. Each day on which a violation occurs and each location at which a violation occurs shall be considered a separate offense.

C. Violations shall be classified as minor, moderate, or major in accordance with the following provisions:

(1) A minor violation is any act which does not result in danger to human health and safety or damage to personal property including but not limited to clerical errors or failure to timely file required reports.

(2) A moderate violation is any act of negligence in meeting the guarantees of an agreement for structural pest control work including but not limited to failure to apply pesticides in accordance with

the label or failure to comply with minimum specifications adopted by the commission. A violation which is not a minor violation or a major violation shall be a moderate violation.

- (3) A major violation is:
 - (a) Any act which may adversely affect human health and safety;
 - (b) Any act performed without having the proper permit, license, or registration;
 - (c) Any intentional misrepresentation of any matter involved in or related to structural pest control work;
 - (d) Any false or misleading statement made knowingly in a wood-infestation report; or
 - (e) Any failure to timely pay any civil penalty imposed by the commission, or any failure to timely pay any fee collected by the commission.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 149, §1; Acts 1988, No. 211, §1; Acts 1988, No. 287, §1.

§3372. Enforcement

A. The commission may impose civil penalties for the commission of any act which is a violation under R.S. 3:3371. The schedule for civil penalties is as follows:

- (1) Minor - not more than two hundred dollars.
- (2) Moderate - not more than five hundred dollars.
- (3) Major - not more than five thousand dollars.

B. The commission may suspend or revoke any permit, license, or registration for the commission of any act which is a major violation or for multiple acts which are minor or moderate violations. No permit, license, or registration shall be suspended or revoked without the affirmative vote of each of the five members of the commission.

C. The commission may place any person who holds a permit, license, or registration on probation for any violation under R.S. 3:3371.

D. The commission in its discretion may combine the penalties of civil penalties, probation, suspension, or revocation, subject to the other provisions of this Section.

E. Civil penalties may be assessed, probation may be imposed, and permits, licenses, and registrations may be suspended or revoked only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act and the following special provisions:

- (1) The commission shall appoint a hearing officer.
- (2) The commission shall notify the alleged violator by certified mail at least thirty days prior to the date the hearing is held.
- (3) The notice shall contain the following information:
 - (a) A statement of the alleged violation.
 - (b) The specific Section of this Part or the specific rule or regulation alleged to have been violated.
 - (c) The date, time, and place where the hearing will be held.
 - (d) A statement of the rights which will be accorded to the licensee or registered employee at the hearing.
 - (e) A statement as to the possible penalties which may be imposed upon a finding by the commission at the hearing that the alleged violator committed the alleged violation.

(4) The alleged violator shall have the right to representation by legal counsel and the right to examine and cross-examine witnesses as in civil cases. The alleged violator shall have the right to compel the attendance of witnesses and the production of evidence upon depositing with the commission the fees required for issuing subpoenas and subpoenas duces tecum in civil cases.

F. The commission may institute civil proceedings in the district court for the parish in which the violation occurred to enforce its rulings.

G. The commission may institute civil proceedings seeking injunctive relief to restrain and prevent violations of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part in the district court for the parish in which the violation occurred.

H. The provisions of R.S. 3:3205 shall apply to this Part. The commissioner or his duly authorized representatives acting at his direction shall administer the provisions of R.S. 3:3205 as they apply to violations of this Part or to violations of the rules and regulations adopted under the provisions of this Part.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 215, §1.

§3373. Criminal penalties

A. No person shall engage in any aspect of structural pest control work without first obtaining the proper permit, license, or registration.

B. Whoever violates the provisions of this Section shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3374. Fees

A. Each person who holds a place of business permit shall pay the fees established in this Subsection for standard contracts and wood destroying insect reports. Fees shall be paid at the expense of the person who holds the place of business permit and shall be paid at the time the person files the report required by R.S. 3:3370(B). The fee for each standard contract reported shall be established by the commission by rule at not less than five dollars and not more than eight dollars. The fee for each wood destroying insect report reported shall be established by the commission by rule at not less than five dollars and not more than eight dollars. When the amount of the fees collected under this Section in any fiscal year equals the amount appropriated for the commission and its programs for that fiscal year, the commission shall allocate the fees collected for standard contracts and wood destroying insect reports for the remainder of that fiscal year to the Louisiana State University Experiment Station for the purpose of structural pest control research.

B. The other fees charged under this Part shall be as follows:

(1) The annual permit fee for a place of business at which two or fewer licensed structural pest control operators or registered technicians are employed shall be established by the commission by rule at not less than one hundred twenty-five dollars and not more than one hundred fifty dollars.

(2) The annual permit fee for a place of business at which three or more licensed structural pest control operators or registered technicians are employed shall be established by the commission by rule at not less than one hundred seventy-five dollars and not more than two hundred dollars.

(3) The fee for the examination for the structural pest control operator's license shall be fifty dollars.

(4) The fee for the examination for the technician's registration shall be twenty-five dollars.

(5) The fees for the registration of technicians shall be as follows:

(a) The fee for the administrative processing of the registration certificate shall be established by the commission by rule at not less than twenty dollars and not more than twenty-five dollars. This fee shall be paid at the time of initial registration and shall be for the time period beginning on the date of registration and ending on the following June thirtieth.

(b) The annual registration fee for registered technicians shall be established by the commission by rule at not less than twenty dollars and not more than twenty-five dollars.

(c) The administrative fee for processing the change of registration each time a registered technician is employed by a different pest control operator shall be ten dollars.

(6) The annual license fee for licensed pest control operators shall be established by the commission by rule at not less than five dollars and not more than ten dollars for each category in which the pest control operator is licensed.

(7) The commission by rule shall establish fees for chemical or other analyses which are performed at the request of any person other than the commission or the Department of Agriculture and Forestry. The fees shall be based on the cost of obtaining the sample, obtaining the analysis, and processing the request for the analysis.

C. Except as otherwise specifically provided herein, all fees established by the commission shall be based on the cost of administering the provisions of this Part.

D. All annual fees collected by the commission shall be due and payable on the first day of July of each year.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 148, §1; Acts 1997, No. 1032, §1.

NOTE: *See Acts 1988, No. 148, §§2, 3, & 4.*

§3375. Disposition of fees

A.(1) Subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, all money received by the commission from fees or other self-generated sources shall be deposited immediately upon receipt in the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) After a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the State General Fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission into a special fund which is hereby created in the state treasury and designated as the Structural Pest Control Commission Fund. The monies in the Structural Pest Control Commission Fund shall be used solely for the programs and purposes of the commission and only in the amounts appropriated each year by the legislature.

B. Out of the monies appropriated each year to the commission, the commission shall allocate at least thirty thousand dollars to the Louisiana State University Experiment Station for research. The allocation shall be made at least biannually. The commission shall appoint a committee composed of the commissioner or his designee, the chancellor of the Louisiana State University Agricultural Center or his designee, the director of the Louisiana State University Experiment Station or his designee, the president of the Louisiana Structural Pest Control Association, the executive director of the Louisiana Pest Control Association, and three licensed pest control operators. This committee shall make recommendations to the commission on what research is needed. Committee members shall be appointed for one year. The commission shall determine the areas in which the research shall be conducted and shall review research progress at an annual meeting. At the end of each fiscal year, all unexpended funds

which were allocated under the provisions of this Section shall revert to the Structural Pest Control Commission Fund.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 148, §1; Acts 1991, No. 95, §1, eff. Jan. 13, 1992; Acts 1997, No. 1032, §1.

NOTE: *See Acts 1988, No. 148, §§2, 3, & 4.*

NOTE: *See Acts 1991, No. 95, §2.*

§3376. Exemptions

The provisions of this Part and the rules and regulations adopted under the provisions of this Part shall not apply to the following:

(1) Persons personally performing structural pest control work on property which they own, lease, or rent.

(2) Persons engaged in the manufacture of pesticides.

(3) Persons engaged in the sale or distribution of pesticides. Notwithstanding this exemption, no person who sells pesticides at retail shall demonstrate pesticides in any manner upon the premises of any customer or potential customer, make any recommendation relative to the use of the pesticides, or offer any services related to structural pest control work unless that person has the proper permit, license, or registration.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3377. Savings clause

The provisions of this Part shall not affect the validity of licenses issued prior to the date this Part becomes effective in 1984.

Acts 1984, No. 800, §1, eff. July 13, 1984.

PART VIII. SCHOOL PESTICIDE SAFETY

§3381. Policy; purpose

The legislature finds that the exposure of school children to pesticides poses known and, as of yet, unknown risks to their health and well-being. Providing controls on the application of these pesticides will help to ensure the safety and well-being of children in the state.

Acts 1993, No. 729, §1.

§3382. Definitions

As used in this Part, the following terms shall have the following meanings ascribed to them:

(1) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism in living humans or other living animals, which the commissioner declares to be a pest, other than mosquitos.

(2) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or combination of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner of agriculture and forestry or his duly authorized representative acting at his direction determines to be a pesticide.

(3) "School" means any public or private day or residential school that provides elementary or secondary education.

(4) "Least toxic method" means an integral part of an integrated pest management plan and is a combination of common sense practices that use current, comprehensive information on the life cycles of pests and their interactions with the environment, in combination with available pest control methods used to manage pest damage by the most economical means with the least possible hazard to people, property, and the environment.

Acts 1993, No. 729, §1; Acts 1995, No. 237, §1.

§3383. Record of pesticides used to control pests

A. Each school shall keep a written record of restricted use pesticides used to control pests. After the application of a restricted use pesticide, an entry shall be made in the record which lists:

- (1) The name of the pesticide applied.
- (2) The quantity of pesticide applied.
- (3) The pest which the pesticide is intended to control.
- (4) The date, time, and location on the school grounds where the pesticide was applied.
- (5) The name of the person or persons who applied the pesticide.

B. The records required by Subsection A of this Section shall be kept for at least three years in the business office of each school and made available for public inspection by any person during regular school hours.

Acts 1993, No. 729, §1; Acts 2012, No. 147, §1, eff. May 14, 2012.

§3384. Requirement that eight hours precede the exposure of children to restricted use pesticides

A restricted use pesticide shall be applied to a school building or on school grounds only during periods in which students are not expected to be present for normal academic instruction or organized extracurricular activity for at least eight hours after the application.

Acts 1993, No. 729, §1.

§3385. Least toxic method of pest control encouraged

Schools are encouraged to use the least toxic method of pest control. The least toxic method of pest control may include pest control methods other than the application of pesticides.

Acts 1993, No. 729, §1.

§3386. Application of pesticides by certified commercial applicator

A. No person shall apply or supervise the application of any herbicide, rodenticide, insecticide, or restricted use pesticide, on a non-fee basis for grass and weed control, and rodent and general pest control in, on, or around structures or grounds of schools that provide education to kindergarten through twelfth grade classes, unless that person is a certified commercial applicator or is under the supervision of a certified commercial applicator as provided in R.S. 3:3242 and the rules and regulations adopted thereunder. Such certified commercial applicator shall be trained in integrated pest management that includes but is not limited to pest prevention, least toxic methods of pest control, and applying pesticides judiciously. Training material shall include but not be limited to the guidelines in the EPA publication "Pest Control in the School Environment: Adopting Integrated Pest Management".

B. Pesticide applications for wood destroying insects shall be applied by a structural pest control operator licensed under the provisions of R.S. 3:3368.

Acts 1995, No. 237, §1.

§3387. Employment of certified commercial applicators by school systems

A. School systems having ten or more schools shall employ at least two certified commercial applicators.

B. School systems having less than ten schools shall employ at least one certified commercial applicator.

Acts 1995, No. 237, §1.

§3388. Annual integrated pest management plan

A. The governing authority of each school, including but not limited to superintendents, headmasters, school boards, boards of directors, chief executive officers, or principals, shall prepare and submit, for each school under its authority, an annual integrated pest management plan that applies integrated pest management strategies of pest prevention methods and strongly recommends the least toxic methods of control for grass and weed control, and rodent and general pest control in, on, or around school structures and grounds.

B. The annual integrated pest management plan shall include but shall not be limited to the following:

(1) The school name, mailing address, physical address, telephone number, and contact person.

(2) If a company or specific applicator enters into a contract to apply any herbicide, rodenticide, insecticide, or restricted use pesticide, the name and number of the owner/operator license or place of business permit and the certification number of the commercial applicator or licensee.

(3) The name and certification number of the certified commercial applicator for the school system.

(4) The brand name and EPA registration number of all pesticides to be used.

(5) The proposed location and dates for noncertified applicator training.

(6) A list of the following for each pesticide to be used:

(a) The pest to be controlled.

(b) The type of application to be used.

(c) The location of the application.

(d) Whether it is a restricted use pesticide or a general use pesticide.

C. The annual integrated pest management plan shall be submitted in writing to the director of pesticide and environmental programs for the Department of Agriculture and Forestry, on or before August first of each year and shall cover from August first of that year through July thirty-first of the following year.

D. The annual integrated pest management plan shall, upon request, be available for review by the commissioner and the general public in the business office of each school during regular school hours.

E. Any deviation from the submitted annual integrated pest management plan shall be delivered in writing to the director of pesticide and environmental programs no later than twenty-four hours prior to any pesticide application.

F. The annual integrated pest management plan shall not take the place of the recordkeeping requirements of R.S. 3:3243(G) and 3383.

G. Records of inspections, identification, monitoring, evaluations, and pesticide applications shall be maintained by the schools and submitted with the annual integrated pest management plan to the department annually on a form prescribed by the department.

Acts 1995, No. 237, §1.

§3389. Hypersensitive student registry; notification

Each school shall maintain a hypersensitive student registry listing the names of students whose parents have submitted a written statement to the school which shall include but not be limited to the student's name and address, parent's or guardian's signature, name, and address, and a written medical verification by a licensed physician which includes the physician's signature, name, and address.

Acts 1995, No. 237, §1.

PART IX. FORMOSAN TERMITE INITIATIVE

§3391.1. Short title

This Part shall be known and may be cited as the "Formosan Termite Initiative Act".

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.2. Purpose; legislative intent

The legislature hereby finds and declares that the Formosan termite has for many years been a public nuisance, a pest, and a menace to homes and buildings, live trees, agricultural crops, electronic and communication cables, wooden bridges, railroad ties, pilings, and other structures. The Formosan termite causes massive destruction and damage. The Formosan termite problem crosses all racial, ethnic, financial, and cultural barriers and has caused damage in historic as well as business and residential areas. The purpose of this initiative is to manage infestations and halt the spread of the Formosan termite. The legislature hereby finds and declares that the spread of the Formosan termite must be contained and brought to a controllable level.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.3. Definitions

As used in this Part, the following terms shall have the following meanings, except where the context expressly indicates otherwise:

- (1) "Commissioner" means the commissioner of the Department of Agriculture and Forestry or his duly authorized designee.
- (2) "Department" means the Louisiana Department of Agriculture and Forestry.
- (3) "Formosan suppression zone" means any area or areas of the state designated by the commissioner where Formosan termite suppression or control programs may be undertaken.
- (4) "Formosan termite" means the termite *Coptotermes formosanus* in any state of development.
- (5) "Infested" means having the presence of live Formosan termites.
- (6) "Person" means any individual, firm, company, corporation, partnership, society, association, governmental agency, political subdivision, public entity, or any other entity created by federal or state law or recognized by Louisiana law.
- (7) "Regulated article" means any infested material.

Acts 1999, No. 486, §1, eff. June 21, 1999; Acts 2001, No. 167, §1, eff. May 25, 2001.

§3391.4. Formosan Termite Initiative Project

The Formosan Termite Initiative Project is hereby created within the Department of Agriculture and Forestry under the supervision and direction of the commissioner.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.5. Powers and duties of the commissioner

A. The commissioner shall consult with any advisory group appointed by the executive or legislative branch and may adopt rules and regulations in accordance with the Administrative Procedure Act as he deems necessary to administer, enforce, and effectuate the provisions and purposes of this Part. The commissioner shall have the authority to seek the assistance of the Louisiana Agricultural Finance Authority to effect the provisions of this Part. All rules are subject to oversight review by the House and Senate Committees on Agriculture, Forestry, Aquaculture and Rural Development, the House Commerce Committee, and the Senate Commerce, Consumer Protection, and International Affairs Committee.

B. The commissioner shall have full power to regulate regulated articles and to prevent, suppress, and control the Formosan termite. The commissioner, through agents or otherwise, may perform any acts as may be necessary to control, to prevent the introduction, spread, or dissemination of Formosan termites, and to provide for the treatment, movement, or disposal of any and all regulated articles by the owner of such regulated articles who offers the regulated article for transportation or movement.

C. The commissioner may waive any rules or regulations adopted pursuant to Chapter 20 of this Title when the commissioner deems such waiver necessary or appropriate to implement a quarantine or a Formosan termite treatment program in a suppression zone.

D. The commissioner may, to the extent he deems necessary and appropriate for the implementation of the provisions of this Part or this project, delegate his powers and duties to the staff of the department.

E. The commissioner may employ a director and an assistant director who shall be unclassified employees. The commissioner may employ such other personnel as he deems appropriate with approval of the Joint Legislative Committee on the Budget. All such employees shall be under the direction and supervision of the commissioner. Any person performing services for the department under the provisions of this Part shall, in the performance of such services, be exempt from all provisions of Chapter 20 of this Title regulating the performance of such services but shall be subject to the conditions and restrictions imposed by the commissioner.

Acts 1999, No. 486, §1, eff. June 21, 1999; Acts 2001, No. 167, §1, eff. May 25, 2001; Acts 2003, No. 116, §1, eff. May 28, 2003; Acts 2003, No. 183, §1.

§3391.6. Cooperative agreement

The commissioner is authorized to carry out programs to suppress or control the Formosan termite in the state. The commissioner is authorized to cooperate with and may enter into cooperative endeavor agreements with any agency of the federal government, any state, any other agency in the state or in the region, or any other person or groups of persons in order to effectuate and carry out the purposes and provisions of this Part. Such cooperative endeavor agreements may provide for cost sharing and for division of duties and responsibilities under this Part and may include other provisions generally to effectuate and carry out the purposes and provisions of this Part.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.7. Quarantine

A. In order to preserve public health and welfare and to prevent the dissemination or spread of Formosan termites into uninfested areas of the state, the commissioner shall have the power to declare and enforce a quarantine of any infested structure, premises, or regulated article in any parish or municipality.

B. A quarantine shall go into effect immediately upon being declared by the commissioner, unless a later effective date is stated in the declaration of quarantine. Upon declaring the quarantine, the commissioner shall cause the quarantine to be published, within five working days of declaration, in the

official journal of the state and shall publish the quarantine in the next available Louisiana Register. Failure to publish the quarantine as provided shall cause the quarantine to expire twenty-one days from the date of declaration.

C. The commissioner may lift a quarantine by publishing a declaration lifting the quarantine in the same manner as required for declaration of a quarantine.

D. The declaration of quarantine shall detail a concise statement of the facts supporting the declaration, the geographical area of quarantine, the date the quarantine is to begin, and the objectives of the quarantine.

E. The shipment or movement of regulated articles from any quarantine area of the state is prohibited until such time as the quarantine has been lifted, unless such shipment or movement is in accordance with procedures for the shipment or movement of regulated articles established by the commissioner by rule or such shipment or movement is by special written permission of the commissioner.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.8. Formosan termite suppression zones; creation of suppression and control programs

A. The commissioner may designate one or more areas of the state as Formosan termite suppression zones where Formosan termite treatment, control, or suppression programs may be undertaken.

B. The designation of an area as a suppression zone shall define the geographical limits of the suppression zone, establish the effective date of the creation of the suppression zone, and state the nature of the Formosan termite treatment, control, or suppression program that may be conducted in that suppression zone, and the date such treatment may begin.

C. A designation of an area as a suppression zone shall go into effect immediately upon being declared by the commissioner, unless a later effective date is stated in the declaration. Upon declaring an area as a suppression zone, the commissioner shall cause the declaration to be published, within five working days of signing, in the official journal of the state and shall publish the declaration in the next available Louisiana Register. Failure to publish the declaration of a suppression zone as provided shall cause the suppression zone to expire twenty-one days from the date of declaration.

D. The commissioner may lift a designation of an area as a suppression zone by publishing a declaration revoking the designation in the same manner as required for declaration of a suppression zone.

E. The commissioner may determine the nature and extent of the treatment program needed, the nature, type, and amount of termiticide to be used, and the frequency of application and may devise a plan for the implementation of the treatment program.

F. Pursuant to the Louisiana Underground Utilities and Facilities Damage Prevention Law, upon declaration of a suppression zone, the commissioner shall notify a regional notification center. Upon receipt of notice, a regional notification center shall give notice of intent for treatment and shall notify all member operators having underground utilities or facilities in or near the sites to be drilled or bored under the treatment program so that the treatment may proceed in a timely manner.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.9. Entry of premises; inspections

A. The commissioner or his authorized agents, upon reasonable notice and during reasonable hours with consent of the owner, renter, or the lessee if the property is under lease, may enter any dwelling, building, structure, premises, or any other property within the state when circumstances would lead a reasonable man to suspect that Formosan termites may be present in order to inspect for Formosan termite infestation, and to carry out suppression or control activities, including but not limited to

treatment with pesticides, sampling, monitoring, and destruction of Formosan termites or regulated articles, as may be necessary to carry out the provisions and purposes of this Part.

B. In the event that the owner, renter, or the lessee, if the property is under lease, does not consent to the entry to any dwelling, building, structure, premises, or any other property within the state for the purpose of carrying out the provisions of this Part or any other activities authorized by this Part, the commissioner or his duly authorized agent may apply to the court of proper jurisdiction and venue where the entry is to occur for an order or orders authorizing the right of entry to any such property for the purposes of carrying out the provisions or purposes of this Part or any other activities authorized by this Part. Notwithstanding any provision of law giving precedence to any other matter, any motion by the commissioner for authority to enter any property made pursuant to this Subsection shall take precedence over all matters except pending motions for the right of entry under this Subsection and shall be taken up by the court at the earliest possible time.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.10. Investigations

The commissioner may conduct an investigation when he has reasonable grounds to believe that a violation of the provisions of this Part or the rules or regulations adopted pursuant to this Part has occurred. In connection with such investigation, the commissioner may issue and serve subpoenas to compel the attendance of witnesses or the production of documents and records anywhere in the state in accordance with the Administrative Procedure Act.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.11. Regulated articles; stop orders

A. When the commissioner believes that a violation of the provisions of this Part, of the rules or regulations adopted pursuant to this Part, or of any quarantine imposed by the commissioner has occurred or is reasonably expected to occur, the commissioner may issue a stop order prohibiting the use, shipment, movement, distribution, or disturbance of the regulated article or material involved in the violation. Stop orders shall be served in the same manner as provided for the service of subpoenas under the Administrative Procedure Act.

B. Any person aggrieved by a stop order may petition the commissioner, in writing and within thirty days of the stop order, to hold a hearing on the matter. Such hearing shall be held in accordance with the Administrative Procedure Act.

C. Based upon the results of the hearing or based upon a consent agreement mutually entered into by the commissioner and the person subject to the stop order, the commissioner may order the regulated article or material to be either:

- (1) Released from the stop order according to the terms and conditions the commissioner deems proper.
- (2) Disposed of by the person according to the terms and conditions the commissioner deems proper.
- (3) Destroyed according to the terms and conditions the commissioner deems proper.
- (4) Otherwise disposed of according to the terms and conditions the commissioner deems proper.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.12. Enforcement; civil penalties

A.(1) In order to enforce the provisions of this Part, the rules or regulations adopted pursuant to this Part, or any quarantine declared or stop order issued by him or in order to implement a treatment program, the commissioner may:

- (a) Seek and obtain from a court of proper jurisdiction and venue an order or orders of enforcement.
- (b) Seek and obtain injunctive relief from any court of proper jurisdiction and venue to restrain and prevent violations.

(c) Institute civil proceedings for enforcement in any court of proper jurisdiction and venue.

(2) The commissioner may request the awarding of costs and attorney fees in any court proceeding brought pursuant to this Section.

B.(1) The commissioner may impose civil penalties for violations of the provisions of this Part, the rules or regulations adopted pursuant to this Part, or any quarantine declared or stop order issued by him.

(2) Any civil penalties imposed shall not exceed five thousand dollars per offense. Each day on which a violation occurs shall be considered a separate offense.

(3) Civil penalties shall be imposed only on the basis of an adjudication of violations pursuant to an adjudicatory hearing held in accordance with the Administrative Procedure Act.

(4) The commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner by rule shall determine the amount of costs to be assessed.

C. All assessments, fees, penalties, and other funds received under the provisions of this Part shall be deposited immediately upon receipt into the state treasury.

Acts 1999, No. 486, §1, eff. June 21, 1999; Acts 2012, No. 834, §1, eff. July 1, 2012.

§3391.13. *Repealed by Acts 2012, No. 834, §13, eff. July 1, 2012.*

CHAPTER 20-A. PEST CONTROL COMPACT

§3396.1. Pest Control Compact; Louisiana's participation

The Pest Control Compact, the full text of which is hereinafter set forth and confirmed by the Louisiana legislature, is hereby enacted into law and entered into with all other jurisdictions legally joining therein. The full text of said compact is as follows:

PEST CONTROL COMPACT

ARTICLE I. FINDINGS

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under the Compact, the annual loss of approximately one hundred thirty-seven billion dollars from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of the varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crops and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an Insurance Fund, from which individual states may

obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interest, the most equitable means of financing cooperative pest eradication and control programs.

ARTICLE II. DEFINITIONS

As used in this Compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the Compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in Paragraph (b) of this Article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in crops, trees, shrubs, grasses, or other plants of substantial value.

(e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this Compact.

(f) "Governing board" means the administrators of this Compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this Compact.

(g) "Executive committee" means the committee established pursuant to Article V(e) of this Compact.

ARTICLE III. THE INSURANCE FUND

There is hereby established a Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this Compact. The Insurance Fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this Compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the Insurance Fund shall not accept any donation or grant whose terms are inconsistent with any provision of this Compact.

ARTICLE IV. THE INSURANCE FUND;

INTERNAL OPERATIONS AND MANAGEMENT

(a) The Insurance Fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and the executive committee pursuant to this Compact shall be deemed the actions of the Insurance Fund.

(b) The members of the governing board shall be entitled to one vote on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes on the governing board is cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

(c) The Insurance Fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

(d) The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve

at the pleasure of the governing board. The governing board shall make provision for the bonding of such of the officers and employees of the Insurance Fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Insurance Fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The Insurance Fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.

(g) The Insurance Fund may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, utilize and dispose of the same. Any donation, gift, or grant accepted by the governing board pursuant to this Paragraph or services borrowed pursuant to Paragraph (f) of this Article shall be reported in the annual report of the Insurance Fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for conducting the business of the Insurance Fund and shall have the power to amend and rescind these bylaws. The Insurance Fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The Insurance Fund annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. The Insurance Fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the Insurance Fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this Compact.

ARTICLE V. COMPACT AND INSURANCE FUND ADMINISTRATION

(a) In each party state there shall be a Compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the Compact in his state; and
2. Represent his state on the governing board of the Insurance Fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefore within the federal government, the United States may be represented on the governing board of the Insurance Fund by not to exceed three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or the executive committee thereof.

(c) The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the Insurance Fund and, consistent with the provisions of the Compact, supervising and giving direction to the expenditure of moneys from the Insurance Fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee, or a majority of the membership of the governing board.

(d) At such times as it may be meeting, the governing board shall pass upon applications for assistance from the Insurance Fund and authorize disbursements therefrom. When the governing board

is not in session, the executive committee shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

(e) The executive committee shall be composed of the chairman of the governing board and four additional members of the governing board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, one such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least four members of such committee are present and vote in favor thereof. Necessary expenses of each of the five members of the executive committee incurred in attending committee meetings, when not held at the same time and place as a meeting of the governing board, shall be charged against the Insurance Fund.

ARTICLE VI. ASSISTANCE AND REIMBURSEMENT

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this Compact.
2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this Compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys available from the Insurance Fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the Insurance Fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the Compact.
2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.
3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefore, in connection with the eradication, control, or prevention of introduction of the pest concerned.
4. Proof that the expenditures being made or budgeted as detailed in Item 3 of this Paragraph do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in Item 3 of this Paragraph constitutes a normal level of pest control activity.

5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the Compact in the particular instance can be abated by a program undertaken with the aid of moneys from the Insurance Fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.

6. Such other information as the governing board may require consistent with the provisions of this Compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. Such notice shall be given to the Compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by Paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this Compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or executive committee may meet at any time or place for the purpose of receiving and considering an application. Any determinations of the governing board or executive committee, with respect to an application, together with the reasons therefore shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members.

(f) A requesting state which is dissatisfied with a determination of the executive committee shall upon notice in writing given within twenty days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this Compact may receive moneys from the Insurance Fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the Insurance Fund pursuant to an application of a requesting state, the Insurance Fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The Insurance Fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the Insurance Fund, cooperating federal agencies, states, and any other entities concerned.

ARTICLE VII. ADVISORY AND TECHNICAL COMMITTEES

The governing board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations upon request of the governing board or executive committee. An advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by such board or committee. The board or committee may receive and consider the same provided that any participant in a meeting of the governing board or executive committee held pursuant to Article VI(d) of the Compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

ARTICLE VIII. RELATIONS WITH NONPARTY JURISDICTIONS

(a) A party state may make application for assistance from the Insurance Fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to Article VI(d) of this Compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the Insurance Fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the Insurance Fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the Insurance Fund with respect to expenditures and activities outside of party states.

ARTICLE IX. FINANCE

(a) The Insurance Fund shall submit to the executive head or designated officer or officers of each party state a budget for the Insurance Fund for such period as may be required by the laws of that party state for a presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The request for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the Insurance Fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the Insurance Fund shall be maintained in two accounts to be designated respectively as the "Operating Account" and the "Claims Account." The Operating Account shall consist only of those assets necessary for the administration of the Insurance Fund during the next ensuing two-year period. The Claims Account shall contain all moneys not included in the Operating Account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the Insurance Fund for a period of three years. At any time when the Claims Account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget requests on a pro rata basis in such manner as to keep the Claims Account within such maximum limit. Any moneys in the Claims Account by virtue of conditional donations, grants, or gifts shall be included in calculations made pursuant to this Paragraph only to the extent that such moneys are available to meet demands arising out of the claims.

(d) The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund may meet any of its obligations in whole or in part with moneys available to it under Article IV(g) of this Compact, provided that the governing board take specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the Insurance Fund makes use of moneys available to it under Article IV(g) hereof, the Insurance Fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and report of the audit shall be included in and become part of the annual report of the Insurance Fund.

(f) The accounts of the Insurance Fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the Insurance Fund.

ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL

(a) This Compact shall enter into force when enacted into law by any five or more states. Thereafter, this Compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE XI. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating herein, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Acts 2008, No. 527, §1, eff. June 30, 2008.

§3396.2. Cooperation of state agencies

Consistent with laws and within available appropriations, the departments, agencies and officers of the state of Louisiana may cooperate with the Insurance Fund established by the Pest Control Compact.

Acts 2008, No. 527, §1, eff. June 30, 2008.

§3396.3. Filing of bylaws and amendments

Pursuant to Article IV(h) of the Compact, copies of bylaws and amendments shall be filed with the Louisiana Department of Agriculture and Forestry.

Acts 2008, No. 527, §1, eff. June 30, 2008.

§3396.4. Compact administrator

The Compact administrator for Louisiana shall be the commissioner of agriculture or his designee. The duties of the Compact administrator shall be deemed a regular part of the duties of this office.

Acts 2008, No. 527, §1, eff. June 30, 2008.

§3396.5. Request for assistance from Insurance Fund

A request or application for assistance from the Insurance Fund may be made by the commissioner of agriculture or his designee whenever in his judgment the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such request.

Acts 2008, No. 527, §1, eff. June 30, 2008.

§3396.6. Credit for expenditures

The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the Compact shall have credited to his account, in the state treasury the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof.

Acts 2008, No. 527, §1, eff. June 30, 2008.

**CHAPTER 21. AGRICULTURAL COMMODITY DEALER
AND WAREHOUSE LAW****§3401. Short title**

This Chapter may be cited as the Agricultural Commodity Dealer and Warehouse Law.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983.

§3402. Definitions

As used in this Chapter, the following terms shall have the meanings ascribed below:

(1) "Agricultural commodities" or "commodities" means cotton, all agricultural products commonly classed as grain, including rice, rough rice, corn, wheat, oats, rye, soybeans, barley, and grain sorghum, and any other agricultural commodity or other farm product which the commission may, by regulation, declare to be a commodity subject to this Chapter.

(2) "Authorized agent", with reference to the authorized agent of a warehouse or grain dealer, means any representative thereof whose name has been filed with the commission as required under R.S. 3:3408.

(3) "Commission" means the Louisiana Agricultural Commodities Commission.

(4) "Commissioner" means the Louisiana commissioner of agriculture and forestry.

(5) "Cotton agent" means every person, firm, corporation, association, or other legal entity who purchases or contracts to purchase cotton grown or to be grown by producers in this state for or on behalf of a cotton merchant and who is required to be a party to a notarized written agency agreement.

(6) "Cotton merchant" means every person, firm, corporation, association, or other legal entity who purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown by producers in this state.

(7) "Department" means the Louisiana Department of Agriculture and Forestry.

(8) "Farm products" means products employed directly in the cultivation, production, or harvesting of any agricultural commodities or containers for agricultural commodities or other farm products.

(9) "Grain" means corn, wheat, oats, rye, soybeans, barley, and grain sorghum.

(10) "Grain dealer" means any person who purchases any agricultural commodities from producers or represents producers in the sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.

(11) "Hedge" with respect to a contract to sell commodities means a secondary contract to buy commodities to protect the obligations incurred with respect to the contract to sell. "Hedge" with respect to a contract to buy commodities means a secondary contract to sell commodities to protect the obligations incurred with respect to the contract to buy.

(12) "Open" or "open position" means the grain dealer's contracts for purchase or sale of agricultural commodities which are unhedged.

(13) "Open storage" means any storage for which a warehouse receipt has not been issued.

(14) "Person" means any individual, partnership, company, firm, association, cooperative association, corporation, or any other legal entity engaged in any of the activities regulated under this Chapter.

(15) "Producer" means the owner, tenant, lessee, or operator of land within this state who has an interest in or receives all or any part of the proceeds from the sale of agricultural commodities produced thereon.

(16) "Risk position" means the loss potential to the grain dealer resulting from bringing its open position to market.

(17) "Warehouse" means any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or other farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and facilities which preserve the separate identities of different lots of agricultural commodities.

(18) "Warehouseman" means any person or other entity operating a warehouse.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1985, No. 793, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010.

§3403. Louisiana Agricultural Commodities Commission; creation; membership; terms; panels of nominees; filling of vacancies; oaths of office; per diem; quorum; domicile; meetings; successor to State Warehouse Commission

A. The Louisiana Agricultural Commodities Commission is hereby created within the Department of Agriculture and Forestry and shall consist of ten members, nine to be appointed by the commissioner as follows:

(1) One warehouseman appointed from a list of three persons nominated by the Rice Millers Association.

(2) One producer appointed from a list of three persons nominated by the Louisiana Soybean Association.

(3) One producer appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation.

(4) One banker who is familiar with the financing of businesses which store or market the commodities which are regulated under this Chapter, appointed from a list of three persons nominated by the Louisiana Bankers Association.

(5) One commodity broker who is licensed to trade on a commodity exchange and who is familiar with the trading of futures contracts affecting the commodities regulated under this Chapter, appointed from a list of three persons nominated by the commissioner.

(6) One owner or operator of an elevator which handles both rice and soybeans, appointed from a list of three persons nominated by the Louisiana Rice Dryers Association.

(7) One owner or operator of an inland elevator or barge-loading river facility or a licensed Louisiana grain dealer appointed from a list of three persons nominated by the Louisiana Ag Industries Association.

(8) One producer appointed from a list of three persons nominated by the American Rice Growers Association.

(9) One cotton merchant appointed from the state at large.

B. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

C. The tenth member shall be the commissioner of agriculture and forestry, who shall serve *ex officio*, but with all of the powers, rights, duties, and privileges as appointed members, including the right to vote on all matters before the commission.

D. Members shall serve terms concurrent with the commissioner making the appointment. The organizations herein authorized to make nominations for appointments to the commission shall file the initial list of nominees for appointment within sixty days after the effective date of this Section. Thereafter, each organization shall file a list of nominees with the commissioner no later than June thirtieth of the year of the beginning of the commissioner's term.

E. Except as provided herein, vacancies shall be filled in the same manner as original appointments for the unexpired portion of the term. Whenever a vacancy occurs, the organization authorized to make nominations for appointment to the vacant position shall file a list of nominees with the commissioner within sixty days after the vacancy occurs. The commissioner shall make all appointments no later than sixty days after the submission of the list of nominees. Whenever the commissioner fails to make such appointments within sixty days, the industry regulated by this Chapter being vital to the agriculture of this state, the governor may appoint such members. Members appointed by the governor shall enjoy all of the powers, duties, rights, and privileges as members appointed by the commissioner.

F. All members shall take and subscribe to the oath of office prescribed for state officials. Members shall serve until their successors are appointed and qualified.

G. Appointed members of the commission shall be entitled to receive a per diem not in excess of forty dollars and to be reimbursed for mileage expenses in accordance with the same travel regulations applying to state employees.

H. Five members shall constitute a quorum for the transaction of official business. All official actions of the commission shall require the affirmative vote of five members of the commission.

I. The commission shall be domiciled in Baton Rouge.

J. The commission shall meet four times per calendar year, but may meet more frequently upon the call of the chairman.

K. The Louisiana Agricultural Commodities Commission shall be the successor of the State Warehouse Commission created under Act 330 of 1980.

Added by Acts 1982, No. 563, §1, eff. July 22, 1982; Acts 1985, No. 69, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2013, No. 113, §1.

§3404. Officers and employees

A. At the first meeting of the commission, the members shall elect, from their membership, a chairman, vice-chairman, and such other officers as the commission may deem advisable.

B. The commission, with the approval of the commissioner, shall appoint a director and an assistant director who shall be in the unclassified service of the state. The director and assistant director may perform any other duties and functions which he or the commission consider necessary or desirable to carry out the purposes of this Chapter.

Added by Acts 1982, No. 563, §1, eff. July 22, 1982; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3405. Powers and duties of the commission

A. The commission shall:

(1) Adopt rules and regulations necessary to enforce the provisions of this Chapter, including rules to establish criteria for granting or denying licenses. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

(2) Examine and investigate the qualifications of any applicant seeking licensure under this Chapter and determine the eligibility for licensure of each applicant.

(3) Issue licenses to warehouses regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate, provided that the commission shall require such warehouses to be of sound construction and to be bonded and insured as required under this Chapter.

(4) Issue licenses to grain dealers, provided that such persons shall be bonded and insured as required under this Chapter.

(5) Require each warehouse licensed under this Chapter to use only such warehouse receipts and scale tickets as may be furnished or approved by the commission, provided that such warehouse receipts and scale tickets shall be sequentially pre-numbered.

(6) Promulgate regulations setting forth the procedure whereby a farm product shall be regulated under this Chapter prior to the imposition of any requirement relative to the farm product.

(7) Regularly and at least once during each license period, examine, inspect, and audit each licensee under this Chapter.

(8) Issue licenses to cotton merchants regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate.

B. The commission may:

(1) *Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.*

(2) Establish reasonable guidelines for and require the submission of inventory reports.

(3) Require each person licensed under this Chapter to submit such reports as are necessary for the proper and efficient administration of this Chapter.

(4) Declare, by regulation, any agricultural commodity or other farm product to be subject to this Chapter.

(5) Establish and impose civil penalties for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act. Each day on which any violation occurs shall be considered a separate offense. No penalty may be imposed unless a violation is substantiated in an adjudicatory proceeding by the commission under Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950. The commission may not impose any penalty in excess of one thousand dollars for each single day on which a violation occurs.

(6) Suspend or revoke the license of any warehouse, cotton merchant, or grain dealer licensed under this Chapter for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act, provided that no license shall be revoked in the absence of an adjudicatory proceeding by the commission in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(7) Sue on behalf of any producer, solely for the use and benefit of the producer, who is injured by the breach of any obligation secured by the bond required under this Chapter.

(8) Initiate legal proceedings seeking injunctive relief to restrain violations of this Chapter, the rules and regulations adopted by the commission, or the rulings of the commission. Venue for these proceedings shall be in the district court for the parish in which the violation occurred.

Added by Acts 1982, No. 563, §1, eff. July 22, 1982 and Jan. 1, 1983. Acts 1983, No. 8, §1; Acts 1983, No. 10, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §§1, 2, eff. June 30, 2010.

§3406. Powers and duties of the commissioner

A. The commissioner shall administer and enforce this Chapter in accordance with the rules and regulations promulgated by the commission. In the administration and enforcement of this Chapter, the commissioner and his duly constituted representatives are specifically authorized to do the following:

(1) Enter the premises of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, at any reasonable time during normal working hours, for the purpose of making any examination or any inspection of the premises and the contents thereof as may be necessary.

(2) Examine, copy, and audit the accounts, books, and records, including stock records, position records, balance sheets, scale tickets, and warehouse receipts of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, including all warehouses or grain dealers, or both, licensed under the United States Warehouse Act, as amended, and any applicant for licensure under this Chapter, or as otherwise permitted under this Chapter.

(3) Weigh and ascertain, by grading, the quality of any agricultural product regulated under this Chapter and certify such weight and grade.

B. The commissioner shall appoint and employ all personnel necessary for the efficient and proper administration of this Chapter, except as provided in R.S. 3:3404(B).

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2011, No. 138, §1, eff. June 24, 2011.

§3407. Seizure by commission

A. The commissioner, with the prior approval of the commission, may institute legal proceedings by petition in the district court for the district in which the licensee is located for an order authorizing the commissioner to effect a seizure of the facilities of the licensee and to act as receiver thereof whenever any of the following conditions occur:

(1) The licensee does not have sufficient commodities to cover the outstanding warehouse receipts and scale tickets marked for storage issued by the licensee.

(2) The licensee does not have sufficient funds to operate its business and is in imminent danger of being unable to continue to operate its business.

(3) The licensee is unable to fulfill its obligations to producers.

(4) The licensee refuses to submit to a lawful inspection or audit ordered by the commission.

B. Immediately upon the filing of the petition alleging the commission's approval and the existence of any condition set forth in Subsection A of this Section, the court shall issue an ex parte order authorizing the commissioner to effect a temporary seizure of the facilities of the licensee and to act as temporary receiver thereof. This order shall remain in effect until the conclusion of a hearing on the petition which hearing shall be held within ten days after the filing of the petition.

C. The commission may require, on an emergency basis without the necessity of court approval for a period of not more than five days, any licensee to operate under its supervision prior to or during any proceedings leading to the appointment of a receiver as provided under this Section.

D. Whenever the commissioner is appointed to act as receiver he shall continue to act as receiver until all of the assets of the licensee have been distributed to the creditors of the licensee or until ordered by the district court to surrender possession of the assets of the licensee.

E. As part of the receivership, the commissioner may recover from the assets of the licensee the costs of administering the receivership, including the cost of liability insurance for the commission, the commissioner, and employees who are engaged in the administration of the receivership.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010.

§3408. Contents of application for and renewal of warehouse license, cotton merchant license, and grain dealer license

A. The application for licensure as a warehouse, cotton merchant, or grain dealer shall contain:

(1) The name and business address of the applicant.

(2) If the applicant is a corporation or other business entity, the names and addresses of the principal officers of the corporation or other business entity.

(3) If the applicant is a trade, cooperative, or other type of association, the names and addresses of the board of directors of such association.

(4) The kinds of agricultural commodities which the applicant proposes to store or trade.

(5) The address and the capacity of the principal place of business of the applicant.

(6) The address and the capacity of any other locations within the state where the applicant will engage in the business of storing agricultural commodities or buying and selling agricultural commodities on a regular basis.

(7) A current financial statement which shall include, but not be limited to, the following:

(a) A balance sheet.

(b) A statement of income (profit and loss).

(c) A statement of retained earnings.

(d) A statement of cash flows.

(8) The financial statement shall be one of the following types of statements:

(a) A compilation, or compiled statement.

(b) A review, or reviewed statement.

(c) An audit, or audited statement.

(9) Except as otherwise provided in Chapter 2 of Title 37 of the Louisiana Revised Statutes of 1950, the financial statement shall be prepared by an accountant who is not a full-time employee of the applicant and who meets at least one of the following requirements:

(a) Is a certified public accountant.

(b) Is a graduate of an accredited four-year college or university with a degree in accounting.

(c) Has passed the examination administered by the National Society of Accountants.

(10) All financial statements shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, under penalty of perjury as provided in R.S. 14:123, that the financial statement accurately reflects the financial condition of the applicant for the period covered in the statement. Only one financial statement shall be required for a chain of warehouses covered by a single warehouse license. The initial application for a license shall be accompanied by the warehouse's, cotton merchant's, or grain dealer's most recent financial statement. Thereafter, all financial statements shall be filed within ninety days after the close of the grain dealer's, cotton merchant's, or warehouse's fiscal year.

(11) Any additional information which the commission may require.

B. The application for annual renewal of the said licenses shall contain the same information as required under Subsection A of this Section.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983. Acts 1983, No. 11, §1; Acts 1984, No. 951, §1; Acts 1990, No. 121, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2012, No. 145, §1, eff. May 14, 2012.

§3409. Warehouse license required prior to operation of warehouse; demonstration of competency; renewal; fees; licensed capacity; prohibition

A. No person shall operate a warehouse wherein any agricultural commodities or other farm products are stored and a fee is charged for such storage unless licensed under this Chapter or under the United States Warehouse Act, as amended.

B. The applicant for a warehouse license shall file the application described in R.S. 3:3408 and demonstrate its competency to engage in the business of operating a warehouse.

C. Each license issued by the commission under this Section shall specify on the face thereof that it is a warehouse license and shall be posted in all warehouse locations.

D. Each warehouse license issued by the commission shall be valid until June 30 following date of issue and shall be renewed on or before July 1 of each year.

E. The fee for the issuance and the annual renewal of any warehouse license shall be two hundred dollars.

F. Each license shall cover all facilities which are owned and/or leased by the entity to whom the license is issued and used by the entity in the conduct of its business as a warehouse.

G. Each license shall specify the licensed capacity of each facility covered by the license.

H. The bond and provisional stock insurance required under R.S. 3:3410 shall be executed and filed with the commission prior to issuance of the license and shall be kept in full force and effect as a condition of continuing licensure.

I. Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.

J. No warehouse license shall be issued unless the facility to be licensed is suitable for the storage of the agricultural commodity to be stored therein. The commission may suspend or revoke any warehouse license whenever any licensed facility becomes unsuitable for storage of the agricultural commodity for which it is designed.

K. No person holding a warehouse license shall engage in any other activities regulated under this Chapter unless he holds a license issued by the commission to engage in such activities.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §2, eff. June 30, 2010; Acts 2012, No. 145, §1, eff. May 14, 2012.

§3410. Bond required as a condition of warehouse license, time of filing; amount of bond, minimum and maximum; approval; notice of cancellation; changes in licensed capacity; insurance; alternate security; failure to maintain bond and insurance in full force and effect

A. Each applicant for a warehouse license shall, prior to issuance of the license, execute and file with the commission a surety bond, issued by a bonding or surety company authorized to do business in this state and conditioned upon (1) the faithful performance of all duties and obligations to the patrons of the warehouse, and (2) compliance with this Chapter and the rules and regulations adopted pursuant hereto.

B. The bond shall cover the same facilities covered by the warehouse license.

C. The amount of the bond shall be determined by the total licensed capacity of the facilities to be covered by the bond, as follows:

- (1) Twenty cents per bushel for the first million bushels of licensed capacity.
- (2) Fifteen cents per bushel for the second million bushels of licensed capacity.
- (3) Ten cents per bushel for all bushels over two million bushels of licensed capacity.

D. In any case, the net amount of the bond shall not be less than twenty-five thousand dollars and not more than five hundred thousand dollars.

E. Each bond shall be approved by the commission prior to the issuance of the warehouse license.

F. Each bond shall provide for ninety days written notice to the commission prior to cancellation.

G. Whenever the licensed warehouse capacity changes, the amount of the bond shall be amended to conform with the current licensed capacity of the facility or facilities covered by the bond.

H. The commission may accept alternate security in lieu of the bond required under Subsection C of this Section. The alternate security shall be in the same amount as the amount of the bond required in Subsection C of this Section and shall be in one of the following forms:

(1) A certificate of deposit from a lending institution whose deposits are insured by an agency of the federal government.

(2) An irrevocable letter of credit from a lending institution whose deposits are insured by an agency of the federal government.

(3) A first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least one hundred fifty percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security.

I. The commission shall require the licensed warehouse to maintain provisional stock insurance issued by an insurance company authorized to do business in this state for protection against fire and other disasters in an amount proportionate to the licensed capacity of the facility, for the full market value of all commodities located in the licensed facility, which insurance shall provide for thirty days written notice to the commission prior to cancellation.

J. The commission may suspend or revoke the license of any warehouse which fails to maintain the required bond and insurance in full force and effect.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1986, No. 1068, §1, eff. July 17, 1986; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2012, No. 145, §1, eff. May 14, 2012.

§3410.1. Self-insurance fund

A. The commission may operate a program of self-insurance for warehouses, grain dealers, and cotton merchants licensed under this Chapter.

B. The insurance shall be limited to the amount of the bonds required by R.S. 3:3410, 3411, and 3411.1, and shall be accepted in lieu of those bonds.

C. The commission may charge fees for participation in the program established in this Section. The amount of the fees shall be fixed by rule adopted in accordance with the Administrative Procedure Act.

D. The fees charged under this Section shall be subject to the following provisions:

(1) All fees shall be deposited immediately upon receipt in the state treasury.

(2) After compliance with the requirements of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the Agricultural Commodity Commission Self-Insurance Fund. The monies in this fund shall be used solely as provided in Paragraph (3) of this Subsection and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of each fiscal year shall remain in this fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to this fund, again, following compliance with the requirement of Article VII, Section 9 relative to the Bond Security and Redemption Fund.

(3) The monies in the Agricultural Commodity Commission Self-Insurance Fund shall be used solely for the administration and operation of the program of self insurance provided for in this Section.

Acts 1986, No. 1068, §1, eff. July 17, 1986; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3410.2. Grain and Cotton Indemnity Fund; creation; assessment; rules and regulations; suspension of assessment; eligibility for reimbursement; availability of money; prorated claims; reimbursement for administrative expenses; failure to pay; subrogation

A. The commission may operate a Grain and Cotton Indemnity Fund for grain dealers and cotton merchants licensed under this Chapter.

B. The commission shall charge an assessment at the rate of one twenty-fifth of one percent on the value of all agricultural commodities regulated under this Chapter which are sold to grain dealers and cotton merchants. The assessments shall be due and payable to the commission by the licensee at the first point of sale.

C. The assessments charged under this Section shall be subject to the following provisions:

(1) All assessments collected pursuant to this Section shall be deposited immediately upon receipt in the state treasury.

(2) After compliance with the requirements of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the Grain and Cotton Indemnity Fund. The monies in this fund shall be used solely as provided in Paragraph (3) of this Subsection and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of each fiscal year shall remain in this fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to this fund, again, following compliance with the requirement of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

(3) The monies in the Grain and Cotton Indemnity Fund shall be used solely for the administration and operation of the Grain and Cotton Indemnity Fund provided for in this Section.

(4) The assessment shall not apply to grain or cotton purchased or contracted prior to August 15, 2008.

D. The commission shall adopt rules and regulations, in accordance with the Administrative Procedure Act, necessary for the efficient administration of the Grain and Cotton Indemnity Fund. Such rules shall include:

- (1) Procedures for claims on the Grain and Cotton Indemnity Fund.
- (2) Reimbursement limitations for each producer.
- (3) Any rules and regulations necessary for the administration of the Grain and Cotton Indemnity Fund.
- (4) The establishment of civil penalties for violations of this Section.

E. At the end of the calendar quarter in which the Grain and Cotton Indemnity Fund reaches a level of six million dollars, the commission shall suspend collection of the assessment required by this Section. If after suspension of collection the balance in the fund is less than three million dollars, the commission shall require collection of the assessment.

F. A producer shall be eligible to receive indemnity payments from the Grain and Cotton Indemnity Fund if:

- (1) The licensed grain dealer becomes insolvent after January 1, 2008.
- (2) The licensed cotton merchant becomes insolvent.
- (3) The licensed grain dealer or cotton merchant, as a result of the insolvency, does not fully compensate the producer in accordance with a sale.

G. Upon the insolvency of a licensed grain dealer or cotton merchant, the commission shall make the proceeds of the Grain and Cotton Indemnity Fund available for use in meeting the licensee's obligations with respect to the reimbursement of any producer who sold grain or cotton to the licensee and who was not fully compensated.

H. If claims for indemnity payments from the Grain and Cotton Indemnity Fund exceed the amount in the fund, the commission shall prorate the claims and pay the prorated amounts. As future assessments are collected, the commission shall continue to forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Section.

I. Expenses incurred by the commission in administering the Grain and Cotton Indemnity Fund shall be reimbursable from the fund.

J. Any licensee who knowingly or intentionally refuses or fails to collect the assessment required under this Section or to submit any assessment collected from producers to the commission for deposit in the Grain and Cotton Indemnity Fund shall be subject to civil penalties.

K. Money paid from the Grain and Cotton Indemnity Fund in satisfaction of a valid claim constitutes a debt obligation of the person against whom the claim was made. The commission may take action on behalf of the fund against a person to recover the amount of payment made, plus costs and attorney fees. Any recovery for reimbursement to the fund shall include interest computed at the United States Treasury two-year note rate following rules promulgated by the department. Upon payment of a claim from the Grain and Cotton Indemnity Fund, the claimant shall subrogate its interest, if any, to the commission in a cause of action against all parties, to the amount of the loss that the claimant was reimbursed by the fund.

Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010.

§3411. License to buy or sell agricultural commodities; posting requirements for grain dealers; duration of license; bond required as a condition of a grain dealer license, time of filing, amount of bond, notice of cancellation, alternate security; failure to maintain bond and stock insurance

A. No person shall engage in the business of buying and/or selling agricultural commodities from producers unless licensed by the commission. Cotton merchants shall be licensed as provided in R.S. 3:3411.1.

B. Each applicant for a grain dealer license shall file the application described in R.S. 3:3408 and demonstrate its competency to engage in the business of buying or selling agricultural commodities prior to licensure.

C. Each license issued by the commission under this Section shall specify on the face thereof that it is a grain dealer license, and shall be posted by the licensee in its principal place of business in this state.

D. Each license issued by the commission shall be valid until June thirtieth following the date of issue and shall be renewed on or before July first of each year.

E. The fee for issuance and renewal of each license shall be two hundred dollars.

F. Prior to the issuance of the license, each applicant for a grain dealer license shall execute and file with the commission a surety bond in the amount of fifty thousand dollars, issued by a bonding or surety company authorized to do business in this state and conditioned upon (1) the faithful performance of all duties and obligations to producers, and (2) compliance with this Chapter and the rules and regulations adopted pursuant hereto. Each bond shall provide for ninety days written notice to the commission prior to cancellation.

G. The commission may accept alternate security from grain dealers in lieu of the bond required under Subsection F of this Section. The alternate security shall be in the same amount as the amount of the bond required in Subsection F of this Section and shall be in one of the following forms:

(1) A certificate of deposit from a lending institution whose deposits are insured by an agency of the federal government.

(2) An irrevocable letter of credit from a lending institution whose deposits are insured by an agency of the federal government.

(3) A first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least one hundred fifty percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security.

H. The commission shall require every licensed grain dealer to maintain a sufficient amount of provisional stock insurance issued by an insurance company authorized to do business in this state to provide adequate protection against fire and other disasters, for the full market value of all agricultural commodities physically in the possession of the grain dealer, which insurance shall provide for thirty days written notice to the commission prior to cancellation.

I. The commission may suspend or revoke the license of any grain dealer who fails to maintain the required bond and insurance in full force and effect.

J. Each grain dealer who issues grades for grain shall employ a grain grader and sampler who is certified to grade and sample the grains for which the grain dealer issues grades.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1985, No. 793, §1; Acts 1986, No. 1068, §1, eff. July 17, 1986; Acts 1986, No. 302, §1; Acts 1997, No. 1034, §1; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §2, eff. June 30, 2010; Acts 2012, No. 145, §1, eff. May 14, 2012.

§3411.1. License required prior to engaging in business of buying or selling cotton; security requirements; agent agreements

A.(1) Any cotton merchant who purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown in this state shall be licensed by the commission before

purchasing or contracting to purchase such cotton. The license shall authorize cotton merchants and their cotton agents to purchase or enter into contracts to purchase cotton grown or to be grown in this state.

(2)(a) Each license issued by the commission under this Section shall specify on the face thereof that it is a cotton merchant license. A copy of the license shall be posted by the licensee in all places of business.

(b) Each license issued by the commission shall be valid until June thirtieth following the date of issue and shall be renewed on or before July first of each year.

(c) The fee for issuance and renewal of each license shall be two hundred dollars.

B.(1) Before such a license shall be issued to a cotton merchant, the applicant shall furnish a bond in the amount of fifty thousand dollars conditioned upon:

(a) The good faith performance of contracts entered into with cotton farmers for cotton sold.

(b) Compliance with this Chapter and the rules and regulations adopted pursuant hereto.

(2) The premiums and all expenses of the bond shall be borne by the cotton merchant. The bond shall be signed by a surety company authorized to do business in this state with security in favor of the commission, and shall be subject to the approval of the commission as to form and sufficiency. Such bond shall be filed with the commission where it shall be subject to public inspection. Each bond shall provide for no less than ninety days written notice to the commission prior to cancellation.

C.(1) The commission may accept alternate security from a cotton merchant in lieu of the bond required under Subsection B of this Section. The alternate security shall be in the same amount as the bond required in Subsection B of this Section and shall be either:

(a) A certificate of deposit from a lending institution whose deposits are insured by an agency of the federal government.

(b) An irrevocable letter of credit from a lending institution whose deposits are insured by an agency of the federal government.

(c) Any other security determined to be adequate by the commission.

(2) The cotton merchant shall pay all fees involved in providing such security.

D. The commission may require the cotton merchant to submit to an examination and audit of its accounts, books, and records.

E. No cotton merchant shall purchase cotton grown or to be grown by producers in this state without having obtained the prescribed license from the commission as described in Subsection A of this Section. The commission may, for cause, revoke the license.

F. Each cotton agent shall have a written notarized agency agreement with all cotton merchants on whose behalf said cotton merchant acts. No cotton agent shall purchase cotton grown or to be grown in this state until he has obtained a written notarized agency agreement in a form approved by the commission. The commission may require the cotton agent entering into an agency agreement to submit to an examination and audit of his accounts, books, and records. The cost of any examination and audit shall be borne by the cotton agent. The commission may, for cause, revoke the authority of the cotton agent under any written notarized agency agreement.

Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2012, No. 12, §1.

§3412. Grounds for not issuing license

The commission may refuse to issue a license to any applicant for a warehouse license, cotton merchant license, or grain dealer license if the commission finds that the warehouse proposed for licensure is not suitable for the storage of agricultural commodities, or if the commission finds that the

applicant for a warehouse license, cotton merchant license, or a grain dealer license cannot demonstrate a net worth of one hundred thousand dollars, or is incompetent to conduct such warehouse, cotton merchant, or grain dealer business in accordance with this Chapter or the rules and regulations adopted pursuant hereto; or if there is any other sufficient reason within the intent of this Chapter for not issuing such warehouse, cotton merchant, or grain dealer license.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3413. Hedging requirement, grain dealer's maximum risk position; appeal from commission action; change of maximum risk position

A. Each grain dealer shall adhere to normal merchandising practices, as determined by the commission, in hedging its obligations. "Normal merchandising practices" means that each grain dealer shall achieve and maintain a relatively even hedge position within a reasonable period of time after each purchase of commodities.

B. In order to determine the risk position of any grain dealer, the commission may require the grain dealer to submit, in addition to the certified financial statement required as a part of the application for licensure, unaudited financial statements in the interim between the annual application for the renewal of the license. No grain dealer may maintain a risk position in excess of thirty percent of its current net worth, provided that the commission may specify a lower maximum risk position for any grain dealer in an amount having a reasonable relationship to that grain dealer's net worth.

C. Whenever the commission, on the basis of its inspection, examination, or audit of a grain dealer, anticipates a need for the establishment of a maximum risk position of less than thirty percent of the grain dealer's current net worth, the commission shall notify the grain dealer, as required by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950, to appear at a public hearing before the commission and show cause why such lower maximum risk position should not be established by the commission for the grain dealer. The grain dealer shall be allowed to appear in person or be represented by counsel at said public hearing and shall be afforded every reasonable opportunity to present data or arguments in support of its position. The commission shall not establish a maximum risk position of less than thirty percent of any grain dealer's current net worth prior to a hearing conducted pursuant to by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

D. The commission may from time to time revise the risk position established for any grain dealer. Whenever the commission proposes to revise the maximum risk position established for any grain dealer, the grain dealer shall be notified and a public hearing conducted as required by Subsection C hereof prior to any change in the maximum risk position established for any grain dealer.

E. Any grain dealer may request in writing at any time that the commission revise the risk position established for his business activities and the commission shall act upon its request at its next regular or special meeting.

F. Any grain dealer aggrieved by any action of the commission in revising its maximum risk position may seek judicial relief as provided by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

G. No cotton merchant shall be subjected to any type of hedging requirement.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3414. Written evidence required for contracts; quarterly statements on storage contracts

A. All contracts, other than contracts for spot sale, in which title shall pass shall be evidenced in writing.

B. In addition to the requirements provided in Subsection A of this Section, the warehouse shall provide a written statement to the producer who has contracted for storage on a quarterly basis. The statement shall include all charges and the rate of accrual of the charges.

C. An oral contract or agreement for the sale of grain capable of being hedged on any grain exchange evidenced by a written, unsigned confirmation of sale, mailed or electronically transmitted to the producer of the grain within five business days shall be deemed a signed contract evidenced in writing as provided in Subsection A of this Section and in Chapter 5 of Title III of Book III of the Louisiana Civil Code.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2006, No. 114, §1; Acts 2008, No. 299, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3414.1. Prompt payment

Each grain dealer who purchases grain from producers under a spot price or daily market contract shall pay the producer for the grain within ten working days after the day the grain is delivered pursuant to the contract of sale.

Added by Acts 1983, No. 340, §1.

§3414.2. Prompt payment for rice

A. The provisions of this Section shall apply to each transaction in which a purchaser buys rice from a producer under a bid contract.

B. As used in this Section, the following terms shall have the following meanings ascribed to them:

(1) "Bid contract" means an agreement between a producer and a purchaser under which the purchaser examines samples of rice and extends to the producer an offer to purchase the rice at a price based on the quality of the sample.

(2) "Confirmation date" means the date on which the bid contract was confirmed.

(3) "Confirmed" means the bid contract has been agreed to. A bid contract is confirmed when the producer and the purchaser agree to the quantity and price of the rice to be sold.

(4) "Delivery date" means the date on which the purchaser is required to take delivery of the rice, either under the provisions of this Section or under the provisions of a written agreement between the producer and the purchaser.

(5) "Person" means any individual, partnership, corporation, association, or other legal entity.

(6) "Purchaser" means any person who purchases rice from a producer under a bid contract.

C. Each purchaser shall take possession of the rice which is the subject of the bid contract no later than the fourteenth calendar day after the confirmation date unless the producer and the purchaser agree in writing that the purchaser shall take possession of the rice on a different delivery date.

D. If the purchaser does not take possession of the rice on or before any delivery date, the purchaser shall pay all storage and related charges for the storage of the rice after each delivery date, with such time not to exceed thirty days following each such delivery date.

E. After the thirtieth day following any delivery date, if the purchaser has not taken possession of the rice, the producer shall have the option to either continue to hold the rice for delivery to the purchaser, deliver the rice to another purchaser, or amend the original bid contract by mutual written consent.

F. Each purchaser shall pay for the rice purchased from each producer under a bid contract no later than the tenth calendar day after the purchaser takes possession of the rice or receives accurate distribution instructions from the seller, whichever is later.

G. If the purchaser does not make payment as required in Subsection F, the purchaser shall pay the producer interest on the purchase price at the legal rate of interest as established in R.S. 9:3500.

H. Any grain dealer acting solely as a commissioned agent for the producer in a bid contract transaction shall not be considered a purchaser or a producer in a bid contract where the actual purchasing grain dealer does not take possession of the rice.

Acts 1985, No. 482, §1; Acts 1986, No. 515, §1; Acts 2004, No. 580, §1.

§3414.3. Grain sampling and grading

A. The commission by rule shall adopt standards for sampling and grading grain. The standards shall include tolerances for the interpretive element of grading. The standards shall be consistent with the standards adopted by the United States Department of Agriculture for sampling and grading grain. The commission shall provide copies of any changes in the standards to each grain dealer prior to the date the changes become effective.

B. The commission may certify grain samplers and graders. The commission may conduct courses of instruction in the methods of sampling and grading grain in one or more locations throughout the state. Each person who displays an adequate knowledge of sampling and grading grain which is satisfactory to the commission shall be issued a certificate.

C. Each grain dealer who issues grades for grain shall sample and grade each load of grain delivered by a producer within seventy-two hours from the time the grain is delivered to the grain dealer.

D. Each grain dealer who issues grades for grain shall retain each sample of grain received from a producer which is subject to excessive deductions. The commission by rule shall determine the level of deductions which are excessive for each type of grain. This determination shall include deductions for all causes and shall be based upon the numerical grades determined for each type of grain by the United States Department of Agriculture. Samples of grain which are subject to excessive deductions shall be retained in separate containers and shall be retained for five days from the date the sample was graded.

E. Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.

F. If a dispute arises as to the grading of a sample which is subject to excessive deductions, the grain dealer, or the producer, or both, may request that the sample be regraded by the department. If a regrading is requested, the grain dealer shall provide the sample to the department.

G. The department may charge a fee for regrading a sample. The fee shall be fixed by the commission by rule in an amount not to exceed fifty dollars.

H. If the dispute is not resolved on the basis of the regrading, either party may introduce the results of the regrading in evidence in any legal action which results from the dispute.

I. The employees of the department may inspect randomly selected samples to determine if a grain dealer who issues grades for grain is taking samples and grading grain in accordance with the standards adopted by the commission. The department shall not charge for an inspection under the provisions of this Section. The sample shall be obtained, or the inspection performed, during the normal working hours of the grain dealer.

J. If a grain dealer who issues grades for grain does not take samples or grade grain in accordance with the standards adopted by the commission, the commission may place the grain dealer on probation. If the grain dealer continues to sample or grade grain incorrectly, or if the grain dealer fails to retain samples or to provide samples as required by this Section, the commission may suspend or revoke the grain dealer's license.

K. A grain dealer may be placed on probation and a grain dealer's license may be suspended or revoked only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

L. The department shall inspect, classify, and grade all grain subject to this Subsection. The department may charge a fee for inspecting, classifying, and grading grain. The fee shall be fixed by the commission by rule and shall be based on the actual cost of providing the service. The provisions of this Subsection shall not apply to grain sold for export nor to inbound grain intended for export shipment.

Acts 1985, No. 793, §1; Acts 1986, No. 316, §1; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2010, No. 767, §§1, 2, eff. June 30, 2010.

§3414.4. Prompt payment for cotton; suit on bond; private action; attorney fees

A. Any cotton merchant or cotton agent who purchases cotton from a producer shall pay the producer for the cotton within ten working days after the day the cotton is delivered, or pursuant to the contract of sale.

B. Any producer from whom cotton was purchased or contracted to be purchased and to whom money is due for cotton sold for future delivery as a result of the nonperformance of the cotton merchant or cotton agent shall have recourse on the bond or alternate security required to be furnished by this Chapter to the extent of the loss suffered by the producer, but such recovery against the bonding company or alternate security shall not exceed the amount of the bond or the alternate security. Limitation of liability as to the bonding company or alternate security shall not restrict suits against the cotton merchant or cotton agent for losses incurred in excess of the amount of the bond or alternate security. Suit may be brought in any parish where the crop or any part thereof was grown or any other venue authorized by law. One or more recoveries upon such bond or alternate security shall not vitiate same, but no recovery nor the aggregate of multiple recoveries upon such bond or alternate security shall ever exceed the full amount thereof. Upon suits being filed in excess of the amount of the bond or alternate security, the commission may require a new bond or other security in an amount sufficient to secure the aggregate amount of such suits, and if such additional security is not given within thirty days of demand therefor, the commission may cancel the license of the cotton merchant. In the case of the insolvency of a cotton merchant, any cotton producer or cotton landowner having contracts for future delivery shall be entitled to participate in the bond or alternate security funds to the extent of his pro rata losses under his contract.

C. Should the bond or alternate security proceeds be insufficient to satisfy all claims in full, any producer who has received only partial satisfaction shall retain all other rights possessed under the law without prejudice.

D. The commission may bring an action on the bond on behalf of the cotton producers or cotton landowners in any court of competent jurisdiction.

Acts 1997, No. 1034, §1; Acts 2010, No. 767, §1, eff. June 30, 2010.

§3415. Scale ticket required; contents

A. Whenever any agricultural commodity or other farm product is delivered to a warehouse or grain dealer licensed under this Chapter, the warehouse or grain dealer shall issue a scale ticket covering the commodity or other farm product within seventy-two hours of delivery. Scale tickets covering commodities or other farm products deposited for any type of storage shall be marked to indicate "storage". Title to commodities deposited for storage shall remain with the producer.

B. *Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.*

C. Each warehouse and grain dealer shall use sequentially prenumbered scale tickets which shall have an original and not less than one copy.

D. Each scale ticket shall contain the following information:

- (1) The name and location of the licensed warehouse or grain dealer facility where delivered.
- (2) The name and other information sufficient to identify the owner of the agricultural commodity or other farm product.
- (3) The type, quantity, and grade or applicable grade factors necessary to determine the net value of the commodity received. This requirement shall not apply to grain dealers and warehouses which do not issue grades.
- (4) The date the commodity was delivered.
- (5) One of the following, as appropriate:
 - (a) If the commodity is to be deposited on a "spot" basis, the words "spot" or "spot sale", and when so marked the scale ticket shall serve as written confirmation of the sale.
 - (b) If the commodity is deposited for any type of storage, the word "storage".
 - (c) If the commodity is deposited for contract, the word "contract".

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1986, No. 337, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §2, eff. June 30, 2010.

§3416. Warehouse receipts; authorization for and release

A. Each warehouse shall, on demand, issue a warehouse receipt for any agricultural commodity or other farm product stored in the warehouse. Warehouse receipts may be negotiable or non-negotiable.

B. Each person to whom a non-negotiable warehouse receipt is issued shall furnish the warehouse with a written statement indicating the person or persons having power to authorize delivery of the commodity covered by the warehouse receipt, together with a bona fide signature of such person or persons. No warehouse shall honor an order for the release of the commodity covered by a non-negotiable warehouse receipt until it has first ascertained that the person issuing the order has authority to order the release and that the signature of the person authorizing the release is genuine.

C. Except as otherwise provided by law, or by the rules and regulations of the commission, a warehouse shall not deliver any agricultural commodity or other farm product for which it has issued a non-negotiable warehouse receipt unless the warehouse receipt has been returned to it or unless it has obtained an authorized written order for a partial release of such commodity or other farm products. When a portion of the commodity has been delivered on the basis of a partial release, the last portion of the commodity shall not be delivered unless the warehouse receipt is returned.

D. In any circumstances not specifically provided for in this Chapter, the provisions of Chapter 7 of Title 10 of the Louisiana Revised Statutes of 1950 control.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3417. Special provisions for handling of warehouse receipts

A. While an original warehouse receipt issued under this Chapter is outstanding and uncanceled, no other or further warehouse receipt shall be issued for the agricultural commodity or other farm product, or any part thereof, covered by such outstanding and uncanceled warehouse receipt.

B. Whenever a warehouse receipt is lost or destroyed, a warehouse receipt to replace such lost or destroyed warehouse receipt may be issued, but only with the prior approval of the commission.

C. No warehouse receipt shall be issued except for agricultural commodities or other farm products which are actually stored in the warehouse at the time of issuance of the warehouse receipt.

D. Every warehouse shall promptly and plainly cancel on the face thereof each warehouse receipt returned to it upon the delivery by it of the agricultural commodity or other farm product for which the warehouse receipt was issued.

E. Whenever any agricultural commodity or other farm product is held in open storage, the warehouse or grain dealer shall have a warehouse receipt to cover the agricultural commodity or other farm product or shall be able to account for the physical whereabouts of the agricultural commodity or other farm product.

F. Failure to properly account for any agricultural commodity or other farm product in open storage may subject the warehouse or grain dealer to seizure as provided by R.S. 3:3407, suspension or revocation of its license, other penalties provided by this Chapter, or any combination hereof.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3418. Delivery and discharge from storage of stored agricultural commodities

A. Except as provided herein, every warehouse licensed under this Chapter shall, without unnecessary delay, deliver the agricultural commodity or other farm product stored therein upon a demand made either by the holder of a warehouse receipt or a scale ticket marked for storage covering the agricultural commodity or other farm product or by the depositor thereof if such demand is accompanied by an offer to satisfy the warehouse lien; an offer to surrender the warehouse receipt, if negotiable, with such endorsements as would be necessary for the negotiation of the warehouse receipt; and written acknowledgment, when the agricultural commodity or other farm product is delivered to it, that the commodity or product has been so delivered. The above action is not required in any circumstances where the warehouse has determined that there are liens recorded against the commodity or other farm product covered by the warehouse receipt or scale ticket marked for storage or where the order of any court of competent jurisdiction prohibits the release of the agricultural commodity or other farm product.

B. Every warehouse may require any depositor of an agricultural commodity or other farm product to remove the commodity or other farm product from storage upon sixty days prior written notice to the depositor.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3419. Records required

A. Each warehouse shall maintain complete, separate, and correct records and accounts pertaining to each warehouse, including, but not limited to, records and accounts of all commodities and farm products received therein and withdrawn therefrom, all unissued warehouse receipts and scale tickets issued by it, and the warehouse receipts and scale tickets returned to it and canceled by it.

B. Each grain dealer and cotton merchant shall maintain complete, separate, and correct records, including but not limited to records of each transaction with each producer and records reflecting the grain dealer's or cotton merchant's daily position with respect to all commodity transactions.

C. Warehouses, cotton merchants, and grain dealers shall maintain all required records in a form acceptable to the commission for a period of five years.

D. Each warehouse, cotton merchant, and grain dealer shall permit any officer or authorized representative of the commission to enter all locations listed on the application of such warehouse, cotton merchant, or grain dealer and inspect, copy, examine, or audit all contents, facilities, equipment, records, books, and accounts relating thereto. Such inspection, copying, examination, or audit may be made on any business day, during normal working hours. The warehouse, cotton merchant, or grain dealer shall

provide the necessary assistance required for any inspection, copying, examination, or audit made in accordance with this Chapter or the rules and regulations adopted pursuant hereto.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2011, No. 138, §1, eff. June 24, 2011.

§3419.1. Communication of producer information

A. Notwithstanding any other law or contractual provision to the contrary, a grain dealer and agriculture lender may communicate, either orally or in writing, information related to an agricultural commodities booking or contract concerning a producer with whom the parties have a mutual business relationship. Information concerning the producer that may be shared shall be limited to the following:

(1) Name, address, phone number, and Farm Service Agency number.

(2) The amount of agricultural commodities booked or contracted by the producer and prices contracted for.

(3) Grain dealer or marketer expenses, carrying costs, hedging expenses, and the amount of agricultural commodities actually delivered by a producer on a production contract.

(4) The amount of crop loans made to a producer and any loan balances outstanding with respect to the producer for such crop loans and any collateral and security interests applicable to such crop loans.

B. Notwithstanding any other law or contractual provision to the contrary, any grain dealer or agriculture lender that communicates information provided for under Subsection A of this Section shall be held harmless and shall not be liable to the producer or any other party under any theory of law for communicating such information.

C. A grain dealer or agriculture lender receiving information relative to a producer under the provisions of this Section shall not share the information with any persons not authorized in this Section to receive such information.

D. The provisions of this Section shall only be applicable during the duration of a gubernatorially or presidentially declared disaster which includes the parish or parishes where a producer, with whom a lender and elevator have a mutual business relationship under the provisions of this Section, farms or produces agricultural commodities.

Acts 2010, No. 860, §1.

§3420. Schedule of charges and tariffs

Whenever there is a change in any warehouse's schedule of charges or tariffs, the new schedule shall be filed with the commission prior to implementation thereof. These charges or tariffs shall be the same for the same class of service to each customer of the warehouse and shall be posted conspicuously in each location covered by the license.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2012, No. 145, §1, eff. May 14, 2012.

§3421. Confidentiality of records

Notwithstanding the provisions of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950, all financial statements, position reports, and any other documents required for licensure and filed by applicants for licensure under this Chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

(1) Upon waiver by the licensee.

(2) In actions or administrative proceedings commenced under this Chapter or Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(3) When required by subpoena or court order.

(4) Disclosure to law enforcement agencies in regard to the detection and prosecution of criminal offenses.

(5) When released to a bonding company approved by the commission or to the United States Department of Agriculture or any of its divisions.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2011, No. 138, §1, eff. June 24, 2011.

§3422. Commission authorized to charge regulatory fees

A. The commission shall charge regulatory fees on all agricultural commodities or other farm products regulated under this Chapter. The regulatory fees shall be due and payable to the commission by the licensee at the first point of sale as follows:

(1) \$.01 per hundredweight for commodities normally weighed by hundredweight.

(2) \$.007 per bushel for commodities normally weighed by bushel.

B. The commission by rule may establish regulatory fees for all other agricultural commodities and other farm products regulated under this Chapter and the point at which the regulatory fees shall be due and payable by the licensee. The regulatory fees established by the commission under this Subsection shall be comparable to the regulatory fees established under Subsection A of this Section.

C. No producer shall be entitled to claim a refund of any regulatory fees established by the commission under this Section.

D. Every moisture measuring device used or held for use at any commercial facility which receives, holds, dries, stores, mills, processes or otherwise deals in agricultural commodities in this state, when such use or intended use is for the purpose of determining discounts or other price variances in connection with the purchase or sale of such commodity, shall be registered with the Louisiana Department of Agriculture and Forestry. The commission shall register and inspect all moisture meters or other devices used to measure moisture in agricultural commodities on an annual basis. The commission may establish by rule and regulation a fee for the registration and inspection of moisture meters or other such devices not to exceed twenty dollars for registration and forty dollars for inspection.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1988, No. 161, §1; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2010, No. 767, §1, eff. June 30, 2010.

§3423. Deposit of the revenues of the commission; Agricultural Commodity Dealers and Warehouse Fund

A. All assessments, fees, penalties, and all other funds received under the provisions of this Chapter, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

B. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the state treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Chapter into a special fund which is hereby created in the state treasury and designated as the Agricultural Commodity Dealers and Warehouse Fund, hereafter in this Section referred to as the "fund".

C. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The state treasurer shall invest monies in the fund in the same manner as monies in the state

general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

D. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Chapter, as determined by the commissioner.

(2) To fund any and all costs related to the carrying out of purposes of this Chapter and the powers and duties granted to the commission and the commissioner under this Chapter.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983. Acts 1992, No. 984, §2; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2011, No. 138, §1, eff. June 24, 2011.

NOTE: *See Acts 1985, No. 793, §2.*

§3424. Prohibited acts; criminal penalties

A. It shall be unlawful for any warehouse to sell, alienate, encumber, transfer title to, pledge, mortgage, or hypothecate in any manner any agricultural commodity or other farm product, or any portion thereof, which has been deposited by the owner thereof specifically for any type of storage, under any type of warehouse receipt or under a scale ticket marked "storage", and which is not the property of the warehouse, without the specific written authorization of the owner thereof. The sale, alienation, encumbrance, transfer of title, pledging, mortgaging, or hypothecation of any such agricultural commodity or other farm product without the written authorization of the owner thereof shall be presumptive evidence of the warehouseman's criminal intent to deprive such owner of his agricultural commodity or other farm product, or the market value thereof, and the warehouse and warehouseman shall be subject, upon conviction, to a fine of not more than ten thousand dollars, imprisonment for not more than ten years, or both.

B. Any grain dealer who intentionally violates R.S. 3:3413(B) by maintaining a risk position in excess of thirty percent of its current net worth shall be subject, upon conviction, to a fine of not more than ten thousand dollars, imprisonment for not more than ten years, or both.

C. Any warehouseman, cotton merchant, or cotton agent, or grain dealer who is found to have willfully submitted false reports of any kind required by this Chapter or by rule or regulation of the commission shall be subject, upon conviction, to the penalties for perjury established under R.S. 14:123.

D. The willful failure of a cotton merchant or a cotton agent to pay for cotton delivered which was purchased by the cotton merchant or cotton agent from a cotton producer in this state shall be fraudulent conduct for the purposes of R.S. 14:67.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3425. Limitations of applicability

The provisions of this Chapter shall not apply to, and the commission shall not have jurisdiction over, the following:

(1) Cold storage facilities.

(2) Facilities which store only commodities which are imported from outside the boundaries of the continental United States.

(3) *Repealed by Acts 1997, No. 1034, §2.*

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §2.

CHAPTER 21-A. COMMODITIES MARKETING

§3501. Short title

This Chapter shall be known as "Louisiana Commodities Marketing Law".

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3502. Definitions

As used in this Chapter, unless the context otherwise requires:

(1) "Administrative rules and regulations" means rules and regulations that are applicable to a particular marketing order which is issued and made effective by the commissioner pursuant to R.S. 3:3522.

(2) "Advertising and sales promotion" means trade promotion and activities which prevent the restriction of the free flow of any commodity to market. This may include presenting facts to, and negotiating with, state, federal, or foreign governmental agencies on matters which affect the marketing order. This will also allow reimbursement payments to offset commodity transportation costs to foreign markets.

(3) "Commissioner" means the commissioner of agriculture of the state of Louisiana.

(4) "Commodity," except as otherwise provided in R.S. 3:3509(F), means any agricultural, horticultural, floricultural, aquacultural, or vegetable product which is produced in this state, and any class, variety, or utilization of such product, either in its natural state or in processed form for marketing. It does not, however, include all of these or their products: milk, timber, cotton, bees, honey, rice, soybeans, livestock, poultry, feedcorn, sugar cane, and sweet potatoes.

(5) To "directly affect" or "directly regulate" means the direct application of regulations upon any person, including the requirement to pay marketing order assessments which are levied pursuant to such order.

(6) "Distributing" means engaging in the business of a distributor as defined in Paragraph (7).

(7) "Distributor" means any person other than a producer or processor, who sells commodities to one or more retailers of such commodities.

(8) "General rules and regulations" means those which are applicable to all marketing orders and marketing agreements and are issued by the commissioner to provide uniform methods to facilitate the administration and enforcement of all such marketing orders and marketing agreements. Such uniform methods may include but shall not be limited to any of the following:

(a) Methods which pertain to the handling of monies which are received from assessments collected.

(b) The preparation, handling, and payment of claim schedules for the payment of bills, salaries, and other obligations.

(c) Establishing the maximum rates to be allowed for travel expenses of board members and board employees.

(d) The preparation, verification, and finding of evidence which relates to violations of marketing orders, agreements, and marketing regulations, and other fiscal and administrative activities which the commissioner finds are necessary in the administration and enforcement of such marketing orders and agreements.

(9) "Handler" means any person that is engaged as a distributor or any person that is engaged as a processor.

(10) "Handling" means engaging in the business of a handler as defined in Paragraph (9).

(11) "Major amendments" means amendments to any marketing order or agreement which are made pursuant to R.S. 3:3517. It does not include a seasonal marketing regulation.

(12) "Marketed by producers" means producer marketing, as defined by Paragraph (19).

(13) "Marketing order" means an order which is issued by the commissioner, which prescribes rules and regulations that govern the processing, distributing, or handling in any manner of any commodity within this state during any specified period.

(14) "Minor amendments" are amendments to any marketing order or agreement which change or modify the language or the provisions of any such marketing order or agreement for the purpose of clarification, or the removal of conflicts of meaning without involving changes or modifications of language or provisions which are classed as major amendments.

(15) "Person" means an individual, firm, corporation, association, or any other business unit, and includes any state agency which engages in any of the commercial activities which are regulated pursuant to the provisions of this Chapter.

(16) "Processing" means engaging in the business of a processor as defined in Paragraph (17).

(17) "Processor" means any person that is engaged within this state in the operation of receiving, grading, packing, canning, fermenting, distilling, extracting, preserving, grinding, crushing, or changing the form of any commodity for the purpose of preparing it for market or of marketing such commodity, or any other activities which are performed for the purpose of preparing it for market or of marketing such commodity. It does not, however, include a person that is engaged in manufacturing from any processed commodity, so changed in form, it becomes another and different product.

(18) "Producer" means any person that is engaged within this state in the business of producing any commodity.

(19) "Producer marketing" means any or all operations which are performed by any producer in preparing for market. This shall not, however, pertain to direct farmer to consumer marketing or farmers' markets. It includes selling, delivering, or disposing of, for commercial purposes to any handler, any commodity which the producer has produced.

(20) "Retailer" means any person that purchases any commodity for resale at retail to the general public for consumption off the premises.

(21) "Seasonal marketing regulation" means marketing regulations that are applicable to a particular marketing order which are made effective by the commissioner pursuant to R.S. 3:3523.

(22) "Marketing agreement" means a voluntary contract between growers and handlers and the commissioner of agriculture. State marketing agreements apply only to those growers and handlers who sign them.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3503. Policy, purposes

A. It is hereby declared that the disorderly marketing of commodities in this state; improper preparation for market and lack of uniform grading and classification of commodities; unfair methods of competition in the marketing of commodities; and the inability of individual producers to maintain present markets or to develop new or larger markets for Louisiana grown commodities, results in an unreasonable and unnecessary economic waste of the agricultural wealth of this state.

B. Such conditions and the accompanying waste jeopardize the future continued production of adequate supplies of food, fiber, and other products of the farm and of the soil for the people of this and other states, and prevent producers from obtaining a fair return from their investment.

C. Unless such conditions are remedied, the purchasing power of such producers will remain low in relation to that of persons engaged in other gainful occupations within the state. Producers are thereby prevented from maintaining a proper standard of living and from contributing their fair share to the support of the necessary governmental functions, thus tending to increase unfairly the tax burdens of other citizens of this state.

D. These conditions vitally concern the health and general welfare of the people of this state. It is hereby declared to be the policy of this state to aid producers in preventing economic waste in the marketing of their commodities, to develop more efficient and equitable methods in the marketing of commodities and to aid producers in restoring and maintaining their purchasing power at a more adequate, equitable, and reasonable level.

E. The marketing of commodities within this state is hereby declared to be affected with a public interest. The provisions of this Chapter are enacted for the purpose of protecting the health and general welfare of the people of this state.

F. The purposes of this Chapter are to do the following:

(1) Enable producers of this state, with the aid of the state, more effectively to market their commodities.

(2) Establish orderly marketing of commodities.

(3) Provide for uniform grading and proper preparation of commodities for market.

(4) Provide methods and means for the maintenance of present markets, or for the development of new or larger markets, for commodities which are grown within this state or for the prevention, modification, or elimination of trade barriers which obstruct the free flow of such commodities to market.

(5) Eliminate or reduce economic waste in the marketing commodities.

(6) Restore and maintain adequate purchasing power for the producers of this state.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3504. Compliance; defense to civil proceedings

Proof that an act was done in compliance with the provisions of this Chapter shall be a complete defense to any civil action or proceeding arising therefrom.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3505. Cause of action survives

The suspension, amendment, or termination of any marketing order or marketing agreement does not suspend or terminate any cause of action which has accrued under it, but such cause of action shall survive and exist the same as if such marketing order or agreement had not been suspended, amended, or terminated.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009.

§3506. Volume or quantity defined

The terms, volume or quantity, except as in R.S. 3:3523, may be in terms of gross dollar value if the commissioner finds that such volume or quantity cannot be readily ascertained otherwise, or that gross dollar value is a more equitable measure of the commodity involved.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3507. Exceptions to Chapter

A. This Chapter does not apply to any order, rule, or regulation which is issued by the Louisiana Public Service Commission or the Interstate Commerce Commission with respect to the operation of common carriers.

B. This Chapter is not applicable to any retailer of any commodity except to the extent that such retailer also engages in the production, processing, or distribution of any commodity.

C. This Chapter is not applicable to producers who sell directly to retail stores but shall be applicable if these producers sell through the distribution warehouses of these retail stores.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3508. Administration

A. The commissioner shall administer and enforce this Chapter.

B. The commissioner may issue, administer, and enforce the provisions of any marketing order issued pursuant to this Chapter which regulates producer marketing or the handling of any commodity within this state.

C. The commissioner may do all of the following:

(1) Confer and cooperate with the legally constituted authorities of other states and of the United States, for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, or orders.

(2) Conduct joint hearings and issue joint or concurrent marketing orders for the purposes and within the standards which are set forth in the Chapter.

(3) Exercise any administrative authority to effect such uniformity of administration and regulation of such commodities.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3509. Marketing orders and agreements

A. Subject to the provisions, restrictions, and limitations which are imposed in this Chapter, the commissioner may issue marketing orders which regulate producer marketing, the processing, distributing, or handling in any manner of any commodity by any and all persons that are engaged in such producer marketing, processing, distributing, or handling of such commodity within this state.

B. The commissioner may also issue marketing orders which regulate the handling, processing, preparation for marketing, or marketing any commodity which is produced in this state under such orders.

C.(1) The commissioner may issue a marketing order, applicable to the marketing, within this state, of any commodity, which contains like terms, provisions, methods, and procedures as any license or order that regulates the marketing of such commodity in interstate or foreign commerce which is issued by the secretary of agriculture of the United States pursuant to the provisions of any law or laws of the United States.

(2) In selecting the members of any board or other advisory agency under such order, the commissioner shall, in so far as practicable, utilize the same persons as those serving in a similar capacity under such federal license or order, so as to avoid duplicating or conflicting personnel.

(3) Any board, agency, or committee so appointed by the commissioner shall be responsible to the commissioner for the performance of such of their duties as relate to the administration of any such marketing order which is issued by the commissioner.

D. Any marketing order which is issued by the commissioner pursuant to this Chapter shall designate the geographic boundaries which it encompasses such as, parish, districts, or state and shall embrace all persons of a like class that are engaged in a specific and distinctive agricultural industry or trade within the geographic boundaries encompassed by the order.

E. The commissioner may also, after due notice and opportunity for hearing, enter into marketing agreements with processors, distributors, producers, and others that are engaged in the handling of any commodity, which regulate the preparation for market and handling of such commodity. Such marketing agreements are binding upon signatories to the agreements exclusively.

F. The purposes and provisions of the Chapter which relate to marketing orders are applicable to marketing agreements except as follows:

(1) R.S. 3:3510(G), which requires the preparation of an official list of the names and addresses of all producers and the volume of such commodity which was produced or marketed by all such producers in the preceding marketing season and a list of the names and addresses of all handlers and the volume of such commodity which was handled by all such handlers, during the preceding marketing season, is not applicable to marketing agreements.

(2) R.S. 3:3516(A) through (E), and the provisions of R.S. 3:3519 which prescribe requirements for termination by request in writing, are not applicable to marketing agreements. Prior to the issuance of any marketing agreement or amendment to it, the commissioner shall find, that the marketing agreement, or any amendment to it, has been assented to by a sufficient number of signatories that handle a sufficient volume of the commodity which is affected to accomplish the objectives of such agreement or amendment and provide sufficient moneys from assessments levied to defray the necessary expenses of formulation, issuance, administration, and enforcement.

(3) R.S. 3:3525(C) is not applicable to marketing agreements.

G. Notwithstanding the provisions of R.S. 3:3502(4), the commissioner may issue and make effective marketing orders or marketing agreements that affect handlers only which include only the provisions which are authorized in R.S. 3:3513(F) through (J) and (L), or any of such provisions, but no others, as may be applicable to the commodity that is regulated which is handled within this state, without regard to whether or not such commodity is produced within this state.

H. If producers or handlers of any commodity which is regulated by a marketing order or marketing agreement are required to comply with minimum quality, condition, size, or maturity regulations, no person, except as otherwise provided in such order or agreement, may process, distribute, or otherwise handle any of such commodity from any source, whether produced within or without this state, which commodity does not meet such minimum requirements applicable upon producers or handlers of such commodity in this state. Such regulations do not, however, apply to any commodity which has been produced outside of this state and is in transit on the effective date of the regulations.

I. The commissioner may issue and make effective a marketing order or marketing agreement which applies to two or more commodities. The producers or handlers of each commodity encompassed by such marketing order or agreement shall have all rights and privileges as though such producers or handlers were directly affected by a marketing order or agreement regulating only a single commodity. If the producers or handlers of one commodity who are directly affected by a marketing order or agreement which applies to two or more commodities act to enjoin, amend, suspend, or terminate the provisions thereof to such commodity, the order or agreement shall be enjoined, amended, suspended, or terminated with respect to any other commodity regulated by such order or agreement unless the commissioner finds such injunction, amendment, suspension, or termination respecting one commodity makes continuance of the order or agreement no longer feasible or it fails to attain the objectives of this Chapter. A marketing order or agreement applicable to more than one commodity is deemed to be severable with respect to each commodity encompassed by it and also severable as to each sentence,

clause, or part as it applies to each commodity. There shall be a clear and concise definition or identification of each commodity regulated by such multiple commodity marketing order or agreement.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3510. Notice, reports, and hearing

A. If the commissioner has reason to believe that the issuance of a marketing order or amendments to an existing marketing order will tend to effectuate the policy of this Chapter, he shall give notice of not less than thirty days for a public hearing upon a proposed marketing order of such amendments to such existing market order. In an emergency situation, the commissioner may, upon citing the nature of the emergency in the notice, give less than thirty days notice.

B. The commissioner shall also mail a copy of such notice of hearing and a copy of such proposed marketing order or proposed amendment to every producer or handler of such commodity whose name and address appears upon lists of such persons, on file in the department that may be directly affected by the provisions of such proposed marketing order or such proposed amendments.

C. The notice of hearing shall set forth all of the following:

(1) The date and place of the hearing.

(2) The commodity and the terms which are covered by such proposed marketing order or such proposed amendments.

(3) A statement that the commissioner will receive, at such hearing, in addition to testimony and evidence as set forth in R.S. 3:3511, testimony and evidence with respect to the accuracy and sufficiency of lists on file with the commissioner which show the names and addresses of producers or handlers of such commodity that are directly affected by such proposed marketing order or proposed amendments, and the quantities of such commodity which were delivered by such producers to handlers, or handled by such handlers, in the marketing season preceding such hearing.

D. To provide the commissioner with accurate and reliable information regarding the persons that may be directly affected by the provisions of any proposed marketing order for any commodity, the commissioner shall notify all handlers to file with the commissioner within fifteen days from the last date of such notice, a report which shows all of the following:

(1) The correct name and address of such handler.

(2) The quantities of the commodity that are affected by such proposed marketing order which were handled by such handler in the previous marketing season.

(3) The correct name and address of every producer of such commodity, that may be directly affected by such proposed marketing order, from whom such handler received such commodity in the previous marketing season.

(4) The quantities of such commodity which were received by such handler from each such producer in the previous marketing season.

E. The commissioner shall mail a copy of such notice to file such report to every handler of such commodity whose name and address is on file in the department.

F. Each handler of such commodity that may be directly affected by the provisions of such proposed marketing order shall file such verified report with the commissioner within the time which is specified in Subsection D of this Section. Failure or refusal of any handler to file the report within the time which is specified does not invalidate any proceeding which is taken or marketing order which is issued pursuant to this Chapter. The commissioner shall proceed upon the basis of such information and reports as may otherwise be available.

G. From the reports which are filed and the information which is received or available to the commissioner, the commissioner shall prepare a list of the names and addresses of the producers and the volume of such commodity which was produced or marketed by all such producers and a list of the names and addresses of such handlers and the volume of such commodity which was handled by handlers, that are directly affected by the provisions of proposed marketing order. Such lists shall constitute complete and conclusive lists for use in any finding, and findings are conclusive.

H. In the preparation of the list, the commissioner shall omit from such list the name of any person that makes only casual sales of the product incidental to urban home ownership, or the result of activity other than a commercial farm or business venture. Any person that is excluded from such list is not subject to the provisions, including the payment of any assessments, which are applicable upon producers, or handlers, as prescribed in any such marketing order or marketing agreement.

I. The information which is contained in the individual reports of handlers which are filed with the commissioner shall not be made public by the commissioner in such form but the information which is contained in such reports may be prepared in combined form for use by the commissioner, his agents, or other interested persons, in the formulation, administration, and enforcement of a marketing order, or may be made available to anyone for private purposes.

J. The hearing on a proposed marketing order or proposed amendments shall be public and all testimony shall be received under oath. A full and complete record of all proceedings at such hearing shall be made and maintained on file in the office of the commissioner.

K. At the hearing, the commissioner shall receive, in addition to other necessary or relevant matters, evidence upon all of the following:

(1) The matters which are set forth in R.S. 3:3511.

(2) The accuracy and sufficiency of the official producer and/or handler lists on file with the commissioner.

(3) The quantity of such commodity which was delivered by such producers or handled by such handlers in the marketing season previous to such hearing.

L. At any public hearing which is held in connection with the formulation or amendment of a marketing order or marketing agreement, the commissioner shall receive testimony with respect to the establishment of the official producer or handler list which is applicable.

M. If the commissioner finds that a referendum shall be had, he shall direct that a referendum be held in accordance with the provisions of R.S. 3:3516(A) through (E), inclusive.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3511. Findings

A. For marketing orders containing provisions only for the establishment of grade, size, quality, or condition specification, or for uniform grading and inspection, or the elimination of unfair trade practices, or provisions for advertising or sales promotion, or for research, or for the establishment of necessary facilities specified in R.S. 3:3513(E), the commissioner may issue such marketing order if he makes all of the following findings:

(1) That such marketing order is reasonably calculated to attain the objectives which are sought in such marketing order.

(2) That such marketing order is in conformity with the provisions of this Chapter and within the applicable limitations and restrictions which are set forth in this Chapter and will tend to effectuate the declared purposes and policies of this Chapter.

(3) That the interests of consumers are protected in that the powers established by this Chapter are being exercised only to the extent which is necessary to attain such objectives.

B. In making any findings pursuant to this Subsection, the commissioner shall base his findings upon the facts, testimony, and evidence which is received at the public hearing together with any other relevant facts which are available to him from official publications or institutions of recognized standing and which are included in the record at such hearing. These findings constitute the final provisions of the marketing order to be presented for referendum vote.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3512. Advisory boards and committees

A. Any marketing order shall provide for the establishment of an advisory board to assist the commissioner in the administration of any marketing order. The members of such board shall be appointed by the commissioner. The number of members of such boards shall be determined by the commodity group represented. Such boards shall have no less than seven members and no more than eleven members, the final number to be determined at such hearing. A marketing order shall, however, provide for the appointment of members from nominations made by the producers and handlers and shall also provide for the method of selecting such nominees. Marketing orders shall provide for each position on the advisory board, producers or handlers shall nominate two persons and the commissioner shall appoint one of such names. In the event two or more commodities join in a marketing order, each commodity shall be represented by its own board of equal membership. These boards shall sit in joint meetings.

B. If the marketing order affects directly only producers of a particular commodity, the members of the advisory board shall be producers. If the marketing order affects directly only handlers of a particular commodity, the members of the advisory board shall be handlers.

C. If the marketing order affects directly both producers and handlers of a particular commodity, the advisory board shall be composed of both producers and handlers. The number of each shall be determined by the commissioner and a majority of board members shall be producers.

D. Upon the recommendation of the advisory board, the commissioner may appoint one person who is neither a producer nor a handler to represent consumers.

E. A member of an advisory board is entitled to a per diem of twenty-five dollars while engaged in performing his duties that are authorized by this Chapter and, with the approval of the advisory board concerned, may receive per diem not to exceed twenty-five dollars per day for each day spent in actual attendance at, or traveling to and from, meetings of the board or on special assignment for the board.

F. The commissioner may authorize an advisory board to do all of the following:

- (1) Enter into contracts or agreements.
- (2) Employ necessary personnel, including attorneys engaged in the private practice of the law, and fix their compensation and terms of employment.
- (3) Incur such expenses, to be paid by the commissioner from monies which are collected as provided in this Chapter, as the commissioner may deem necessary and proper to enable the advisory board properly to perform its duties.

G. The duties of an advisory board are administrative only and any such board may do only the following:

- (1) Administer the marketing order subject to the approval of the commissioner.
- (2) Recommend to the commissioner administrative rules and regulations which relate to the marketing order.
- (3) Receive and report to the commissioner complaints of violations of the marketing order.

(4) Recommend to the commissioner amendments to the marketing order.

(5) Assist the commissioner in the assessment of members and in collection of funds to cover administrative expenses.

(6) Assist the commissioner in the collection of necessary data.

H. Each advisory board shall file an annual report with the commissioner and members involved in such order.

I. The board members and employees shall not be individually liable on any contract of the advisory board.

J. Special committees or subcommittees may be established to assist the advisory board. Each advisory board may appoint such committees to handle necessary business upon the approval of the commissioner.

K. If the marketing order so authorizes, or there is a recommendation of the advisory board, the commissioner may establish such committees and make appointments to them.

L. An advisory board may at any time invite any persons to their meetings to serve in an advisory capacity and the commissioner may, if requested by the advisory board, pay necessary expenses to such persons at rates not to exceed those granted to advisory board members.

M. Any action of any committee, special committee, or subcommittee of the board, is subject to final approval by the advisory board. Members and alternate members of any committee, special committee, or subcommittee are entitled to reimbursement for actual expenses incurred in official duties.

N. It is hereby declared that the producer, or handler, or both, appointed to any advisory board is intended to represent the particular agricultural industry concerned. Such representation is intended to serve the public interest.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3513. Terms of marketing orders

A. Any marketing order which is issued by the commissioner may contain any or all of the provisions which are prescribed by this Section for regulating, or providing methods for regulating producer marketing, or the handling, or any of the operations of processing or distributing by handlers, of any commodity within this state, but no others.

B. A marketing order may contain provisions for any grade, size, or quality of a commodity, which may be marketed by producers, or processed, distributed, or otherwise handled within this state during any specified period by any and all persons that are engaged in such producer marketing, processing, distributing, or handling. Any such limitation shall be applied under a uniform rule which is applicable to all such persons so regulated.

C. A marketing order may contain provisions for allotting grade, size, or quality of a commodity, which each handler may purchase or acquire from, or handle on behalf of, any and all producers of the commodity, within this state during any specified period under a uniform rule, which is applicable to all handlers that are so regulated.

D. A marketing order may contain provisions for allotting grade, size, or quality of a commodity, which each handler may process, distribute, or handle within this state under a uniform rule, which is applicable to all handlers that are so regulated, which is based upon the grade, size, or quality of such commodity, of the current season's crop which each such handler has available for such processing, distribution, or handling, or upon the grade, size, or quality of such commodity, which is so processed, distributed, or handled by each such handler in a prior period which the commissioner finds to be representative.

E. If the marketing order authorizes, the advisory board may arrange for and operate any necessary facilities for the storing, financing, grading, packing, servicing, processing, preparing for market or selling of any such commodity. The board shall not, however, engage in commercial warehousing.

F.(1) A marketing order may contain provisions for the establishment of plans for advertising and sales promotion to maintain present markets or to create new or larger markets for any commodity which is grown in this state, or for the prevention, modification, or removal of trade barriers which obstruct the free flow of any commodity to market. The commissioner may prepare, issue, administer, and enforce plans for promoting the sale of any commodity.

(2) Any such plan shall be directed toward increasing the sale of the commodity without reference to any private brand or trade name which is used by any handler with respect to the commodity regulated by the marketing order.

(3) No advertising or sales promotion program shall be issued by the commissioner which makes use of false or unwarranted claims in behalf of any such product, or disparages the quality, value, sale, or use of any other commodity.

G. Notwithstanding Paragraph (2) of Subsection F, effective immediately, a marketing order may contain provisions for the establishment of plans for advertising and sales promotion, without reference to any private brand or trade name which is used by any producer or handler in order to maintain present international foreign markets or to create new or larger international foreign markets for any commodity which is grown in this state, provided that effective January 1, 1979, such advertising and sales promotion plans require that each individual commodity package label indicates the commodity is of Louisiana origin in English or other appropriate language.

H. A marketing order may contain provisions which relate to the prohibition of unfair trade practices. In addition to the unfair trade practices now prohibited by law, applicable to the processing, distribution, or handling of any commodity within this state, the commission may include in any marketing order which is issued provisions that are designed to correct any trade practice which affects the processing, distributing, or handling of any commodity within this state which the commissioner finds, after a hearing upon the marketing order in which all interested persons are given an opportunity to be heard, is unfair and detrimental to the effectuation of the declared purposes of this Chapter.

I. A marketing order may contain provisions for carrying on research studies in the production, processing, or distribution of any commodity and for the expenditure of moneys for such purposes. Production research for the purpose of determining the production, processing, and distribution qualities of perennial agricultural commodities may be established for the period of time necessary, not to exceed ten years to make such determination even though the period of time necessary may extend beyond the term of the marketing order or agreement involved, provided the commissioner finds there is no satisfactory alternative method to accomplish the desired research, and provided further, that the commissioner has determined, after conducting a public hearing as provided for in R.S. 3:3510, and making the necessary findings as required by R.S. 3:3511, that such proposed research project shall be submitted for a vote of those persons being regulated, and, provided further, that valid votes have been cast in any such vote that represent not less than forty percent of the total number of producers of the commodity on record with the department, or not less than forty percent of the total number of handlers of the commodity on record with the department, or not less than forty percent of each of such producers and handlers of such commodity when both are affected; and provided still further that, in any such voting, a favorable vote was cast by not less than sixty-five percent of the total number of such producers, or such handlers, or both, respectively, and that such producers, handlers, or both, respectively, marketed not less than fifty-one percent of the total quantity of such commodity that was marketed in the preceding marketing season by all of the producers, or handlers, or both, respectively, that cast ballots in the vote for the proposed research study. An advisory board may recommend and the

commissioner may approve that the funds necessary for such research be expended by an advisory board annually or allocated in a lump sum and placed in a trust account established by the commissioner for the purpose of ensuring the completion of such project. In the event a trust fund is established, the commissioner may also appoint a board of trustees to assist the commissioner in the administration of such research project. In any research in production or processing which is carried on pursuant to this Subsection, the director of the agricultural experiment station at Louisiana State University and Agricultural and Mechanical College and the advisory board which is provided for in R.S. 3:3512 shall cooperate in selecting the research project which is to be carried on from time to time. Insofar as practicable, the projects shall be carried out by Louisiana State University and Agricultural and Mechanical College, but if the director and the advisory board determine that the university has no facilities for a particular project, or that some other research agency has better facilities for it, the project may be carried out by any other research agency which is selected by the director and the advisory board.

J. A marketing order may contain provisions for research studies concerning the health, food, nutritional, therapeutic, dietetic, or such qualities of other food products, for the development of new food products, or for the development of new uses for agricultural products.

K. A marketing order may contain provisions which establish, or provide authority for establishing, for any commodity, either as such commodity is produced or is delivered by producers to handlers, or as handled or otherwise prepared for market, or as marketed by producers or handlers, an educational program which is designed to acquaint producers, handlers, consumers, or other interested persons with quality improvement and nutritional values, including sanitation practices, procedures, or methods as applied to such commodity.

L. A marketing order may contain provisions which establish, or provide authority for establishing, and for regulating the permissive use of any official board brand, trade name, or label, or other distinctive designation of grade, quality, or condition, except the grade or quality designations in effect pursuant to state or federal grade standards, for any commodity, whether as such commodity is produced or is delivered by producers to handlers, or as handled or otherwise prepared for market. The permissive use of any such board brand, trade name, or label or other distinctive designation of quality shall be limited to producers and handlers of the commodity that are participating in the marketing agreement or order, and that are in compliance with its provisions and with any regulation, or rule and regulation, which is adopted under it. Any official brand or trade name which is established pursuant to this Subsection shall not be construed as a private brand or trade name with respect to R.S. 3:3513(F).

M.(1) A marketing order may contain provisions to detect, control, prevent damage by, or to eradicate insects, predators, diseases, or parasites with respect to any commodity or group of commodities. The advisory board may recommend and the commissioner may approve measures to assist in the prevention or reduction of losses to crops or livestock caused by predators, insects, disease or parasite infestations, including the establishment and operation of detection, inspection, spraying, dusting, fumigating, or other control measures.

(2) For the purposes of this Subsection, (a) assessments established pursuant to R.S. 3:3514 may include an assessment for nonbearing acreage as well as bearing acreage of the commodity affected by such predators, insects, disease, or parasite, and (b) the commissioner may use both the bearing and nonbearing acreage of such commodity as a measure of production for referendum purposes in relation to such assessments.

(3) As used in this Subsection, "nonbearing acreage" means acreage planted to produce the particular commodity covered by the marketing order during the marketing season on which no quantity of the product is produced for marketing or is anticipated will be produced for market during such marketing season.

N. Each marketing order shall specify the minimum size crop grown and/or marketed which shall be regulated by the terms of the marketing order.

O. Price fixing shall be prohibited under the terms of all marketing orders.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3514. Assessments and funds

A. Except as otherwise provided in Subsection F, each marketing order shall provide for the levying and collection of assessments in sufficient amounts to defray the necessary expenses which are incurred by the commissioner in the formulation, issuance, administration, and enforcement of the marketing order. If the marketing order authorizes the carrying out of advertising and sales promotions plans, it shall also provide for the levying and collection of assessments in sufficient amounts to defray the expenses of such activities.

B. Each marketing order shall indicate the maximum rate of any assessment which may be collected and the proportion, if any, of each assessment which is payable by each producer and handler affected by such marketing order.

C. The advisory board shall recommend to the commissioner, budgets to cover necessary expenses, and budgets to cover the expenses of carrying out sales promotion plans if such plans are authorized in the marketing order, and the assessment rates which are necessary to provide sufficient funds. If the commissioner finds that each such budget and assessment rate is proper and equitable and will provide sufficient moneys to defray the expenses which may be incurred, he may approve such budget and rate of assessment and order that each producer and handler so assessed shall pay to the commissioner, at such times and in such installments as the commissioner may prescribe, an assessment which is based upon the units in which such commodity is marketed, or upon any other uniform basis which the commissioner determines to be reasonable and equitable.

D. The amount of the assessment for necessary expenses shall not, however, exceed the following:

(1) In the case of producers, two and one-half percent of the gross dollar volume of sales of the commodity which is affected by such marketing order.

(2) In the case of processors, distributors, or other handlers, two and one-half percent of the gross dollar volume of purchases of the commodity which is affected by the marketing order from producers or of the gross dollar volume of sales of the commodity which is affected by the marketing order and handled by all such processors, distributors, or other handlers regulated by such marketing order.

E. Any assessment rate which is established for assessment to defray the expenses of advertising and sales promotion plans shall not exceed four percent of the gross dollar volume of sales by all producers or by all processors, distributors, or other handlers of such commodity which is regulated by such marketing order.

F. In lieu of the assessments provided for in Subsection A, if the marketing order contains provisions for advertising or sales promotion, the commissioner may approve and fix an assessment for producers and an assessment for handlers as the case may be, not exceeding six and one-half percent of the gross dollar volume of sales of such commodity by all producers, or by all processors, distributors, or other handlers of such commodity regulated by such marketing order. The method of assessment and collection of such assessment, and the limitations and restrictions applicable there upon shall conform in all respects with the provisions of this Section regarding assessments for advertising and sales promotion, except as to the maximum amount of such assessment.

G. If the commissioner approves and fixes a single assessment, the advisory board shall recommend and the commissioner may approve the proportions of such assessment which may be expended to defray the costs of formulation, issuance, administration, and enforcement of the marketing order and that which may be expended for such advertising or sales promotion program. The proportion of such assessment

which may be allocated in such manner to defray the cost of such administrative activities for such marketing order shall not, however, exceed the maximum amount which is authorized in Subsection D.

H. If any producer or handler that is duly assessed pursuant to the provisions of this Chapter fails to pay to the commissioner the amount so assessed on or before the date which is specified by the commissioner, the commissioner may add to such unpaid assessment an amount not exceeding ten percent of such unpaid assessment to defray the cost of enforcing the collection of such unpaid assessment.

I. The commissioner may require the persons that are assessed to deposit with him in advance the following amounts:

(1) An amount for necessary expenses.

(2) An amount which shall not exceed twenty-five percent of the assessment to cover the costs of advertising or sales promotion plans which are incurred prior to the receipt of sufficient funds from the assessment for such purpose.

J. The amount of any deposit which is required by the commissioner pursuant to Subsection I shall be based upon the estimated number of units to be marketed or handled by the person that is assessed, or upon any other uniform basis which the commissioner determines is reasonable and equitable.

K. At any time after the funds which are credited to the administrative account of the marketing order are sufficient to so warrant, or at the close of the marketing season, the sums deposited by any person shall be adjusted to the amount which is properly chargeable against such person pursuant to the assessment which was authorized.

L. Any marketing order may require a handler to deduct producer assessments from any money which is owed by such handler to such producer. Such assessments for and on behalf of any producer may be deducted by a handler from any money which is owed by such handler to such producer. Such producer assessment deductions are hereby declared to be trust funds held by the handler for the purposes of the marketing order concerned and shall be remitted timely, with assessment reports, to the commissioner.

M. The commissioner shall prescribe rules and regulations with respect to the assessment and collection of funds pursuant to the provisions of this Section.

N. All assessments, penalties, and other moneys received by the commissioner pursuant to the provisions of this Chapter shall be paid to the commissioner and shall be deposited in the state treasury to the credit of a revolving fund, one created for each marketing order under which it is collected and, except as provided in Subsection O of this Section, which funds shall be withdrawn from the state treasury upon warrant on the commissioner and shall be expended by the commissioner only for the necessary expenses which are incurred by the advisory board and which are approved by the commissioner with respect to each marketing order. No part of any such revolving fund shall revert to the general fund of this state.

O. Upon termination by the commissioner of any marketing order, any remaining balances which are not required by the commissioner to defray the expenses of such marketing order, shall be returned by the commissioner on a pro rata basis, to all persons from whom, or on whose behalf, such assessments were collected unless the commissioner finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro rata refund to such persons. If the commissioner makes such a finding, he may use the monies in such fund to defray the expenses which are incurred by him in the formulation, issuance, administration, or enforcement of any subsequent marketing order.

P. Any check or warrant which is drawn against the funds of any marketing order which remains unclaimed or uncashed for a period of six months from the date of issuance shall be canceled and the money retained for disbursement to the original payee or claimant upon satisfactory identification for

a period of one year from the time the check or warrant is canceled. The money so retained, if not claimed within the period of one year, shall be credited to the then currently operating marketing order for the commodity under which the funds so retained were collected. If there is no marketing order then in effective operation for the commodity, the funds shall be credited to the unexpended balance, if any, of the last previous marketing order for the commodity. If there is no marketing order then in current operation, or no balance exists from any previous marketing order to which the funds may be credited, the funds so retained may be expended by the commissioner for the benefit of any marketing order established under the provision of this Chapter.

Q. Each marketing order or agreement shall be charged the amounts which are computed by the commissioner as required to reasonably provide for services to be rendered to such marketing orders by the department. Such amounts are subject to approval by the advisory board which is concerned, shall be included in each budget which recommended to and approved by the commissioner, pursuant to Subsections C and D of this Section, and shall be withdrawn as required by the commissioner and expended only for the necessary expenses which are incurred by the commissioner in the administration of this Chapter. Effective three years from implementation of any marketing order, the advisory board shall include in its budget any costs incurred by the department in the promotion and marketing of the products included in such marketing order.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3515. Deposits by applicants for marketing order

A. Prior to the issuance of any marketing order by the commissioner, the commissioner may require the applicants for the issuance of the marketing order to deposit with him such amount as he may deem necessary to defray the expenses of preparing and making effective such marketing order. Such funds shall be received, deposited, and disbursed by the commissioner in accordance with the provisions which are set forth in R.S. 3:3514.

B. The commissioner shall reimburse the applicant, from any funds for necessary expenses which he has received pursuant to R.S. 3:3514, for any of the following:

(1) Any amount deposited with the commissioner by applicant pursuant to Subsection A.

(2) For any necessary expenses which are incurred by the applicant in preparing and in obtaining approval of the marketing order, upon receipt of a verified statement of such expenses which is approved by the commissioner.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3516. Approval of marketing orders

A. No marketing order or major amendment to it, which directly affects producers, producer marketing, handlers or processors, shall be made effective by the commissioner unless and until the commissioner finds that it has been approved by producers, handlers or processors in a referendum among those affected. The commissioner may make the finding if the producers, handlers, or processors that cast ballots in the referendum in favor of the marketing order or amendment to it represent not less than sixty-five percent of the total number of producers, handlers, or processors that marketed, handled or processed not less than fifty-one percent of the total quantity of the commodity in the preceding marketing season or if the producers, handlers or processors who cast ballots in favor of the marketing order or major amendment to it represent not less than fifty-one percent of the total number of producers, handlers or processors that marketed, handled or processed not less than sixty-five percent of the total quantity of the commodity which was marketed, handled or processed in the preceding marketing season.

B. The commissioner shall establish a referendum period not to exceed thirty days. If the commissioner determines that the referendum period so established does not provide sufficient time for

the balloting, he may extend the referendum period not more than fifteen additional days. At the close of the referendum period, the commissioner shall count and tabulate the ballots filed during the referendum period.

C. If from the tabulation the commissioner finds that the number of producers, handlers or processors that voted in favor of the marketing order or amendment to the marketing order are sufficient for him to find that producers, handlers, or processors have approved the marketing order or amendment, the commissioner may make the marketing order or amendment to the marketing order effective.

D. The commissioner may prescribe such additional procedures as may be necessary to conduct the referendum.

E. Any producer that sells a growing crop to be harvested and marketed by another person is entitled to vote in a referendum, if both of the following requirements are complied with:

(1) At the time of sale of such growing crop the producer retains the exclusive right so to assent or to so vote.

(2) The quantity of such growing crop can be determined to the satisfaction of the commissioner.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009.

§3517. Major amendments to marketing order

A. In making effective major amendments to a marketing order, the commissioner shall follow the same procedures which are prescribed in this Chapter for the institution of a marketing order.

B. For the purposes of this Chapter, a major amendment to a marketing order shall include but not be limited to an amendment which adds to or deletes from, a marketing order authority any of the following:

(1) Providing for the grade, size, or quality of a commodity, which may be prepared for market or marketed within this state.

(2) Providing for the grade, size, or quality of any commodity, which any handler may purchase or acquire from or handle on behalf of any and all producers of such commodity within this state during any particular growing season.

(3) Providing for the grade, size, or quality of any commodity, which any handler may process, distribute, or handle within this state during any particular growing season.

(4) Establishing uniform grading and inspection of any commodity and the establishment of grading standards of quality, condition, size, or pack of such commodity.

(5) Establishing plans for advertising and sales promotion of any commodity.

(6) Prohibiting unfair trade practices.

(7) Carrying out research studies in the production, processing, or distribution of any commodity.

(8) Increasing an assessment rate beyond the maximum rate which is authorized by the marketing order then in effect.

(9) Extending the application of the provisions of any marketing order to portions or uses of a commodity not previously subject to such provisions or to restrict the extension of the application of such provisions upon the producers or handlers of such portions or uses of any such commodity.

C. Modification of any provision of any marketing order in effect for the purpose of clarifying the meaning or application of such provision or modifying administrative procedures for carrying out such provision is not a major amendment of such marketing order.

D. The exercise by the commissioner of any regulatory authority which is authorized in a marketing order or marketing agreement is not a major amendment, but it is a seasonal marketing regulation.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3518. Minor amendments to marketing orders

A. The commissioner may make minor amendments to any marketing order upon the recommendation of not less than seventy-five percent of the producer members or handler members of the advisory board, or not less than seventy-five percent of each group if both are represented upon the advisory board.

B. The commissioner may require a public hearing upon minor amendments if in his opinion the substance of such minor amendments so warrant. The commissioner is not, however, required to submit minor amendments for written assent or referendum approval.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009.

§3519. Termination or suspension

A. The commissioner shall suspend or terminate any marketing order, if he finds, after a public hearing held in accordance with the provisions of R.S. 3:3510, that such marketing order is contrary to, or does not tend to effectuate the declared purposes or provisions of this Chapter.

B.(1) The commissioner shall terminate any marketing order if he finds that the termination of the marketing order is requested in writing, within a ninety-day period, by at least fifty-one percent of the producers that are directly affected that produce at least fifty-one percent of the volume of the product, or by at least fifty-one percent of the handlers that are directly affected that handle at least fifty-one percent of the volume of the product.

(2) The person or persons originating such a written request shall file a written notice with the commissioner in a manner that the date a request is initiated can be readily ascertained. Any such person may withdraw his name from such a written request until the time the request is presented to the commissioner.

(3) A request to terminate a marketing order shall be submitted to the commissioner by a petition signed by not less than the number of producers or handlers which produce or handle the volume of products specified in this Subsection. The signatures on the petition need not all be appended to one sheet of paper. Each person signing the petition shall add to his signature his place of business, giving his address.

(4) Before circulating a petition to terminate a marketing order, its proponent shall notify the commissioner of their intent to do so in order to ascertain the beginning date of the ninety-day period.

(5) After such notification to the commissioner, the petition may be circulated among the producers or handlers affected. The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this Subsection. Any person may withdraw his name from a petition to terminate any marketing order until the time the petition is presented to the commissioner.

C.(1) If at least twenty-five percent of the producers who are directly affected who produce at least twenty-five percent of the product request, within a ninety-day period, that such marketing order be submitted to approval, the commissioner shall hold a hearing on the question of the reapproval of such marketing order, and whether such reapproval shall be by assent or referendum.

(2) If the commissioner finds after the hearing that a substantial question exists as to whether such marketing order is contrary to, or does not effectuate the declared purposes or provisions of this Chapter, such marketing order shall be submitted for the reapproval of those producers and handlers that are

directly affected, as provided in this Section within one hundred twenty days of the receipt of the original request.

(3) The person or persons originating such a request shall file a written notice with the commissioner in such a manner that the date such a request is initiated can be readily ascertained. Persons may withdraw their names from such a request until the time the request is presented to the commissioner.

(4) A request to hold a public hearing on a marketing order shall be submitted to the commissioner by a petition signed by not less than the number of producers or handlers which produce or handle the volume of products specified in this Section. The signatures to the petition need not all be appended to one sheet of paper. Each person signing the petition shall add to his signature his place of business, and address.

(5) Before circulating a petition to hold a public hearing on a marketing order, its proponents shall notify the commissioner of their intent to do so in order to ascertain the beginning date of the ninety-day period.

(6) After such notification to the commissioner, the petition may be circulated among the producers or handlers affected. The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this Section. Any person may withdraw his name from a petition to hold a public hearing on any marketing order until the time the petition is presented to the commissioner.

D. If the commissioner finds that the marketing order is not reapproved pursuant to this Chapter, he shall declare such order terminated. An order shall be considered reapproved if it has been assented to or favored at a referendum in the same manner as is required for a new marketing order.

E. At any time the commissioner finds that a substantial number of persons that are directly affected by an order are in opposition to it, he shall hold a hearing on the question of the termination, suspension, amendment, or reapproval of such order, and shall, not more than sixty days after such hearing, terminate, suspend, or submit for amendment or reapproval such order, or make a finding that there is not sufficient opposition to the order to warrant any action.

F. A marketing order shall not be submitted for reapproval until one year after the original enactment, or within one year of any prior approval. However, if no provision is made in any marketing order for reapproval or for termination in less than five years, the commissioner shall at least once each five years hold a referendum.

G.(1) The commissioner may terminate, without a public hearing, any marketing order or marketing agreement which has been inoperative for three consecutive marketing seasons after giving notice of intent to terminate such marketing order or marketing agreement pursuant to Paragraph (2) of this Subsection.

(2) The notice shall be published in the Louisiana Register. Termination shall not become effective until five days after the date of such publication. The commissioner shall also issue at the time of such publication, a public notice to newspapers of general and statewide circulation concerning his intention to terminate such marketing order or marketing agreement.

H. No suspension or termination of any marketing order or marketing agreement pursuant to this Section shall become effective until the expiration of the marketing season then current.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3520. Publication of notice

A. Upon the issuance of any order which makes effective a marketing order, or any suspension, amendment, or termination of a marketing order, notice shall be published in the Louisiana Register.

A marketing order, or any suspension, amendment, or termination of such shall not become effective until five days after the date of such publication. The commissioner shall also mail a copy of the notice to every person that is directly affected by the terms of such marketing order, suspension, amendment, or termination, whose name and address is on file in the office of the commissioner, and to every person that files in the office of the commissioner a written request for such notice.

B. This Section does not apply to the termination of any marketing agreement under R.S. 3:3519(G)(1) and (2).

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3521. General rules and regulations

A. The commissioner may establish such general rules and regulations as may be necessary to facilitate the administration and enforcement of such marketing orders and agreements.

B. The provisions of R.S. 3:3520 relative to publication and time of taking effect are applicable to any such general rule and regulation which is established pursuant to this Section and applicable to marketing orders. Such notice shall be mailed to the advisory board for each marketing order or marketing agreement which is in active operation.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3522. Administrative rules and regulations

A. Upon recommendation of the advisory board which is concerned, the commissioner may establish administrative rules and regulations for each marketing order or marketing agreement as may be necessary.

B. Such rules and regulations may include, but shall not be limited to, any of the following:

(1) Methods for the purpose of explaining the provisions of such marketing order or agreement.

(2) Prescribing forms and procedures to be followed by producers and handlers that are directly affected by such marketing order or agreement.

(3) Providing information to producers and handlers that are subject to such marketing order or agreement.

(4) Other procedural and explanatory provisions to enable such producers and handlers better to understand the program and their obligations under it and thereby assist in obtaining cooperation and compliance.

C. The provisions of R.S. 3:3520 relative to publication, mailing of notice, and time of taking effect are applicable to any such administrative rules and regulations.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3523. Seasonal marketing regulations

A. Upon recommendation of the advisory board which is concerned, the commissioner may issue and make effective seasonal marketing regulations if all of the following requirements are complied with:

(1) The marketing order or agreement concerned provides for the issuance of such seasonal marketing regulations and sets forth the limits within which such seasonal marketing regulations may be made effective by the commissioner.

(2) The commissioner finds that such seasonal marketing regulations are reasonable and proper and a practical means of carrying out the marketing provisions which are authorized in such marketing order or agreement.

B. Seasonal marketing regulations shall be applicable to a particular marketing order or agreement for the purpose of carrying into effect by administrative order the marketing regulatory authorizations of such marketing order or agreement as such authorizations may be applicable to, or required by, changing economic or marketing conditions and requirements during each marketing season in which such marketing order or agreement may operate.

C. Seasonal marketing regulations shall not extend beyond the marketing regulatory authorizations which are specified in the marketing order or agreement, or modify or change the language of such marketing order by adding to, or subtracting from, such marketing order or agreement any of the marketing regulatory authorizations which are classed in R.S. 3:3517 as major amendments, or modify the language of any marketing order or agreement for the purpose of clarification as provided in R.S. 3:3518 for minor amendments.

D. Notice of the issuance and the effective date of any such seasonal marketing regulations shall be given by the commissioner to all producers and handlers that are directly affected by any such regulations in the manner and within the time which is specified in the applicable marketing order or agreement, or as specified in the administrative rules and regulations which are made effective for such marketing order or agreement pursuant to R.S. 3:3522.

E. It is intended that the provisions of this Section be interpreted liberally so that the commissioner may carry out the marketing regulations and procedures authorized in this Section in a practical and effective manner.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3524. Records

A. The commissioner may require processors or distributors, that are subject to the provisions of any marketing order which is issued pursuant to this Chapter, to maintain books and records which reflect their operations under such marketing order, and to furnish him with such information as may be requested by him which relate to operations under such marketing order, and to permit the inspection by the commissioner of such portions of such books and records as relate to operations under such marketing order.

B. Such information shall be confidential and shall not be disclosed to any other person except to an attorney who is employed to give legal advice upon it, or by court order.

C. The commissioner may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents of any kind.

D. A person shall not be excused from such hearing or from producing documentary evidence, before the commissioner in obedience to the subpoena of the commissioner on the ground, or for the reason, that the testimony or evidence, documentary, or otherwise, which is required of him may tend to incriminate him or subject him to a penalty or forfeiture. A person shall not be prosecuted or subjected to any penalty or forfeiture for any transaction, matter, or thing concerning which he may be so required to testify during such hearing, or produce evidence, documentary or otherwise, before the commissioner in obedience to a subpoena which is issued by him. A person testifying is not, however, exempt from prosecution and punishment for perjury committed in so testifying.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3525. Actions and penalties

A. Any action for any penalty or fine shall be commenced within three years from the date of the alleged violation.

B. The penalties prescribed by this Section apply in instances of any violation of any provision of this Chapter, any marketing order, or any regulation, or rule and regulation, which is issued by the commissioner.

C. Any person that violates any provision of this Chapter, or any marketing order, or that violates any rule, or regulation which is issued by the commissioner for such marketing order, is liable for a civil penalty in an amount not to exceed a sum of one hundred dollars for each and every violation.

D. It shall be a violation of this Chapter for any person not under the jurisdiction of such marketing order to use any identifying designation of grade, quality, or condition authorized by such order.

E. It is a violation for any person to furnish a false report, which is required by the commissioner or any marketing order provisions.

F. It is a violation for any person that is engaged in the handling, processing, or wholesale, or retail trade of the commodity, to fail to furnish to the commissioner information concerning the name and address of the persons from whom he has received any commodity which is regulated by a marketing order and the quantity of such commodity.

G. It is a violation for any handler to receive, handle, or have in his possession any commodity which is regulated by a marketing order that the handler knows is being marketed by the producer without complying with the provisions of such marketing order.

H. The commissioner shall, upon complaint of any interested party which charges any violation of any provision of any marketing order which is issued, immediately call an administrative hearing to consider the charges in such complaint.

I. The commissioner or his legal counsel shall thereupon bring an appropriate action in a court of competent jurisdiction in this state, if, after examination of the complaint and evidence he believes that a violation has occurred.

J. The commissioner shall notify all persons named as respondents in verified complaint by mail ten days before such hearing.

K. The hearing shall be held at a location designated by the commissioner.

L. The commissioner shall hear the parties to the complaint and shall enter his findings which are based upon the facts that are established at such hearing. If the commissioner finds that no violation has occurred, he shall dismiss such complaint and notify the parties involved.

M.(1) If the commissioner finds that a violation has occurred, he shall notify the parties involved. The commissioner may refer the matter to the attorney general for further investigation.

(2) Upon their refusal or failure to comply, or if he finds that the facts or circumstances warrant immediate prosecution, he shall file a complaint with the attorney general or any district attorney which requests that such officer commence any action which is authorized against such respondent.

N. The attorney general shall bring an action in the appropriate district court of this state for civil penalties or for injunctive relief, including specific performance of any obligation which is imposed by any marketing order against any person in violation of any marketing order issued by the commissioner.

O. If it appears to the court upon any application for a temporary restraining order, or upon the hearing of any order to show cause why a preliminary injunction should not be issued, or upon the hearing of any motion for a preliminary injunction, or if the court shall find, in any such action, that any defendant is violating, or has violated, any provision of this Chapter, any marketing order, or any regulation, or rule and regulation, the court shall enjoin the defendant from committing further violations and may compel specific performance of any obligation imposed by a marketing order or any regulation which is issued by the commissioner pursuant to this Chapter.

P. In any suit brought by the attorney general to enforce any provision of this Chapter, any marketing order, or any regulation which is issued by the commissioner, the judgment, if in favor of the state, shall provide that the defendant pay to the commissioner the costs which were incurred by the commissioner and by the advisory board concerned with the administration of such marketing order in the prosecution of such action. Any money which is recovered shall be deposited in accordance with R.S. 3:3514.

Q. Any such action may commence either in the parish where defendant resides or where any act which is complained of occurred.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3526. Inspection; notice of noncompliance; disposition

A. Except as otherwise provided in this Section, any authorized inspector, in the discharge of his duties, if he has reason to believe that a lot or any commodity subject to a marketing order is not in compliance with the requirements of such marketing order or agreement may hold such lot for a reasonable period of time sufficient for an authorized inspection whether such lot complies with such marketing requirements, but in any event not to exceed twenty-four hours in the case of perishables or seventy-two hours in the case of nonperishables.

B. Following inspection, such inspector may affix to any lot which is determined to be in noncompliance, an official notice which warns that the lot is held and states the reasons why it is held. It is unlawful for any person, except an authorized inspector or enforcing officer, to detach, alter, deface, or destroy any such official notice so affixed to any such lot, or to remove or dispose of such lot in any manner or under conditions other than as prescribed in such notice of noncompliance except upon written permission of an authorized enforcing officer.

C. The commissioner, or the authorized person by whom such lot is being held, shall serve the person in possession of the lot with a notice of noncompliance. Such notice shall be served in person or by mail to the last known address of such person that is in possession. The person in possession shall notify the owner of the lot, or every other person that has an interest in it, of the serving of such notice of noncompliance.

D. The notice of noncompliance shall include all of the following:

- (1) A description of the lot.
- (2) The place where and the reasons for which the lot is held.
- (3) A citation of the applicable marketing order or agreement and any section of it upon which the notice of noncompliance is based.

E. The owner of the lot shall have in the case of a perishable commodity not to exceed forty-eight hours and in the case of a nonperishable commodity not to exceed seventy-two hours from the time of serving of such notice of noncompliance for reconditioning or for the correction of the deficiencies which are noted in the notice of noncompliance. If such lot is reconditioned or the deficiencies are corrected, the enforcing officer shall remove the warning tags and release the lot for marketing or may, with the consent of the owner of such lot, divert the lot to other lawful uses or destroy it.

F. If the owner of the lot fails or refuses to give such consent, or if the lot has not been reconditioned or the deficiencies otherwise corrected so as to bring it into compliance within the time which is specified in the notice, the enforcing officer shall proceed as provided in Subsection I.

G. The enforcing officer may file a verified petition in any appropriate district court of this state requesting permission to divert such lot to any other available lawful use or to destroy such lot. Such verified petition shall show all of the following:

- (1) The condition of the lot.

(2) That the lot is situated within the territorial jurisdiction of the court in which the petition is being filed.

(3) That the lot is held and that the notice of noncompliance has been served as provided in Subsection E.

(4) That the lot has not been reconditioned as required.

(5) The name and address of the owner and the person in possession of the lot.

(6) That the owner has refused permission to divert or to destroy the lot.

H.(1) Upon the filing of the verified petition, the court may issue an order to show cause returnable in five days after service upon the owner why the lot shall not be reconditioned or the deficiencies corrected or why the lot shall not be diverted to other lawful uses or destroyed.

(2) The owner of the lot may, prior to the date when the order to show cause is returnable, either recondition or correct the deficiencies in the lot so as to bring it into compliance, or may file at or before the hearing on the order an answer with the court stating why the lot should not be reconditioned or the deficiencies corrected so as to bring it into compliance, or showing why it should not be diverted to other lawful uses or destroyed.

I. If after the five day period the owner of the lot has failed to comply, the court may enter judgment as to the proper disposal of such lot, other than the lot being released into the regular channels of trade.

J. Disposal of any lot or portion of any lot, whether such disposal be by arrangement with an enforcement officer or by court order, does not waive any of the penalty provisions of this Part.

Added by Acts 1978, No. 500, §1; Acts 2009, No. 24, §8J, eff. June 12, 2009.

CHAPTER 21-B. LOUISIANA RICE PROMOTION BOARD

§3531. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "Commissioner" means the Commissioner of Agriculture for the state of Louisiana.

(2) "Board" means the Louisiana Rice Promotion Board.

(3) "Producer" means any person who receives a share in the proceeds from the sale of rice produced in this state.

(4) "Rice" means all marketable green and dry rough "paddy" rice produced within the state of Louisiana for milling, seed or other commercial purposes.

(5) "Hundredweight" means one hundred pounds, excluding tare.

(6) "Miller" means any person engaged within or without the state in the operation of milling rice.

(7) "Handler" means any person engaged in the business of handling rice.

(8) "Person" means an individual, partnership, firm, corporation, association or other business unit.

(9) "Fiscal year" means July first through June thirtieth of the following year.

(10) "CCC" means the Commodity Credit Corporation.

(11) "Buyer" means any person who purchases rice at the first point of sale only.

(12) "Collection" means collecting and refunding the assessments.

(13) "Louisiana Rice Council" means the Louisiana section of the Rice Council for Market Development.

Added by Acts 1972, No. 104, §1; Acts 1991, No. 98, §1, eff. July 1, 1991; Acts 2009, No. 24, §8H, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3532. Purpose

The purpose of this Chapter is to promote the growth and development of the rice industry in Louisiana by promotion of rice, thereby promoting the general welfare of the people of this state.

Added by Acts 1972, No. 104, §1; Acts 2009, No. 24, §8H, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3533. Creation and organization

A. The Louisiana Rice Promotion Board is hereby created, with its domicile in Crowley, Louisiana.

B. The board shall be composed of eleven members appointed by the governor. Each member shall be subject to Senate confirmation, except the commissioner or his designee. Members shall serve for four-year terms which shall begin on the fifteenth day of August of 2014 and each four years thereafter. The board shall be composed of the following members:

(1) Six members appointed from a list of twelve persons nominated by the Louisiana Rice Council.

(2) One member appointed from a list of three persons nominated by the Louisiana Rice Growers Association.

(3) One member appointed from a list of three persons nominated by the American Rice Growers Cooperative Association.

(4) One member appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation, Inc.

(5) One member appointed from a list of three persons nominated by the Louisiana Independent Rice Producers Association.

(6) The commissioner of agriculture or his designee.

C. Not less than thirty days prior to the fifteenth day of August in 2014 and every four years thereafter, the Louisiana Rice Council, the Louisiana Rice Growers Association, the American Rice Growers Cooperative Association, the Louisiana Farm Bureau Federation, and the Louisiana Independent Rice Producers Association shall each submit the names of their nominees, all of whom shall be rice producers, to the governor, who shall appoint the required number of board members from each set of nominees. In the event that the governor fails to appoint the members of the board in accordance with this Section, the current members shall continue to serve until their successors are appointed.

D. Any vacancy on the board by reason of death, removal, resignation, or disqualification of a member or for any other cause shall be filled by appointment of the chairman for the remainder of the term.

E. The members of the board shall meet and organize immediately after their appointment and shall elect a chairman, vice chairman, and secretary-treasurer from the membership of the board. The duties of the officers shall be those customarily exercised by such officers or specifically designated by the board. The board may establish rules and regulations for its own government and the administration of the affairs of the board and shall have the following duties, functions, and authorizations in addition to and in conjunction with the aforementioned:

(1) To make recommendations and to advise the commissioner concerning rules and regulations relating to the administration of the collection of the assessments.

(2) To enter into contracts for rice promotion with rice promotion and other organizations relating to the production, handling, marketing, and utilization of rice, which rice promotion organizations may include nonprofit organizations of which members of the board are members.

(3) To keep minutes, books, and records which will clearly reflect all of its meetings, acts and transactions. The minutes, books, and records at all times shall be subject to examination by any rice producer on whom an assessment has been collected.

(4) To publicize the actions of the board in the news media serving the rice areas of Louisiana.

(5) To investigate and cause prosecution to be instituted for violation of the provisions of this Chapter.

F. *Repealed by Acts 2014, No. 216, §2.*

Added by Acts 1972, No. 104, §1; Amended by Acts 1977, No. 119, §1; Acts 1980, No. 353, §1; Acts 1988, No. 577, §1; Acts 2009, No. 24, §8H, eff. June 12, 2009; Acts 2010, No. 861, §3; Acts 2014, No. 216, §§1, 2.

§3534. Levy of assessment; collection and enforcement; records; refunds; transfer of funds

A. Levy of assessment.

(1) There is hereby levied an assessment at the rate of three cents per hundredweight, or the equivalent thereof, of dry rough "paddy" rice produced in this state and a rate of two and seventy one-hundredths cents per hundredweight, or the equivalent thereof, on rice produced in this state and sold on a "green weight" basis.

(2) The obligation to pay the assessment shall apply to the producer for all rice marketed by him. To facilitate collection, this assessment shall be deducted by each miller or handler from the amount paid the producer at the first point of sale only, whether within or outside the state.

(3) Rice which was purchased by a handler on a "green weight" basis for resale and on which the assessment has been collected from producers must be accompanied by a certificate showing the amount of assessments deducted when resale is made to a miller by the handler.

(4) Assessments on seed rice shall be due at the time such rice is marketed as seed and shall be collected from the handler performing the cleaning. Such handler shall add such assessment to any amount charged to the producer or other person for whom such cleaning service is performed.

(5) Assessments on rice put under loan to the Commodity Credit Corporation or purchased by the Commodity Credit Corporation and delivered to it shall be payable when such rice is placed under loan or is purchased.

(6) The Commodity Credit Corporation may require deduction and payment of the assessment from the loan proceeds or from the purchase price on behalf of the producer.

(7) Assessments on rice put under loan to the Commodity Credit Corporation and redeemed by the producer prior to the takeover date, if already paid by having been deducted from the loan proceeds, shall not be deducted by each miller or handler from the amount paid the producer at the first point of sale as provided in this Section; otherwise, the assessment shall be deducted.

B. *Repealed by Acts 2014, No. 216, §2.*

C, D. *Repealed by Acts 1991, No. 98, §2, eff. July 1, 1991.*

E. Collection and enforcement. The assessment levied by this Chapter shall be collected by the commissioner. On rice sold by the producer, collection shall be from the buyer of the rice at the first point of sale only. On rice put under loan or purchased by the Commodity Credit Corporation and delivered to the Commodity Credit Corporation, collection shall be from the producer, or from the Commodity Credit Corporation on the producer's behalf. On seed rice, collection shall be from the handler performing the cleaning.

F. Records. Every buyer shall keep a complete and accurate record of all rice purchased by him. Such records shall be in such form and contain such other information as the board shall by rule or regulation prescribe. The records shall be preserved by the buyer for a period of two years and shall be offered for inspection at any time upon oral or written demand by the commissioner or his duly authorized representative or agent thereof. Every buyer, at such time or times as the commissioner may require, shall submit reports or other documentary information deemed necessary for the efficient and equitable collection of the assessment levied in this Chapter. The commissioner shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of rice from which assessments were collected or to be collected and examine or cause to be examined by such agent any books, papers and records which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this Chapter.

G. Refunds.

(1) Any rice producer may request and receive a refund of the amount deducted from his share of the proceeds from the sale of his rice provided he makes a written application with the commissioner within thirty days from the date of sale supported by copies of sales slips signed by the producer and provided further that the application is filed before the annual accounting is made and the funds paid to the board.

(2) The refund shall be paid to the producer no later than sixty days after the commissioner receives the producer's application for a refund.

(3) Any repeal of the refund provided in this Subsection shall require two-thirds vote of the legislature.

H. Transfer of funds.

(1) The commissioner of agriculture shall monthly pay over to the Louisiana Rice Promotion Board the funds collected less the actual cost of administering and collecting the assessment levied herein up to but not to exceed two percent of the gross amount collected.

(2) The annual settlement to the Louisiana Rice Promotion Board shall be made as of the first day of July of each year and shall be accompanied by a complete audit of all funds collected and disbursed, and costs actually incurred in the collection and administration of the assessment.

I. *Repealed by Acts 2014, No. 216, §2.*

Added by Acts 1972, No. 104, §1; Amended by Acts 1980, No. 353, §2; Acts 1988, No. 335, §1; Acts 1991, No. 98, §§1 and 2, eff. July 1, 1991; Acts 2009, No. 24, §8H, eff. June 12, 2009; Acts 2010, No. 861, §3; Acts 2014, No. 216, §§1, 2.

§3535. Failure to pay assessment; penalty

A. Any buyer who fails to file a report or to pay any assessment within the required time by the commissioner shall forfeit to the commissioner the amount of the assessment plus a penalty of five percent of the assessment determined to be due, plus one percent of such amount for each month of delay or fraction thereof after the first month after such report was required to be filed or such assessment became due. The penalty shall be paid to the commissioner and shall be disposed of by him in the same manner as funds derived from the payment of the assessment imposed herein.

B. The commissioner shall collect the penalties levied herein, together with the delinquent assessments, by any of the following methods:

(1) By voluntary payment by the person liable;

(2) By legal proceedings instituted in a court of competent jurisdiction;

(3) By injunctive relief to enjoin any buyer owing such assessment and/or penalties from operating his business or engaging in business as a buyer of rice until the delinquent assessment and/or penalties are paid.

C. Any person required to pay the assessments provided for in this Chapter who refuses to allow full inspection of the premises, or any books, records, or other documents relating to the liability of such person for the assessment herein imposed, or who shall hinder or in any way delay or prevent such inspection, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or by imprisonment not to exceed six months, or both.

D. Whoever violates any provisions of this Chapter or any rule or regulation of the board pursuant to the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars or by imprisonment not to exceed thirty days, or both.

Added by Acts 1972, No. 104, §1; Acts 2009, No. 24, §8H, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3536. Limitation of liability of members of board

The members and alternate members of the board shall not be responsible individually in any way whatsoever to any producer or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, except for their own individual acts of dishonesty or crime. No such person shall be held responsible individually for any act or omission of any other member of the board. The liability of the board shall be several and not joint and no member or alternate member shall be liable for the default of any other member or alternate member.

Added by Acts 1972, No. 104, §1; Acts 2009, No. 24, §8H, eff. June 12, 2009.

§3537. Use of funds

A. After deduction from the proceeds of the assessment, the expenses of collection and administration, the board shall dedicate the balance to rice promotion. The board shall have the discretion as to what organizations and agencies to expend monies for such purposes. Use of these funds may be applied within or outside of the state of Louisiana, including regional, national, and international applications.

B. Board members, and any committees of the board on which they serve, may be reimbursed for allowable expenses necessarily incurred by them in the performance of their duties, but no member shall receive a salary or per diem for the performance of his duties.

Added by Acts 1972, No. 104, §1; Acts 2009, No. 24, §8H, eff. June 12, 2009; Acts 2014, No. 216, §1.

§3538. National and international policy

A. The Louisiana Legislature hereby finds and declares that the factors which affect the ability of Louisiana rice farmers to market their crop are established by national and international forces in the world market. The Louisiana Legislature further finds and declares that the expenditure of funds by the board for the purpose of influencing the development and implementation of national and international policy affecting the marketing of rice produced by Louisiana farmers is the expenditure of funds for a public purpose.

B. The board is hereby authorized to expend a portion of the funds received and administered by the board for the purpose of influencing the development and implementation of national and international policy affecting the marketing of rice produced by Louisiana farmers.

C. The amount of funds expended by the board in each fiscal year for the purposes authorized in this Section shall not exceed five percent of the budget of the board for that fiscal year.

D. The board shall not expend any funds for the purpose of influencing any legislative action on the state level.

Added by Acts 1988, No. 278, §1; Acts 2009, No. 24, §8H, eff. June 12, 2009.

CHAPTER 21-C. LOUISIANA RICE RESEARCH BOARD

§3541. Terms defined

As used in this Chapter, the terms defined in this Section shall have the meanings herein given to them, except where the context expressly indicates otherwise:

- (1) "Commissioner" means the commissioner of agriculture for the state of Louisiana.
- (2) "Board" means the Louisiana Rice Research Board.
- (3) "Producer" means any person who receives a share of the proceeds from the sale of rice produced in this state.
- (4) "Rice" means all marketable green and rough "paddy" rice produced within the State of Louisiana for milling, seed or other commercial purposes.
- (5) "Hundredweight" means one hundred pounds, excluding tare.
- (6) "Miller" means any person engaged within or without the state in the operation of milling rice.
- (7) "Handler" means any person engaged in the business of handling rice.
- (8) "Person" means an individual, partnership, firm, corporation, association or other business unit.
- (9) "Fiscal Year" means July 1 through June 30 of the following year.
- (10) "CCC" means the Commodity Credit Corporation.
- (11) "Buyer" means any person who purchases rice at the first point of sale only.
- (12) "Collection" means collecting and refunding the assessments.
- (13) "Producer Administrative Area" means that area as stated in the ASCS Regulations, Part 730.62(b)-(11).

Added by Acts 1972, No. 105, §1; Acts 2009, No. 24, §8I, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3542. Purpose

The purpose of this Chapter is to promote the growth and development of the rice industry in Louisiana by expanded research of rice, thereby promoting the general welfare of the people of this state.

Added by Acts 1972, No. 105, §1; Acts 2009, No. 24, §8I, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3543. Louisiana Rice Research Board; creation and organization

A. The Louisiana Rice Research Board is hereby created with its domicile in Crowley, Louisiana.

B. The board shall be composed of fifteen members appointed by the governor. Each member shall be a rice producer and be subject to Senate confirmation, except the commissioner or his designee. Members shall serve for four-year terms which shall begin on the fifteenth day of August in 2014 and each four years thereafter. The board shall consist of the following members:

- (1) Six members appointed from a list of ten persons nominated by the Louisiana Farm Bureau Federation, Inc.
- (2) Five members appointed from a list of eight persons nominated by the Louisiana Rice Growers Association.
- (3) Two members appointed from a list of four persons nominated by the American Rice Growers Cooperative Association.
- (4) One member appointed from a list of three persons nominated by the Louisiana Independent Rice Growers Association.
- (5) The commissioner of agriculture or his designee.

C. Not less than thirty days prior to August 15, 2014, and every four years thereafter, the Louisiana Farm Bureau Federation, Inc., the Louisiana Rice Growers Association, the American Rice Growers Cooperative Association, and the Louisiana Independent Rice Producers Association each shall submit the names of their nominees, all of whom shall be rice producers, to the governor who shall appoint the required number of board members from each set of nominees. In the event that the governor fails to appoint the members of the board in accordance with this Section, the current members shall continue to serve until their replacements are appointed. Board members shall be eligible to succeed themselves on the board if they meet the prescribed qualifications and are reappointed by the governor.

D. The members of the board shall meet and organize immediately after their appointment and shall elect a chairman, vice chairman, and secretary-treasurer from the membership of the board, whose duties shall be those customarily exercised by such officers or specifically designated by the board. The board may establish rules and regulations for its own government and the administration of the affairs of the board and shall have the following duties, functions, and authorizations in addition to and in conjunction with the aforementioned:

(1) To make recommendations and to advise the commissioner concerning rules and regulations relating to the administration of the collection of the assessments.

(2) To receive the funds from the state treasury in accordance with the provisions of this Chapter.

(3) To expend funds collected for rice research and to enter into contracts with rice research organizations and agencies relating to the production, handling, marketing, or utilization of rice for the purposes of research.

(4) To keep minutes, books, and records which will clearly reflect all of its meetings, acts, and transactions. The minutes, books, and records shall at all times be subject to examination by any rice producer on whom an assessment has been collected.

(5) To publicize the actions of the board in the news media serving the rice areas of Louisiana.

E. *Repealed by Acts 2014, No. 345, §2.*

Added by Acts 1972, No. 105, §1; Amended by Acts 1977, No. 118, §1; Acts 1986, No. 927, §1; Acts 1988, No. 586, §1; Acts 2009, No. 24, §8I, eff. June 12, 2009; Acts 2010, No. 861, §3; Acts 2014, No. 345, §§1, 2.

§3544. Levy of assessment; collection; enforcement; transfer of funds

A. Levy of assessment.

(1) There is imposed and levied an assessment at the rate of three cents per hundredweight, or the equivalent thereof, of dry rough "paddy" rice produced in this state.

(2) For rice sold on a "green weight" basis, a reduction of ten percent will be allowed for weight loss in computing the assessment.

(3) The obligation to pay the assessment shall apply to the producer for all rice marketed by him. To facilitate collection, this assessment is to be deducted by each miller or handler from the amount paid the producer at the first point of sale only, whether within or outside the state.

(4) Rice which was purchased by a handler on a "green weight" basis for resale and on which the assessment has been collected from producers must be accompanied by a certificate showing the amount of assessments deducted when resale is made to a miller by the handler.

(5) Assessments on seed rice shall be due at the time such rice is marketed as seed and shall be collected from the handler performing the cleaning. Such handler shall add such assessment to any amount charged to the producer or other person for whom such cleaning service is performed.

(6) Assessments on rice put under loan to the Commodity Credit Corporation or purchased by the Commodity Credit Corporation and delivered to it shall be payable when such rice is placed under loan or is purchased.

(7) The Commodity Credit Corporation may require deduction and payment of the assessment from the loan proceeds or from the purchase price on behalf of the producer.

(8) Assessments on rice put under loan to the Commodity Credit Corporation and redeemed by the producer prior to the takeover date, if already paid by having been deducted from the loan proceeds, shall not be deducted by each miller or handler from the amount paid the producer at the first point of sale as provided in this Section; otherwise, the assessment shall be deducted.

(9) The assessment imposed by this Subsection shall be effective for a period of five crop years.

(10) *Repealed by Acts 2014, No. 345, §2.*

B. *Repealed by Acts 2014, No. 345, §2.*

C. Collection and Enforcement. The assessment imposed and levied by this Chapter shall be collected by the commissioner. On rice sold by the producer, collection shall be from the buyer of the rice at the first point of sale only. On rice put under loan and delivered to the CCC, collection shall be from the producer, or from the CCC on the producer's behalf. On seed rice, collection shall be from the handler performing the cleaning.

D. Records. Every buyer, miller, or handler shall keep a complete and accurate record of all rice purchased, milled, or handled by him. Such records shall be in such form and contain such other information as the board shall by rule or regulation prescribe. The records shall be preserved by said buyer for a period of two years and shall be offered for inspection at any time upon oral or written demand by the commissioner or his duly authorized representative or agent thereof. Every buyer, miller, or handler, at such time or times as the commissioner may require, shall submit reports or other documentary information deemed necessary for the efficient and equitable collection of the assessment imposed in this Chapter. The commissioner shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer, miller, or handler of rice from which assessments were collected or to be collected and examine or cause to be examined by such agent any books, papers, and records which deal in any way with the payment of the assessment or enforcement of the provision of this Chapter.

E. Refunds.

(1) Any rice producer may request and receive a refund of the amount deducted from his share of the proceeds from the sale of his rice provided he makes a written application with the commissioner within thirty days from the date of sale supported by copies of weight or settlement sheets by the buyer and provided further that the application is filed before the annual accounting is made and the funds paid to the board.

(2) The refund shall be paid to the producer no later than sixty days after the commissioner receives the producer's application for a refund.

(3) Any repeal of the refund provided in this Subsection shall require a two-thirds vote of the legislature.

F. Transfer of funds.

(1) The proceeds of the assessment collected by the commissioner shall be deposited with the state treasurer in a special fund to be established by the state treasurer for the Louisiana Rice Research Board, to the credit of the Louisiana Rice Research Board.

(2) The commissioner shall join with the secretary-treasurer of the board in signing a warrant to have the net proceeds from the assessment paid to the board.

(3) The commissioner of agriculture shall monthly pay over to the Louisiana Rice Research Board the funds collected less the actual cost of administering and collecting the assessment levied pursuant to this Section up to but not to exceed two percent of the gross amount collected.

(4) The monthly settlement to the Louisiana Rice Research Board shall be accompanied by a complete audit of all funds collected and disbursed, and costs actually incurred in the collection and administration of the assessment.

G. *Repealed by Acts 1991, No. 98, §2, eff. July 1, 1991.*

H. Additional assessments.

(1) In addition to all other assessments levied pursuant to this Section there is hereby levied an assessment at a rate of two cents per hundredweight, or the equivalent thereof, on dry rough "paddy" rice produced in this state.

(2) The assessment shall be reduced ten percent for rice sold on a "green weight" basis.

(3) Each producer shall pay the assessment on all rice marketed by the producer.

(4) This assessment shall be deducted and collected in the same manner as the other assessments provided for in this Section.

(5) *Repealed by Acts 2014, No. 345, §2.*

Added by Acts 1972, No. 105, §1; Amended by Acts 1981, No. 4, §1, eff. June 3, 1981; Acts 1988, No. 335, §1; Acts 1991, No. 98, §§1 and 2, eff. July 1, 1991; Acts 2009, No. 24, §8I, eff. June 12, 2009; Acts 2010, No. 861, §3; Acts 2014, No. 345, §§1, 2.

§3545. Failure to pay assessment: penalty

A. Any buyer, miller or handler who fails to file a report or to pay any assessment within the required time by the commissioner shall forfeit to the commissioner a penalty of five percent of the assessment determined to be due, plus one percent of such amount for each month of delay or fraction thereof after the first month after such report was required to be filed or such assessment became due. The penalty shall be paid to the commissioner and shall be disposed of by him in the same manner as funds derived from the payment of the assessment imposed herein.

B. The commissioner shall collect the penalties levied herein, together with the delinquent assessments, by any of the following methods:

(1) By voluntary payment by the person liable

(2) By legal proceedings instituted in a court of competent jurisdiction

(3) By injunctive relief to enjoin any buyer owing such assessment and/or penalties from operating his business or engaging in business as a buyer of rice until the delinquent assessment and/or penalties are paid.

C. Any person required to pay the assessments provided for in this Chapter who refuses to allow full inspection of the premises, or any books, records, or other documents relating to the liability of such person for the assessment herein imposed, or who shall hinder or in any way delay or prevent such inspection, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or by imprisonment not to exceed six months, or both.

D. Whoever violates any other provisions of this Chapter or any rule or regulation of the board pursuant to the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars or by imprisonment not to exceed thirty days, or both.

Added by Acts 1972, No. 105, §1; Acts 2009, No. 24, §8I, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3546. Limitation of liability of members of the board

The members of the Louisiana Rice Research Board shall not be responsible individually in any way whatsoever to any producer or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, except for their own individual acts of dishonesty or crime. No such person shall be held responsible individually for any act or omission of any other member of the board. The liability of the board shall be several and not joint and no member shall be liable for the default of any other member.

Added by Acts 1972, No. 105, §1; Acts 2009, No. 24, §8I, eff. June 12, 2009.

§3547. Use of funds

A. The board shall dedicate, after deducting for administrative expenses, the amounts determined needed for rice research. The board shall have authority to contract for services in order to accomplish the purpose for which it is created. Use of these funds may be applied within or outside the state of Louisiana, including regional, national and international applications as long as the research will benefit Louisiana rice producers.

B. Board members, and any committees of the board on which they serve, may be reimbursed for allowable expenses necessarily incurred by them in the performance of their duties. But no such member shall receive a salary or per diem for the performance of such duties.

Added by Acts 1972, No. 105, §1; Acts 2009, No. 24, §8I, eff. June 12, 2009; Acts 2014, No. 345, §1.

§3548. National and international policy

A. The Louisiana Legislature hereby finds and declares that the factors which affect the ability of Louisiana rice farmers to market their crop are established by national and international forces in the world market. The Louisiana Legislature further finds and declares that the expenditure of funds by the board for the purpose of influencing the development and implementation of national and international policy affecting the marketing of rice produced by Louisiana farmers is the expenditure of funds for a public purpose.

B. The board is hereby authorized to expend a portion of the funds received and administered by the board for the purpose of influencing the development and implementation of national and international policy affecting the marketing of rice produced by Louisiana farmers.

C. The amount of funds expended by the board in each fiscal year for the purposes authorized in this Section shall not exceed five percent of the budget of the board for that fiscal year.

D. The board shall not expend any funds for the purpose of influencing any legislative action on the state level.

Added by Acts 1988, No. 278, §1; Acts 2009, No. 24, §8I, eff. June 12, 2009.

CHAPTER 21-D. LOUISIANA SOYBEAN AND GRAIN RESEARCH AND PROMOTION BOARD

§3551. Purposes

The purpose of this Chapter is to promote the growth and development of the soybean, wheat, corn, and grain sorghum industries in Louisiana by research and advertisement, thereby promoting the general welfare of the people of this state.

Added by Acts 1968, Ex.Sess., No. 45, §1; Acts 1985, No. 390, §1, eff. July 10, 1985; Acts 2009, No. 24, §8G, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3552. Louisiana Soybean and Grain Research and Promotion Board; creation and organization

A. The Louisiana Soybean and Grain Research and Promotion Board is created with its domicile at Baton Rouge, Louisiana. The board shall be composed of twelve producer members to be appointed by the governor to serve terms concurrent with the governor. Each appointment by the governor shall be submitted to the Senate for confirmation. Eight members of the board shall be practical producers of soybeans in the state of Louisiana and four members shall be practical producers of wheat, corn, or grain sorghum. The Louisiana Farm Bureau Federation, Inc., shall submit the names of eight practical soybean producers to the governor, and he shall appoint five persons from the nominees to serve on the board. The Louisiana Soybean Association shall submit the names of five practical soybean producers to the governor, and he shall appoint three members from the nominees to serve on the board. The Louisiana Farm Bureau Federation, Inc., shall submit the names of three persons who produce wheat, corn, or grain sorghum to the governor and he shall appoint two persons from these nominees to serve on the board. The Louisiana Cotton and Grain Association shall submit the names of three persons who produce wheat, corn, or grain sorghum to the governor and he shall appoint two persons from these nominees to serve on the board. Every fourth year the aforementioned organizations shall submit the names of nominees to the governor and succeeding boards shall be appointed by the governor in the same manner, giving equal representation to each organization in the appointment of the eight members who are practical soybean producers.

B. The members of the board shall meet and organize immediately after their appointment, and shall elect a chairman, vice chairman and a secretary-treasurer from the membership of the board, whose duties shall be those customarily exercised by such officers or specifically designated by the board. The board may establish rules and regulations for its own government, and the administration of the affairs of the board. The board may disqualify any appointed member for cause, including excessive absences from board meetings. If any board member is so disqualified, the vacancy shall be filled by appointment of the chairman from a list of two names submitted by the nominating authority for the remainder of the term.

C. The commissioner of agriculture shall serve as an ex officio member of the board.

D. The board shall employ a director and assistant director who shall be appointed by the board, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service.

Added by Acts 1968, Ex.Sess., No. 45, §1. Amended by Acts 1980, No. 44, §1, eff. June 9, 1980; Acts 1985, No. 390, §1, eff. July 10, 1985; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 1989, No. 59, §1; Acts 2009, No. 24, §8G, eff. June 12, 2009; Acts 2011, No. 207, §11.

§3553. Levy of assessment; collection; enforcement; refund

A. There is imposed and levied an assessment at the rate of one cent per bushel on all soybeans grown within the state, this assessment to be deducted from the amount paid the producer at the first point of sale, whether within or without the state.

B.(1) There is imposed and levied an assessment at the rate of one-half cent per bushel on all wheat, corn, and grain sorghum grown within the state.

(2) No assessment for grain sorghum shall be imposed and levied in accordance with this Subsection while a national assessment for grain sorghum established pursuant to 7 CFR 1221 remains in effect. The assessment on grain sorghum shall be imposed and levied in accordance with this Subsection upon the suspension or termination of the national assessment for grain sorghum established pursuant to 7 CFR 1221.

C. The assessments imposed and levied by this Chapter shall be collected by the commissioner of agriculture from the buyer of soybeans or the wheat, corn, or grain sorghum at the first point of sale. Every buyer shall keep a complete and accurate record of all soybeans, wheat, corn, or grain sorghum handled by him. Such records shall be in such form and contain such other information as the board shall by rule or regulation prescribe. The records shall be preserved by the buyer for a period of one year and shall be offered for inspection at any time upon oral or written demand by the commissioner or any duly authorized agent or representative of the commissioner. Every buyer, at such time or times as the commissioner may require, shall submit reports or other documentary information deemed necessary for the efficient and equitable collection of the assessment imposed in this Chapter. The commissioner of agriculture shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of soybeans, wheat, corn, or grain sorghum and examine or cause to be examined by such agent any books, papers, and records which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this Chapter.

D. The commissioner of agriculture shall quarterly pay over to the Louisiana Soybean and Grain Research and Promotion Board the funds collected less the actual cost of administering and collecting any assessment levied herein up to but not to exceed three percent of the gross amount collected. The quarterly settlement to the Louisiana Soybean and Grain Research and Promotion Board shall be made on or before the fifteenth day of the succeeding quarter and shall be accompanied by a complete audit of all funds collected and disbursed, and costs actually incurred in the collection and administration of the assessments.

E. Any producer whose commodities are subject to an assessment levied under this Chapter may request and receive a refund of the amount deducted from the sale of his commodities provided he makes a written application with the commissioner within thirty days from date of sale supported by copies of sales slips signed by the purchaser, and provided further that the application is filed before the quarterly accounting is made and the funds paid to the Louisiana Soybean and Grain Research and Promotion Board.

Added by Acts 1968, Ex.Sess., No. 45, §1. Amended by Acts 1972, No. 38, §1; Acts 1980, No. 44, §1, eff. June 9, 1980; Acts 1985, No. 390, §1, eff. July 10, 1985; H.C.R. No. 159, 2008 R.S., eff. July 1, 2008; Acts 2009, No. 24, §8G, eff. June 12, 2009; Acts 2010, No. 25, §1, eff. July 1, 2010; Acts 2010, No. 861, §3; Acts 2014, No. 205, §1.

NOTE: *See Acts 1985, No. 390, §§3, 4.*

§3554. Failure to pay assessment; penalty

A. Any buyer who fails to file a report or to pay any assessment within the required time by the commissioner shall forfeit to the commissioner a penalty of five percent of the assessment determined to be due, plus one percent of such amount for each month of delay or fraction thereof after the first month after such report was required to be filed or the assessment became due. The penalty shall be paid to the commissioner and shall be disposed of by him in the same manner as funds derived from the payment of the assessment imposed herein.

B. The commissioner of agriculture shall collect the penalties levied herein, together with any delinquent assessment, by any or all of the following methods:

- (1) By voluntary payment by the person liable.
- (2) By legal proceedings instituted in a court of competent jurisdiction.

(3) By injunctive relief to enjoin any buyer owing such assessment and/or penalties from operating his business or engaging in business as a buyer of soybeans, wheat, corn, or grain sorghum until the delinquent assessment and/or penalties are paid.

C. Any person required to pay any assessment provided for in this Chapter who refuses to allow full inspection of the premises, or any books, records, or other documents relating to the liability of such person for any assessment herein imposed, or who hinders or in any way delays or prevents such inspection, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding five hundred dollars or by imprisonment not to exceed six months, or both.

D. Whoever violates any other provision of this Chapter or any rule or regulation of the Louisiana Soybean and Grain Research and Promotion Board pursuant to the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars or by imprisonment not to exceed thirty days, or both.

Added by Acts 1968, Ex.Sess., No. 45, §1. Amended by Acts 1972, No. 38, §2; Acts 1985, No. 390, §1, eff. July 10, 1985; Acts 2009, No. 24, §8G, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3555. Exclusion from coverage of Chapter

The provisions of this Chapter shall not apply to any person who purchases one thousand or less bushels of soybeans, wheat, corn, or grain sorghum in any calendar year.

Added by Acts 1968, Ex.Sess., No. 45, §1; Acts 1985, No. 390, §1, eff. July 10, 1985; Acts 2009, No. 24, §8G, eff. June 12, 2009; Acts 2010, No. 861, §3.

§3556. Use of funds

A. The Louisiana Soybean and Grain Research and Promotion Board shall plan and conduct a program of research and advertising designed to promote the soybean, wheat, corn, and grain sorghum industries in Louisiana. The board is authorized to use the funds derived from any assessment imposed by this Chapter for these purposes, including basic administration expenses of the plan. Use of these funds may be applied, as prescribed in this Section, within or without the state of Louisiana, including regional, national, and international applications.

B. The board is authorized to apply for and receive monies from the national assessment for grain sorghum pursuant to 7 CFR 1221.

Added by Acts 1968, Ex.Sess., No. 45, §1; Acts 1985, No. 390, §1, eff. July 10, 1985; Acts 2009, No. 24, §8G, eff. June 12, 2009; Acts 2010, No. 25, §1, eff. July 1, 2010; Acts 2010, No. 861, §3; Acts 2014, No. 205, §1.

CHAPTER 22. RIGHT TO FARM AND FOREST

PART I. RIGHT TO FARM

§3601. Citation; legislative findings; purpose

A. This Part shall be known as and may be cited as the Louisiana Right to Farm Law.

B.(1) The legislature hereby finds and declares that agriculture is essential not only to the economy of the state but to the sustenance of life, yet acreage devoted to agriculture has steadily declined in this century.

(2) The legislature further finds and declares that owners of agricultural land and the public, which depends upon agricultural production, need to be protected from further diminution in value of agricultural land by providing safeguards and by establishing a more reliable remedy for diminution in value of agricultural land caused by governmental entities.

(3) The legislature also finds and declares that agricultural operations and the public, which depends upon agricultural production, need to be protected from any nuisance actions.

Added by Acts 1983, No. 95, §1; Acts 1995, No. 302, §1; Acts 2008, No. 515, §1.

§3602. Definitions

As used in this Part, the following terms shall have the following meanings:

(1) "Agricultural activity" means a commercial enterprise of any agricultural related or associated entity.

(2) "Agricultural facility" means any facility used for the marketing, processing, or production of agricultural products, or for providing agricultural support services.

(3) "Agricultural land" means any land on which any agricultural operations is being conducted. Land which has qualified for a use value assessment under the provisions of R.S. 47:2301 et seq. shall be presumed to be agricultural land.

(4) "Agricultural marketing" means the marketing or handling of agricultural products.

(5) "Agricultural operation" means any agricultural facility or agricultural land which is being used for agricultural production or agricultural processing and includes any facility used for the production and processing of crops or products thereof, livestock or products thereof, farm-raised fish and fish products, wood, timber or forest products, fowl or plants for breeding or sales, and poultry or poultry products for commercial or industrial purposes. "Agricultural operation" also includes the use of farm machinery, equipment, devices, chemicals, products for agricultural use, materials and structures designed for agricultural use and used in accordance with traditional farm practices.

(6) "Agricultural processing" means the processing of any agricultural product and includes, but is not limited to, the slaughtering and processing of livestock and poultry, the elevation and drying of grain, the processing of sugar cane, and the ginning of cotton.

(7) "Agricultural product" means crops, livestock, poultry, and aquacultural, floracultural, horticultural, silvicultural, or viticultural products.

(8) "Agricultural production" means the commercial production of any agricultural products and includes the planting of cover crops, the leaving of land idle for the purpose of participating in government programs, normal crop or livestock rotation procedures, and the use of agricultural support services.

(9) "Agricultural support services" means the aerial or surface application of seed, fertilizer, pesticides, lime, or other soil amendments; irrigation operations; or custom plowing, soil preparation or leveling, cultivation, or harvesting.

(10) "Diminution in value" means an existent reduction of twenty percent or more of the fair market value or the economically viable use of, as determined by a qualified appraisal expert, the affected portion of any parcel of private agricultural property or the property rights thereto for agricultural purposes, as a consequence of any regulation, rule, policy, or guideline promulgated for or by any governmental entity.

(11) "Established date of operation" means the date on which the agricultural operation, including forestry activities, commenced operation. If the physical facilities of the agricultural operation, including forestry activities, are subsequently expanded, then the established date of operation for each expansion shall be deemed to be a separate and independent "established date of operation" as of the date of commencement of the expanded operation. The commencement of the expanded operation shall not divest the agricultural operation of the previously established date of operation.

(12) "Generally accepted agricultural practices" are practices conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations in a similar community or locale and under similar circumstances.

(13) "Governmental action" means annexation of territory by a governmental entity and the issuance of a rule, regulation, policy, or guideline promulgated for or by any governmental entity, or an order or

other legally binding directive having the force of law or capable of being enforced by government. Governmental action does not mean the following:

- (a) A formal exercise of the power of eminent domain.
 - (b) The adoption, enactment, repeal, or amendment of a statute or resolution by the legislature.
 - (c) A governmental action directed or mandated by an order of a court of competent jurisdiction.
 - (d) Law enforcement activity involving the seizure or forfeiture of private agricultural property for a violation of law or as evidence in a criminal proceeding.
 - (e) An order issued as a result of a violation of law.
 - (f) Actions taken to enforce a mortgage or other valid security device.
 - (g) Actions taken in compliance with federal law or regulation.
 - (h) A result of police power to prohibit activities that are harmful to the public safety and health.
- (14) "Governmental entity" means:
- (a) A board, authority, commission, department, office, or agency of the state government.
 - (b) A local governmental subdivision with a population of less than four hundred twenty-five thousand.
 - (c) A special purpose district.
- (15) "Owner" means a person owning an interest in private agricultural property at the time a governmental action becomes effective as to the private agricultural property in which the owner owns an interest.
- (16) "Person" means any individual, partnership, corporation, association or other legal entity.
- (17) "Private agricultural property" means bona fide agricultural or horticultural land that is assessed as such for parish ad valorem taxes as agricultural lands under homestead exemption that is wholly owned by a private citizen or citizens, or a privately or publicly held corporation, partnership, limited partnership, nonprofit corporation, or other legal entity and that is located outside the corporate limits of any municipality.
- (18) "Traditional farm practices" means those accepted and customary standards established by similar agricultural operations under similar circumstances using established best management practices. Best management practices for animal feeding operations and confined animal feeding operations shall be determined by the Louisiana Department of Agriculture and Forestry in conjunction with the LSU AgCenter.

Added by Acts 1983, No. 95, §1; Acts 1995, No. 302, §1; Acts 2008, No. 515, §1.

§3603. Right to Farm

A. The legislature hereby declares that persons who are engaged in agricultural operations in accordance with generally accepted agricultural practices or traditional farm practices should be protected from legal actions brought by persons who subsequently acquire an interest in any land in the vicinity of the agricultural operation and from any nuisance action, public or private, against the agricultural production of an agricultural product or an agricultural operation including but not limited to, agricultural processing, and any agricultural activity involved, directly or indirectly, in the production of food for human consumption or for animal food.

B. No agricultural operation shall be deemed to be a nuisance in any action brought under the provisions of Civil Code Article 669, R.S. 33:361, R.S. 40:14, or any other grant of authority authorizing the suppression or regulation of public or private nuisances if the agricultural operation is conducted in

accordance with generally accepted agricultural practices or traditional farm practices, and any one of the following applies:

(1) The person bringing the action acquired the interest in the land or improvements alleged to be affected by the nuisance after the date on which an agricultural operation was in existence.

(2) The agricultural operation was established prior to any change in the character of the property in the vicinity of the agricultural operation.

(3) The agricultural operation has existed for one year or more and the conditions or circumstances alleged to constitute a nuisance have existed substantially unchanged since the established date of operation.

C. When an agricultural operation has been established, the protection from nuisance actions provided by this Section shall include the protection of similar agricultural operations engaged in as a result of the normal rotation of crops, or livestock, or both.

Added by Acts 1983, No. 95, §1; Acts 2008, No. 515, §1.

§3604. Presumption

Each person engaged in agricultural operations shall be presumed to be operating in accordance with generally accepted agricultural practices or traditional farm practices.

Added by Acts 1983, No. 95, §1; Acts 2008, No. 515, §1.

§3605. Frivolous lawsuits

If the court determines that any action alleging that an agricultural operation is a nuisance is frivolous, the court may award costs of court, reasonable attorney fees, and any other related costs to the defendant.

Added by Acts 1983, No. 95, §1.

§3606. Negligence, intentional injury

The provisions of this Chapter shall not apply to actions based on negligence, intentional injury, or violation of state or federal law or rules.

Added by Acts 1983, No. 95, §1.

§3607. Local ordinances

A. No parish governing authority shall adopt any ordinance that declares any agricultural operation operated in accordance with generally accepted agricultural practices or traditional farm practices to be a nuisance or any zoning ordinance that forces the closure of any such agricultural operation.

B. Municipal zoning and nuisance ordinances shall not apply to agricultural operations that were established outside the corporate limits of the municipality and that were incorporated into the municipality by annexation.

C. The governing authorities of parishes and municipalities may adopt ordinances to prohibit or regulate agricultural operations that are negligently operated or that are not operated in accordance with generally accepted agricultural practices or traditional farm practices.

D. The provisions of Subsection A of this Section shall not apply to Jefferson Parish.

Added by Acts 1983, No. 95, §1; Acts 1993, No. 731, §1, eff. June 21, 1993; Acts 2008, No. 515, §1.

§3608. Minimization of impact of governmental action

To minimize the impact of governmental action affecting private agricultural property and private agricultural property rights, a governmental entity shall:

(1) Avoid imposing an undue burden on the resources of that governmental entity by actions that require compensation of private agricultural property owners under the United States Constitution or the Constitution of Louisiana.

(2) Avoid diminution in value of private agricultural property which is used in agricultural production or which may potentially be used in agricultural production.

(3) Expedite a decision by the entity in cases in which a delay of the decision will substantially interfere with the use or value of private agricultural property rights affected by the provisions of this Part.

(4) Avoid unnecessary delays in compensating owners of private agricultural property when diminution in value occurs by governmental action.

Acts 1995, No. 302, §1.

§3609. Impact assessment

A. A governmental entity shall prepare a written assessment of any proposed governmental action prior to taking any proposed action that will likely result in a diminution in value of private agricultural property.

B. The written assessment shall include written analyses and conclusions concerning:

(1) A clear and specific identification of the governmental action and the purpose of the governmental action.

(2) Whether the governmental action would constitute a physical invasion or occupation of private agricultural property.

(3) The length of time that the governmental action would interfere with the use of private agricultural property.

(4) Whether the governmental action would result in a diminution in value as to the affected private agricultural property and, if so, the extent thereof.

(5) The extent to which the governmental action would interfere with the potential for agricultural development of the private property of owners.

(6) Whether the proposed governmental action restricts or prohibits a use which is already prohibited by existing law.

(7) Alternatives to the proposed action that would lessen or eliminate any adverse impact on private agricultural property.

(8) An estimate of the cost to the governmental entity if the entity is required to compensate one or more private agricultural property owners.

(9) The identity of the source of payment within the entity's budget or otherwise for any compensation that may be ordered.

C. If there is an immediate threat to health and safety that constitutes an emergency, requires immediate governmental action, and prohibits the timely production of the assessment required in this Section, then the assessment shall be made at the earliest possible time after the governmental action is completed.

D. The governmental entity preparing the assessment shall deliver copies to the governor, the commissioner of agriculture and forestry, and any affected landowners.

E. The commissioner of agriculture and forestry shall promulgate guidelines for owners of private agricultural property and governmental entities to assist in determining what governmental actions are likely to result in a diminution of value of private agricultural property.

Acts 1995, No. 302, §1.

§3610. Private agricultural property owner's right of action; remedies

A. An owner of private agricultural property may bring an action against a governmental entity to determine whether the governmental action caused a diminution in value of a parcel of private agricultural property in which the owner has an interest. The owner of the affected private agricultural property shall show that the diminution in value did not result from a restriction or prohibition of a use of the private agricultural property that was not a use already prohibited by law.

B. An action brought under the provisions of this Section may be filed in the state court that has jurisdiction over the property and the owner shall be entitled to a trial by jury.

C. Owners and governmental entities are encouraged to seek resolution of actions brought under this Section through mediation or any other mutually agreeable alternative dispute resolution method prior to the filing of any action. When a pending action has not been the subject of an attempted mediation, the court may require the parties to attempt mediation at any point in the proceedings prior to trial.

D. In an action brought pursuant to this Section, upon a determination that a governmental action caused a diminution in value of private agricultural property, the owner shall, at the option of the owner, recover a sum equal to the diminution in value of the property and retain title thereto, or recover the entire fair market value of the property prior to the diminution in value of twenty percent or more and transfer title to the property to the governmental entity.

E. The court in issuing any final order in any action brought pursuant to this Section may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing party in addition to other remedies provided by law.

F. If a property owner prevails in a suit filed as provided in this Section, the governmental entity may rescind or repeal the rule or regulation which caused the diminution in value of the property, and if such rule or regulation is rescinded or repealed the governmental entity shall be liable for damages sustained by the property owner to his affected property which were caused by the application of the rescinded or repealed rule or regulation.

Acts 1995, No. 302, §1.

§3611. Determination of property value

In determining the assessed value of real agricultural property for ad valorem purposes, a governing authority shall reduce the assessment by the diminution in value as determined by the court or, in the absence of a court determination, by the appropriate assessing official. No such assessment shall be retroactive.

Acts 1995, No. 302, §1.

§3612. Restrictions and limitations

A. Nothing in this Part shall restrict any other remedy or right that any person or class of persons may have under any other provision of law.

B. Nothing in this Part shall limit or change any requirement of the Louisiana Administrative Procedure Act and the Louisiana Code of Civil Procedure.

C. Nothing in this Part shall apply to any governmental action where the purpose of the said governmental action is the regulation of agriculture or the regulation of agricultural activity by a

governmental entity charged with the responsibility of promotion, protection, and advancement of agriculture.

Acts 1995, No. 302, §1.

PART II. RIGHT TO FOREST

§3621. Citation; legislative findings; purpose

A. This Part shall be known and may be cited as the Louisiana Right to Forest Law.

B.(1) The legislature hereby finds and declares that forestry is an essential contribution to the economy of the state.

(2) The legislature further finds that the purpose of this Part is to allow owners of property classified as forest land to conduct activities relating to forest production or if a governmental entity prohibits or severely limits such activities, to compensate the owners for their losses.

Acts 1995, No. 302, §1.

§3622. Definitions

As used in this Part, the following terms shall have the following meanings:

(1) "Forest activities" means any activity on forest land associated with the reforestation, growing, managing, protecting, and harvesting of timber, wood, and forest products.

(2) "Forest land" means any land in the state devoted to the growing of trees or the commercial production of timber, wood, or forest products that is located outside the corporate limits of any municipality. Land which is assessed for a use value under the provisions of R.S. 47:2301 et seq. shall be presumed to be forest land.

(3) "Governmental action" means annexation of territory by a governmental entity or the issuance of a rule, regulation, policy, or guideline promulgated for or by any governmental entity, or an order or other legally binding directive having the force of law or capable of being enforced by government which prohibits or limits the right of an owner to conduct forestry activities on forestry land. Governmental action does not mean the following:

(a) A formal exercise of the power of eminent domain.

(b) A result of police power to prohibit activities that are harmful to the public safety and health.

(c) An order issued as a result of a violation of law.

(d) The adoption, enactment, repeal, or amendment of a statute or resolution by the legislature.

(e) A government action directed or mandated by an order of a court of competent jurisdiction.

(f) Law enforcement activity involving the seizure or forfeiture of private forest land for a violation of law or as evidence in a criminal proceeding.

(g) Action taken to enforce a mortgage or other valid security device.

(h) Actions taken in compliance with federal law or regulation.

(4) "Governmental entity" means:

(a) A board, authority, commission, department, office, or agency of the state government.

(b) A local governmental subdivision with a population of less than four hundred twenty-five thousand.

(c) A special purpose district.

(5) "Owner" means a person owning an interest in forest land at the time a governmental action becomes effective as to the forest land in which the owner owns an interest.

(6) "Prohibits or limits" means an existent reduction of twenty percent or more of the fair market value of forest land, or any portion thereof, or property rights thereto associated with conducting forestry activities on forest land before the action.

Acts 1995, No. 302, §1.

§3622.1. Impact assessment

A. A governmental entity shall prepare a written assessment of any proposed governmental action prior to taking any proposed action that will likely result in a diminution in value of forest land.

B. The written assessment shall include written analyses and conclusions concerning:

(1) A clear and specific identification of the governmental action and the purpose of the governmental action.

(2) Whether the governmental action would constitute a physical invasion or occupation of forest land.

(3) The length of time that the governmental action would interfere with the use of forest land.

(4) Whether the governmental action would result in a diminution in value as to the affected forest land and, if so, the extent thereof.

(5) The extent to which the governmental action would interfere with the potential for forestry development of the property of owners.

(6) Whether the proposed governmental action restricts or prohibits a use which is already prohibited by existing law.

(7) Alternatives to the proposed action that would lessen or eliminate any adverse impact on forest land.

(8) An estimate of the cost to the governmental entity if the entity is required to compensate one or more forest landowners.

(9) The identity of the source of payment within the entity's budget or otherwise for any compensation that may be ordered.

C. If there is an immediate threat to health and safety that constitutes an emergency, requires immediate governmental action, and prohibits the timely production of the assessment required in this Section, then the assessment shall be made at the earliest possible time after the governmental action is completed.

D. The governmental entity preparing the assessment shall deliver copies to the governor and the commissioner of agriculture and forestry, and any affected landowners.

Acts 1995, No. 302, §1.

§3623. Landowner's right of action; remedies

A. An owner of forest land shall have a cause of action against a governmental entity for damages resulting from governmental action which prohibits or limits an owner's ability to conduct forestry activities on forest land in which the owner has an interest.

B. An action brought under the provisions of this Section may be filed in the district court that has jurisdiction over the property and the owner shall be entitled to a trial by jury, provided that the requirements of R.S. 13:5105 are met.

C. In an action brought pursuant to this Section and subject to the provisions of R.S. 13:5105 et seq., upon a determination that a governmental action caused a diminution in value of forest land resulting in prohibition or limit of use in violation of this Part, the owner shall recover a sum equal to the diminution in value of the property and retain title thereto.

D. The court in issuing any final order in any action brought pursuant to this Section may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing party in addition to other remedies provided by law.

E. A subsequent repeal or rescission by the governmental entity of the governmental action, which is the subject of a suit, shall not preclude the owner of the right to recover damages resulting from such action and in the discretion of the court, reasonable attorney and expert witness fees.

Acts 1995, No. 302, §1.

§3624. Restrictions and limitations

Nothing in this Part shall restrict any other remedy or right that any person or class of persons may have under any other provision of law.

Acts 1995, No. 302, §1.

CHAPTER 22-A. SECURITY DEVICES AFFECTING FARM PRODUCTS

§3651. Legislative findings and intent

The legislature hereby finds and declares that:

(1) Certain state laws permit a secured lender to enforce liens against a purchaser of farm products even if the purchaser does not know that the sale of the products violates the lender's security interest in the products, lacks any practical method for discovering the existence of the security interest, and has no reasonable means to ensure that the seller uses the sales proceeds to repay the lender.

(2) These laws subject the purchaser of farm products to double payment for the products, once at the time of purchase, and again when the seller fails to repay the lender.

(3) The exposure of purchasers of farm products to double payment inhibits free competition in the market for farm products.

(4) This exposure constitutes a burden on and an obstruction to commerce in Louisiana farm products.

(5) The purpose of this legislation is to remove the burdens on and obstructions to commerce in Louisiana farm products.

Acts 1987, No. 451, §1, eff. Oct. 1, 1987.

§3652. Definitions

As used in this Chapter, the following words shall have the following meanings ascribed to them:

(1) "Buyer in the ordinary course of business" means a person who, in the ordinary course of business, buys farm products from a person who is engaged in farming operations and who is in the business of selling farm products.

(2) "Central registry" means the master index maintained by the secretary as provided by this Chapter, reflecting information contained in all effective financing statements, and statements evidencing assignments, amendments, extensions, and cancellations thereof.

(3) "Commission merchant" means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

(4) "Creditor" means any person who holds a security interest in a farm product.

(5) "Debtor" means any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

(6) "Effective financing statement" means a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E). An effective financing statement may also contain additional information sufficient to constitute a financing statement or other statement under Chapter 9 of Title 10 of the Louisiana Revised Statutes of 1950.

(7) "Encumbrance certificate" means a written document which lists all effective financing statements affecting a person which have been filed with the filing officer and containing the information required by this Chapter to be transmitted to the secretary for inclusion in the central registry on the date and at the time the certificate is issued and which complies with the provisions of R.S. 3:3654(F).

(8) "Farm product" means any type of crop whether growing or to be grown, and whether harvested or unharvested, or any species of livestock, or any type of agricultural commodity or product raised or cultivated of every type and description, including but not limited to cattle, hogs, sheep, horses, bees, rabbits, or poultry, and oysters, crabs, prawns, shrimp, alligators, turtles, and fish raised, produced, cultivated, harvested, or gathered on any beds or bodies of water, whether owned, leased, or licensed by the debtor, grains, beans, vegetables, grasses, legumes, melons, tobacco, cotton, flowers, shrubberies, plants and fruits, nuts and berries, and other similar products whether of trees or other sources, or if they are a product of such crop or livestock in its unmanufactured state, such as seed, ginned cotton, wool-clip, honey, syrup, meat, milk, eggs, and cut, harvested, or standing timber, or supplies used or produced in farming operations, and if they are in the possession, including civil possession as defined in Civil Code Articles 3421 and 3431, of a debtor engaged in planting, producing, raising, cultivating, harvesting, gathering, fattening, grazing, or other farming operations.

(9) "Filing officer" means the clerk of court of any parish.

(10) "Knows" or "knowledge" means actual knowledge.

(11) "Office" means the office of the secretary of state of the state of Louisiana.

(12) "Person" means any individual, partnership, corporation, trust, or other business entity.

(13) "Secretary" means the secretary of state of the state of Louisiana, or his duly authorized agent.

(14) "Secured party" means a creditor with a security interest in farm products.

(15) "Security device" means a written security agreement that establishes a creditor's security interest in farm products or any agricultural lien as defined in R.S. 10:9-102(a)(5) whether or not evidenced by a written instrument.

(16) "Security interest" means an interest in or encumbrance upon farm products that secures payment or performance of an obligation.

(17) "Selling agent" means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm products on behalf of a person engaged in farm operations.

Acts 1987, No. 451, §1, eff. Oct. 1, 1987; Acts 1989, No. 548, §1, eff. Aug. 22, 1989; Acts 1990, No. 123, §1, eff. Jan. 1, 1991; Acts 1991, No. 539, §1, eff. Jan. 1, 1992; Acts 2001, No. 128, §2, eff. July 1, 2001; Acts 2010, No. 378, §1.

§3653. Applicability

The provisions of this Chapter shall apply to security devices affecting farm products, including timber.

Acts 1987, No. 451, §1, eff. Oct. 1, 1987; Acts 1988, No. 323, §1; Acts 1990, No. 123, §1, eff. Jan. 1, 1991; Acts 2010, No. 378, §1.

§3654. Central registry

A. The secretary shall create a central registry within the department.

B. The information in the central registry shall be public record.

C. The secretary shall allow interested parties to obtain access to the computerized information within the central registry. Such access shall be limited to the information required to be contained in the effective financing statement pursuant to R.S. 3:3654(E).

D. Any filing officer shall issue an encumbrance certificate to any interested person who requests one and who pays the required fee.

E. Effective financing statements shall be subject to the following provisions. Each effective financing statement shall:

(1) Be an original or reproduced copy thereof.

(2) Be filed with the filing officer by the creditor.

(3) Contain:

(a) The name and address of the creditor.

(b) The name and address of the debtor.

(c) The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of the debtor.

(d) A description of the farm products subject to the security interest created by the debtor, including the amount of such farm products and the number of such movables to the extent applicable, if less than all of such farm products owned by the debtor are to be covered by the security interest.

(e) A reasonable description of the property, including the farm name or its general location by section, township, and range, or otherwise, or alternatively, the Farm Service Agency of the United States Department of Agriculture (FSA) farm number.

(f) The name of the parish or county in which the farm products are produced or located.

(4) Be amended in writing, authorized, or otherwise authenticated by the debtor and filed, to reflect material changes.

(5) Remain effective for a period of five years from the date of filing, subject to extensions for additional periods of five years each by refileing or filing a continuation statement within six months before the expiration of the initial five-year period, or shall remain effective and may be extended as otherwise provided by the law regulating the creation of the security interest.

(6) Expire on either the expiration of the effective period of the statement or the filing of a notice authorized or otherwise authenticated by the creditor that the statement has expired, whichever occurs first, or as otherwise provided by law regulating the expiration of the security interest.

(7) Be accompanied by the filing fee as provided in R.S. 3:3657(A).

(8) Substantially comply with the requirements of this Subsection even though it contains minor errors that are not seriously misleading.

F. Encumbrance certificates shall be subject to the following provisions. Each encumbrance certificate shall:

(1) List all filings in the central registry relating to a particular person at the time and date of issuance of the encumbrance certificate.

(2) Contain the following information pertaining to each filing:

(a) Debtor's name and address.

(b) Secured party's name and address.

(c) Description of farm product.

(d) Date and time of filing.

(e) Crop year.

(f) Social security number or Internal Revenue Service taxpayer identification number of debtor.

(g) Social security number or Internal Revenue Service taxpayer identification number of debtor.

(3) Contain an encumbrance certificate number and date and time of issue.

G. Each request for an encumbrance certificate shall be subject to the following provisions:

(1) The request shall contain the name and address of the person making the request.

(2) The request shall contain the name, address, and parish of residence of the person who is the subject of the request.

(3) The request may contain the nickname, initials, or other appellation by which the person who is the subject of the request is sometimes or commonly known.

(4) The request shall contain any other information that the secretary, by rule, may require.

Acts 1987, No. 451, §1, eff. Oct. 1, 1987; Acts 1989, No. 548, §1, eff. Aug. 22, 1989; Acts 1990, No. 123, §1, eff. Jan. 1, 1991; Acts 1995, No. 1201, §1, eff. Jan. 1, 1996; Acts 2003, No. 1232, §1; Acts 2004, No. 63, §1 and 3, eff. Feb. 13, 2006.

§3655. Administration

A. The secretary shall administer the provisions of this Chapter.

B. The secretary shall adopt such rules and regulations as are necessary to implement the provisions of this Chapter. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act, and shall conform with the requirements of Section 1324 of the Food Security Act of 1985, P.L. 99-198*, as amended, and regulations issued thereunder as applicable.

C. The failure of the secretary to include in the central registry the information contained in any effective financing statement filed with any filing officer and transmitted to the secretary for inclusion in the central registry as provided in this Chapter shall subject the office and its insurer to the payment of all damages suffered thereby by any person.

D.(1) The office and its insurer shall be answerable for injury resulting from the filing officer's omitting to record such effective financing statements that are filed for recordation with the filing officer.

(2) The office and its insurer shall be answerable for injury resulting from a filing officer's omitting to mention in encumbrance certificates one or several effective financing statements filed for recordation with the filing officer and transmitted to the secretary for inclusion in the central registry, unless the error proceeds from a want of exactness in the description which cannot be imputed to him.

(3) The office of risk management within the division of administration shall obtain and maintain in effect at all times liability insurance covering the office for any errors and omissions which may occur in the operation of the central registry.

Acts 1987, No. 451, §1, eff. Oct. 1, 1987; Acts 1989, No. 548, §1, eff. Aug. 22, 1989; Acts 1990, No. 123, §1, eff. Jan. 1, 1991.

*7 U.S.C.A. 1631.

§3656. Filing, amendment, assignment, partial release, termination, and cancellation of security devices and effective financing statements; effectiveness against third parties

A.(1) The proper place to file effective financing statements is with the clerk of court of any parish.

(2) Any statement of continuation, amendment, release, extension, termination, cancellation, or other similar statement pertaining to an effective financing statement shall identify the original file number and shall be filed with the same filing officer with whom the effective financing statement was originally filed.

(3) The signature of the debtor or of the secured party is not required for filing any effective financing statement, amendment statement, continuation statement, assignment, release, termination statement, or other similar statement filed.

B. Each effective financing statement and continuation statement, assignment, release, termination statement, or other similar statement filed, shall be marked by the filing officer with a file number and with the date and hour of filing. The filing officer shall hold the effective financing or other statement, or a microfilm or other photographic copy thereof, together with any attachments, for public inspection. In addition, the filing officer shall transmit the information contained in each effective financing statement, or other statement, no later than 4:30 p.m. on the second business day following the filing, to the secretary for inclusion in the central registry. The secretary shall, within two business days following the receipt of such information, include it in the central registry and send written notice confirming such receipt and reflecting all information received and included in the central registry, to the secured party of record and such other requesting person or persons as may be designated on the effective financing statement or other statement.

C. The filing officer shall accept and record only effective financing statements and other statements, which apply to security devices applicable to farm products.

D. The central registry shall reflect the time and date each effective financing statement and other statement is filed. Only a security device with respect to which an effective financing statement has been filed with the filing officer for inclusion in the central registry, as provided in this Chapter, shall be effective against buyers in the ordinary course of business. Except as otherwise provided in this Section, each security device shall become effective against buyers in the ordinary course of business on the date and at the time an effective financing statement with respect to the security device is filed with the filing officer.

E. Each person who files an effective financing statement with the filing officer shall request cancellation thereof within ten calendar days after the date the person who has granted or who is affected by the effective financing statement or security interest thereunder requests in writing cancellation, provided the effective financing statement and security interest thereunder are then no longer in effect.

F. Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each effective financing statement filed, a termination statement to the effect that he no longer claims a security interest under the effective financing statement.

Acts 1989, No. 548, §1, eff. Aug. 22, 1989; Acts 1990, No. 123, §1, eff. Jan. 1, 1991; Acts 1991, No. 539, §1, eff. Jan. 1, 1992; Acts 2004, No. 63, §2 and 3, eff. Feb. 13, 2006; Acts 2010, No. 378, §1.

§3657. Fees

A.(1) The fee for filing, recording, and cancelling each effective financing statement shall be twenty dollars. The fee for filing, recording, and cancelling each effective financing statement which contains additional information sufficient to constitute a financing statement under Chapter 9 of Title 10 of the Louisiana Revised Statutes of 1950 shall be thirty-five dollars. The secretary shall be entitled to seven dollars of the fee charged by the filing officer for the filing, recording, and cancelling of each effective financing statement or other statement filed pursuant to this Chapter.

(2) The fee for filing each amendment, assignment, release, continuation, or other similar statement pertaining to an effective financing statement shall be twenty dollars. The secretary shall be entitled to seven dollars of the fee charged by the filing officer for the filing and recordation of each such statement.

(3) The fee for the issuance of each encumbrance certificate shall be fifteen dollars. The secretary shall be entitled to five dollars of the fee charged by the filing officer for each encumbrance certificate issued pursuant to the provisions of this Chapter.

B. Beginning in February of 1991, on or before the tenth day of each month, the filing officer shall remit to the secretary that portion of the fees allocable to the secretary which was received by the filing officer during the preceding month.

C. The secretary by rule shall establish fees to fund the operation of the central registry. The fees established by the secretary shall be based on the cost of operating the central registry. The fees shall be limited to fees for:

(1) Issuance of the master list as required by Section 1324 of the Food Security Act of 1985, P.L. 99-198*, as amended.

(2) Allowing access to the computerized information in the central registry to the extent authorized by R.S. 3:3654(C).

Acts 1987, No. 451, §1, eff. Oct. 1, 1987; Acts 1989, No. 548, §1, eff. Aug. 22, 1989; Acts 1990, No. 123, §1, eff. Jan. 1, 1991.

*7 U.S.C.A. §1631.

§3658. Disposition of fees

Subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, all fees received by the secretary under the provisions of this Chapter shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

Acts 1987, No. 451, §1, eff. Oct. 1, 1987; Acts 1990, No. 123, §1, eff. Jan. 1, 1991; Acts 1992, No. 984, §2.

§3659. Declaration

Each person who purchases farm products may print the following declaration on the back of each check or draft issued in payment for those farm products:

"By endorsing this check or draft I hereby certify that I am legally entitled to sell the farm products purchased with the proceeds of this check or draft and that the farm products are not subject to any security interest except a security interest in favor of the payee or payees of this check or draft."

Acts 1989, No. 548, §1, eff. Aug. 22, 1989.

§3660. Criminal penalties

A. No person shall provide any false or misleading information concerning the name of the owner of any farm products or concerning the existence of any security interest affecting the farm products with the intent to deprive the holder of any of his security under the security interest. No person shall take any action with respect to the alienation, encumbrance, or other disposition of farm products which are

subject to a security device with the intent to deprive the holder of any of his security under the security device.

B. The signing of the declaration authorized by R.S. 3:3659 without complying with the terms of that declaration shall create the presumption that the person who signed the declaration intended to deprive a holder of a security device affecting the farm products of his security under the security device.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both.

Acts 1989, No. 548, §1, eff. Aug. 22, 1989.

CHAPTER 22-B. REGULATION OF SALES OF FARM PRODUCTS

§3671. Receiving agricultural products in borrowed containers; liability

Any person, firm, or corporation wilfully and knowingly receiving or accepting delivery of agricultural products in containers furnished or loaned by another to a grower or producer of such products, whether for a consideration or otherwise, under a stipulation or agreement that the containers shall be used by the grower or producer solely for the purpose of delivery of agricultural products, except sweet potatoes, to the person, firm, or corporation furnishing or loaning the containers is a participant with the grower or producer in his breach of the stipulation or agreement under which the containers were furnished or loaned, and is liable in damages in a sum of three times the value of the containers received or accepted by him, together with reasonable attorney's fees to be fixed by the trial court.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3672. Receiving agricultural products in borrowed containers; injunctive relief

In addition to the right of action for damages provided for in R.S. 3:491, the person, firm, or corporation furnishing containers under stipulations or agreement shall, on complying with the laws relative thereto, be entitled to an injunction prohibiting any other person, firm, or corporation from receiving or accepting agricultural products, except sweet potatoes, in the containers and shall furthermore be entitled to a writ of provisional seizure of all containers involved in the breach.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3673. Producer selling direct to consumer not subject to permit fees, license tax or fee, or inspection fees; inspection; time for sale

Any trucker, farmer, or producer of fruits, vegetables, grains, or meats in this state, or any employee of such farmer or producer, may sell the produce or products in any quantities direct to any consumer in this state, whether roadside, at a farmers market, or other direct means, and no state, parochial, or municipal authority shall require the payment of any permit fee, license tax or fee, or inspection fee of any kind or character whatsoever. Any such person may sell the produce, whether raw or processed, and shall not be required to pay an occupational license tax. Any state, parochial, or municipal authority having the power, or charged with the duty, may at its own expense inspect the produce or products above mentioned, the inspection to be made at such time and in such manner as may least inconvenience the producer. Within the limit of any municipality having ordinances regulating the hours within which the produce or products above mentioned may be sold, the trucker, farmer, or producer, or any employee of such farmer or producer, shall sell the produce or products only between the hours of eight o'clock a.m. and six o'clock p.m.

Acts 2002, 1st Ex. Sess., No. 116, §1, eff. April 23, 2002; Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3674. Dairyman selling direct to processor or distributor not subject to license tax or inspection fees

Any dairyman in this state, who does not operate a retail delivery route and sell his produce at retail, may sell any produce from his dairy in any quantities direct to a creamery, ice cream maker, or other distributor in this state, and shall not be required to pay any license tax or inspection fees of any kind whatsoever, directly or indirectly. Any state, parochial, or municipal authority having the power or charged with the duty may at its own expense inspect the produce above mentioned, the inspection to be made at such time and in such manner as not to unduly delay the dairyman in the distribution of his produce.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3675. Bill of sale for cattle required; penalty for butchering without bill

No person shall kill, slaughter, or butcher any cattle which have been acquired by purchase or trade without first having obtained a bill of sale from the seller. The bill of sale shall be a written memorandum in ink or indelible pencil, signed by the seller, showing the date of the sale or trade and a sufficient description of the animal sold or traded. The owner shall exhibit the bill of sale on the request of any person inquiring therefor.

Whoever violates the provisions of this Section shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned for not less than thirty days nor more than ninety days, or both.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3676. Administration of R.S. 3:3675

The Louisiana Board of Animal Health may promulgate rules and regulations for carrying out the provisions of R.S. 3:3675.

Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3677. Substances forbidden for preparing rice; penalty

No person shall use oil, paraffin, or any other similar substance in the process of cleaning rice or preparing it for market, for the purpose of increasing its weight, transparency, or brilliancy or bettering its appearance in any manner.

Whoever violates this Section shall be fined not more than one hundred dollars, or imprisoned for not more than thirty days, for each offense.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3678. Purchase or process of green rice; statement of moisture content

It shall be unlawful for any rice mill or rice dryer, whether same be a person, firm, corporation, partnership or individual, to purchase or process green rice without furnishing the owner or seller thereof a statement, at his request, showing the moisture content of said rice. Violation of this Section shall be punished by a fine not to exceed five hundred dollars or imprisonment not to exceed ninety days, or both.

Acts 1950, No. 306, §§1, 2; Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3679. Deduction of scalage prohibited; penalty

No purchaser or weigher of cotton shall deduct any number of pounds, known as scalage, from the actual weight of any bale of cotton weighed or purchased by him; but the purchaser shall account to the seller of cotton for the actual weight of the bale purchased or weighed, except in cases of wet or damaged cotton when the amount to be deducted may be agreed upon by the purchaser and seller.

Whoever violates this Section shall be fined not less than ten dollars nor more than thirty dollars for each offense.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3680. False statements as to agricultural products and sales; penalty

No person doing a commission or brokerage business shall render any false statement or account of sales of any cotton or other agricultural product to the shipper, nor falsely represent that the product is being held for future sale when in fact the product has been sold and only a sample retained. No person shall sell any cotton or other agricultural product received on consignment without rendering to the consignor within ten days after delivery a complete account of the sale showing the grade, price received, and the name of the purchaser and his post-office address. No person rendering an account of sales of any cotton or other agricultural product shall make on the account any false charge or false statement or report of the condition of the product, render any account for shortage, nor make any other false report calculated to deceive the consignor, with intent to defraud.

Whoever violates this Section shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned for not less than thirty days nor more than six months.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3681. Sale of hogs with head or ears removed prohibited; penalty

No person except public slaughter, packing, or cold storage houses shall offer for sale a dressed hog ready for market with its head or ears removed from its body.

Whoever violates this Section shall be fined not less than twenty-five dollars nor more than fifty dollars, or imprisoned for not less than ten days nor more than thirty days, or both.

Acts 2009, No. 24, §8E, eff. June 12, 2009.

§3682. Imported agricultural products

No person in the state shall sell any agricultural product which was grown or produced in any other state and which is falsely represented for sale as a product of this state.

Whoever violates this Section shall be fined not less than one hundred dollars nor more than one thousand dollars.

Added by Acts 1964, No. 232, §1; Acts 2009, No. 24, §8E, eff. June 12, 2009.

CHAPTER 23. AGRICULTURAL ETHANOL PRODUCTION LAW

§§3701, 3702. *Repealed by Acts 1989, No. 3, §2, eff. June 1, 1989.*

§3703. Definitions

As used in this Chapter, the following terms shall have the following meanings, unless the context requires otherwise:

- (1) "Applicant" means a person who applies for designation as a certified market participant.
- (2) "Board" means the Agricultural Industry Board established by R.S. 3:3704.
- (3) "Certified market participant" is an applicant approved by the board to participate in a cooperative endeavor authorized under this Chapter.

(4) "Commissioner" means the Louisiana Commissioner of Agriculture and Forestry.

(5) "Cooperative endeavor" means a contractual relationship between the state of Louisiana through the board with a person for a public purpose.

(6) "Ethanol" means an ethyl alcohol which meets all of the following conditions in that it:

(a) Has a purity of at least ninety-nine percent, determined without regard to any added denaturants.

(b) Has been denatured in conformity with one of the approved methods set forth by the United States Bureau of Alcohol, Tobacco, and Firearms.

(c) Has been derived from agricultural products.

(d) Has been produced in the state of Louisiana wholly from fermentation and distillation in the state of Louisiana.

(7) "Gasohol" means a fuel that contains not more than ninety percent gasoline and at least ten percent ethanol.

(8) "Person" means any individual, partnership, association, corporation, or other legal entity.

Acts 1990, No. 31, §1, eff. June 20, 1990.

§3704. *Repealed by Acts 1997, No. 1116, §2.*

§3705. Commissioner of agriculture and forestry

The commissioner shall administer and enforce the provisions of this Chapter and the rules and regulations adopted under this Chapter. Except as otherwise provided in R.S. 3:3704, the commissioner may employ such personnel as are necessary to implement the provisions of this Chapter. All employees shall be under the supervision of the commissioner.

Acts 1990, No. 31, §1, eff. June 20, 1990.

§3706. Audits and enforcement

A. The commissioner, or his duly authorized agent or employee, may audit the books and records of each certified market participant who has received incentive payments under this Chapter to determine if the certified market participant has complied with the provisions of this Chapter and the rules and regulations promulgated by the board. Each certified market participant who has received incentive payments shall allow the commissioner, or his duly authorized representative, access to all books and records relating to the application for or receipt of incentive payments, provided any such records, data, accounts, or other applicable documents shall be exempt from R.S. 44:1 et seq.; provided further that such books and records shall become subject to R.S. 44:1 et seq., when the books and records are presented in an adjudicatory hearing which may result in action by the board as provided in Subsection B of this Section. The commissioner, or his duly authorized representative, shall have access to any such books and records during normal working hours.

B. The board may assess a civil penalty of up to fifty thousand dollars for each violation of the provisions of this Chapter or the rules and regulations promulgated under the provisions of this Chapter. The amount of the penalty shall be based upon the severity of the violation and on the amount of incentive payments wrongfully obtained. In addition to any penalties imposed under this Subsection, the board shall order the return and repayment of any incentive payments wrongfully obtained plus interest at the legal rate from the time the incentive payments were wrongfully obtained until the funds are returned. Each application for incentive payments under this Chapter may be considered as a basis for individual violations. Civil penalties shall be assessed only by the ruling of the board based upon an adjudicatory hearing in accordance with the Administrative Procedure Act. The board shall enforce its rulings by instituting a civil action in the district court of East Baton Rouge Parish. The board may

institute a civil action seeking injunctive relief to restrain and prevent violations of this Chapter, or the rules and regulations promulgated under the provisions of this Chapter, in the district court of East Baton Rouge Parish. In addition, the imposition of a civil sanction or penalty for wrongfully or fraudulently obtaining incentive payments shall in no way preempt prosecution under any or all applicable criminal provisions of law.

C. If the board orders a certified market participant to return and repay any incentive payments wrongfully obtained, the return and repayment of the incentive payments shall not create any right or cause of action against a producer for any payments for agricultural commodities made by the certified market participant under any contract with a producer and shall not create any grounds for terminating any such contract.

D. The board may, after an adjudicatory hearing in accordance with the Administrative Procedure Act, revoke the designation of a certified market participant and terminate the board's cooperative agreement with the certified market participant if it determines that there was a violation of this Chapter or rules and regulations adopted pursuant to this Chapter.

Acts 1990, No. 31, §1, eff. June 20, 1990.

§3707. Term of Chapter

This Chapter shall cease to be effective and shall be repealed when all business of the board regarding litigation, adjudicatory hearings, or any other legal or administrative proceedings is resolved or determined by a judgment, order, or decree, which is final and unappealable, or is otherwise finally resolved or determined. Such litigation, adjudicatory hearings, or other legal or administrative proceedings may involve but are not limited to those concerning entitlement to or distribution of undistributed incentive payments previously authorized under this Chapter, or recovery of any wrongfully obtained incentive payments or legal interest thereon under this Chapter or penalties imposed under this Chapter.

Acts 1990, No. 31, §1, eff. June 20, 1990.

§§3708, 3709. *Repealed by Acts 1989, No. 3, §2, Eff. June 1, 1989.*

CHAPTER 23-A. THE LOUISIANA RENEWABLE FUELS PRODUCTION ACCOUNTABILITY ACT

§3711. Title

This Chapter shall be known and may be cited as "The Louisiana Renewable Fuels Production Accountability Act."

Acts 2006, No. 656, §1, eff. July 1, 2006.

§3712. Purchase of feedstock by operators of renewable fuel manufacturing facilities; notice requirements; annual report

A. The legislature hereby finds and declares that the production of renewable fuels in Louisiana derived from Louisiana feedstock is vital to the health of the agricultural economy of Louisiana. The use of renewable domestic fuels such as ethanol and biodiesel will increase available supplies of motor fuels without increasing dependency on foreign oil. The construction and operation of facilities manufacturing renewable fuels will serve as an economic boost to many rural areas of our state. Assuring that the optimal use of Louisiana grown crops in the manufacturing of renewable fuels by facilities

located in Louisiana will provide a deeper, broader and longer-lasting benefit to the state's economy and is a matter of public policy.

B. The purpose of this Chapter is to assure that Louisiana farmers have the opportunity to have Louisiana harvested crops purchased as feedstock by operators of renewable fuels manufacturing facilities in Louisiana by requiring the collection and reporting of information regarding the operation of the facilities and to provide for the certification of the facilities for certain programs provided by this state.

C. The provisions of this Section shall apply to all renewable fuels manufacturing facilities who have either been assigned by the Louisiana Workforce Commission a North American Industrial Classification System code within the nonpotable ethyl alcohol manufacturing Sector 325193 or a facility that produces biodiesel or other fuel additives and must register with the United States Environmental Protection Agency according to the requirements of 40 CFR 79.

D.(1) Beginning July 1, 2006, there will be a presumption that renewable fuel plants operating in Louisiana and deriving ethanol from the distillation of corn shall use as feedstock at least twenty percent of the corn crop harvested in Louisiana. In succeeding years, the minimum percentage of Louisiana harvested corn used to produce renewable fuel in Louisiana facilities shall be at least the same percentage of corn used nationally to produce renewable fuel as reported by the United States Department of Agriculture's Office of the Chief Economist.

(2) Beginning July 1, 2006, there will be a presumption that renewable fuel plants operating in Louisiana and deriving biodiesel from soybeans and other crops shall use as feedstock at least two and a half percent of the soybean crop harvested in Louisiana. In succeeding years, the minimum percentage of Louisiana harvested soybeans presumptively to be used to produce renewable fuel in Louisiana facilities shall be the percentage of soybeans used nationally to produce renewable fuel as reported by the United States Department of Agriculture's Office of the Chief Economist.

(3) As additional crops are used in the production of renewable fuels at facilities in Louisiana, there will be a presumption that renewable fuel plants operating in Louisiana shall use Louisiana harvested crops in a percentage rate at least equal to the percentage of the crops's usage nationally in the production of renewable fuel as reported by the United States Department of Agriculture's Office of the Chief Economist.

(4)(a) In an effort to enable the renewable fuel plants in operation in Louisiana to systematically increase the use of Louisiana crops as feedstock over time as provided in this Subsection, the provisions of R.S. 3:4674, except as it relates to biodiesel, shall not be effective until six months after the average wholesale price of a gallon of Louisiana-manufactured ethanol, less any federal alcohol fuel mixture tax credit, is equal to or below the average wholesale price of a gallon of regular unleaded gasoline in Louisiana for a period of not less than sixty days, as determined by the commissioner of agriculture and forestry.

(b) In gathering pricing information to be used in making the determination required by Subparagraph (a), the commissioner shall rely upon sales in Louisiana and shall utilize recognized information services, including but not limited to the Oil Price Information Service.

(c) The commissioner shall provide public notice of his determination in the Louisiana Register within ten days after the determination is made.

E. To improve dissemination of information regarding supply needs of renewable fuel manufacturing facilities operating in Louisiana and to assure that Louisiana farmers are adequately and timely informed about the feedstock needs of these facilities, the operators of all renewable fuel manufacturing facilities shall, at least one hundred eighty days prior to the start of commercial operation of such facilities, provide notice to the commissioner of agriculture and forestry, the secretary of the Department of Natural Resources and the secretary of the Department of Economic Development.

F. The initial notice shall also contain the anticipated production level for the facility's first twelve months of operation, the amount and type of feedstock anticipated necessary to meet production levels for the first twelve months of operation, the location from where the feedstock originated if already secured, and the steps taken to obtain feedstock from Louisiana harvested crops. The report shall also itemize the federal, state, and local grants, loans or incentive program benefits obtained by the facility obtained for the construction or operation of the facility.

G. By December thirty-first of each calendar year, renewable fuels manufacturers operating in the state shall provide notice to the commissioner of agriculture and forestry of their anticipated production levels and specific feedstock requirements for the next calendar year so that Louisiana farmers will be able to adjust, if necessary, the crops they intend to plant and harvest during the upcoming growing season.

H. Each renewable fuels manufacturing facility operating in Louisiana shall provide an annual report to the commissioner of agriculture and forestry, the secretary of the Department of Natural Resources and the secretary of the Department of Economic Development certifying that it has purchased all of the competitively priced Louisiana feedstock available during its operations. The report shall also list the production levels for the previous twelve months, the amount and type of feedstock used to achieve the production levels, the location from where the feedstock originated, and the steps taken to obtain Louisiana harvested feedstock. The report shall also itemize the financial benefits the facility has received from the state, including but not limited to: the use of state grants, state assisted financing, participation in the Quality Jobs Program, the Enterprise Zone Program and the 10-Year Industrial Exemption Program.

I. The commissioner of agriculture and forestry shall promulgate rules and regulations with regard to documenting the information supplied by the renewable fuels manufacturing facilities as provided for in this Section.

Acts 2006, No. 656, §1, eff. July 1, 2006; Acts 2008, No. 743, §7, eff. July 1, 2008; Acts 2013, No. 184, §6.

CHAPTER 23-B. THE ADVANCED BIOFUEL INDUSTRY DEVELOPMENT INITIATIVE

§3761. Legislative findings and definitions

A. The legislature hereby finds and declares that the development of an advanced biofuel industry in Louisiana is a matter of grave public necessity and is vital to the economy of Louisiana. The use of advanced biofuel will expand United States and Louisiana fuel supplies without increasing dependency on foreign oil. The development of an advanced biofuel industry will help rebuild the local and regional economies devastated as a result of Hurricanes Katrina and Rita by providing: (1) increased value added to the feed stock crops which will benefit the producers and provide more revenue to the local community; (2) increased investments in plants and equipment which would stimulate the local economy by providing construction jobs initially and the chance for full-time employment after the plant is completed; (3) secondary employment as associated industries develop due to plant coproducts becoming available at a competitive price; and (4) increased local and state revenues collected from plant operations would stimulate local and state tax revenues and provide funds for improvements to the community and to the region. Blending fuel-grade ethanol with gasoline at the gas station pump will offer the Louisiana consumer a fuel that is less expensive, cleaner, renewable, and more efficient than unleaded gasoline. Moreover, preliminary tests conducted in Europe have proven that the use of hydrous ethanol, which eliminates the need for the hydrous-to-anhydrous dehydration processing step, results in an energy savings of between ten percent and forty-five percent during processing, a four percent product

volume increase, higher mileage per gallon, and a reduction in greenhouse gas emissions. Therefore, an advanced biofuel industry development initiative in Louisiana is vital to ensuring the broad-based rural economic development of Louisiana and is a matter of public policy.

B. The legislature finds and declares that the proper development of an advanced biofuel industry in Louisiana requires the following comprehensive "field-to-pump" strategy:

(1) Feedstock other than corn:

(a) Derived solely from Louisiana harvested crops.

(b) Capable of an annual yield of at least six hundred gallons of ethanol per acre.

(c) Requiring no more than one-half of the water required to grow corn.

(d) Tolerant to high temperature and waterlogging.

(e) Resistant to drought and saline-alkaline soils.

(f) Capable of being grown in marginal soils, ranging from heavy clay to light sand.

(g) Requiring no more than one-third of the nitrogen required to grow corn thereby reducing the risk of contamination of the waters of the state.

(h) Requiring no more than one-half of the energy necessary to convert corn into ethanol.

(2) The distributed nature of a small advanced biofuel manufacturing facility network reduces feed stock supply risk, does not burden local water supplies, and provides for a more broad-based economic development. Each small advanced biofuel manufacturing facility shall operate in Louisiana.

(3) Advanced biofuel supply and demand shall be expanded beyond the ten percent blend market by blending fuel-grade anhydrous ethanol with gasoline at the gas station pump. Variable blending pumps, directly installed and operated at local gas stations by a qualified small advanced biofuel manufacturing facility, shall offer the consumer a less expensive substitute for unleaded gasoline in the form of E10, E20, E30, and E85.

C. As used in this Section, the following terms shall have the meanings hereinafter ascribed to them:

(1) "Advanced biofuel" means hydrous ethanol derived from sugar or starch (other than corn starch) or anhydrous ethanol derived from sugar or starch (other than corn starch).

(2) "Anhydrous ethanol" means an ethyl alcohol that has a purity of at least ninety-nine percent, exclusive of added denaturants, that meets all the requirements of the American Society of Testing and Materials (ASTM) D4806, the standard specification for ethanol used as motor fuel.

(3) "Hydrous ethanol" means an ethyl alcohol that is approximately ninety-six percent ethanol and four percent water.

(4) "Small advanced biofuel manufacturing facility" means an advanced biofuel manufacturing facility operating in Louisiana that produces no less than five million gallons of advanced biofuel per year and no more than fifteen million gallons of advanced biofuel per year with feedstock other than corn derived solely from Louisiana harvested crops.

Acts 2008, No. 382, §1.

§3762. Pilot programs

A. The blending of fuels with advanced biofuel percentages between ten percent and eighty-five percent will be permitted on a trial basis until January 1, 2012. During this period the Louisiana Department of Agriculture and Forestry, office of agro-consumer services, division of weights and measures, will monitor the equipment used by a qualified small advanced biofuel manufacturing facility to dispense the ethanol blends to ascertain that the equipment is suitable and capable of producing an accurate measurement. Since there are no ASTM standards for evaluating the quality of the product, the

Department of Agriculture and Forestry, office of agro-consumer services, division of weights and measures, will take fuel samples to ascertain that the correct blend ratios are being dispensed and follow the development of standards. Provided that no negative trends are observed during the trial period and fuel standards have been developed or work continues on developing them, the Department of Agriculture and Forestry, office of agro-consumer services, division of weights and measures, will consider extending the evaluation period.

B. The use of hydrous ethanol blends of E10, E20, E30, and E85 in motor vehicles specifically selected by a qualified small advanced biofuel manufacturing facility for test purposes will be permitted on a trial basis until January 1, 2012. During this period the Department of Agriculture and Forestry, office of agro-consumer services, division of weights and measures, will monitor the performance of the motor vehicles. The hydrous blends will be tested for blend optimization with respect to fuel consumption and engine emissions. Preliminary tests conducted in Europe have proven that the use of hydrous ethanol, which eliminates the need for the hydrous-to-anhydrous dehydration processing step, results in an energy savings of between ten percent and forty-five percent during processing, a four percent product volume increase, higher mileage per gallon, a cleaner engine interior, and a reduction in greenhouse gas emissions.

Acts 2008, No. 382, §1.

§3763. State incentives

A. The Louisiana commissioner of agriculture and forestry, conditioned upon the availability of funds, is authorized to award demonstration grants to persons who purchase advanced biofuel variable blending pumps which dispense E10, E20, E30, and E85. The demonstration grant shall be for the purpose of conducting research connected with the monitoring of the equipment used to dispense the ethanol blends to ascertain that the equipment is suitable and capable of producing an accurate measurement. The grantee shall also develop guidelines for the installation and use of advanced biofuel variable blending pumps by complying with applicable National Type Evaluation Program and National Institute of Standards and Technology requirements and ASTM standards.

B. The Louisiana commissioner of agriculture and forestry, conditioned upon the availability of funds, is authorized to award demonstration grants to persons who purchase vehicles which operate on advanced biofuels. A grant shall be for the purpose of conducting research connected with the fuel or the vehicle and not for the purchase of the vehicle itself, except that the money may be used for the purchase of the vehicle if all of the following conditions are satisfied:

- (1) The Department of Agriculture and Forestry retains the title to the vehicle.
- (2) The vehicle is used for continuing research.
- (3) If the vehicle is sold or when the research related to the vehicle is completed, the proceeds of the sale of the vehicle shall be used for additional research.

Acts 2008, No. 382, §1.

CHAPTER 24. HORTICULTURE

§3801. Horticulture Commission

A. The Horticulture Commission of Louisiana is hereby created within the Department of Agriculture and Forestry to be comprised of the following thirteen members:

- (1) The commissioner of agriculture and forestry.

- (2) The assistant commissioner of agricultural and environmental sciences.
- (3) The director of the Louisiana Cooperative Extension Service.
- (4) A licensed arborist.
- (5) A licensed retail florist.
- (6) A licensed wholesale florist.
- (7) A licensed landscape horticulturist.
- (8) A licensed landscape architect.
- (9) A nursery stock dealer.
- (10) A wholesale nurseryman.
- (11) A licensed utility arborist.
- (12) A sod grower.
- (13) A licensed landscape irrigation contractor.

B. The commissioner of agriculture and forestry, the assistant commissioner of agricultural and environmental sciences, and the director of the Louisiana Cooperative Extension Service shall serve as ex officio members with the same rights, powers, and privileges as the other members.

C. The following members shall be appointed by the commissioner, subject to confirmation of the Senate, and shall serve terms of four calendar years beginning with the year of appointment in accordance with the following provisions:

(1) The licensed arborist shall be appointed during the second year of each administration from the arborists licensed by the commission.

(2) The licensed retail florist shall be appointed during the second year of each administration from a list of three persons nominated by the Louisiana State Florists Association, Inc.

(3) The licensed wholesale florist shall be appointed during the third year of each administration from the wholesale florists licensed by the commission.

(4) The licensed landscape horticulturist shall be appointed during the fourth year of each administration from a list of three persons nominated by the Louisiana Nursery and Landscape Association.

(5) The licensed landscape architect shall be appointed during the third year of each administration from a list of three persons nominated by the Louisiana Chapter of the American Society of Landscape Architects.

(6) The nursery stock dealer shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Retailers Association.

(7) The wholesale nurseryman shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Nursery and Landscape Association.

(8) The licensed utility arborist shall be appointed during the second year of each administration from the utility arborists licensed by the commission, who are graduate foresters and who work in the utility line clearing area.

(9) The sod grower shall be appointed during the fourth year of each administration from a list of three persons nominated by the Louisiana Turfgrass Association.

(10) The licensed landscape irrigation contractor shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Irrigation Association.

D. Vacancies in the office of the appointed members shall be filled in the same manner as the original appointments. Appointments to fill vacancies shall be made within ninety days of the date the vacancy occurred and shall be for the unexpired portion of the term of the office vacated.

E. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. Each member shall take and subscribe to the oath of office prescribed for state officers. Members of the commission shall not receive any salary for their duties as members. The appointed members who are not state employees or officers may receive a per diem for each day spent in actual attendance of meetings of the commission or of duly appointed committees or subcommittees of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. The appointed members who are not state employees or officers may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

F. The commission is hereby authorized to adopt such rules and regulations as are necessary to enforce the provisions of this Chapter and to carry out the intent of the laws contained therein, including, but not limited to, rules and regulations for the following purposes:

(1) To govern the qualifications and practices of persons engaged in the professions and occupations regulated by the commission.

(2) To establish examinations for applications for licenses and to establish minimum scores necessary to pass those examinations.

(3) To require the payment of examination fees, license fees, and permit fees as provided in this Chapter.

(4) To hold hearings and to conduct investigations.

(5) To do all things necessary to prevent fraudulent practices by persons engaged in the professions and occupations regulated by the commission.

(6) To encourage holders of licenses and permits to participate in continuing education programs approved by the commission.

G. The commissioner of agriculture and forestry, the assistant commissioner for agricultural and environmental sciences, and the director of the Louisiana Cooperative Extension Service may name designees to attend meetings for those officers. The commissioner may appoint an alternate member for each member he appoints. If the member is appointed from a list of nominees, the alternate shall be appointed from the same list. Any designee or alternate who attends a meeting as a representative of a member shall have the same rights, powers, and privileges, including voting rights, as the member he represents.

H. The commission, by a vote of two-thirds of the appointed members, may expel a member who has accumulated three consecutive unexcused absences from commission meetings.

I. The commission shall employ a director and assistant director who shall be appointed by the commission, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service.

Acts 1950, No. 224, §1. Amended by Acts 1954, No. 534, §1; Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1980, No. 330, §2; Acts 1981, No. 418, §1; Acts 1985, No. 120, §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 1988, No. 318, §1; Acts 1990, No. 69, §1; Acts 1992, No. 60, §1; Acts 1995, No. 182, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2008, No. 229, §1, eff. June 16, 2008; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 310, §1, eff. May 25, 2012.

§3802. Chairman, secretary

A. The commissioner of agriculture and forestry shall be the chairman of the commission. The chairman shall enforce the provisions of this Chapter and the rules and regulations adopted by the commission and shall employ such personnel, other than the director and assistant director, as may be necessary to administer the provisions of this Chapter.

B. The assistant commissioner for agricultural and environmental sciences shall serve as secretary of the commission.

Acts 1950, No. 224, §2. Amended by Acts 1952, No. 272, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3803. Definitions

As used in this Chapter, the following terms shall have the following meanings ascribed to them:

(1) "Chairman" means the chairman of the commission.

(2) "Commission" means the Horticulture Commission of Louisiana.

(3) "Commissioner" means the commissioner of agriculture and forestry.

(4) "Direct supervision" means giving direction or instruction to and accepting responsibility for the work product of the person being supervised.

(5) "Landscape irrigation contractor" means a person who is licensed to construct, install, connect, repair, maintain, improve, or alter any portion of a landscape irrigation system.

(6) "Landscape irrigation system" means any assemblage of component materials or special equipment that provides and distributes a controlled dispersion of water to landscaped areas for the purposes of irrigating vegetation or controlling dust and erosion.

(7) "License" means a document issued by the commissioner authorizing the holder to engage in the profession indicated thereon.

(8) "Mobile unit" means a container or means of conveyance from which cut flowers or nursery stock are sold.

(9) "Nursery" means any farm, grounds, or premises on which nursery stock is propagated, grown, or kept for sale or distribution.

(10) "Nursery stock" means all trees, shrubs, ornamental plants, grass sod, or foliage plants grown or kept for propagation, distribution, or sale.

(11) "Nurseryman" means any person who engages in the production, distribution, and sale of nursery stock.

(12) "Outlet" means a mobile unit or a place of business.

(13) "Permit" means a document issued by the commissioner authorizing the holder to engage in the occupation indicated thereon.

(14) "Person" means an individual or any legal or commercial entity, including a corporation, business trust, partnership, limited liability company, association, or joint venture. However, for the purposes of violations, adjudications, and penalties under this Chapter, "person" shall not include a person or entity volunteering to provide horticulture services.

(15) "Place of business" means a permanent location or a portion of a permanent location from which business in a regulated profession or occupation is transacted.

(16) "Secretary" means the secretary of the commission.

(17) "Vending machine" means any climate controlled mechanical, electric, or electronic self-service device which, upon insertion of money, credit card, token, or any other form of payment, automatically dispenses merchandise.

Acts 1950, No. 224, §3. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §§1, 2; Acts 1981, No. 112, §1; Acts 1985, No. 120, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2008, No. 229, §1, eff. June 16, 2008.

§3804. Regulation of professions and occupations

A. The commission shall regulate the following professions:

- (1) Arborist.
- (2) Retail florist.
- (3) Wholesale florist.
- (4) Landscape horticulturist.
- (5) Landscape architect.
- (6) Utility arborist.
- (7) Landscape irrigation contractors.

B. The commission shall regulate the following occupations:

- (1) Nursery stock dealer.
- (2) Cut flower dealer.

C. No person shall receive fees, whether directly or indirectly, for engaging in a regulated profession, or advertise as engaged in a regulated profession, or solicit business in a regulated profession, unless the person holds a valid appropriate license issued by the commissioner, or has a regular employee who holds a valid appropriate license issued by the commissioner, or is employed by or is working under the direct supervision of a person who holds a valid appropriate license issued by the commissioner.

D. No person shall receive income, whether directly or indirectly, for engaging in a regulated occupation, or advertise as engaging in a regulated occupation, or solicit business in a regulated occupation, unless the person holds a valid appropriate permit issued by the commissioner, or has a regular employee who holds a valid appropriate permit issued by the commissioner, or is employed by or supervised by a person who holds a valid appropriate permit issued by the commissioner and who accepts responsibility for insuring that the employee complies with the requirements of this Chapter.

E. The regulation of arborists is preempted by this Chapter. The governing authority of a political subdivision shall not adopt any ordinance in any way affecting the licensure or regulation of arborists, except as follows:

- (1) The governing authorities of parishes and municipalities may request that the rules applicable to arborists be amended to provide for specific problems encountered by the parish or municipality.
 - (2) The following provisions shall govern requests by parish or municipal governing authorities:
 - (a) The request shall be addressed to the commissioner.
 - (b) The commission shall hear the request.
 - (c) The commission shall make a preliminary determination as to the advisability of amending the rules and shall transmit its determination to the commissioner.
 - (d) The commissioner shall make the final determination as to the desirability of amending the rules.

(e) If the commissioner determines that the rules should be amended, the rule shall be adopted in accordance with the Administrative Procedure Act.

(3) Any governing authority of a political subdivision may petition the commissioner for approval of an ordinance applicable to the licensure or regulation of arborists as follows:

(a) The governing authority shall transmit the proposed ordinance to the commissioner who shall refer the ordinance for hearing in accordance with R.S. 3:3804(E)(2).

(b) Upon receipt of the recommendation of the commission, the commissioner shall approve or disapprove the proposed ordinance.

(c) Any governing authority aggrieved by a final decision of the commissioner, shall have a right of judicial review of the administrative process in accordance with the Administrative Procedure Act.

Acts 1950, No. 224, §4. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1974, No. 574, §3; Acts 1979, No. 500, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008.

§3805. Applications

Each application to take an examination and each application for a license or permit shall be in writing and shall be on forms which shall be prescribed by the commission. Each application shall be accompanied by the appropriate fee and by such documents as the commission may require. Each applicant shall indicate on the application the street address of his residence and the street address of his place of business. If the residence or place of business does not have a street address, the applicant shall provide sufficient information to establish the physical location of the residence or place of business. Each applicant for a nursery stock dealer's permit or a cut flower dealer's permit shall have an identifying sales tax number issued by the secretary of revenue and taxation and shall indicate that number on the application.

Acts 1950, No. 224, §5. Amended by Acts 1954, No. 534, §2; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1985, No. 192, §1.

§3806. Fees

A.(1) The examination fee for each examination for a professional license, except for landscape architects, shall be established by the commission by rule in an amount not to exceed three hundred fifty dollars. In determining the amount of the fee, the commission shall consider the costs incurred in obtaining, administering, and grading the examination.

(2) The examination fee for each examination for a professional license for landscape architects shall be established by the commission by rule in an amount not to exceed two hundred dollars, which represents the cost of administering and grading the Louisiana Landscape Architect Examination.

B. The license fee for each professional license which is issued or renewed by the commissioner shall be seventy-five dollars per license.

C. The permit fee for each nursery stock dealer's permit which is issued or renewed by the commissioner shall be one hundred thirty dollars per permit.

D. The permit fee for each cut flower dealer's permit which is issued or renewed by the commissioner shall be seventy dollars per permit.

E. In addition to the fees provided for in Subsections B, C, and D of this Section, each applicant who applies for the renewal of a license or permit more than fifteen working days after his license or permit has expired shall pay a late fee of twenty-five dollars for each late application.

F. The fees established in this Section shall not be refundable except under such conditions as the commission may establish.

G.(1) All assessments, fees, penalties, and all other funds received under the provisions of this Chapter, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Chapter into a special fund which is hereby created in the state treasury and designated as the Horticulture and Quarantine Fund.

(3) All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The state treasurer shall invest monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

(4) Subject to appropriation, the monies in the fund shall be used for the following purposes:

(a) To provide for the expenses of the program established by this Chapter and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner.

(b) To fund any and all costs related to the purposes of this Chapter and to carrying out the powers and duties granted the commission and the commissioner under this Chapter.

Acts 1950, No. 224, §6. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1981, Ex.Sess., No. 2, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1987, No. 844, §1; Acts 1992, No. 457, §1; Acts 1992, No. 984, §2; Acts 2003, No. 123, §1, eff. July 1, 2003; Acts 2011, No. 31, §1; Acts 2013, No. 103, §1.

§3807. Examinations

A. Each applicant for a professional license shall satisfactorily pass an examination prior to being issued a license. The commission shall be responsible for the preparation, administration, and grading of examinations for professional licenses. The commission shall review and approve all proposed examinations and shall determine the minimum score necessary to satisfactorily pass each examination.

B. The examination for each profession shall be compiled from lists of questions submitted by the following organizations:

(1) The arboricultural examination shall be compiled from a list of questions submitted by the Louisiana State University Agricultural Center and the Department of Agriculture and Forestry. The utility arboricultural examination shall be a separate examination pertaining to utility tree work and shall be compiled from a list of questions submitted by the Louisiana State University Agricultural Center and the Department of Agriculture and Forestry.

(2) The retail florist examination shall be compiled from a list of questions submitted by the Louisiana State Florists Association, Louisiana State University Agricultural Center, and the Department of Agriculture and Forestry.

(3) The wholesale florist examination shall be compiled from a list of questions submitted by the Louisiana Wholesale Florists Association, Louisiana State University Agricultural Center, and the Department of Agriculture and Forestry.

(4) The landscape horticulturist examination shall be compiled from a list of questions submitted by the Louisiana Nursery and Landscape Association, Louisiana State University Agricultural Center, and the Department of Agriculture and Forestry.

(5) The national landscape architect examination shall be prepared by the Council of Landscape Architectural Registration Boards, or its successor. The Louisiana Landscape Architect Examination shall be compiled from a list of questions approved by the commission.

(6) *Repealed by Acts 2008, No. 63, §2, eff. June 5, 2008.*

(7) The landscape irrigation contractor examination shall be compiled from a list of questions submitted by the Louisiana Irrigation Association and the Department of Agriculture and Forestry.

C. The commission shall fix the dates for all examinations for professional licenses. The commission may establish a date prior to each examination which shall be the last date on which applications to take the examination will be accepted, and may refuse to administer examinations to persons whose applications are received after that date.

D. Each person who has been issued a license and who fails to renew his license for three successive years, may do so upon completion of the requirements for renewal established by the commission. The maximum fee for delayed renewal shall be established by the commission, provided that said renewal fee shall not exceed three times the normal renewal fee. This delinquent renewal fee shall be in addition to the late renewal registration fee set forth in R.S. 3:3806(E).

E. The commission may enter into reciprocal agreements with licensing agencies in other states to provide that applicants for a landscape architect's license who are licensed in another state as a result of passing an examination which was approved by the Council of Landscape Architectural Registration Boards, or its successor, shall be given credit for having passed that examination and will be required to pass the Louisiana Landscape Architect Examination.

Acts 1950, No. 224, §7. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1987, No. 844, §1; Acts 1988, No. 230, §1; Acts 1990, No. 120, §1; Acts 1992, No. 60, §1; Acts 1992, No. 457, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, 2, eff. June 5, 2008; Acts 2008, No. 556, §1, eff. June 30, 2008; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 1040, §1, eff. July 8, 2010; Acts 2013, No. 103, §1.

§3808. Terms and conditions of licenses and permits

A. A person who presents himself as, or advertises as, engaging in the arborist profession shall be required to obtain a license which shall subject that person to the following provisions:

(1) An arborist's license authorizes the holder thereof to recommend or execute the following measures:

- (a) The removal of a tree or a portion of a tree.
- (b) Measures to prolong the life of a tree.
- (c) Measures to enhance the aesthetic value of a tree.

(2) For license renewal, each arborist is required to attend a continuing training seminar as determined by rule by the commission.

B. Retail florists shall be subject to the following provisions:

(1) A retail florist's license authorizes the holder thereof to arrange or supervise the arrangement of floral designs which include living or freshly cut plant materials and to sell at retail floral designs, cut flowers, and ornamental plants in pots normally and customarily sold by florists.

(2) Each person who engages in the profession of retail floristry shall have a regular employee at each place of business who is a licensed retail florist and whose license shall be on display at all times during the hours business is conducted in that profession.

(3) Notwithstanding the provisions of Subsection (2), an individual who is a licensed florist and who owns his own floral business may operate a vending machine at a location remote from the individual's place of business for the sale of cut flowers and floral designs, subject to all of the following restrictions:

(a)(i) No individual shall operate more than five vending machines at any time.

(ii) When a floral business is operated by two or more licensed florists, the floral business shall be limited to five vending machines, regardless of the number of licensed florists who are employed by the floral business.

(b) A licensee shall obtain a cut flower permit for each vending machine.

(c) The following shall be prominently displayed inside the vending machine in plain view or on each vending machine:

(i) The name of the licensed florist.

(ii) The address and telephone number, which is on record with the commission, of the individual owning or operating the vending machine.

(d) The cut flowers and floral designs sold from the vending machine shall be inspected or arranged by a licensed florist or under the supervision of a licensed florist at the owner's place of business prior to placement in the vending machine.

(e) The vending machine is monitored in person or electronically by a licensed florist or an individual under the direct supervision of a licensed florist at least once each business day and serviced as needed.

(4) The commission may adopt rules and regulations governing the profession of retail florist, including rules and regulations providing for the operation, location and monitoring of vending machines and for the quality, freshness, longevity, and freedom from injurious insects, diseases, or other pests, of cut flowers, floral designs, and ornamental plants in pots sold by a licensed florist.

(5) The provisions of this Subsection shall not apply to persons who arrange or sell floral designs composed entirely of artificial materials, or dried plant materials, or both.

(6) Individuals licensed to operate vending machines shall not operate them outside of the parish more than twenty-five miles beyond their place of business.

C. A wholesale florist's license authorizes the holder thereof to prepare and sell cut flowers, plant materials, and ornamental plants in pots normally and customarily used by retail florists to persons who hold a retail florist's license and to prepare and sell cut flowers to persons who hold a cut flower dealer's permit. A wholesale florist's license shall not authorize the holder thereof to arrange or sell floral designs.

D. A landscape horticulturist's license authorizes the holder to do the following:

(1) Implement plans, studies, surveys, specifications, and designs prepared by a licensed landscape architect.

(2) Recommend and implement measures for interior and exterior beautification and development through the use of nursery stock.

(3) Sell or lease nursery stock and to recommend and execute measures for the maintenance of nursery stock. Each landscape horticulturist may use his license for the sale or lease of nursery stock from only one place of business. The license shall be on display at all times during the hours nursery stock is sold.

(4) Prepare drawings to indicate the placement of nursery stock. Each drawing shall include the name and license number of the landscape horticulturist who prepared the drawing. No fee shall be

charged for preparing a drawing. A landscape horticulturist may use a drawing prepared by him in connection with the submission of a bid proposal. A drawing shall not be used by any person to solicit bids for the sale of materials or rendering of services regulated by the Commission.

E. Landscape architects shall be subject to the following provisions:

(1) A landscape architect's license authorizes the holder thereof to perform professional services such as consultation, investigation, research, preparation of general development and detailed landscape design plans, studies, specifications, and responsible supervision in connection with the development of landscape areas where, and to the extent that, the principal purpose of the service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the intended use of the land. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and practical requirements.

(2) In order to accomplish the duties described in Paragraph (1) of this Subsection, the landscape architect may prepare feasibility studies; formulate graphic and written criteria to govern the aesthetic and practical planning and design of land construction programs; prepare, review, and analyze plans for aesthetic and practical land use and development; produce landscape plans, landscape grading and landscape drainage plans, landscape irrigation plans, planting plans, and related landscape construction details, specifications, estimates of probable costs, and reports for aesthetic and practical land use; collaborate in the design of pleasing and practical settings and approaches for vehicular and pedestrian circulation systems, bridges, and nonhabitable structures, all with respect to the practical and aesthetic requirements of the areas on which they are to be placed; negotiate and arrange for execution of landscape projects; and conduct field observation of landscape construction, restoration, and maintenance.

(3) Nothing in this Subsection shall permit any person licensed under this Subsection to perform professional services which are defined as the practice of architecture in R.S. 37:141 et seq., or the practice of engineering or land surveying in R.S. 37:681 et seq., and which are not included in the practice of landscape architecture under this Subsection. Nothing in this Subsection shall prohibit the practice of engineering or land surveying or the practice of architecture by any person who is licensed as a professional engineer or land surveyor under R.S. 37:681 et seq., or as an architect under R.S. 37:141 et seq.

(4) In order to qualify to take the national landscape architect examination, the applicant shall meet the minimum qualification standards approved by the Council of Landscape Architectural Registration Boards, or its successor.

(5) In order to qualify to take the Louisiana Landscape Architect Examination, the applicant shall submit evidence of passing the national examination prepared by the Council of Landscape Architectural Registration Boards, or its successor.

(6) The commission shall issue each licensed landscape architect a permanent registration number.

(7) Each landscape architect shall affix his seal to all drawings or specifications prepared by or under the direct supervision of the landscape architect.

(8) The seals used by landscape architects shall meet the specifications determined by rule by the commission.

F. *Repealed by Acts 2008, No. 63, §2, eff. June 5, 2008.*

G. Each person licensed under the provisions of this Chapter shall meet the professional standards determined by the commission for each profession and shall notify the commission of each change in the address of the residence or place of business of the license holder.

H. A nursery stock dealer's permit authorizes the holder thereof to sell nursery stock. A nursery stock dealer's permit shall not authorize the holder thereof to install nursery stock.

I. A cut flower dealer's permit authorizes the holder to do any of the following:

(1) Sell cut flowers either singly or in bunches, or both. However, the holder of a cut flower permit may not sell cut flowers within three hundred feet of the place of business of another person engaged in the profession of retail florist.

(2) Operate under that permit a vending machine for the sale of cut flowers and floral design in accordance with the provisions of this Chapter and the rules and regulations adopted pursuant to this Chapter, if the holder is engaged in the profession of retail florist.

J. Each person issued a permit under the provisions of this Chapter shall meet the occupational standards determined by the commission for each occupation and shall notify the commission of each change in the address of the permit holder.

K. Each person who holds a valid Louisiana Nursery Certificate Permit may use that permit in lieu of a nursery stock dealer's permit, or a cut flower dealer's permit, or both, at any one outlet.

L. Each nursery stock dealer and cut flower dealer shall secure an appropriate permit for each outlet operated by the dealer.

M. Each license and permit issued under the provisions of this Chapter shall expire on January thirty-first of each year and may be renewed in accordance with rules adopted by the commission.

N. Each holder of a license or permit issued under the provisions of this Chapter shall present such license or permit upon demand of any authorized agent of the horticulture commission.

O. Utility arborists shall be subject to the following provisions:

(1) A utility arborist's license authorizes the holder thereof to recommend or execute the removal of trees or portions of trees along utility rights of way.

(2) For license renewal, each utility arborist is required to attend a continuing training seminar as determined by rule by the commission.

P. Landscape irrigation contractors shall be subject to the following provisions:

(1) Notwithstanding any other law to the contrary, a landscape irrigation contractor's license authorizes the holder to construct, install, connect, repair, maintain, improve, or alter any portion of a landscape irrigation system, including the required wiring within that system, and to install and connect the landscape irrigation system to the required power supply and to a public or private water supply system.

(2) For license renewal, each landscape irrigation contractor shall obtain continuing training as determined by rule of the commission.

(3) He shall request and be issued any necessary permits from any governing authority.

(4) Prior to connecting to a public or private water supply system, a licensed landscape irrigation contractor shall obtain a water supply protection specialist endorsement from the State Plumbing Board. The State Plumbing Board shall issue a special endorsement of a water supply protection specialist to any licensed landscape irrigation contractor who completes the training required by the State Plumbing Board as provided for in R.S. 37:1368(H)(1); however, neither a journeyman plumber's license nor a master plumber's license shall be required.

(5) Backflow prevention devices shall be installed in accordance with the provisions of Part XIV of the Louisiana State Sanitary Code by a person holding a water supply protection specialist endorsement.

(6) Nothing in this Subsection shall permit any licensed landscape irrigation contractor to perform any electrical or plumbing services not provided for in this Subsection, for which a license is required from any other regulatory board. Nothing in this Subsection shall prohibit a licensed electrician or plumber from providing electrical or plumbing services necessary to make or keep an irrigation system operational.

Acts 1987, No. 844, §1; Acts 1988, No. 231, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §§1, 2, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2013, No. 103, §1.

§3809. Employee of persons who hold licenses and permits

A. Each person who holds a professional license issued under the provisions of this Chapter may employ personnel to work under the direct supervision of the license holder in the profession indicated on the license. The license holder shall give direction and instruction to such personnel and shall be responsible for insuring that the work product of such personnel meets the appropriate professional standards determined by the commission.

B. Each person who holds an occupational permit issued under the provisions of this Chapter may employ personnel to work in the occupation indicated on the permit. The permit holder shall be responsible for insuring that such personnel meet the appropriate occupational standards determined by the commission.

Added by Acts 1965, No. 127, §2. Amended by Acts 1972, No. 320, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

§3810. Violations

A. Failure to comply with any provision of this Chapter or of any rule or regulation adopted pursuant to this Chapter shall constitute a violation. Violations include but are not limited to:

(1) Performing any of the following acts in a regulated profession or occupation without either a valid appropriate license or permit issued by the commissioner or without a regular employee who holds a valid appropriate license or permit issued by the commissioner:

(a) Engaging in or doing any form of work in a regulated profession or occupation.

(b) Receiving income, whether directly or indirectly, for engaging in or doing any form of work in a regulated profession or occupation.

(c) Advertising, soliciting, or otherwise attempting to obtain any form of work in a regulated profession or occupation.

(2) Failing to abide by any cease and desist order issued by the commission or any stop order or notice of non-compliance issued by the commissioner or their authorized employees or agents.

(3) Performing any fraudulent practice while engaged in a regulated profession or occupation or intentionally misrepresenting any matter involved in or related to work in a regulated profession or occupation.

(4) Altering, forging, counterfeiting, or using without authority any license, permit, or other document provided for in this Chapter or in any rule or regulation adopted pursuant to this Chapter.

(5) Knowingly permitting any person under direct supervision of a person holding a license or permit pursuant to this Chapter to violate any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.

(6) Failing to comply with the continuing education requirements adopted by the commission for any regulated profession or occupation.

(7) Failing to timely pay any fee, penalty, or other cost imposed under this Chapter or any rule or regulation adopted pursuant to this Chapter.

(8) Failing to meet the appropriate minimum standards of practice for a regulated profession or occupation established by the commission through rule or regulation.

B. Each violation shall be considered a separate offense and each day on which a violation occurs or continues to occur shall be considered a separate offense.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 2008, No. 229, §1, eff. June 16, 2008.

§3810.1. Adjudicatory proceedings

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act and this Chapter.

B. Whenever the commissioner has any reason to believe that a violation of this Chapter or of any rule or regulation adopted pursuant to this Chapter has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, the conduct of discovery and the adjudicatory hearing shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

Acts 2008, No. 229, §1, eff. June 16, 2008.

§3810.2. Civil penalties and costs

A. Whoever is found by the commission to have violated a provision of this Chapter or any rule or regulation adopted pursuant to this Chapter shall be fined as follows:

(1) The commission may assess a civil penalty of not more than two hundred fifty dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has not been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in a prior adjudicatory proceeding held by the commission.

(2) The commission may assess a civil penalty of not more than five hundred dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in a prior adjudicatory proceeding held by the commission.

(3) The commission may assess a civil penalty of not more than one thousand dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in two or more prior adjudicatory proceedings held by the commission.

B. In addition to civil penalties, the commission may assess the cost of the adjudicatory proceeding against any person found to be in violation of this Chapter or any rule or regulation adopted pursuant to

this Chapter. The commission shall, by rule or regulation, determine the amount of the cost of an adjudicatory proceeding, which may include the cost of any investigation leading up to or made during the course of an adjudicatory proceeding.

Acts 2008, No. 229, §1, eff. June 16, 2008.

§3810.3. Enforcement

A. The commission may issue a cease and desist order and the commissioner may issue a stop order or notice of non-compliance to stop or prevent a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.

B. The commissioner may seek to collect any fee, penalty, or cost that may be due under any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.

C. The commissioner may institute civil proceedings in any court of proper jurisdiction and venue to:

(1) Enforce the rulings of the commission.

(2) Collect any fee, penalty or cost due under any provision of this Chapter or any rules or regulations adopted pursuant to this Chapter.

(3) Seek injunctive relief to restrain and prevent violations of any provision of this Chapter or of any rule or regulation adopted pursuant to this Chapter.

Acts 2008, No. 229, §1, eff. June 16, 2008.

§3811. Revocation of licenses and permits

A. The commission may revoke or suspend any license or permit issued under the provisions of this Chapter upon a determination by the commission that the holder of the license or permit has violated the provisions of this Chapter or the rules and regulations of the commission, or has failed to meet the professional or occupational standards determined by the commission, or has failed to insure that the personnel employed by the holder of the license or permit meet the professional or occupational standards determined by the commission.

B. Licenses and permits may be revoked or suspended only by a ruling of the commission based on an adjudicatory hearing held in accordance with the provisions of the Louisiana Administrative Procedure Act.

C. The commission shall notify each person whose license has been revoked or suspended, by certified mail, return receipt requested.

D. Each person whose license or permit has been revoked or suspended shall return the license or permit to the commission within fifteen days of the date on which the notice of the revocation or suspension was received.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

§3812. Mandamus to compel issuance of license or permit

Any person who is denied a permit or license by the commission may institute legal proceedings against the commission in the district court for the parish of East Baton Rouge. If the court finds that the license or permit should have been issued, the court may issue a writ of mandamus to compel the commission to issue the license or permit.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

§3813. *Repealed by Acts 1987, No. 844, §2.*

§3814. Meetings of the commission

The commission shall hold regular meetings twice each year. The commission may meet at other times upon the call of the chairman or of any three members. The commission shall not meet more than six times in any calendar year.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1990, No. 112, §1.

§3815. Transition provisions

Any person holding either a horticulturist license or landscape contractor's license prior to February 1, 2009 and who is eligible to renew his license shall be issued a landscape horticulturist license in place of the old license without further application or examination upon the payment of any required renewal fee.

Added by Acts 1965, No. 127, §2; Acts 1985, No. 120, §1; Acts 2008, No. 63, §1, eff. June 5, 2008.

§3816. Special provisions

The following provisions shall supersede the requirements and provisions of this Chapter:

(1) An individual performing certain gardening activities, such as mowing, edging, hand weeding, or trimming of hedges and shrubbery, under the direction and responsibility of the owner of the property, shall not be required to obtain any license required by this Chapter to practice his occupation.

(2) An individual who prunes a tree, under the specific direction and responsibility of the owner of the property, in which the branch to be removed is two inches or less in diameter and is within ten feet of ground level, shall not be required to obtain any license required by this Chapter.

(3) The provisions of Paragraphs (1) and (2) of this Section shall not apply to services performed for commercial establishments.

(4) A landowner or homeowner doing work on his own property, a land surveyor practicing his profession, land clearing operations, forestry operations, and utility companies doing work in emergency situations or in the preventing of emergency situations, for the restoration of service, or for the installation of individual service lines by an installer repair technician, shall not be required to obtain a utility arborist license as required by this Chapter.

(5) A person who constructs, installs, connects, repairs, maintains, improves, or alters an irrigation system used for agricultural or forestry purposes or on property owned, managed, or leased by that person or his employer shall not be required to obtain a landscape irrigation contractor license as required by this Chapter.

(6) The provisions of this Chapter shall not supersede local ordinances adopted by local governing authorities regarding the installation of backflow prevention devices.

(7)(a) In the event of a catastrophe and a declaration of emergency, the commissioner may issue a temporary arborist license authorizing a person to perform the measures specified by R.S. 3:3808(A).

(b) Applicants for a temporary arborist license shall:

(i) Be licensed in another state as a result of passing a state examination or have acquired International Society of Arboriculture (ISA) Certification.

(ii) Present proof of license in another state or proof of ISA Certification.

(iii) Present a certification of insurance as provided in LAC 7:XXIX.117(E)(2).

(iv) Pay a fee of one hundred fifty dollars.

(c) The temporary arborist license shall be applied for within ninety days of the declaration of emergency and shall be in effect for a period of ninety days from the date of issuance.

(d) If the holder of the temporary arborist license desires to continue performing measures specified in R.S. 3:3808(A) beyond the ninety-day period, he shall be required to obtain an arborist license through normal procedures established by the Louisiana Horticulture Commission for such license.

Acts 1987, No. 874, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2010, No. 34, §1.

CHAPTER 25. MILK TESTING LAW

§4001. Definitions

For purposes of this subpart, the following shall be herein defined:

(1) Commissioner: The commissioner of agriculture, his representative or his agent.

(2) Cooperative: A legally chartered organization of milk producers, their representatives or their agents.

(3) Purchaser: Any person, firm, corporation or cooperative purchasing milk and cream on the basis of volume, weight and butterfat content therein.

(4) Producer: Any person, firm, corporation or cooperative producing milk for sale on the basis of volume, weight and butterfat content therein.

(5) Milk: As defined by the state health sanitary code, the butterfat requirement shall be excluded as related to milk produced at dairy farms.

(6) Fresh milk test: A butterfat analysis which shall have been determined by a method approved by law and which shall have been proven accurate and deemed acceptable as a factor of payment by the commissioner.

(7) Time composite: A sample of milk obtained by the mixing of single samples, each being representative of and proportionate to the volume from which they were taken and which shall represent a period of time not to exceed sixteen days.

(8) License: Any technical license issued by the commissioner.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4002. Powers of the commissioner

The commissioner may:

(1) Regulate measuring, weighing, sampling, testing, sales and purchase of milk and cream as related to the content of butterfat, solids-nonfat and/or total solids in milk; and provide a butterfat, solids-nonfat and/or total solids in milk testing program in those instances where the purchaser or cooperative does not have adequate and approved facilities, equipment, and personnel to provide this service.

(2) Require licensing of any person who shall measure, weigh, sample, test, transport and whosoever shall otherwise be responsible for the butterfat content of milk as a basis of payment between producer and purchaser. The commissioner may further license laboratory facilities and persons responsible for calibration of laboratory testing equipment. No person shall perform the aforementioned duties without benefit of license.

(3) Publish and issue reports to the industry as relates to technical and economic data.

(4) Require purchaser and cooperative to file all technical and licensed personnel performance records with the commissioner when such records shall relate to the basis of payment between producer and purchaser or cooperative.

(5) Permit a cooperative that pays its members and conducts a butterfat testing program for its members to exercise the option of paying producers for butterfat on the basis of either fresh milk samples or a composite sample. Within thirty days from July 31, 1974, all affected cooperatives shall notify, in writing, all their producers and the commissioner of the option selected. After an option has been selected by a cooperative, the method of sampling cannot be changed for a period of six months thereafter and without giving written notice to the producers and the commissioner at least thirty days before the effective date of such change. A purchaser, other than a cooperative that pays its members and conducts a butterfat testing program for its members, may also be permitted to exercise the option of paying producers for butterfat on the basis of either fresh milk samples or a composite sample; provided, however, that no such purchaser may elect to change to fresh milk sampling without the concurrence of its producers, and without thirty days written notice to the commissioner. After a purchaser elects to make a change in its method of butterfat sampling, the method of sampling cannot again be changed for a period of six months thereafter and without the concurrence of the purchaser's producers, and the giving of at least thirty days written notice to the commissioner prior to the effective date of such change.

(6) The commissioner may conduct such testing and check testing programs as are provided for in this subpart.

(7) The commissioner may enter into contract with any cooperative or group of producers to provide for testing services and a more effective enforcement of this subpart.

(8) Producers shall be paid for their milk and cream on the basis of its butterfat content, until such time as solids-nonfat or protein is selected as a method of payment by a cooperative or agreed upon by a purchaser and its producers who are not members of a cooperative, and the commissioner has approved the necessary equipment for testing, and established a procedure for sampling, testing, licensing and payment in accordance with the provisions of this subpart.

(9) The commissioner may enter the business premises of any producer, purchaser, or cooperative for sampling, testing, inspection, and observation purposes.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4003. Rules and regulations

The commissioner shall promulgate rules and regulations for the administration and enforcement of this subpart.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4004. Records required

The purchaser and/or the cooperative shall maintain, both individually and collectively, a record of each producer's delivery of milk. The records shall state the date of delivery, the producer's name or permit number, the volume measurement and converted weight of milk, the temperature, the purchaser or cooperative and the signature of the licensed measurer-sampler or milk and cream tester. The producer shall be provided a daily record of volume and weight upon receipt and a collective record of weight and test upon payment. Daily and periodic laboratory records shall be maintained as relates to volume, weight, fat analysis, calibration log and licensed personnel performance reports. Upon request, the commissioner shall be granted access and/or copy of all records required.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4005. Samples taken and stored; as a basis of payment

A. Cream samples: Cream shall be sold and purchased on the basis of fresh samples only and stored at 33° to 45° F.

B. Time composites: Composite samples shall not exceed sixteen days. Every shipment of producer milk shall be represented unless otherwise defined by rule and regulation. A preservative approved by the commissioner shall be used. The bottles or composite containers shall be clean and dry with an attached cover. All composites shall be labeled with clear, smearproof numbers of the producers represented and upon completion of the shipping period shall contain sufficient volume necessary to perform not less than four Babcock tests. Protection shall be provided against adulteration, or the entrance or loss of moisture and content. Composite samples shall be constantly maintained at a temperature range of 33° to 45° F. and shall be held intact for seven days after testing and subject to such other requirements as may be established by rule and regulation.

C. Fresh milk sample: The fresh milk sample shall be herein defined as a single shipment sample, the age of which shall not exceed forty-eight hours from the time it is secured to the time it is utilized for testing. The container shall be of a size and design approved by the commissioner and shall be labeled with the date and permit number of the producer represented. The sample shall be taken, stored, transported and maintained at a temperature range of 33° to 45° F.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4006. Responsibilities of purchaser, cooperative, and licensed personnel; suspension of license

A. Purchaser; cooperative; tank truck owner: The purchaser, cooperative and tank truck owner shall be responsible, bound, and coequally liable for their licensed employees to carry out the provisions of this subpart, and the rules and regulations promulgated by the commissioner.

B. Measurer-sampler: A licensed measurer-sampler shall be responsible and liable for the correct measuring, conversion, sampling, transport and care of milk samples so long as they are under his care and as may otherwise be defined by rule and regulation.

C. Milk and cream tester: A licensed tester shall be responsible for the proper storage, preparation, mixing, testing, and posting of fresh and/or composite samples of milk and the subsequent results thereof.

D. Calibration technician: No person other than a licensed milk and cream tester, approved by the commissioner in writing or by special license, shall calibrate, adjust, or otherwise supervise any electronic fat analysis device. The employment of any electronic fat analysis device, which must be approved by the commissioner, by any purchaser or cooperative shall require not less than two approved calibration technicians.

E. Suspension of licenses: If investigation by the commissioner discloses intentional misconduct in the procuring of any sample, or the tampering with a milk sample, equipment, electronic analysis device or butterfat records, the license of the sampler, tester or calibration technician and/or their licensed employer may be immediately suspended by the commissioner for a period of not more than thirty days, and may be revoked as provided in R.S. 3:4010.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1; Acts 1985, No. 218, §1.

§4007. Test of samples; notification

A. Time composites: The composite sample shall be tested within two days after the close of the sampling period and as otherwise defined by rule and regulation.

B. Fresh milk sample: The fresh milk sample shall be utilized for composite building and/or tested within forty-eight hours from the time it is secured and as otherwise defined by rule and regulation.

C. Notification: The purchaser and/or the cooperative shall notify each producer of this butterfat pay test not later than the 15th day of the month following that during which the tests were conducted. For semimonthly testing periods the information shall include the average pay test and volume of milk for the 1st through the 15th; the average pay test and volume of milk for the 16th through the end of the month; a weighted average test and total volume of milk for the month. In the absence of composite samples, the information may be submitted by monthly periods.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4008. Tests and check tests by the commissioner

A.(1) In the event the purchaser or cooperative elects to pay producers for butterfat on the basis of a composite sample, the commissioner may secure and test fresh milk samples on daily shipments of producer milk as a means of checking the accuracy of work performed by licensed personnel and require payment on the basis of the commissioner's test when the comparison reveals a variation in excess of one-tenth of one percent. The commissioner may also examine and check test the composite samples to ascertain their accuracy.

(2) If after a hearing the commissioner determines that a purchaser or cooperative has inadequate testing facilities or equipment or personnel, and the purchaser or cooperative will not contract for the performance of the testing services by the commissioner in accordance with R.S. 3:4002(7), the commissioner may conduct the testing program for the purchaser or cooperative on behalf of the producers involved in the same manner as herein provided for the purchaser or cooperative; require payment to producers in accordance therewith; and make the same reports to producers as provided for herein.

(3) In the event the purchaser or cooperative elects to pay producers for butterfat on the basis of fresh milk samples, the commissioner may secure and test such fresh milk samples as he deems necessary to verify the correctness of the fresh milk sampling program of the purchaser or cooperative, and require payment on the basis of the commissioner's tests when the comparison reveals a variation in excess of one-tenth of one percent.

(4) The commissioner shall not perform, nor shall he authorize any purchaser or cooperative to perform any fresh sample testing program that shall incorporate less than three proven and acceptable fresh milk tests within a semimonthly testing period nor less than six such tests within a monthly testing period. The tests shall be stratified, as nearly as possible, so as to assure at least one fresh milk test within each five days of the shipping period. The fresh milk testing program shall represent not less than one-third of the total producer shipments within a partial period of shipment.

(5) The requirements contained herein and as otherwise defined by rule and regulation shall be binding upon the commissioner and any cooperative or purchaser authorized by the commissioner to perform this service.

B. Any person licensed to measure, sample, transport, collect or test milk samples as a basis of payment to producers shall upon request by the commissioner, secure and submit data, records, and/or fresh milk samples necessary for investigation by the commissioner.

C. In order to facilitate the taking of accurate samples by the commissioner, any purchaser, cooperative, person, firm, or corporation purchasing, handling, or transporting milk in bulk milk tank trucks shall provide adequate agitation facilities at points of delivery.

D. The commissioner may secure processed or finished product samples as a means of checking the utilization of fat and skim by purchasers and cooperatives in such manner as shall be defined by rule and regulation.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4009. Licenses required

A. No person shall engage in measuring, weighing, sampling, transporting or testing producer milk, or cream as a basis of payment unless he has first procured a license from the commissioner.

B. No person shall calibrate, adjust or otherwise supervise the operation of any electronic fat analysis device unless he has first procured a milk and cream testers license and special authorization or license from the commissioner.

C. No person shall own and/or operate a bulk tank transport for milk hauling purposes without having first procured a license from the commissioner. Such persons shall be held coresponsible and coliable with licensed personnel in their employ when such business shall effect payment to producers.

D. The commissioner may require application for license on a form prescribed and furnished by him. The applicant shall submit to written or practical examination or both by the commissioner, and upon passing the examination and approval by the commissioner as to the applicant's integrity, the applicant shall receive the license for which he applied. Renewal of licenses shall be effected on June 30 of every other year.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1; Acts 1985, No. 218, §1.

§4010. Revocation of license

The commissioner may revoke any license or permit issued to any person under the provisions of the subpart, after a hearing, upon at least five days' notice stating the grounds for the revocation. The notice may be served personally upon or sent by registered mail to the person. The grounds for revocation are incompetence, any dishonest, deceptive, or fraudulent practice, or a violation of any provision of this subpart.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4011. Use of other than approved method, equipment, glassware, tests or installation prohibited

A. No person shall use for butterfat analysis in milk or cream any method, equipment, glassware, supplies or electronic analysis device except that which conforms to the United States Bureau of Standards or which shall have been inspected, researched, tested and approved by the commissioner.

B. No method other than the Majonnier, Babcock, or electronic fat analysis device shall be used for butterfat analysis in milk and cream until the method or device shall have been approved by the commissioner. The electronic fat analysis device shall be calibrated by the Babcock method in such manner as shall be defined by rule and regulation.

C. Every installation of laboratory equipment to be used for butterfat analysis in milk and cream shall be inspected and approved by the commissioner. No one shall use an unapproved installation.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1; Acts 1985, No. 218, §1.

§4012. Purchaser shall use only correct weight and measures

No person purchasing milk or cream on the basis of its butterfat content shall use any weight, measure, or butterfat test thereof other than the correct weight, measure, or butterfat test; nor shall such person have in his possession any inaccurate, defective, or untrue weighing or measuring device. Also such a person shall not make any misrepresentation as to any weight, measure, or test.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4013. Falsifying tests or weights or measures or records thereof prohibited

No person shall underread, overread, or in any way manipulate any approved butterfat test so that other than the true butterfat percentage is obtained; or any weighing or measuring device so that other than the true weight or measure of the milk or cream purchase is obtained.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

§4014. Standardization of milk

No person, firm, or corporation shall sell or deliver for consumption fluid milk which contains less than three and one-fourth percent of butterfat; provided, however, that milk furnished military installations or federal hospitals on contract may meet minimum specifications of the United States Public Health Ordinance and Code. Nothing in this Section shall be construed to prohibit the sale of milk from a dairy farm to a fluid milk plant, whole and unadulterated as it is produced by the cows, even though the fat content of such milk may be less than three and one-fourth percent butterfat.

Acts 1974, No. 306, §1. Amended by Acts 1974, No. 517, §1; Acts 1985, No. 74, §1; Acts 1986, No. 169, §1.

§4015. Penalties

Any person violating any of the provisions of this subpart or the rules and regulations promulgated by the Commissioner shall be fined not less than one hundred dollars, nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months.

Acts 1974, No. 306, §1; Acts 1985, No. 74, §1.

CHAPTER 25-A. DAIRY COMPACT LAW**§4021. Southern Dairy Compact; Louisiana's participation**

The Southern Dairy Compact, the full text of which is hereinafter set forth and confirmed by the Louisiana legislature, is hereby entered into on behalf of the state of Louisiana. The compact shall become effective when enacted into law by at least two other states within the compact group of states and when the consent of Congress has been obtained. The full text of said compact is as follows:

SOUTHERN DAIRY COMPACT**ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND
DECLARATION OF POLICY****§1. Statement of purpose, findings and declaration of policy**

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors and retailers are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

By entering into this compact, the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

§2. Definitions

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) "Class I milk" means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section three.

(2) "Commission" means the Southern Dairy Compact Commission established by this compact.

(3) "Commission marketing order" means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

(4) "Compact" means this interstate compact.

(5) "Compact over-order price" means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections nine and ten of this compact, which is above the price established in federal marketing orders or by state farm price regulations in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

(6) "Milk" means the lacteral secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

(7) "Partially regulated plant" means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) "Participating state" means a state which has become a party to this compact by the enactment of concurring legislation.

(9) "Pool plant" means any milk plant located in a regulated area.

(10) "Region" means the territorial limits of the states which are parties to this compact.

(11) "Regulated area" means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(12) "State dairy regulation" means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

§3. Rules of construction

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) The compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III. COMMISSION ESTABLISHED

§4. Commission established

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission.

§5. Voting requirements

All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission's by-laws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to

one vote in the conduct of the commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission's business.

§6. Administration and management

(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its by-laws an executive committee composed of one member elected by each delegation.

(b) The commission shall adopt by-laws for the conduct of its business by a two-thirds vote, and shall have the power by the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in convenient form with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

- (1) To sue and be sued in any state or federal court;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;
- (4) To borrow money and issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of section eighteen of this compact;
- (5) To appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties and qualifications; and
- (6) To create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The commission may also retain personal services on a contract basis.

§7. Rulemaking power

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV. POWERS OF THE COMMISSION

§8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation

The commission is hereby empowered to:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

(4) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve or promote more efficient assembly and distribution of milk.

(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

§9. Equitable farm prices

(a) The powers granted in this section and section ten shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents per gallon at Atlanta, Ga., however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that year as a base, the foregoing one dollar fifty cents per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The commission is hereby empowered to establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The commission is also empowered to establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the

purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

§10. Optional provisions for pricing order

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

(A) With respect to regulations establishing a compact over-order price, the commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

(B) With respect to any commission marketing order, as defined in section two, subdivision nine, which replaces one or more terminated federal orders or state dairy regulations, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for

compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to Article VII, Section 18(a).

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. RULEMAKING PROCEDURE

§11. Rulemaking procedure

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

§12. Findings and referendum

(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553(c)), the commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in section thirteen.

§13. Producer referendum

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection 9(f), is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivision (2) through (5) hereof.

(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to insure that all milk producers are informed regarding the proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register his approval or disapproval with the commission either directly or through his or her cooperative.

§14. Termination of over-order price or marketing order

(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. §553).

ARTICLE VI. ENFORCEMENT

§15. Records; reports; access to premises

(a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars or to imprisonment for not more than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

§16. Subpoena; hearings and judicial review

(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to section seventeen. Any proceedings brought pursuant

to section seventeen, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

§17. Enforcement with respect to handlers

(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the commission of any state or federal court of competent jurisdiction; or

(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. FINANCE

§18. Finance of start-up and regular costs

(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four. In order to finance the costs of administration and enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes, in an amount not to exceed \$.015 per hundredweight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

§19. Audit and accounts

(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII. ENTRY INTO FORCE;
ADDITIONAL MEMBERS AND WITHDRAWAL

§20. Entry into force; additional members

The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.

§21. Withdrawal from compact

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

§22. Severability

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compacting state may accept the conditions of Congress by implementation of this compact.

Acts 1997, No. 11, §1.

§4022. Louisiana compact delegation members; terms; vacancies; compensation

A. Five delegates from Louisiana shall be appointed by the commissioner to represent the state on the Southern Dairy Compact Commission, created and provided for in Article III of the compact contained in R.S. 3:4021. The delegates shall include one dairy producer who is engaged in the production of milk at the time of appointment or reappointment, two consumer representatives, one dairy processor, and one delegate at large.

B. Each delegate shall serve for a term of four years and shall serve diligently and conscientiously and shall strive to achieve the purposes of the Southern Dairy Compact.

C. Each appointment shall be submitted to the Senate for confirmation.

D. Vacancies in delegate positions shall be filled in the same manner as the original appointments for the unexpired portion of the vacant delegate's position.

E. Delegates shall receive a per diem not to exceed fifty dollars for service and traveling expenses incurred in the performance of their duties as delegates.

F. The commissioner may provide funding as necessary to the delegation during its term.

Acts 1997, No. 11, §1.

§4023. Access to records and information

The commissioner may, by lawful means, obtain information pertaining to the dairy industry which he deems necessary to carry out the purposes of the provisions of this Chapter and the Southern Dairy Compact. Such information may be utilized by the commissioner, the delegates, and the Southern Dairy Compact Commission.

Acts 1997, No. 11, §1.

§4024. Rules and regulations

The commissioner may adopt such rules and regulations, in accordance with the Administrative Procedure Act, as are necessary to carry out the purposes of this Chapter and the Southern Dairy Compact.

Acts 1997, No. 11, §1.

§4025. Penalties for violations

A. No person shall violate this Chapter, the Southern Dairy Compact, or any rules or regulations adopted pursuant to either this Chapter or the compact.

B. In addition to any other penalties provided by law, a fine of one thousand dollars may be imposed for each violation, licenses may be revoked or suspended, or an additional fine may be imposed in lieu of revocation or suspension.

C. Each day on which a violation occurs shall be a separate violation.

Acts 1997, No. 11, §1.

CHAPTER 26. DAIRY STABILIZATION LAW

§4101. Findings, policies and purposes

It is hereby declared:

(1) That milk is a necessary article of food for human consumption.

(2) That an adequate supply of good quality dairy products at fair and reasonable prices is essential to the public health and welfare.

(3) That milk is a highly perishable commodity, which is easily contaminated by harmful bacteria if not produced, processed, and distributed under the best of sanitary conditions, and if not properly refrigerated at all times.

(4) That the supply of milk can neither be substantially increased nor substantially decreased from day to day.

(5) That milk can be stored for only limited periods of time.

(6) That the dairy industry is peculiarly susceptible to injury resulting from price wars and a variety of disruptive trade practices that flourish in the absence of effective regulation.

(7) That price wars and disruptive trade practices in the dairy industry tend to cause financial ruin for dairy farmers and for locally-owned processors and distributors, regardless of how efficient and well managed they might be.

(8) That the production, processing, packaging and distribution of good quality dairy products requires skilled and properly trained personnel and also requires substantial investments in expensive equipment, facilities, and other items.

(9) That price wars and disruptive trade practices in the dairy industry weaken the financial condition of dairy farmers, processors and distributors, tend to lessen their ability to employ the skilled and properly trained personnel required for their operations, and tend to postpone construction and purchases of needed equipment and repairs of facilities.

(10) That failure to provide effective regulation of the Louisiana dairy industry will lead to a resumption of unfair methods of competition that once existed in the Louisiana dairy industry, will result in the economic destruction of many dairy farmers, of independent dairy processors and of many distributors, and will tend to create a monopoly in the processing and distribution of milk and dairy products.

(11) That recent developments have made it less feasible to move milk to Louisiana from areas of heavy production and have created the possibility that milk shortages will become a reality in the United States in the foreseeable future.

(12) That the consumers of this state need to be protected against excessive prices on milk and dairy products, particularly during periods when such items are in short supply.

(13) That the citizens of this state will be benefited by a regulatory program that is designed to stabilize the Louisiana dairy industry in order to assure an adequate supply of milk and dairy products at fair and reasonable prices.

(14) That monopoly, disruptive trade practices, and unfair methods of competition should be prohibited in the Louisiana dairy industry.

(15) That consumers should be protected against inadequate supplies of milk and dairy products and against excessive prices for milk and dairy products.

(16) That dairy farmers and independent processors and distributors should be encouraged to make necessary investments and hire needed personnel, and that conditions should be created that would permit reasonably efficient processors and dairy farmers to remain in business.

(17) That an effective program of regulation for the Louisiana dairy industry should be established in order to eliminate speculation and waste, to assure a continued supply of high quality dairy products, and to enable dairy farmers, processors and distributors to borrow funds required for their operations.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

§4102. Definitions

As used in this Subpart, unless the context otherwise requires:

(1) "Milk" means the lacteal secretion of one or more cows (including such secretions when raw, cooled, pasteurized, standardized, homogenized, recombined, or concentrated) which meets applicable requirements of the state health officer.

(2) "Bulk milk" means milk which has not yet been placed in the container in which the product will be offered for sale to consumers, retailers or institutions.

(3) "Commissioner" means the commissioner of agriculture of the State of Louisiana.

(4) "Person" means any individual, partnership, corporation, cooperative association, governmental agency, or other business entity.

(5) "Dairy farmer" means any person who produces bulk milk for sale to a processor. The term "dairy farmer" is used interchangeably with "milk producer".

(6) "Processor" means a person who processes one or more dairy products or a person who purchases bulk milk for a dairy farmer for resale to a person who processes dairy products, or a person who purchases bulk milk from anyone for resale to a person who processes dairy products. The term

"processor" does not include a person who purchases ice cream mix, or ice milk mix and whose processing activities are limited to converting such mix into a dairy product, all the sales of which are then made by such person to consumers at retail on the premises where such processing activities take place.

(7) "Distributor" means a person, other than a processor, who sells dairy products to one or more retail (home delivery) routes or to retailers, or to both.

(8) "Retailer" means any person who is engaged in transferring title to dairy products to consumers at a fixed place of business located in this state.

(9) "Supplier" means a processor or a distributor.

(10) "Dairy product" means any of the following:

(a) Homogenized milk, regular milk, pasteurized milk, special milk, buttermilk, cottage cheese, creole cream cheese, yogurt, flavored milk, flavored milk drink, skim milk, low-fat milk, fluid cream, concentrated milk, ice cream, fruit ice cream, nut ice cream, ice milk, malt ice cream, French ice cream, milk sherbets, mellorine, olarine, sherine, and the mix from which any such products are made.

(b) Any product which contains milk solids not fat, butterfat, or a milk derivative, and which is manufactured in the semblance of one of the products listed in the preceding subparagraph, provided, however, that the term "dairy products" shall not include butter, cheese (other than cottage cheese or creole cream cheese), nonfat dry milk, skim condensed milk, whole condensed milk, or sweetened condensed milk.

(11) "Marketwide pool" means that arrangement under which the same blend price is received by all dairy farmers supplying milk of equivalent butterfat content to those processors who are fully regulated by the same production stabilization plan.

(12) "Handler pool" means that arrangement under which the same blend price is received by all dairy farmers supplying milk of equivalent butterfat content to a processor.

(13) "Production marketing area" means that area within which minimum prices established by the commissioner shall be uniform.

(14) "Representative processors" means two large processors, two medium size processors, and two small processors selected by the board in accordance with any fair and reasonable procedure.

(15) "Institution" means a school, hospital, state agency, religious organization, charitable organization, or nursing home.

(16) "Board" means the "Dairy Stabilization Board".

(17) "Cooperative" or "co-op" means any organization that meets the requirements of R.S. 3:131-149 and whose members are all dairy farmers.

(18) "Blend price" means the price received by the dairy farmer in payment for his bulk milk, which price reflects the manner in which the bulk milk was utilized either by the processor to whom the bulk milk was sold (handler pool) or by all processors regulated by the same production stabilization plan (marketwide pool).

(19) *Repealed by Acts 1976, No. 695, §2.*

(20) "Dairy farmer-processor" means a person who is both a dairy farmer and a processor. For the purposes of this subpart, a dairy farmer-processor is a dairy farmer in any sale of bulk milk produced by him to a processor, and is a processor in any processing, manufacturing, or sale of dairy products, or in any receipt of bulk milk from a source other than his own production.

Added by Acts 1974, No. 31, §1. Acts 1976, No. 695, §2; Acts 1985, No. 75, §1.

§4103. Production marketing areas

The commissioner shall establish production marketing areas, shall describe the territorial extent thereof, and shall designate the same by name or number. The commissioner may increase or decrease the number of production marketing areas, combine two or more production marketing areas, or alter the boundaries of such areas. In exercising the authority granted by this section, the commissioner shall take into consideration the historical conditions affecting the production, distribution and sale of bulk milk and dairy products in such areas, the need for establishing area boundaries in a manner which will facilitate cooperation between the commissioner and federal authorities engaged in regulating prices paid by processors for bulk milk, and all other factors necessary to effectuate the purposes and policies of this subpart. Nothing contained in this subpart shall prevent the commissioner from including the entire state in one production marketing area.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

§4104. Production stabilization plans

A. The commissioner shall issue for each production marketing area a production stabilization plan that shall provide comprehensive regulation of the marketing of bulk milk by dairy farmers and the acquisition of bulk milk by processors. Each production stabilization plan issued by the Commissioner shall provide the means for determining which such plan is applicable to the bulk milk purchases of a processor engaged in selling dairy products in two or more production marketing areas. The applicability of any such plan to bulk milk purchased by a processor from a particular dairy farmer shall in no way be dependent upon the location of the seller's dairy farm nor upon the location at which title passes.

Any production stabilization plan issued by the commissioner may provide for a classified pricing system predicated upon utilization, and may provide for a market-wide pooling arrangement or a handler pooling arrangement.

Any production stabilization plan may also contain provisions establishing the prices payable by a processor for bulk milk purchased from sources other than dairy farmers and may contain such other provisions as are necessary and appropriate in order to insure that prices paid for butterfat and milk solids not fat (whether in the form of bulk milk or otherwise) shall be uniform for all processors whose bulk milk purchases are regulated by same production stabilization plan.

If the commissioner issues a production stabilization plan containing a market-wide pooling arrangement, the plan may require that milk produced by dairy farmer-processors be included in such pooling arrangement.

Any production stabilization plan may provide for price adjustments based upon the butterfat content of the bulk milk, the location where received, the location of the plant to which a portion of the bulk milk is transferred or diverted by the processor from the plant where such bulk milk is normally utilized, and other such factors for which price adjustments are now provided in 7 U.S.C. §608(c).

B. Minimum prices to milk producers

(1) Within sixty days following the effective date of this act,* the commissioner shall call a public hearing to consider the establishment of an economic pricing formula for determining the minimum prices payable to milk producers for milk used as Class I milk. The objective of the formula shall be to insure that the minimum prices in each milk marketing area within the state shall be beneficial to the public interest, protect the dairy industry of the state, and insure a sufficient quantity of pure and wholesome milk for inhabitants of this state.

(2) In establishing the formula, the commissioner shall give consideration to those economic indices that will reflect changes in each of the following categories and such others as the commissioner may deem relevant: the quantity of fluid milk produced and disposed of; ability and willingness of consumers

to buy; cost factors in producing milk; alternative opportunities for milk producers; and indexes of manufacturing milk. The formula shall be designed to bring about such automatic changes in minimum milk producer Class I prices as are justified by changing conditions, without the requirement of public hearings before each such change.

(3) Within thirty days after completion of the public hearing, the commissioner shall recommend an economic pricing formula for pricing of Class I milk designed to accomplish the objectives stated in this section. This proposed formula shall be presented to the milk producers who regularly supply milk in each marketing area, to be voted upon in separate referenda to be held not more than thirty days following the announcement by the commissioner of his recommended formula. If two-thirds or more of the producers voting in a marketing area approve the formula, it shall become the effective method of pricing milk to producers for Class I sales in that marketing area, and the prices as determined by the formula shall be the minimum prices to be paid to milk producers by processors or handlers, distributors or bulk milk handlers for milk used as Class I milk.

(4) If the economic pricing formula for Class I milk is adopted in any marketing area and the percentage change in the average of the three indices reflecting cost of production, (namely, index of prices paid by farmers in the United States; index of prices paid for 16% dairy ration in Louisiana; and index of farm wage rates in Louisiana) deviates from the percentage change in the Class I price in that marketing area, as determined by the formula, by 6.0 or more percentage points, the commissioner shall call a hearing, within thirty days, to review the operation of the formula. Within thirty days after completion of the public hearing, the commissioner shall recommend appropriate amendments to the economic pricing formula. These amendments shall be submitted to the milk producers in the marketing area to be voted upon in a referendum to be held within thirty days following the announcement by the commissioner of his proposed amendments. If two-thirds or more of the producers voting in the marketing area approve amendments they shall be adopted and utilized in that area.

(5) If the economic pricing formula for Class I milk is adopted, and fifty percent or more of the milk producers who regularly supply milk to a milk marketing area petition, in writing, for a hearing, the commissioner shall call a public hearing within thirty days, to review the operation of the formula and to consider amendments thereto. Within thirty days following completion of the public hearing, the commissioner shall recommend appropriate amendments to the economic pricing formula. These amendments shall be submitted to the milk producers in said marketing area to be voted upon in a referendum to be held within thirty days following announcement by the commissioner of his proposed amendments. If two-thirds or more of the producers voting in the marketing area approve the amendments they shall be adopted and utilized in that area.

(6) Whenever the commissioner finds that the milk producer Class I prices resulting from the utilization of the formula do not tend to effectuate the purposes of this section, he may suspend the operation of the formula for a period of not more than ninety days and may establish during such period those minimum prices which will tend to effectuate the purposes of this section. When the period of suspension terminates, the minimum milk producer prices for Class I milk shall again be those resulting from the utilization of the formula. Once the operation of the formula has been suspended, the commissioner may not suspend the operation of the formula again until at least twelve months have elapsed since the end of the period of suspension. Nothing contained in this subparagraph shall prevent the revision of the formula during the period when its operation is suspended.

(7) If fifty percent or more of the milk producers who regularly supply milk to a milk marketing area petition in writing to rescind the economic pricing formula for Class I milk the commissioner shall, within thirty days, call a referendum and submit this proposal to the milk producers who regularly supply milk in said marketing area. If a majority of those voting in such referendum vote to rescind the economic pricing formula, its use as a method of establishing minimum prices shall be terminated.

(8) If the economic pricing formula for Class I milk provided for in this section is not adopted or is rescinded by vote of the producers in any marketing area, the commissioner shall, within thirty days following the referendum, call a public hearing to consider the establishment of minimum prices to be paid to milk producers for milk to be used as Class I milk. Within thirty days following the completion of the public hearing, the commissioner shall recommend minimum prices to be paid to milk producers for milk used as Class I milk in said marketing area. These prices shall be voted upon by milk producers regularly supplying milk in said marketing area in a referendum to be held within thirty days following the announcement by the commissioner of his recommendations. If two-thirds or more of the producers voting in a marketing area approve the prices, the commissioner shall require payment of such appropriate minimum prices for milk in said marketing area.

(9) Upon written request of fifty percent or more of the milk producers who regularly supply milk to a milk marketing area, the commissioner shall, within thirty days, call a public hearing to review minimum prices established under the provisions of Subparagraph (8) of this section. Within thirty days following completion of the public hearing, the commissioner shall recommend appropriate adjustments to the minimum price in that area. These proposed prices shall be submitted to the milk producers in that marketing area to be voted upon in a referendum to be held within thirty days following the announcement by the commissioner of his recommendations. If two-thirds or more of the producers voting in said marketing area approve the prices, the commissioner shall require payment of such appropriate minimum prices in said marketing area.

(10) Classifications for milk other than Class I, and minimum prices to be paid to milk producers for milk to be used in such classifications shall be established by the commissioner, subject to the approval of the producers in accordance with the following procedures:

(a) Upon written request of fifty percent or more of the milk producers who regularly supply milk to a milk marketing area, the commissioner shall call a public hearing within thirty days to consider the establishment of appropriate classifications and minimum prices for milk other than Class I.

(b) Within thirty days following the completion of the public hearing, the commissioner shall recommend appropriate classifications and minimum prices to be paid to milk producers for sale of milk other than Class I in said marketing area. In establishing the minimum prices, the commissioner shall take into consideration the competitive prices paid to producers in other states or regions for milk other than Class I milk, the cost of alternative supplies from other states or regions of milk for similar use and classification; and other appropriate factors affecting the production and sale of milk in the area.

(c) These proposed classifications and minimum prices shall be voted upon by milk producers regularly supplying milk in said marketing area in a referendum to be held within thirty days following the announcement by the commissioner of his recommendations. If two-thirds of the producers voting in a marketing area approve the classifications and the minimum prices, the commissioner shall adopt the classifications and shall require payment of minimum prices in said marketing area.

(11) In any public hearing held pursuant to this section, all interested persons shall be given reasonable opportunity to be heard.

If fifty percent or more of the milk producers who regularly supply milk to a marketing area petition in writing to terminate the marketing order in its entirety, the commissioner, shall, within thirty days, call a referendum and submit this proposal to the milk producers who regularly supply milk in the marketing area. If two-thirds of those voting in such referendum vote to terminate the order in its entirety, its use shall be terminated effective the last day of the month in which the referendum is conducted.

C. Each production stabilization plan shall contain such additional provisions as are required in order to achieve the objectives of this subpart, including, but not limited to provisions relating to the following:

- (1) Records to be kept by processors;
- (2) Reports to be submitted by processors;
- (3) The provision of marketing services to dairy farmers who are not members of a cooperative and the financing of such activities;
- (4) The establishment and transfer of individual bases in accordance with any reasonable plan including, but not limited to, a Class I base plan;
- (5) A provision for increasing in all production marketing areas of the prices established pursuant to this section to the level of the prices established pursuant to a federal milk marketing order having in its marketing area one or more parishes of the State of Louisiana.

D. The commissioner is hereby authorized to cooperate with the Secretary of Agriculture of the United States in the manner provided in 7 U.S.C. 610(i) and in other appropriate ways.

E. Whenever the commissioner finds that any production stabilization plan or any provision thereof obstructs or does not tend to effectuate the purposes of this subpart, he shall suspend the operation of such plan or such provision thereof, provided, however, that the commissioner's powers of suspension are limited by the terms of Subsection B(6) of this section. However, the commissioner is prohibited from taking any suspensive action involving one or more provisions of the production stabilization plan if the effect thereof will be to render such plan so ineffective as not to be a production stabilization plan within the meaning of this subpart. If the commissioner suspends a production stabilization plan in its entirety, such suspension shall not become effective unless approved by a majority of the affected dairy farmers who vote in a referendum arranged by the commissioner.

F. The commissioner shall take such measures as are reasonably necessary to assure that changes in bulk milk prices and changes in the prices established by the board occur simultaneously.

G. Each production stabilization plan adopted pursuant to this section shall be considered a "rule" as that term is defined in R.S. 49:951(6); and the adoption, amendment, and judicial review of such plans shall be in accordance with the provisions of the Administrative Procedure Act (R.S. 49:951 et seq.) relating to rules and rule-making. The revision of any provision of a production stabilization plan shall be accomplished only by the amendment of such plan. Any suspensive action taken by the commissioner pursuant to Subsection F of this section and any action taken by the commissioner pursuant to the third paragraph of Subsection B of this section shall be deemed an "emergency rule" as that term is used in R.S. 49:953(B), but the commissioner shall not be required to find that any such action is required by an imminent peril to the public health, safety, or welfare.

H. Nothing contained in this subpart shall be construed to prevent a cooperative association engaged in making collective sales or marketing of milk or milk products for its dairy farmer members from blending the net proceeds of all of its sales and making distribution thereof to its producers in accordance with the membership-marketing contract between the association and its dairy farmer members, provided that no sale of milk by a cooperative association to a processor, distributor, retailer or consumer shall be made at less than the applicable minimum prices established pursuant to this subpart.

Whenever pursuant to the provisions of this subpart the commissioner is required to determine the approval or disapproval of dairy farmers with respect to the issuance of marketing orders, amendments thereto or suspension thereof, the commissioner shall consider the approval or disapproval or the vote by a cooperative association of dairy farmers as the approval or disapproval or vote of the dairy farmers who are members of such cooperative association and eligible to vote in the referendum. The commissioner shall establish reasonable and appropriate rules for determining the eligibility of a producer or producers to vote in any referendum.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

§4105. Sales of dairy products not subject to price regulation

Sales of all dairy products covered by this Subpart by retailers, distributors, and processors shall not be subject to price regulation; in no event shall the Dairy Stabilization Board have power or authority to regulate or establish wholesale or retail prices; provided that any such sales shall be subject to the condition of open market competition in compliance with the disruptive trade practice provisions of this Subpart.

Added by Acts 1974, No. 31, §1. Amended by Acts 1976, No. 695, §1; Acts 1985, No. 75, §1.

§4106. Dairy Stabilization Board

A. There is hereby created the Dairy Stabilization Board to be composed of eight members as follows: the governor shall appoint two milk producers, one wholesale grocer, one processor, one retailer, and three consumers. No consumer member shall be engaged in producing, processing, or selling dairy products nor have a personal economic interest in any person who is so engaged.

B. The term of office of the board members first appointed by the governor shall be as follows: two members, one year, ending August 1, 1977; two members, two years, ending on August 1, 1978; and four members, three years ending on August 1, 1979. The terms of all members appointed upon the expiration of the term of each of the first members appointed, and the term of the wholesale grocer, shall be for three years. In making the initial appointments, the governor shall, consistent with this Section, designate the term of office to be served by each appointee. Vacancies shall be filled in the manner of original appointment.

Added by Acts 1974, No. 31, §1. Amended by Acts 1976, No. 695, §1; Acts 1977, No. 142, §1; Acts 1985, No. 75, §1.

§4107. Compensation, officers, quorum, staff

A. The members of the board shall receive a per diem of thirty dollars for each day spent in attending hearings held by the board and thirty dollars per day for each day spent in attending meetings of the board or in performing such duties as may be required of them by law or by the directives or instructions of the board, and they shall also receive reimbursement for expenses incurred in attending such hearings or meetings or in performing such duties; provided, however, that no member shall receive per diem and expenses for more than twelve days per calendar year spent in attending meetings of the board. In applying the foregoing limitation, days spent in attending hearings held by the board or in performing such duties as may be required of them by law or by the directives or instructions of the board are not to be counted. The members of the board shall elect a chairman, a vice-chairman, and a secretary at the first meeting of the board and annually thereafter at the first meeting held by the board after August 1 of each year. The date, time, and place of the first meeting shall be fixed by the governor. Four members of the board shall constitute a quorum. However, hearings may be held by such smaller number of board members as the board may determine. For good cause, the board may designate a hearing officer for adjudicatory proceedings, who shall conduct the hearing and who shall, at the conclusion of the hearing, present the entire record of the proceeding to the board for disposition.

B. The board shall employ a director and assistant director who shall be appointed by the board, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service. The board shall employ such other assistants and employees, permanent and temporary, as may be necessary to carry out the duties and responsibilities of the board, and shall determine their qualifications, duties, and compensation. The board shall employ a licensed attorney of the state of Louisiana as its legal counsel, who shall serve on a full-time or a part-time basis, and the

board may obtain the services of such additional attorneys as it deems necessary. The board may also contract for auditing and other technical services, whenever it determines that such services are needed.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1; Acts 1986, No. 447, §1, eff. July 1, 1986.

§4108. Disruptive trade practices

A. Unfair methods of competition, unfair or deceptive acts or practices and disruptive trade practices are hereby declared unlawful with respect to the sale of milk and milk products.

B. The board is hereby empowered and directed to prevent persons, partnerships and corporations from using unfair methods of competition, unfair or deceptive acts or practices and disruptive trade practices in the sale of milk and milk products, and the board, after notice and hearing, shall promulgate rules and regulations implementing the policy and purposes of this Subpart and defining with specificity acts and practices in the sale of milk and milk products which are unfair methods of competition, unfair or deceptive acts or practices and disruptive trade practices and providing for the investigation of complaints thereunder and the enforcement thereof. Such rules and regulations so promulgated shall not be in derogation of or inconsistent with the provisions of Parts IV, VI and VIII of Chapter 1 of Title 51 of the Louisiana Revised Statutes of 1950.

C. The adoption, issuance, amendment or repeal of any rule or regulation provided for in this Section shall be accomplished in accord with the provisions of the Administrative Procedure Act, R.S. 49:951, et seq.

D. No handler, processor or distributor shall refuse to accept or discontinue to receive milk from a milk producer as a result of such producer's affiliation with a cooperative association or as a result of activities engaged in by such cooperative association or efforts to organize a producer association; provided this provision shall not apply to milk which is not produced in compliance with sanitary requirements of the Louisiana Health and Human Resources Administration.

E. Nothing contained herein shall prohibit the donation of ice cream and/or frozen desserts to nonprofit charitable groups, organizations, institutions or any other such entities.

F. The dock method of distribution is defined as the distribution of milk and milk products at the processor's plant to distributors and retailers. The dock method of distribution of milk and milk products shall not be unlawful as it applies to the provisions of this Subpart.

Added by Acts 1974, No. 31, §1. Amended by Acts 1976, No. 695, §1; Acts 1985, No. 75, §1.

§4109. Licenses

A. It shall be unlawful for a processor to buy bulk milk without being licensed as a processor by the commissioner if such processor:

- (1) Operates a processing plant located within the State of Louisiana; or
- (2) Sells dairy products to a retailer or a distributor for resale in the State of Louisiana; or
- (3) Sells dairy products to consumers within the State of Louisiana.

B. It shall be unlawful for a processor to sell dairy products without being licensed as a processor by the board if such processor:

- (1) Operates a processing plant located within the State of Louisiana; or
- (2) Sells dairy products to a retailer or a distributor for resale in the State of Louisiana; or
- (3) Sells dairy products to consumers within the State of Louisiana.

C. A separate processor license shall be obtained for each processing plant that is located within the State of Louisiana and for each plant from which dairy products are sold to a retailer or a distributor for resale in the State of Louisiana or to consumers within the State of Louisiana.

D. It shall be unlawful for a distributor to sell dairy products within the State of Louisiana without being licensed as a distributor by the board.

E. Each retailer now holding a retailer license issued by the Louisiana Milk Commission is hereby declared to be a retailer licensee of the board. It shall be unlawful for any retailer not so licensed to sell dairy products without being licensed as a retailer by the board. A separate retailer license shall be obtained for each retail establishment or unit.

F. The licenses application of each processor, distributor and retailer required by this Subpart to be licensed by the board or by the commissioner shall be submitted prior to November 1, 1976, or prior to engaging in the business for which the license is required by this Section. Licenses shall remain in effect until suspended or revoked. Such licenses shall be in addition to any other licenses required by law and may not be assigned or transferred. No person licensed by the board or by the commissioner shall be required to pay a license fee.

G. Licenses issued by the board, including retailer licenses may be suspended or revoked by the board on or after October 1, 1976, upon compliance with the requirements of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 if the licensee has failed to comply with this Subpart or with the regulations issued by the board. Licenses issued to processors by the commissioner may be suspended or revoked by the commissioner upon compliance with the requirements of Chapter 13 of Title 49 of the Louisiana Revised Statutes if the licensee has failed to comply with this Subpart or with the regulations or the applicable production stabilization plan issued by the commissioner. The commissioner may, if requested by a licensee, permit the payment of a penalty in an amount to be set by the commissioner in lieu of a license suspension. The board may, if requested by a licensee, permit the payment of a penalty in an amount to be set by the board in lieu of a license suspension.

Added by Acts 1974, No. 31, §1. Amended by Acts 1976, No. 695, §1; Acts 1985, No. 75, §1.

§4110. Access to records

Any authorized representative of the board or of the commissioner shall have access to, and may enter at all reasonable hours, all places of business operated by licensees where bulk milk or dairy products are purchased, stored, processed, manufactured, or sold, or where the licensee maintains books, papers, accounts, records, or other documents related to such activities. The board or the commissioner may subpoena, and any authorized representative of the board or the commissioner may inspect, copy, or audit, any of such books, papers, records, accounts, or documents, all for the purpose of determining whether the licensee is complying with the provisions of this subpart, and with regulations or stabilization plans issued by the board or the commissioner. The authority granted hereinabove shall also extend to books, papers, records, accounts, or other documents of persons doing business with licensees. Any information gained through utilization of the authority granted hereinabove in this section shall be treated as confidential and shall be used only for the administration of this subpart; provided, that such information may be divulged by a person when called upon to testify in any adjudicatory proceeding before the board or the commissioner or in any court proceeding, and provided further, that nothing contained in this subpart shall prevent the use of any information procured by the board or the commissioner in the compiling and dissemination of general statistical data, containing information procured from a number of licensees, and compiled in such manner as not to reveal individual information of any licensee.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

§4111. Assessments

A. In order to obtain funds for the administration and enforcement of the regulations and production stabilization plans issued by him pursuant to this Subpart and for the administration and enforcement of that portion of this Subpart for which he is made responsible, the commissioner shall, commencing on

August 1, 1974, assess each processor licensed by the commissioner pursuant to this Subpart one and one-half cents per hundredweight on all milk purchased under any production stabilization plan and shall assess each dairy farmer one and one-half cents per hundredweight on all milk sold to a processor regulated by any production stabilization plan.

B. In order to obtain funds for the administration and enforcement of the regulations issued by the board pursuant to this Subpart and for the administration and enforcement of that portion of this Subpart for which the board is made responsible, the board shall, commencing on October 1, 1976, assess each processor licensed by it three cents per hundredweight on all milk equivalents used in the processing of dairy products.

C. All assessments authorized in this Section shall be payable monthly on or before the last day of the month following the month during which they accrue.

D. In the event any processor refuses or fails to obtain a license or refuses or fails to pay this assessment, the commissioner may collect same from the licensed buyer of said dairy products as the agent for said processors or as a user of said products.

E. Assessments on each dairy farmer and each processor shall be deposited in the state treasury.

Added by Acts 1974, No. 31, §1. Amended by Acts 1976, No. 695, §1; Acts 1980, No. 331, §1; Acts 1985, No. 75, §1; Acts 1992, No. 984, §2.

§4112. *Repealed by Acts 1992, No. 984, §18.*

§4113. Regulation of vertical integration

The commissioner shall be authorized to promulgate rules and regulations to control vertical integration which is the entry of food chain stores into the dairy processing business. In addition to such rules and regulations vertical integration shall be subject to all provisions of this subpart and the antitrust and restraint of trade laws of this state.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

§4114. Modification of commissioner or board action

A. Any person subject to an order, directive, rule, regulation or other result of the commissioner's action or the board's action may file a written petition with the administrative agency, stating that such order, directive, rule, regulation or other result of commissioner or board action, or any provision thereof, or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the agency, but no later than fifteen days after the date on which such petition is filed. After such hearing, the agency shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law. Such ruling shall be made no later than fifteen days after the date on which the hearing ends.

B. The Nineteenth Judicial District Court has jurisdiction to review such ruling, provided a suit for such purpose is filed within twenty days from the date of the entry of such ruling. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commissioner or to the board with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

C. No suit of any kind may be filed against the commissioner or the board at any place other than the parish of East Baton Rouge. In suits against the commissioner, all service shall be made on the commissioner or on any employee of the commissioner located at the commissioner's main office. In suits against the board, all service shall be made on the director or on any board employee located at the board's main office.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

§4115. *Repealed by Acts 1992, No. 984, §18.*

§4116. Penalties for violation

A. Violation of this sub-part shall be a misdemeanor, punishable by a fine not to exceed five hundred dollars in the discretion of the court. Each day's violation shall constitute a separate offense. In addition to the penalties herein provided, violation of this sub-part may be enjoined at the suit of any person aggrieved or about to be aggrieved thereby, or at the suit of the commissioner or the board. No showing of irreparable injury shall be required in any suit for a temporary restraining order, preliminary injunction or permanent injunction filed by the commissioner or the board.

B. In addition to the penalties provided in this sub-part, any person who shall be injured in business or property by reason of any other person's violation of any of the provisions of this sub-part may intervene in the suit for injunction instituted pursuant to this paragraph against such other person, or may sue in a separate action such other person in the courts of competent jurisdiction, and shall recover three times the actual damages sustained as a result of such violation, together with the costs of the suit and reasonable attorneys fees. In addition to the above remedy any such person may in such courts and places sue to enjoin the violation of any of the provisions of this sub-part.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

§4117. Construction

The authority of the commissioner to regulate bulk milk and of the board to regulate dairy products moving in interstate commerce shall be construed to be as great as, but not to exceed, the limits imposed by the United States Constitution.

Added by Acts 1974, No. 31, §1; Acts 1985, No. 75, §1.

CHAPTER 26-A. DAIRY INDUSTRY PROMOTION LAW

§4151. Short title

This Part may be cited as the "Dairy Industry Promotion Law".

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 2009, No. 24, §8L, eff. June 12, 2009.

§4152. Declaration of legislative findings and intent

A. The legislature finds that:

(1) The dairy industry is a paramount agricultural industry affecting the health and welfare of the citizens of this state.

(2) In order to insure the continuing availability of a sufficient quantity of pure and wholesome milk and other dairy products to the consumers of this state, it is essential that appropriate action be taken by the state to promote knowledge of the health giving qualities and dietary values of milk and other dairy products in order to encourage consumer attention to and demand for milk and other dairy products consistent with their importance and value.

B. It is therefore declared to be the legislative intent and the policy of this state to assist dairy producers and others in the dairy industry to more effectively promote the consumption of Louisiana milk and other Louisiana dairy products in order to assure a sufficient quantity of such products for Louisiana consumers.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 2009, No. 24, §8L, eff. June 12, 2009.

§4153. Definitions

As used in this Part, the following terms shall have the meanings ascribed to them in this Section:

(1) "Board" means the Dairy Industry Promotion Board established in R.S. 3:4154.

(2) "Commissioner" means the Louisiana commissioner of agriculture and forestry.

(3) "Dairy cooperative" means an association of producers organized for the mutual benefit of those producers doing business in Louisiana.

(4) "Dairy producer" or "producer" means any person who produces bulk milk in Louisiana for sale to a dairy cooperative, processor, or distributor.

(5) "Distributor" means a person, other than a processor, who sells dairy products to one or more retail establishments or home delivery routes located in Louisiana. The term "distributor" includes wholesale grocers and cooperative grocery associations.

(6) "Person" means any individual, partnership, corporation, cooperative association, governmental agency, or other business entity engaged in any of the activities regulated by this Part.

(7) "Processor" means a person who purchases milk solids, milk fats, or fluid milk components from a dairy producer or cooperative association, whether such producer or cooperative association is located within or outside of the state, for processing, or a person who purchases bulk milk for resale to a person who processes milk and other dairy products.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 1995, No. 356, §1; Acts 2009, No. 24, §8L, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§4154. Dairy Industry Promotion Board

A. The Industry Promotion Board is hereby created within the Department of Agriculture and Forestry and shall consist of nine members, eight of whom shall be appointed by the commissioner from two areas of the state as follows:

(1) State Area No. 1, comprising those parishes or portions of parishes that are located west of the Mississippi River, shall be represented by three members.

(2) State Area No. 2, comprising those parishes or portions of parishes that are located east of the Mississippi River, shall be represented by five members.

B.(1) For each appointed member of the board from each area, the Louisiana Farm Bureau Federation shall nominate two persons who are dairy producers from that area.

(2) For each appointed member of the board from each area in which the cooperative has membership, each dairy cooperative having a membership of at least twenty-five dairy producers in the state shall nominate two persons who are dairy producers from that area.

C. The ninth member of the board shall be the commissioner or his designee, who shall serve ex officio but with all of the powers, rights, duties, and privileges as all other members.

D. At the same time, in the same manner, and for the same term as provided for the appointment of the eight appointed members, the commissioner shall appoint one alternate for each member who shall be appointed from the same area and possess the same qualifications as the member for whom he is appointed as an alternate. When, for any reason, a member appointed from any area is unable to be present at any meeting of the board, the alternate appointed from his area shall serve in his place, and in such case, the alternate shall exercise all of the powers vested by law in the member, including the right to vote.

E. In the event that any producer member of the board ceases to be a dairy producer, that member shall not be eligible to continue membership on the board, his position shall be vacated, and the vacancy shall be filled as provided in Subsection I of this Section.

F. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

G. Members shall serve terms concurrent with the commissioner making the appointment. Each organization authorized to make nominations for appointments to the board shall file a list of nominees with the commissioner no later than June thirtieth of the year of the commissioner's inauguration.

H. The commissioner shall make all appointments no later than thirty days following the last day for submission of lists of nominees. Whenever any organization authorized to make nominations for appointments to the board fails to submit a list of nominees within the time prescribed in this Section, the commissioner may make direct appointments to the board.

I. Within thirty days after a vacancy occurs, the commissioner shall appoint a nominee from the original list of nominees from the area in which the vacancy occurs to fill the vacancy.

J. Each appointee of the commissioner shall be an active dairy producer whose farm is located in the area which he represents.

K. Each member shall take and subscribe to the oath of office prescribed for state officials. Members shall serve until their successors are appointed and qualified.

L. Members shall be entitled to receive a per diem not to exceed forty dollars and to be reimbursed for mileage expenses in accordance with the travel regulations applying to state employees.

M. A majority of the membership shall constitute a quorum for the transaction of official business. All official actions of the board shall require an affirmative vote of a majority of the membership of the board.

N. The board shall be domiciled in Baton Rouge.

O. The board shall meet at least once during each quarter, but may meet more frequently upon the call of the chairman Dairy.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 1995, No. 356, §1; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §8L, eff. June 12, 2009.

§4155. Officers and employees

A. At the first meeting of the board, the members shall elect from their membership a chairman, vice chairman, and such other officers as the board may deem advisable. Thereafter, officers shall be elected during the board's first regular meeting during the first quarter of each fiscal year.

B. The board, with the approval of the commissioner, may appoint a director and an assistant director who shall be in the unclassified service of the state.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 2009, No. 24, §8L, eff. June 12, 2009.

§4156. Powers and duties of the board

The board may:

(1) Adopt rules and regulations for the administration of this Part. All rules shall be adopted in accordance with the Administrative Procedure Act.

(2) Establish and impose assessments on the sale of milk solids, milk fats, and fluid milk components, subject to the limitations contained in R.S. 3:4158 and R.S. 3:4159.

(3) In cooperation with the commissioner, conduct referenda among dairy producers.

(4) Appoint advisory groups composed of representatives from organizations, institutions, government, or businesses related to or interested in the welfare of the dairy industry.

(5) Keep minutes, books, and records which accurately reflect all of its acts and transactions.

(6) Accept grants, donations, contributions, or gifts from any source, but only if the use of such resources is not restricted in any manner which is deemed inconsistent with the purposes of this Part.

(7) Prescribe forms and procedures for the reporting of purchases of milk solids, milk fats, and fluid milk components and the collection of assessments thereon.

(8) Develop and implement advertising, promotional, or educational programs for the promotion of milk and other dairy products. No advertising, promotional, or educational program shall be directed toward increasing the sale of milk or other dairy products with reference to any private brand or trade name used by any processor of milk or dairy products. No advertising, promotional, or educational program for milk or other dairy products shall make use of any false or unwarranted claims in behalf of any products, or disparage the quality, value, sale, or use of any other agricultural commodity.

(9) Enter into and execute advertising and other agreements which are necessary to promote the sale of Louisiana milk and other Louisiana dairy products on a state, regional, national, or foreign basis.

(10) Conduct investigations into violations and alleged violations of the provisions of this Part.

(11) Conduct hearings under the Administrative Procedure Act in order to make determinations with respect to any violation or alleged violation of this Part.

(12) Impose penalties for any violation of the provisions of this Part, or rules and regulations adopted under the provisions of this Part, on the basis of findings made in an adjudicatory proceeding conducted in accordance with the Administrative Procedure Act.

(13) Confer and cooperate with and enter into agreements with any other state or federal agency or other organization whose activities may be deemed beneficial to the purposes of this Part.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 2009, No. 24, §8L, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§4157. Powers and duties of the commissioner

A. The commissioner shall administer and enforce the provisions of this Part in accordance with rules and regulations adopted by the board. In the administration and enforcement of this Part, the commissioner, or his duly authorized agent, may enter the premises of any dairy cooperative, processor, or distributor regulated under this Part and examine that person's books, accounts, and records for purposes of determining that the assessments required under this Part have been collected and transmitted to the commissioner.

B. The commissioner, or his duly authorized agent, shall collect the assessments authorized under this Part. The commissioner may retain a portion not to exceed three percent of the total assessments collected by him to defray the costs of collection of the assessments. The commissioner shall transfer the balance of all assessments collected by him to the board on a monthly basis.

C. The commissioner may sue on behalf of the board to collect any assessments or penalties for delinquent payment of assessments which are not paid over to the commissioner as required under this Part.

D. The commissioner shall appoint and employ all personnel necessary for the efficient and proper administration of this Part, except as provided in R.S. 3:4155(B).

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 2009, No. 24, §8L, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§4158. Referendum

A. The assessment authorized in R.S. 3:4159 shall not be levied or collected unless and until the question of its imposition and the exact amount thereof has been submitted to and approved by a majority of eligible dairy producers voting in a referendum to be conducted as provided in this Section.

B. In establishing the initial assessment, the board shall consider the necessities of providing methods and means, including but not limited to advertising, promotional, and educational programs, public relations programs, and other promotional activities for maintaining and expanding existing markets and developing new markets, both domestic and foreign, for Louisiana milk and other Louisiana dairy products, and procedures for protecting the interests of Louisiana consumers by assuring an adequate supply of pure and wholesome Louisiana milk and other Louisiana dairy products.

C. When the board determines that a referendum shall be conducted among producers, and establishes a date for the referendum, the commissioner shall give notice of the referendum to the executive boards of each organization authorized to make nominations for appointments to the board at least thirty days prior to the date established by the board for the referendum. The commissioner shall prepare for the approval of the board an official list of all dairy producers eligible to vote in the referendum.

D. No dairy producer shall be entitled to vote in a referendum unless he has been actively engaged in the production of milk during the month immediately preceding the referendum. No producer shall be entitled to more than one vote in a referendum.

E. The commissioner shall prepare for the approval of the board a ballot which shall permit the producer to cast his vote for or against the imposition of the assessment established by the board. The commissioner shall also prepare a voting packet and instructions for voting for each producer who is eligible to vote in the referendum. Such paraphernalia shall include a means for assuring the eligibility of each dairy producer voting in the referendum and shall be prepared in such form as may be necessary to assure the secrecy of each dairy producer's vote. The commissioner shall mail one ballot, a voting packet, and instructions for voting to each dairy producer eligible to vote in the referendum at least fifteen days prior to the date set by the board for the referendum. Each producer voting in the referendum shall return his ballot to the commissioner, properly sealed in the envelope contained in the voting packet. The envelope containing the ballot shall be postmarked no later than the date set for the referendum and shall be received by the commissioner no later than the date set for the tabulation of votes cast in the referendum. If any ballot is received by the commissioner after the tabulation of votes cast in the referendum, the ballot shall not be opened or counted but shall be preserved, sealed and intact, in the records of the referendum.

F. All ballots shall remain sealed until the first meeting of the board following the date of the referendum. The board shall meet as soon as possible, but no later than seven days after the date of the referendum, for the purpose of tabulating the votes cast in the referendum. All ballots shall be opened and tabulated by the board in open session and the results of the tabulation shall be immediately promulgated. The commissioner shall notify the executive boards of each organization authorized to make nominations for appointments to the board of the results of the referendum. Any producer or representative of any organization authorized to make nominations for appointment to the board may attend the meeting and observe the tabulation of the votes cast in any referendum.

G. If the assessment is approved by a majority of the eligible dairy producers voting in the referendum, the assessment shall become effective on the tenth day following the date of the referendum.

H. Whenever an assessment is not approved by a majority of the dairy producers voting in the referendum, the matter shall not be submitted to a second vote of dairy producers for a period of at least one year following the referendum at which the issue was defeated.

I. The board shall not modify an assessment approved by a majority of dairy producers voting in any referendum for a period of at least one year following the referendum. At the expiration of one year after a referendum, the board may propose the modification of an assessment. No modification shall be effective unless it is approved in a referendum conducted in accordance with the provisions of this Section.

J. The initial assessment established by the board and approved by dairy producers shall be effective for a period of three years. After the expiration of the initial three-year period, the assessment may be extended for an indefinite period of time in increments of five years each by ratification and approval of a majority of the dairy producers eligible to vote and voting in a referendum conducted in accordance with the provisions of this Section.

K. No producer shall be entitled to a refund of any assessment approved in a referendum held in accordance with the provisions of this Section.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 1995, No. 356, §1; Acts 2009, No. 24, §8L, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§4159. Assessment

A. The board is hereby authorized to levy an assessment not to exceed ten cents per hundredweight, or equivalent thereof, on all milk solids, milk fats, or fluid milk components sold. The assessment shall be due and payable at the first point of sale. The assessment shall be paid by each dairy producer who sells milk solids, milk fats, or fluid milk components to dairy cooperative associations, processors, or distributors. No assessment shall be levied or collected until approved by a majority of dairy producers voting in a referendum conducted in accordance with R.S. 3:4158.

B. The assessment shall be collected by dairy cooperative associations. Each dairy cooperative shall deduct the assessment from the amount owed to the producer on his sale of milk solids, milk fats, or fluid milk components. Each dairy cooperative shall remit all assessments collected during each month to the commissioner no later than the twentieth day of the following month, together with such reports of purchases of dairy products as may be required by the board.

C. Each dairy cooperative shall keep full and complete records of all milk solids, milk fats, or fluid milk components purchased from producers, which shall be in such form and contain such information as the board by rule may prescribe and shall be preserved for a period of two years following the date of each purchase.

D. If the producer selling milk solids, milk fats, or fluid milk components is not a member of a dairy cooperative, or otherwise fails to pay the assessment, the assessment shall be collected by the processor or distributor making the first purchase of milk solids, milk fats, or fluid milk components. All processors or distributors purchasing milk solids, milk fats, or fluid milk components on which no assessment has been collected from the producer shall be liable for payment of the required assessment. Those processors or distributors shall collect the assessments, transmit the revenues to the commissioner, maintain the same records, and in all other respects perform all duties imposed on dairy cooperative associations with respect to the collection of the assessments.

E. If the revenues resulting from the assessment are more than are reasonably required to meet the operational and promotional expenses of the board, the board, subject to the approval of the commissioner, may from time to time temporarily suspend collection of the assessments, in which event the commissioner shall notify all dairy cooperative associations, processors, and distributors of the period during which the suspension of the assessment shall be in effect. Upon the board's termination of any such suspension of assessment, the assessment shall be deducted, collected, and transmitted to the commissioner in the same manner as prior to the suspension.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 1995, No. 356, §1; Acts 2009, No. 24, §8L, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§4160. Failure to pay assessment; penalty

A. Each dairy cooperative association, processor, or distributor who fails to file any report required by the board or to pay the assessment authorized in R.S. 3:4159 after approval in a referendum of dairy producers within the time prescribed by this Part shall forfeit to the commissioner the amount of the

assessment plus a penalty of ten percent of the assessment due, plus one percent of the assessment due for each month, or fraction thereof, of delay after the due date for payment of the assessment.

B. The commissioner shall collect the penalties authorized by this Section, together with delinquent assessments, by any of the following methods:

- (1) By voluntary payment by the person liable.
- (2) By legal proceedings instituted in a court of competent jurisdiction.

(3) By seeking injunctive relief to enjoin any dairy cooperative association, processor, or distributor owing such assessment or penalties from operating his business or engaging in business as a buyer of milk solids, milk fats, or fluid milk components until the delinquent assessments or penalties have been paid.

C. Each person required to pay the assessments provided for in this Part who refuses to allow full inspection of his premises, or any books, records, or other documents relating to the liability of that person or who hinders in any way, delays or prevents an inspection shall be subject to penalties as provided in Subsection D of this Section.

D. The board may impose penalties not to exceed one thousand dollars per day for each day on which there occurs a violation of any of the provisions of this Part, or the rules and regulations adopted under the provisions of this Part. Penalties may be assessed only by a ruling of the board based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 2009, No. 24, §8L, eff. June 12, 2009; Acts 2010, No. 495, §1, eff. June 24, 2010.

§4161. Disposition of assessments

A. All funds derived from assessments imposed under this Part shall be used for the operational and promotional expenses of the board. The board shall control its own funds subject to the budgetary review of the commissioner.

B. The board may select a bank for the deposit of its funds.

C. The board shall invest any surplus funds which may be available in interest-bearing accounts, securities, or other similar investments as may, in its sole discretion, be deemed appropriate by the board.

D. The board shall annually make a complete report of all of its expenditures during the preceding fiscal year to all organizations authorized to make nominations for appointments to the board.

Added by Acts 1983, No. 526, §1, July 8, 1983; Acts 1995, No. 356, §1; Acts 2009, No. 24, §8L, eff. June 12, 2009.

§4162. Confidentiality of information

Information which is obtained by any person pursuant to this Part is confidential and shall not be disclosed to any other person except to a person with the same right to obtain the information or any attorney employed to give legal advice upon it, or by any court order.

Added by Acts 1983, No. 526, §1, eff. July 8, 1983; Acts 2009, No. 24, §8L, eff. June 12, 2009.

CHAPTER 27. MEAT AND POULTRY INSPECTION LAW

§4201. Definitions

As used in this Chapter, except as otherwise specified, the following terms shall have the meanings stated below:

(1) The term "commissioner" means the "Commissioner, Louisiana Department of Agriculture."

(2) The term "firm" means any partnership, association, or other unincorporated business organization.

(3) The term "meat broker" means any person, firm or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of cattle, sheep, poultry, swine, goats, horses, mules or other equines on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person, firm or corporation.

(4) The term "intrastate commerce" means commerce within the state.

(5) The term "meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, poultry or goats, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the commissioner under such conditions as he may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. The term as applied to food products of equines shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, poultry and goats.

(6) The term "capable of use as human food" shall apply to any carcass, or part of a carcass, of any animal, unless it is denatured or otherwise identified as required by regulations prescribed by the commissioner to deter its use as human food, or it is naturally inedible by humans.

(7) The term "prepared" means slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed.

(8) The term "adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

a. If it bears or contains any poisonous or deleterious matter which may render it injurious to health;

b. If it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is--(a) a pesticide chemical in or on a raw agricultural commodity, (b) a food additive, or (c) a color additive) which may, in the judgment of the commissioner make such article unfit for human food;

c. If it is, in whole or in part, a raw agricultural commodity which bears or contains a pesticide chemical, food additive, or color additive which is unsafe or prohibited as determined by regulations of the commissioner under this Chapter;

d. If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

e. If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

f. If it is, in whole or in part, the product of an animal which has died otherwise than by slaughter;

g. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

h. If it has been subjected to radiation at levels that exceed the tolerances established by the commissioner in regulations under this Act;

i. If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packaged therewith so as to

increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or

j. If it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid or decomposed substance.

(9) The term "misbranded" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

a. If its labeling is false or misleading in any particular;

b. If it is offered for sale under the name of another food;

c. If it is an imitation of another food, unless its label bears, in type of uniform, size, and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

d. If its container is so made, formed, or filled as to be misleading;

e. If in a package or other container unless it bears a label showing (a) the name and place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under Clause (b) of this Subparagraph (e), reasonable variations may be permitted, and exemptions as to small packages may be established by regulations prescribed by the commissioner;

f. If any work, statement, or other information required by or under authority of this Chapter to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it unlikely to be read and understood by the ordinary individual under customary conditions of purchase and use;

g. If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the commissioner, unless, (a) it conforms to such definition and standard, and (b) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such foods;

h. If it purports to be or is represented as a food for which a standard or standards of fill of the container have been prescribed by regulations of the commissioner, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

i. If it is not subject to the provisions of Subparagraph "g", unless its label bears (a) the common or usual name of the food, if any there be, and (b) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the commissioner, be designated as spices, flavorings, and colorings without naming each; provided that, to the extent that compliance with the requirements of Clause (b) of this Subparagraph "i" is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the commissioner;

j. If it purports to be or is represented for special delivery uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the commissioner, after consultation with the secretary of agriculture of the United States, determines to be, and by regulations prescribed as, necessary in order to fully inform purchasers as to its value for such uses;

k. If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating the fact, provided, that to the extent that compliance with the requirements of this Subparagraph "k" is impracticable, exemptions shall be established by regulations promulgated by the commissioner, or;

1. If it fails to bear, directly thereon or on its container, as the commissioner may by regulations prescribe, the inspection legend and, unrestricted by any of the foregoing, such other information as the commissioner may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(10) The term "label" means a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article.

(11) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(12) The term "Federal Meat Inspection Act" means the act so entitled approved March 4, 1907, as amended by the Wholesome Meat Act (21 U.S.C. 71 et seq.), and acts amendatory thereof or supplementary thereto.

(13) The term "Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (21 U.S.C. 301 et seq.)**, and acts amendatory thereof or supplementary thereto.

(14) The term "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meanings for purposes of this Chapter as under the Federal Food, Drug, and Cosmetic Act.

(15) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the commissioner to identify the status of any article or animal under this Act.

(16) The term "official inspection legend" means any symbol prescribed by regulations of the commissioner showing that the article was inspected and passed in accordance with this Chapter.

(17) The term "official certificate" means any certificate prescribed by regulations of the commissioner for issuance by an inspector or other person performing official functions under this Chapter.

(18) The term "official device" means any device prescribed or authorized by the commissioner for use in applying any official mark.

(19) The term "renderer" means any person, firm, or corporation engaged in the business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, poultry, swine, goats, horses, mules or other equines.

(20) The term "animal food manufacturer" means any person, firm, or corporation engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of cattle, sheep, poultry, swine, goats, horses, mules or other equines.

(21) The term "Federal Poultry Products Inspection Act" means the act so entitled, approved August 28, 1957 (21 U.S.C. 451 et seq.)*** and acts amendatory thereof or supplementary thereto.

(22) The term "Federal Humane Methods of Livestock Slaughter Act of 1978" means the act so entitled, approved October 10, 1978 (7 U.S.C. 1901 et seq.), and acts amendatory thereof or supplementary thereto.

Acts 1968, No. 376, §1. Amended by Acts 1970, No. 615, §§1, 2; Acts 1985, No. 73, §1; Acts 2010, No. 496, §1, eff. June 24, 2010.

**21 U.S.C.A. §71 et Seq. (Transferred; See Now, 21 U.S.C.A. §601 et Seq.).*

***21 U.S.C.A. §301 et Seq.*

****21 U.S.C.A. §451 et Seq.*

§4202. Objective

It is the objective of this law to provide meat and poultry products inspection programs that will impose and enforce requirements with respect to intrastate operations and commerce that are at least equal to those imposed and enforced under the Federal Meat Inspection Act* and the Federal Poultry Products Inspection Act** with respect to operations and transactions in interstate commerce; and the commissioner is directed to administer this law so as to accomplish this purpose in a reasonable manner.

Added by Acts 1970, No. 615, §2; Acts 1985, No. 73, §1.

**21 U.S.C.A. §71 et seq. (transferred; see now, 21 U.S.C.A. §601 et seq.).*

***21 U.S.C.A. §451 et seq.*

§4203. Antemortem inspection and humane methods of slaughter

A. For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the commissioner shall cause to be made, by inspectors appointed for that purpose, an antemortem inspection of all cattle, sheep, poultry, swine, goats, horses, mules and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering or similar establishment, in this state in which slaughtering and preparation of meat and meat food products of such animals are conducted solely for intrastate commerce, and all cattle, sheep, poultry, swine, goats, horses, mules and other equines found on such inspection to show symptoms of disease shall be condemned if the diseased condition warrants such action, or shall be set apart and slaughtered separately from all other cattle, sheep, poultry, swine, horses, mules or other equines, and when so slaughtered, the carcasses of said cattle, sheep, poultry, swine, goats, horses, mules or other equines shall be subject to a careful examination, all as provided by the rules and regulations to be prescribed by the commissioner as herein provided for.

B. For the purpose of preventing the inhumane slaughtering of livestock, the commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected in this state. The commissioner may refuse to provide inspection to a new slaughtering establishment or may temporarily suspend inspection at a slaughtering establishment if the commissioner finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter by any method not in accordance with the Federal Humane Methods of Livestock Slaughter Act (7 U.S.C. §1901 et seq.). The refusal to inspect or suspension shall continue until the establishment furnishes assurances satisfactory to the commissioner that all slaughtering and handling in connection with slaughter of livestock is in accordance with such method.

Acts 1968, No. 376, §2. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1; Acts 2010, No. 496, §1, eff. June 24, 2010.

§4204. Postmortem inspection

For the purposes hereinbefore set forth the commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a postmortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, poultry, swine, goats, horses, mules and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering or similar establishment in this state in which such articles are prepared solely for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged or labeled as "Louisiana Inspected and Passed"; and said inspectors shall label, mark, stamp or tag as "Inspected and Condemned" all carcasses and parts thereof thus inspected and condemned and all carcasses and parts thereof condemned shall be destroyed for food purposes by the

said establishment in the presence of an inspector. The commissioner may remove inspectors* from any such condemned carcass or part thereof, and said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector.

Acts 1968, No. 376, §3. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

***NOTE:** *As it appears in Acts 1970, No. 615.*

§4205. Reinspection upon reentry

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, poultry, swine, goats, horses, mules and other equines or the meat or meat products or poultry products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this Chapter is maintained, and such examination and inspection shall be made before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The commissioner may limit the entry of carcasses, part of carcasses, meat, meat food products, poultry products and other materials into any establishment at which inspection under this Chapter is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this Chapter.

Acts 1968, No. 376, §4. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4206. Inspected and passed or condemned

For the purposes hereinbefore set forth the commissioner shall cause to be made by inspectors appointed for that purpose an examination and inspection of all meat food products and poultry products prepared in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where such articles are prepared solely for intrastate commerce and for the purposes of any examination and inspection said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall assure that said establishment shall label, mark, stamp or tag as "Louisiana Inspected and Passed" all such products found to be unadulterated; and said inspectors shall label, mark, stamp or tag as "Inspected and Condemned" all such products found adulterated, and all such condemned meat, food products and poultry products shall be destroyed for food purposes, as hereinbefore provided, and the commissioner may remove inspectors from any establishment which fails to so destroy such condemned food products.

Acts 1968, No. 376, §5. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4207. Labeling

A. When any meat or meat food product or poultry product prepared for intrastate commerce which has been inspected as hereinbefore provided and marked "Louisiana Inspected and Passed" shall be placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this Chapter is maintained, the person, firm or corporation preparing said product shall cause a label to be attached to said can, pot, tin, canvas or other receptacle or covering, under supervision of an inspector, which label shall state that the contents thereof have been "Louisiana Inspected and Passed" under the provisions of this Chapter, and no inspection and examination of meat, meat food products or poultry products deposited or enclosed in cans, tins, pots, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this Chapter is

maintained shall be deemed to be complete until such meat, meat food products or poultry products have been sealed or enclosed in said can, tin, pot, canvas or other receptacle or covering under the supervision of an inspector.

B. All carcasses, parts of carcasses, meat, meat food products and poultry products inspection at any establishment under the authority of this Chapter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the commissioner may require, the information required under R.S. 3:4201(9).

C. The commissioner, whenever he determines such action is necessary for the protection of the public, may prescribe:

(1) The styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling of any articles or animals subject to this Chapter;

(2) definitions and standards of identity or composition for articles subject to this Chapter and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug and Cosmetic Act, or under the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act and there shall be consultation between the commissioner and the secretary of agriculture of the United States prior to issuance of such standards to avoid inconsistency between such standards and the federal standards.

D. No article subject to this Chapter shall be sold or offered for sale by any person, firm, or corporation, in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the commissioner, are permitted.

E. If the commissioner has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this Chapter is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling or container is modified in such manner as he may prescribe so that it will not be false, or misleading. If the person, firm or corporation using or proposing to use the marking, labeling or container does not accept the determination of the commissioner, such person, firm or corporation may request a hearing, but the use of the marking, labeling, or container shall, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner. Any such determination by the commissioner shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person, firm, or corporation adversely affected thereby appeals to the appropriate court.

Acts 1968, No. 376, §6. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4208. Sanitation

The commissioner shall cause to be made, by experts in sanitation, or other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering or similar establishments in which cattle, sheep, poultry, swine, goats, horses, mules or other equines are slaughtered and the meat and meat food products thereof are prepared solely for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat, meat food products or poultry products are rendered adulterated, he shall refuse to allow said meat, meat food products or poultry products to be labeled, marked, stamped or tagged as "Louisiana Inspected and Passed".

Acts 1968, No. 376, §7. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4209. Daytime or nighttime

The commissioner shall cause an examination and inspection of all cattle, sheep, poultry, swine, goats, horses, mules and other equines, slaughtered and the meat and meat food products prepared in the establishments hereinbefore described for the purposes of intrastate commerce to be made during the nighttime as well as during the daytime when the slaughtering of said cattle, sheep, poultry, swine, goats, horses, mules and other equines, or the preparation of said meat, meat food products and poultry products is conducted during the nighttime.

Acts 1968, No. 376, §8. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4210. Prohibitions

No person, firm or corporation shall, with respect to any cattle, sheep, poultry, swine, goats, horses, mules or other equines, or any carcasses, parts of carcasses, meat or meat products of any such animals:

(1) Slaughter any such animals or prepare any such articles which are capable of use as human food at any establishment preparing such articles solely for intrastate commerce, except in compliance with the requirements of this Chapter;

(2) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, (a) are capable of use as human food,* and (b) are adulterated or misbranded at the time of sale or transportation;* or (c) any articles required to be inspected under this Chapter unless they have been so inspected and passed;

(3) Do, with respect to any such articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such articles to be adulterated or misbranded.

Acts 1968, No. 376, §9. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

***NOTE:** *As it appears in Acts 1970, No. 615.*

§4211. Prohibits

A. No brand manufacturer, printer or other person, firm or corporation shall cast, print, lithograph or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the commissioner.

B. No person, firm or corporation shall:

(1) Forge any official device, mark or certificate;

(2) Without authorization from the commissioner, use any official device, mark or certificate, or simulation thereof, or alter, detach, deface or destroy any official device, mark or certificate;

(3) Contrary to the regulations prescribed by the commissioner, fail to use, or to detach, deface or destroy any official device, mark or certificate;

(4) Knowingly possess, without promptly notifying the commissioner or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal, or part or product thereof, bearing any counterfeit, simulated, forged or improperly altered official mark;

(5) Knowingly make any false statement in any shippers' certificate or other official or nonofficial certificate provided for in the regulations prescribed by the commissioner; or

(6) Knowingly represent that any article has been inspected and passed, or exempted, under this Chapter when, in fact, it has, respectively, not been so inspected and passed, or exempted.

Acts 1968, No. 376, §10; Acts 1985, No. 73, §1.

§4212. Identification

No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the commissioner to show kind of animals from which they derived. When required by the commissioner with respect to establishments at which inspection is maintained under this Chapter, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, sheep, poultry, swine or goats are slaughtered or their carcasses, parts thereof, meats, meat food products or poultry products are prepared.

Acts 1968, No. 376, §11. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4213. Appointments and regulations

The commissioner shall appoint from time to time inspectors to make an examination and inspection of all cattle, sheep, poultry, swine, goats, horses, mules and other equines, the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats, meat food products and poultry products thereof and of the sanitary conditions of all establishments in which said meat, meat food products and poultry products hereinbefore described are prepared, and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product or poultry product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have been inspected and found to be not adulterated, and shall perform such other duties as are provided by this Chapter and by rules and regulations to be prescribed by said commissioner and said commissioner shall, from time to time, promulgate such rules and regulations as are necessary for the efficient execution of the provisions of this Chapter, and all inspections and examinations made under this Chapter shall be such and made in such manner as described in the rules and regulations prescribed by said commissioner not inconsistent with the provisions of this Chapter.

Acts 1968, No. 376, §12. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4214. Prohibits gifts

Any person, firm or corporation, or any agent or employee of any person, firm or corporation, who shall give, pay or offer, directly or indirectly, to any inspector, deputy inspector, chief inspector or any other officer or employee of this state authorized to perform any of the duties prescribed by this Chapter, or by the rules and regulations of the commissioner, any money or other thing of value, with intent to influence said inspector, deputy inspector, chief inspector or other officer or employee of this state in the discharge of any duty herein provided for, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than five thousand dollars nor more than ten thousand dollars and by imprisonment in the Louisiana State Penitentiary for not less than one year nor more than three years; and any inspector, deputy inspector, chief inspector or other officer or employee of this state authorized to perform any of the duties prescribed by this Chapter who shall accept any money, gift or other thing of value from any person, firm or corporation, or officers, agents or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm or corporation engaged in intrastate commerce any gift, money or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars and by imprisonment in the Louisiana State Penitentiary for not less than one year nor more than three years.

Acts 1968, No. 376, §13; Acts 1985, No. 73, §1.

§4215. Exemption; farmers, custom, and retailers

A. The provisions of this Chapter requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations shall not (1) apply to the slaughtering by any person of animals of his own raising, and the preparation by him and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees; nor (2) to the custom slaughter by any person, firm or corporation of cattle, sheep, swine, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use in the household of such owner, by him and members of his household and his nonpaying guests and employees; provided, that such custom slaughterer does not engage in the business of buying or selling any carcasses, parts of carcasses, meat or meat food products of any cattle, sheep, swine, goats, or equines capable of use as human food.

B. The provisions of this Chapter requiring inspection of the slaughter of animals and the preparation of carcasses, parts thereof, meat and meat food products shall not apply when:

- (1) Operations are of types traditionally and usually conducted at retail stores and restaurants, and
- (2) When said operations are conducted at a retail store, restaurant, or similar retail type establishment, and
- (3) Are for sale in normal retail quantities, or are part of a normal retail service, and
- (4) Are sold or provided to consumers at such establishments.

C. The slaughter of animals and preparation of articles referred to in Subsections (A)(2) and (B) of this section shall be conducted in accordance with such sanitary conditions as the commissioner may, by regulations, prescribe. Violations of any such regulation is prohibited.

D. The adulteration and misbranding provisions of this Chapter, other than the requirement of the inspection legend, shall apply to articles which are not required to be inspected under this Chapter.

Acts 1968, No. 376, §14; Acts 1985, No. 73, §1; Acts 1992, No. 56, §1.

§4216. Added exemptions

The commissioner shall, by regulation and under such conditions, including sanitary standards, practices and procedures, as he may prescribe, exempt from specific provisions of this Chapter:

(1) The slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees;

(2) The custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughter and transportation in commerce of poultry products exclusively for use, in the household of such owner, by him and members of his household and his non-paying guests and employees; provided, that such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food;

(3) The slaughtering and processing of poultry products by any poultry producer on his own premises with respect to sound and healthy poultry raised on his premises and the distribution by any person solely within such jurisdiction of the poultry products derived from such operations, if, in lieu of labeling requirements, such poultry products are identified with the name and address of such poultry producer, and if they are not otherwise misbranded, and are sound, clean, and fit for human food when so distributed; and

(4) The slaughtering of sound and healthy poultry or the processing of poultry products of such poultry by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boarding houses, for use in their dining rooms, or in the preparation of meals for sales direct to consumers, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of the processor, and if they are not otherwise misbranded and are sound, clean, and fit for human food when distributed by such processor.

The exemptions provided for in Paragraphs (3) and (4) herein shall not apply if the poultry producer or other person engages in the current calendar year in the business of buying or selling any poultry products other than specified in such clauses.

No exemption under Paragraph (3) and (4) herein shall apply to any poultry producer or other person who slaughters or processes the products of more than 5000 turkeys or an equivalent number of poultry of all species in the current calendar year, four birds of other species being deemed the equivalent of one turkey.

The provisions of this Chapter shall not apply to poultry producers with respect to poultry of their own raising on their own farms if (1) such producers slaughter not more than 250 turkeys, or not more than an equivalent number of birds of all species during the calendar year for which this exemption is being determined, four birds of other species being deemed the equivalent of one turkey; (2) such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms; and (3) none of such poultry moves in commerce.

Added by Acts 1970, No. 615, §2; Acts 1985, No. 73, §1.

§4217. Storage regulations

The commissioner may, by regulations, prescribe conditions under which carcasses, meat, meat food products and poultry products of cattle, sheep, poultry, swine, goats, horses, mules or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm or corporation engaged in the business of buying, selling, freezing, storing or transporting, in or for intrastate commerce, such articles whenever the commissioner deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violations of any such regulation is prohibited.

Acts 1968, No. 376, §15. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4218. Inspection not provided for slaughtering not intended for human consumption

Inspection shall not be provided under R.S. 3:4201 through 3:4217 at any establishment for the slaughter of cattle, sheep, poultry, swine, goats, horses, mules or other equines, or the preparation of any carcasses or parts or products of such animals, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the commissioner to deter their use for human food. No person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, meat, meat food products or poultry products of any such animals which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the commissioner or are naturally inedible by humans.

Acts 1968, No. 376, §16. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4219. Records required

A. The following classes of persons, firms and corporations shall keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons, firms, and corporations

subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the commissioner, afford such representative and any duly authorized representative of the secretary of agriculture of the United States accompanied by such representative of the commissioner, access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records and to take reasonable samples of their inventory upon payment of the fair market value thereof:

(1) Any persons, firms, or corporations that engage, for intrastate commerce, in the business of slaughtering any cattle, sheep, poultry, swine, goats, horses, mules or other equines, or preparing, freezing, packaging or labeling any carcasses, or parts or products of carcasses, of any such animals; for use as human food or animal food;

(2) Any persons, firms or corporations that engage in the business of buying or selling as meat brokers, wholesalers or otherwise, or transporting, in intrastate commerce, or storing in or for such commerce, any carcasses, or parts or products of carcasses, of any such animals;

(3) Any persons, firms or corporations that engage in business, in or for intrastate commerce, as renderers, or engage in the business of buying, selling, or transporting, in commerce, any dead, dying, disabled or diseased cattle, sheep, poultry, swine, goats, horses, mules or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter.

B. Any record required to be maintained by this section shall be maintained for such period of time as the commissioner may, by regulations, prescribe.

Acts 1968, No. 376, §17. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4220. Registration required

No person, firm or corporation shall engage in business, in or for intrastate commerce, as a meat broker, renderer, or animal food manufacturer, or engage in business in such commerce as a wholesaler of any carcasses, or parts or products of carcasses, of any cattle, sheep, poultry, swine, goats, horses, mules or other equines, whether intended for human food or for other purposes, or engage in business as a public warehouseman storing any such articles in or for such commerce, or engage in the business of buying, selling, or transporting in such commerce, any dead, dying, disabled or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless, when required by regulations of the commissioner, he has registered with the commissioner his name and the address of each place of business at which, and all trade names under which, he conducts such business.

Acts 1968, No. 376, §18. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4221. 4-D animals

No person, firm, or corporation engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport or offer for sale or transportation, or receive for transportation, in such commerce, any dead, dying, disabled or diseased cattle, sheep, poultry, swine, goats, horses, mules or other equines, or parts of carcasses of any such animals that died otherwise than by slaughter, unless such transaction or transportation is made in accordance with such regulations as the commissioner may prescribe to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

Acts 1968, No. 376, §19. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4222. Federal and state cooperation; designated authority

A. The commissioner is hereby designated as the state agency which shall be responsible for cooperating with the secretary of agriculture of the United States under the provisions of Sections 114

and 114a of the Federal Meat Inspection Act* and Section 467 of the Federal Poultry Products Inspection Act** and such agency is directed to cooperate with the secretary of agriculture of the United States in developing and administering the meat inspection program of this state under this Chapter to assure that not later than November 15, 1970 its requirements will be at least equal to those developing and administering the program of this state under the provisions of this Chapter in such a manner as will effectuate the purposes of this Chapter and said federal acts. However, no provision of this Chapter shall be understood or construed as changing or repealing any present constitutional provision or statutory law of the state with respect to the powers, duties and responsibilities of the Louisiana State Department of Health or with respect to the Sanitary Code or the State Food, Drugs and Cosmetic Act except to the extent and only to the extent of direct conflict with the provisions herein contained and rules and regulations adopted pursuant thereto. Where practical the Louisiana Department of Agriculture shall enter into a contractual agreement with the Louisiana Department of Health for services presently being rendered by the Louisiana State Department of Health and all related services under the provisions of various applicable laws, to the extent necessary to assure compliance with the provisions and purposes of this Chapter.

B. In such cooperative efforts, the commission is authorized to accept from said secretary advisory assistance in planning and otherwise developing the state program, technical and laboratory assistance and training including necessary curricular and instructional materials and equipment, and financial and other aid for administration of such a program. The commissioner is further authorized to spend public funds of this state appropriated for administration of this Chapter to pay fifty per centum of the estimated total cost of the cooperative program.

C. The commissioner of agriculture shall serve as the representative of the governor in all consultations and negotiations with the secretary of the United States Department of Agriculture concerning the development and implementation of this Chapter and the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act. The Louisiana Board of Animal Health shall advise the commissioner on all aspects of all consultations with the federal secretary and on all other aspects of the enforcement of the provisions of this Chapter.

D. Anything to the contrary notwithstanding, the provisions hereof shall not be construed to affect the meat inspection program carried out by the East Baton Rouge Parish Health Unit under applicable ordinances of the city of Baton Rouge and the parish of East Baton Rouge, and inspections made and approvals given by that agency under said program shall be acceptable for all purposes of this Chapter provided the standards in effect in the city and parish ordinances are equal to or higher than those in this Chapter and Public Law 90-201. For the purpose of compliance with Public Law 90-201, the East Baton Rouge Parish Health Unit shall be deemed to be a part of the state agency insofar as said meat inspection program is concerned.

Acts 1968, No. 376, §20. Amended by Acts 1970, No. 615, §1; Acts 1982, No. 443, §2, eff. Jan. 1, 1983; Acts 1982, No. 750, §1, eff. Aug. 2, 1982; Acts 1985, No. 73, §1; Acts 2012, No. 811, §1, eff. July 1, 2012.

**21 U.S.C.A. §601 ET SEQ.*

***21 U.S.C.A. §451 ET SEQ.*

§4223. Auxiliary provisions

The commissioner may, for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Chapter, refuse to provide, or withdraw inspection service under the provisions of this Chapter with respect to any establishment if he determines, after opportunity for a hearing is accorded the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under the provisions of this Chapter because the applicant or recipient or any one responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the

acquiring, handling, or distributing of unwholesome, mislabeled or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way the provisions of this Chapter for withdrawal of inspection services under the provisions of this Chapter from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat products. For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder or owner of ten per centum or more of its voting stock, or employee in a managerial or executive capacity. The determination and order of the commissioner with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the appropriate court as provided in R.S. 40:2294. Judicial review of any such order shall be upon the record upon which the determination and order are based.

Acts 1968, No. 376, §21; Acts 1985, No. 73, §1.

§4224. Authority to detain meats

Whenever carcasses, parts of carcasses, meat, meat food product or poultry product of cattle, sheep, poultry, swine, goats, horses, mules or other equines, or any product exempted from the definition of meat food product or poultry product, or any dead, dying, disabled or diseased animal or fowl described above is found by any authorized representative of the commissioner upon any premises where it is held for purposes of, or during or after distribution in intrastate commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this Chapter or of the Federal Meat Inspection Act* or the Federal Food, Drug and Cosmetic Act,** or that such article or animal has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under R.S. 3:4225 or notification of any federal authorities having jurisdiction over such article or animal, and shall be moved by any person, entity, firm, or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the commissioner that the article or animal is eligible to retain such marks.

Acts 1968, No. 376, §22. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

**21 U.S.C.A. §71 et seq. (Transferred; see now, 21 U.S.C.A. §601 et seq.).*

***21 U.S.C.A. §301 et seq.*

§4225. Condemnation and seizure

A. Any carcass, part of carcass, meat or meat food product of cattle, sheep, poultry, swine, goats, horses, mules or other equines or any dead, dying, disabled, or diseased animal or fowl described above that is being transported in intrastate commerce, or is held for sale in this state after such transportation, and that (1) is or has been prepared, sold, transported or otherwise distributed or offered or received for distribution in violation of this Chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this Chapter, shall be liable to seizure and condemnation, at any time, on a petition properly in any court specified in R.S. 3:4226 within the jurisdiction of which the article or animal is found. If the article or animal is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the treasury of this state, but the article or animal shall not be sold contrary to the provisions of this Chapter, or the Federal Meat Inspection Act,* or the Federal Poultry Products Inspection Act** or the Federal Food, Drug, and Cosmetic Act;*** provided that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions

of this Chapter, or the laws of the United States, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the commissioner as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings in such case shall conform, as nearly as may be to the proceedings in criminal cases, and all such proceedings shall be in name of this state.

B. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Chapter, or other laws.

Acts 1968, No. 376, §23. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

**21 U.S.C.A. §71 et seq. (transferred; see now, 21 U.S.C.A. §601 et seq.).*

***21 U.S.C.A. §451 et seq.*

****21 U.S.C.A. §301 et seq.*

§4226. Courts

The appropriate courts are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Chapter, and shall have jurisdiction in all kinds of cases arising under this Chapter.

Acts 1968, No. 376, §24; Acts 1985, No. 73, §1.

§4227. Assaults

Any person who forcibly assaults, resists, opposes, impedes, intimidates or interferes with any person while engaged in or on account of the performance of his official duties under this Chapter shall be fined not more than five thousand dollars or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Chapter shall be punished as provided under the applicable state law.

Acts 1968, No. 376, §25; Acts 1985, No. 73, §1.

§4228. Penalties

A. Any person, firm or corporation who violates any provisions of this Chapter for which no other criminal penalty is provided by this Chapter shall, upon conviction, be subject to imprisonment for not more than one year, or a fine of not more than one thousand dollars, or both imprisonment and fine; but if such violations involves intent to defraud, or any distribution or attempted distribution of any article that is adulterated (except as defined in R.S. 3:4201(8)(i)), such person, firm or corporation shall be subject to imprisonment for not more than three years or a fine of not more than ten thousand dollars, or both; provided that no person, firm or corporation shall be subject to penalties under this section for receiving for transportation any article or animal in violation of this Chapter if such receipt was made in good faith, unless such person, firm or corporation refuses to furnish on request of a representative of the commissioner the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

B. Nothing in this Chapter shall be construed as requiring the commissioner to report for prosecution or for the institution of injunction proceedings, minor violations of this Chapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

Acts 1968, No. 376, §26; Acts 1985, No. 73, §1.

§4229. Access to records; testimony; penalties

A. The commissioner shall have access at all times:

(1) To gather and compile information concerning and, to investigate from time to time the organization, business, conduct, practices and management of any person, firm, or corporation engaged in intrastate commerce, and the relation thereof to other persons, firms and corporations;

(2) To require, by general or special orders, persons, firms and corporations engaged in intrastate commerce, or any class of them, or any of them to file with the commissioner, in such form as the commissioner may prescribe, annual or special, or both annual and special, reports or answers in writing, such reports and answers shall be made under oath, or otherwise, as the commissioner may prescribe, and shall be filed with the commissioner within such reasonable period as the commissioner may prescribe, unless additional time be granted in any case by the commissioner.

B. For the purposes of this Chapter the commissioner shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, firm or corporation being investigated or proceeded against.

C. The commissioner is hereby authorized to petition any court of competent jurisdiction for writs of mandamus, commanding any person, firm or corporation to comply with the provisions of this Chapter or any order or regulation of the commissioner authorized by said Chapter, and/or for writ of injunction, restraining and enjoining any person, firm or corporation from violating this statute or any regulations promulgated by the commissioner pursuant to said statute.

D. Any person, firm or corporation that shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Chapter, or that shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by a person, firm or corporation subject to this Chapter, or that shall willfully neglect or fail to make, or cause to be made, full, true and correct entries in such accounts, records of memoranda, of all facts and transactions appertaining to the business of such person, firm or corporation, or that shall willfully remove out of the jurisdiction of this state, or willfully mutilate, alter, or by any other means falsify any documentary evidence of any such person, firm or corporation, or that shall willfully refuse to submit to the commissioner or to his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm or corporation in his possession or within his control, shall be deemed guilty of an offense and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

E. If any person, firm or corporation required by this Chapter to file any annual or special report, fails to do so within the time fixed by the commissioner for filing same, and such failure shall continue for thirty days after notice of such default, such person, firm, or corporation shall be liable to be fined one hundred dollars for each day of such failure, each day being a separate offense. It shall be the duty of the various district attorneys within the state to prosecute the offenses occurring within their respective parishes.

F. Any officer or employee of this state who shall make public any information obtained, without the authority of the commissioner, unless directed by a court of competent jurisdiction, shall be punished by a fine not exceeding five thousand dollars, or be imprisoned for not more than five years, or both in the discretion of the court.

Acts 1968, No. 376, §27. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4230. Application

The requirements of this Chapter shall apply to persons, firms or corporation establishments, animals and articles regulated under the Federal Meat Inspection Act* or the Federal Poultry Products Inspection Act only to the extent provided for in Section 408 of said federal acts.**

Acts 1968, No. 376, §28. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

**21 U.S.C.A. §71 et seq. (transferred; see now, 21 U.S.C.A. §601 et seq.).*

***21 U.S.C.A. §301 et seq.*

§4231. Designation; Chapter as superseding other laws

This Chapter shall be designated as the Louisiana Meat and Poultry Inspection Law. This Chapter supersedes all city, municipal or other ordinances or laws in the state on meat and poultry inspection in all facets of meat and poultry inspection covered by this Chapter.

Acts 1968, No. 376, §29. Amended by Acts 1970, No. 615, §1; Acts 1985, No. 73, §1.

§4232. Commissioner of agriculture

A. The commissioner of agriculture shall administer and enforce the provisions of this Chapter.

B. The commissioner may employ such personnel as are necessary to enforce the provisions of this Chapter.

C. The commissioner may adopt such rules and regulations as are necessary to enforce the provisions of this Chapter. All rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.

D. The commissioner, or his representative, may take samples of carcasses, parts of carcasses, meat, or meat products in order to enforce the provisions of this Chapter.

Added by Acts 1982, No. 750, §1, eff. Aug. 2, 1982; Acts 1985, No. 73, §1.

§4233. Violations, penalties, injunctive relief

A. The following actions are prohibited:

(1) The slaughter of animals required to be slaughtered under inspection when an inspector is not present.

(2) The processing of meat or meat products required to be processed under inspection when an inspector is not present.

(3) The sale, offering for sale, distribution, storage, or transportation of any livestock, poultry, carcasses, parts of carcasses, meat, or meat products which are subject to the provisions of this Chapter and which:

(a) Have not been inspected as required by this Chapter.

(b) Are unwholesome, adulterated, or otherwise unfit for human consumption.

(c) Are misbranded.

(d) Are mislabeled.

(4) The removal of any condemned livestock, poultry, carcasses, parts of carcasses, meat, or meat products from any place of detention without the prior authorization of the commissioner.

(5) The failure to maintain the required registration.

(6) The making of false or misleading statements concerning eligibility for exemptions from the requirements of this Chapter.

(7) The failure to comply with the sanitary requirements provided by this Chapter or the rules and regulations adopted under this Chapter.

(8) The failure to properly destroy any condemned livestock, poultry, carcasses, parts of carcasses, meat, or meat products.

(9) The use of any label which has not been previously approved by the commissioner.

(10) The unauthorized use of any official device, brand, mark, or certificate.

(11) The failure to maintain and provide to the commissioner, upon request, any required reports, accounts, books, or records.

(12) Any assault, resistance, opposition, impedance, intimidation, or interference with the commissioner, or his representatives, in the performance of his duties under this Chapter.

(13) The evasion of payment of any civil penalty legally imposed by the commissioner.

(14) The failure to comply with the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter.

B. The commissioner may assess a civil penalty of not more than five thousand dollars for each violation of any of the prohibitions in Subsection A of this Section. Each day on which a violation occurs shall be considered a separate offense.

C. The commissioner may suspend or revoke any registration issued under the authority of this Chapter, or impose probation on any person who holds a registration, for any violation of any of the prohibitions in Subsection A of this Section.

D. Civil penalties may be assessed, registrations may be suspended or revoked, and probation may be imposed, only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

E. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

F. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter in the district court for the parish in which the violation occurred.

Added by Acts 1982, No. 750, §1, eff. Aug. 2, 1982; Acts 1985, No. 73, §1.

CHAPTER 28. FORESTS AND FORESTRY

PART I. PROTECTION AND REFORESTATION

§4271. Louisiana Forestry Commission established; state policy

A. To protect, conserve, and replenish the natural resources of the state, the practice of forestry in the state is placed under the Louisiana Forestry Commission, which is hereby established in the executive branch of the state government.

B. *Repealed by Acts 2012, No. 808, §2.*

Amended by Acts 1975, No. 81, §1. Acts 1990, No. 176, §1; Acts 2012, No. 808, §2.

§4272. Members; appointment; qualifications; terms of office

A. The commission shall consist of seven members, five of whom shall be appointed by the governor, subject to confirmation by the Senate, and two of whom shall serve ex officio--namely, the head of the department of forestry at Louisiana State University and Agricultural and Mechanical College and the secretary of the Department of Wildlife and Fisheries.

B. Two of the members shall be owners or executive managers of interests owning and operating timberlands; one shall be the owner of farm lands interested in reforestation; one shall be a pulp and paper mill owner or executive manager; and the fifth shall be the owner or executive manager of interests manufacturing or treating poles, piling, posts, crossties, or veneer.

C. The members first appointed serve for terms of one, two, three, four, and five years, the terms to be designated by the governor. The successors of each shall be appointed for a term of five years.

Amended by Acts 1975, No. 81, §1; Acts 1981, No. 838, §1.

§4273. Officers; meetings; compensation

The commission shall select its own chairman and vice-chairman, and fix the terms and duties of these offices; prescribe rules and regulations for the conduct of its meetings and operation; meet quarterly or oftener on call of the chairman, or on petition to the chairman by four members of the commission.

Meetings shall be held at the offices of the commission, or elsewhere as the commission may elect from time to time.

The commissioners shall receive no salary or per diem, but shall be reimbursed for actual and reasonable expenses incurred in attendance upon meetings or other works undertaken at the direction of the commission

§4274. Powers and duties of commission

A. The commission shall:

- (1) Prepare or cause to be prepared plans for execution of laws relating to forestry;
- (2) Select and employ the state forester, and control his tenure of office;
- (3) Direct and advise the state forester in the work of the commission;
- (4) Prepare a budget of expenditures for the commission prior to each regular session of the legislature, and submit this to the state budget officer, and file a duplicate with the governor;
- (5) Cooperate with the government of the United States and any of its bureaus, services, and agencies in accordance with federal statutes and regulations thereunder;
- (6) *Repealed by Acts 2012, No. 808, §2.*
- (7) Maintain its offices and be domiciled in the parish of East Baton Rouge;

B. The commission may also sue and be sued; and have and exercise all authority and power as was prescribed by law for the former commissioner of conservation in relation to the practice of forestry.

Amended by Acts 1981, No. 736, §1; Acts 2012, No. 808, §2.

§4274.1. Appointment of forestry officers; duties and powers

A. To provide for the protection of the assets, property, personnel, and interests relating to forest woodlands, the state forester may appoint and commission forestry officers who shall enforce the laws, rules, and regulations for the protection of interests relating to forest woodlands, may carry weapons

concealed or exposed while in the performance of their duties, shall take such action as is authorized by law, rule, or regulation to protect interests relating to forest woodlands, and shall be vested with the same authority and powers conferred by law upon regular law enforcement officers of this state with respect to issuing civil citations for littering and with respect to criminal and other offenses affecting the protection of interests relating to forest woodlands or affecting the performance of their duties.

B. All forestry officers shall be Peace Officers Standard Training (P.O.S.T.) certified.

C. Additionally, while on special assignment during any riot, insurrection, or any natural disaster or while in protection of immovable property of the commission and the property, assets, and resources of the office of forestry or the department, any commissioned forestry officer shall possess all the powers and authority of regular law enforcement officers of this state.

D. Upon the request of any regular law enforcement agency of this state, forestry officers shall prevent and detect crime, apprehend criminals, enforce the criminal and traffic laws of the state, keep the peace and good order in the state in the enforcement of the state's police powers, and perform any other related duties imposed upon them by the legislature.

Acts 1977, No. 560, §1; Acts 1998, 1st Ex. Sess., No. 148, §1; Acts 2009, No. 137, §1, eff. June 28, 2009; Acts 2012, No. 808, §1.

§4274.2. *Repealed by Acts 2012, No. 808, §2.*

§4275. State forester; qualifications; appointment

The commission shall appoint a state forester who shall be a graduate of forestry from an accredited school having at least four years of forestry experience in the South.

§4276. Powers and duties of state forester

The state forester shall:

(1) Have direction of all forest interests and all matters pertaining to forestry within the jurisdiction of the state.

(2) Determine annual goals, objectives, and priorities and conduct annual reviews per established department protocol.

(3) Serve as lead department liaison responsible for the detection and rapid suppression of all forest wildfires in the state including all state-owned and private forest lands and non-forested open areas threatening forest lands.

(4) Work with state cooperators that may offer assistance during wildfire suppression efforts.

(5) Take such action as is authorized by law to prevent and extinguish forest fires.

(6) Enforce laws pertaining to forest woodlands and recommend prosecutions for violations.

(7) Act as lead department liaison to educate and train industry professionals and the public on matters vital to the long-term stability and sustainability of Louisiana's forests. Lead and support programs that educate the public on the importance of forest resources and their contribution to the economic health of the state, and the social and recreational benefits derived from vibrant, healthy, working forests and the dynamic ecosystems they support.

(8) Cooperate with and encourage private timber owners in laying plans to protection, management, and the replacement of forests, and in aiding them to form protective associations.

(9) Provide wildfire suppression training to the office of forestry employees to National Wildfire Coordinating Group standards.

(10) Provide certified burner training.

(11) Serve as the lead department liaison responsible for wildfire prevention education and training.

(12) Serve as the state liaison for forest inventory and maintain statistically reliable forest inventory data that is publicly accessible, if appropriated in the budget.

(13) Serve as lead department liaison responsible for compliance monitoring related to adherence to forest practices mandated by law and voluntary best management practices for forestry as established by the state of Louisiana.

(14) Establish an ongoing monitoring protocol that is stable, consistently implemented, and reported to stakeholders and the public on a biennial basis.

(15) Direct landowner assistance to encourage reforestation and sustainable land management and make recommendations based on understanding landowner objectives.

(16) Administer the Forest Productivity Program which provides reforestation assistance.

Amended by Acts 1981, No. 736, §1; Acts 1981, No. 838, §1; Acts 2012, No. 808, §1.

§4276.1. Volunteer forest fire and wildfire fighters

A. As used in this Section, the following terms shall have the following meanings ascribed to them:

(1) "Direct supervision" means giving direction or instruction to and accepting responsibility for the work product of the person being supervised.

(2) "Financial loss" means and includes court costs, judicial interest, monetary damages, and attorney fees.

(3) "Person" means any individual, corporation, partnership, association, or other legal entity.

B. The state forester may conduct courses of instruction in the proper techniques for safety and efficiently suppressing forest fires and wildfires. Each individual who successfully completes the course of instruction shall be issued a certificate.

C. The state forester may enter into agreements with any person to obtain volunteer assistance in responding to forest fires or wildfires from individuals who hold, or are working under the direct supervision of individuals who hold a certificate issued under this Section.

D. The provisions of this Section shall not create an employer-employee relationship between the state of Louisiana and any person who takes any action under this Section, including but not limited to attending a course of instruction, receiving a certificate, entering into an agreement, or providing volunteer assistance.

E. It is hereby declared to be the public policy of this state that the state shall hold harmless and indemnify each person who provides volunteer assistance under this Section from any financial loss arising out of any claim, demand, suit, or judgment in any court by reason of the alleged negligence of any individual who, at the time the damages were sustained, was providing volunteer assistance under this Section and held, or was working under the direct supervision of an individual who held a certificate issued under this Section. The provisions of this Subsection shall not apply to damages arising out of any intentional wrongful act or any act of gross negligence.

F. The state forester shall adopt rules and regulations to implement this Section. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

Acts 1985, No. 651, §1, eff. July 16, 1985.

§4277. Donation of land to state; acceptance and use

The governor may accept gifts of land to the state to be held, protected, and administered by the commission as state forests and to be used to demonstrate their practical utility for reforestation and as breeding places for game. Such gifts must be absolute, except for the reservation of all mineral rights,

and in no case shall exceed ten percent of the area of any parish wherein the lands are situated. The Attorney General shall see that all deeds to the state are properly executed and that the titles thereto are free and clear of all incumbrance before the gift is accepted. When any donation exceeding six hundred acres is made, the name of the donor, or any name he may suggest, shall, on the approval of the commission, be given the donation as the designation of that state forest.

§4278. Measure of damage

The liability of persons for all damages shall include the injury to young tree growth resulting from fires. The damage to such young growth shall be calculated as the expense of planting and cultivating such small growth to the point of development at the time when the fire occurred.

§4278.1. Trees, cutting without consent; co-owners and co-heirs; penalty

A.(1) It shall be unlawful for any person to cut, fell, destroy, remove, or to divert for sale or use, any trees, or to authorize or direct his agent or employee to cut, fell, destroy, remove, or to divert for sale or use, any trees, growing or lying on the land of another, without the consent of, or in accordance with the direction of, the owner or legal possessor, or in accordance with specific terms of a legal contract or agreement.

(2) It shall be unlawful for any co-owner or co-heir to cut, fell, destroy, remove, or to divert for sale or use, any trees, or to authorize or direct his agent or employee to cut, fell, destroy, remove, or to divert for sale or use, any trees, growing or lying on co-owned land, without the consent of, or in accordance with the direction of, the other co-owners or co-heirs, or in accordance with specific terms of a legal contract or agreement. The provisions of this Paragraph shall not apply to the sale of an undivided timber interest pursuant to R.S. 3:4278.2.

B. Whoever willfully and intentionally violates the provisions of Subsection A of this Section shall be liable to the owner, co-owner, co-heir, or legal possessor of the trees for civil damages in the amount of three times the fair market value of the trees cut, felled, destroyed, removed, or diverted, plus reasonable attorney fees and costs.

C. Whoever violates the provisions of Subsection A of this Section in good faith shall be liable to the owner, co-owner, co-heir, or legal possessor of the trees for three times the fair market value of the trees cut, felled, destroyed, removed, or diverted, if circumstances prove that the violator should have been aware that his actions were without the consent or direction of the owner, co-owner, co-heir, or legal possessor of the trees.

D. If a good faith violator of Subsection A of this Section fails to make payment under the requirements of this Section within thirty days after notification and demand by the owner, co-owner, co-heir, or legal possessor, the violator shall also be responsible for the reasonable attorney fees and costs of the owner, co-owner, co-heir, or legal possessor.

E. The provisions of this Section shall not apply to the clearing and maintenance of rights of way or to utility service situations where a utility is acting in good faith to minimize the damage or harm occasioned by an act of God. The provisions of this Section shall not apply to land surveying by or under the direction of a registered professional land surveyor, duly registered under the laws of the state of Louisiana.

F. Whoever violates the provisions of Subsection A as they relate to the cutting of standing cypress trees on water bottoms owned by the state of Louisiana shall, in addition to the penalties otherwise provided in this Section, be subject to a fine not to exceed five thousand dollars, imprisonment not to exceed six months, or both.

G. Notwithstanding any other provision of law to the contrary, a civil action pursuant to provisions of this Section shall be subject to a liberative prescriptive period of five years.

Acts 1987, No. 144, §1; Acts 1992, No. 405, §1; Acts 2009, No. 107, §2; Acts 2011, No. 226, §1.

§4278.2. Sale of undivided timber interest; consent of co-owners; theft

A. A co-owner or co-heir of land may execute an act of timber sale whereby he sells his undivided interest in the timber, and any condition imposing a time period within which to remove the timber shall commence from the date of its execution.

B. A buyer who purchases the timber from a co-owner or co-heir of land may not remove the timber without the consent of the co-owners or co-heirs representing at least eighty percent of the ownership interest in the land, provided that he has made reasonable effort to contact the co-owners or co-heirs who have not consented and, if contacted, has offered to contract with them on substantially the same basis that he has contracted with the other co-owners or co-heirs.

C. A co-owner or co-heir of the land who does not consent to the exercise of such rights has no liability for the cost of timber operations resulting from the sale of the timber, and shall receive from the buyer the same price which the buyer paid to the other co-owners or co-heirs. The consenting co-owners or co-heirs shall agree to indemnify and hold harmless the nonconsenting co-owners or co-heirs for any damage or injury claims which may result from such operations.

D. If the nonconsenting co-owner or co-heir fails or refuses to claim his portion of the sale price of the timber, the buyer shall be obligated to hold such funds in escrow, for and on behalf of such nonconsenting co-owner or co-heir and any interest or other income earned by such funds in escrow shall inure to the benefit of the co-owner or co-heir for whom they are held.

E. Failure to comply with the provisions of this Section shall constitute prima facie evidence of the intent to commit theft of the timber by such buyer.

F. The sale of an undivided interest in timber that constitutes community property shall be governed by the provisions of Chapter 2 of Title VI of Book III of the Civil Code.

G. Notwithstanding any other provision of law to the contrary, a civil action pursuant to provisions of this Section shall be subject to a liberative prescriptive period of five years.

Acts 1992, No. 223, §1; Acts 2001, No. 558, §2; Acts 2009, No. 107, §2.

§4278.3. Transporting or receiving of forest products; records; rules; penalties

A. In addition to other requirements as provided by law, a person transporting or receiving forest products shall maintain appropriate records as required by the commissioner of agriculture and forestry to verify the origin and ownership of such forest products.

B. The commissioner of agriculture and forestry, with the advice of the Louisiana Forestry Commission, shall adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section. The commissioner may impose a civil penalty of not more than five thousand dollars for failure to comply with the provisions of this Section. Each day a violation occurs shall be considered a separate violation. Such penalty shall be in addition to any other penalties or sanctions provided by law.

Acts 1999, No. 9, §1.

§4279. Railroad and other public utilities' rights-of-way; clearing of combustible material

A. All persons owning or operating railroads, electric transmission lines, or oil or gas pipe lines through forest lands within this state shall keep their rights-of-way reasonably cleared of all combustible material and safely dispose of the same within the limits of the rights-of-way. This requirement does not apply in the case of temporary spurs or railroads and tramroads, nor does it prohibit any railroad company from piling or keeping upon the right-of-way, cross ties or other materials necessary for operation or maintenance of the railroad.

B, C. *Repealed by Acts 2012, No. 808, §2.*

Acts 2012, No. 808, §§1, 2.

§4280. *Repealed by Acts 2012, No. 808, §2.*

§4281. Prosecution for setting fire; cost of fighting fire as part of penalty

In a prosecution for the wilful and negligent setting fire to forests, when the evidence has been conclusive of the guilt or innocence of the party charged with the offense, the court may take evidence as to the cost of fighting the fire which the accused is charged with setting, and may assess such costs as a part of the penalty against the person charged.

§4282. Fire posters and warning notices

The state forester shall prepare and distribute for posting and display notices printed in large letters calling attention to the destruction caused by fire and to the forest fire laws and the penalties for their violation.

§4283. National forests; consent; concurrent jurisdiction

The consent of the state is given to the acquisition by the United States by purchase or gift of such land in Louisiana as in the opinion of the federal government may be needed for the establishment of national forests in this region. However, the state retains a concurrent jurisdiction with the United States in and over such lands so that civil process in all cases and such criminal process as may issue under the authority of the state against the person charged with a commission of any crime without or within the jurisdiction may be executed thereon in like manner as before. Congress may pass such laws as it deems necessary to the acquisition as herein provided for incorporation in the national forest of such forests, covered, or cut-over lands lying in Louisiana as in the opinion of the federal government may be needed. Congress may pass such laws and make or provide for the making of such rules and regulations of both civil and criminal nature and provide punishment for violation thereof as in its judgment are necessary for the management, control, and protection of such lands as are from time to time acquired by the United States under the provisions of this Section.

§§4284 to 4291. *Repealed by Acts 2012, No. 808, §2.*

§4292. Instruction on forestry in public schools; Arbor Day

The Department of Education and the parish school boards shall encourage the observance of Arbor Day and encourage participation in natural resource education programs such as forestry awareness, forestry skills, 4-H, Future Farmers of America, and Project Learning Tree to promote learning about the natural environment and the opportunities and benefits it provides for all students.

Acts 2012, No. 808, §1.

§§4293 to 4295. *Repealed by Acts 2012, No. 808, §2.*

§4296. South Central Interstate Forest Fire Protection Compact

The Governor of Louisiana be, and he is hereby authorized and directed, to execute on behalf of the State of Louisiana, the South Central Interstate Forest Fire Protection Compact. The full text of said compact is as follows:

ARTICLE I.

The purpose of this compact is to promote effective prevention and control of forest fires in the South Central region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member states, by providing for mutual aid

in fighting forest fires among the compacting states of the region and with states which are party to other Regional Forest Fire Protection compacts or agreements, and for more adequate forest development.

ARTICLE II.

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Arkansas, Louisiana, Mississippi, Oklahoma, and Texas which are contiguous have ratified it and Congress has given consent thereto. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact, subject to approval by the legislature of each of the member states.

ARTICLE III.

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that state and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control. The compact administrators of the member states shall organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

There shall be established an advisory committee of legislators, forestry commission representatives, and forestry or forest products industries representatives which shall meet from time to time with the compact administrators. Each member state shall name one member of the Senate and one member of the House of Representatives, and the Governor of each member state shall appoint one representative who shall be the chairman of the state forestry commission or comparable official and one representative who shall be associated with forestry or forest products industries to comprise the membership of the advisory committee. Action shall be taken by a majority of the compacting states, and each state shall be entitled to one vote.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

ARTICLE IV.

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

ARTICLE V.

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith: Provided, that nothing herein shall be construed as relieving any person from liability for his own negligent act or omission, or as imposing liability for such negligent act or omission upon any state.

All liability, except as otherwise provided herein, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request: Provided, that nothing herein contained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such service to the receiving member state without charge or cost.

Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms if the injury or death were sustained within such state.

For the purposes of this compact the term employee shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws thereof.

The compact administrators shall formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

ARTICLE VI.

Ratification of this compact shall not be construed to affect any existing statute so as to authorize or permit curtailment or diminution of the forest fire fighting forces, equipment, services or facilities of any member state.

Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control and extinguishment in such state.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between the United States Forest Service and a member state or states.

ARTICLE VII.

The compact administrators may request the United States Forest Service to act as the primary research and coordinating agency of the South Central Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each state, and the United States Forest Service may accept the initial responsibility in preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of the United States Forest Service may attend meetings of the compact administrators.

ARTICLE VIII.

The provisions of Articles IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region: Provided, that the legislature of such other state shall have given its assent to such mutual aid provisions of this compact.

ARTICLE IX.

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the Governor of such state takes action to withdraw therefrom. Such action shall not be effective until six months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

Added by Acts 1954, No. 419, §1.

PART II. FOREST TREE SEEDLING NURSERIES

§4301. Forest tree seedling nurseries; authorization

The office of forestry may purchase land, install watering systems, and construct and equip the buildings necessary for the operation of at least two forest tree seedling nurseries. North and South Louisiana shall each have at least one nursery.

Amended by Acts 1981, No. 736, §1; Acts 1981, No. 838, §1.

§4302. *Repealed by Acts 2012, No. 808, §2.*

§4303. Forest tree seedlings; change of price; sale to those engaged in forestry activities

The commission from time to time may fix by appropriate rules and regulations the prices at which forest tree seedlings grown at department nurseries shall be sold to landowners engaged in forestry activities, which price shall, insofar as possible, be conducive to the promotion and development of sound reforestation practices in this state and all receipts from the sale of seedlings shall be retained by the department and expended in the development and operation of the department's nurseries for scientific forestry research and experimentation for land acquisition and general operations of department nurseries.

Amended by Acts 1954, No. 533, §2; Acts 1956, No. 103, §1; Acts 1969, No. 169, §1; Acts 2014, No. 109, §1, eff. May 16, 2014.

PART II-A. FOREST PROTECTION TAX

§4321. Forest protection tax

A. There is hereby levied an annual tax of eight cents per acre on each acre of timberland in the state to be paid by the owners thereof, which shall be known as the forest protection tax. "Timberland", as used in this Part, means bona fide timberland being assessed at its use value as defined and determined pursuant to R.S. 47:2301 et seq.

B. The tax shall be entered on the tax rolls by the assessor and shall be paid by the owner of such timberland to the sheriff and ex officio tax collector of the parish in which the timberland is located in the same manner as parish ad valorem taxes and, when collected, shall be remitted to the state treasurer to be used solely as provided in this Part.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required herein shall be credited to a special fund hereby created in the state treasury to be known as the "Forest Protection Fund".

D. The monies in the fund shall be expended by the Department of Agriculture and Forestry for the acquisition and maintenance of equipment for the protection of forest lands from damage by fire or other causes and only in the amounts appropriated annually by the legislature. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall revert to the state general fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the state general fund.

Acts 1990, No. 5, §1, eff. May 30, 1990.

PART III. ACREAGE TAX ON FOREST AND CUT OVER LANDS

§§4322 to 4324. *Repealed by Acts 1988, No. 530, §1, eff. July 1, 1988.*

§4325. Parish board of forestry; appointment and term; compensation

Upon approval by the commission and the state forester, the governing authority of each parish cooperating may appoint a parish board of forestry. It shall consist of one member of the governing authority of the parish, one representative of the commission, two representatives of the forest products industries presently in a managerial or executive capacity, and one representative of the parish landowners. The last three named members shall serve for terms of three years after the initial terms, of one, two, and three years. Appointments to fill vacancies shall be for the unexpired term. The parish board serves without compensation or per diem.

Acts 2012, No. 808, §1.

§4326. Supervision of forestry program; detailed plan

The state forester with the approval of the forestry commission may administer and supervise the forestry program in each parish where such programs may be established.

Acts 2012, No. 808, §1.

PART IV. SEVERANCE TAX ON LAND REFORESTED

§§4341, 4342. *Repealed by Acts 2012, No. 458, §1.*

§4343. Disposition of tax; valuation of severed forest products

The tax levied and collected under the provisions of this Part shall be dedicated and administered in accordance with the provisions of Article X, Section 21(2) of the Constitution as amended. No contract shall provide the mode of arriving at the future value of timber, which shall be left to be prescribed by law. Until otherwise prescribed by law the commission shall fix the value of severed forest products and timber upon which the tax herein provided is levied, which shall be at the market price at the time and place where severed and which shall be approved by the governing authority of the parish and the Louisiana tax commission.

Amended by Acts 1952, No. 137, §1.

§4344. Disposition of the state's portion of the tax

A. Subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, the portion of the timber severance tax allocated to the state by Article VII, Section (4)(D) of the Constitution of Louisiana shall be paid into the state treasury and shall be credited to the Bond Security and Redemption Fund.

B, C. *Repealed by Acts 1992, No. 984, §18.*

Added by Acts 1982, No. 487, §1, eff. Jan. 1, 1983. Acts 1984, No. 281, §1, eff. July 1, 1984; Acts 1992, No. 984, §§2 and 18.

PART V. SPECIAL DONATIONS FOR STATE FORESTS

§4361. Donations of land suitable for forestry or park purposes; lease or purchase of lands

The forestry commission, through the state forester, may accept gifts, donations, or contributions of land suitable for forestry purposes and may enter into agreements with the federal government or other agencies for acquiring by lease, purchase, or otherwise such lands as in the judgment of the commission are desirable for state forests.

Amended by Acts 1981, No. 838, §1.

§4362. Expenditures for management and utilization of areas acquired; disposal of products from land

When lands are acquired or leased under R.S. 3:4361 the commission may:

- (1) Make expenditures from any funds not otherwise obligated, for the management, development, and utilization of such areas;
- (2) Sell or otherwise dispose of products from such lands; and
- (3) Make rules and regulations necessary to carry out the purposes of this Part.

§4363. Segregation and use of revenues

All revenues derived from lands presently owned or subsequently acquired under the provisions of this Part shall be segregated by the state treasurer for the use of the commission in the acquisition, management, development, and use of such lands until all obligations incurred with the federal government or owners of land purchased, as hereinabove provided, have been paid in full. Thereafter, fifty percent of all net profits accruing from the administration of such lands are dedicated to the commission for scientific research in forest culture and experimentation in forest products and acquisition and maintenance of state forests.

§4364. Payment of obligations for acquisition of land

Obligations for the acquisition of land incurred by the commission under the authority of this Part shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the state.

§4365. Sale, exchange, or lease of lands

The commission may sell, exchange, or lease lands under its jurisdiction when it is advantageous to the state in the highest orderly development and management of state forests. The sale, lease, or exchange shall not be contrary to the terms of any contract it has previously entered into.

PART VI. URBAN FORESTRY

§4381. Policies and purposes of urban forestry

A. The Legislature finds and declares that:

- (1) Trees serve as a vital resource in the urban environment and as an important psychological link with nature for the urban dweller.
- (2) Trees are a valuable economic asset in our cities. They help maintain or increase property values and attract business and new residents to urban areas.

(3) Trees play an important role in energy conservation by the modification of temperature extremes, humidity, and winds. This role is particularly important in reducing the amount of energy consumed in heating and cooling buildings and homes, and potentially producing a local fuel and energy source.

(4) Trees directly reduce air pollution by removing airborne particulates from the atmosphere and helping to purify the air.

(5) Trees also help reduce noise, provide habitat for songbirds and other wildlife, reduce surface runoff and protect urban water resources, and enhance the aesthetic quality of life in the city.

(6) Growing conditions in urban areas for trees and associated plants have worsened so that many Louisiana cities are now losing more trees than are replaced.

B. The purpose of this Part is to:

(1) Arrest the decline of our urban forest resources, facilitate the planting of trees in the city, and improve the quality of the environment in urban areas.

(2) Facilitate the creation of permanent jobs in tree maintenance and related urban forestry activities in neighborhood, local, and regional urban areas.

(3) Maximize the potential of tree and vegetative cover in reducing energy consumption and producing fuel and other products.

(4) Encourage the coordination of state and local agency activities in urban forestry and related programs and encourage maximum citizen participation in their development and implementation.

Added by Acts 1980, No. 746, §1.

§4382. Definitions

For the purposes of this Part the following definitions shall apply to the terms used herein:

(1) "Urban forestry" means the cultivation and management of trees in urban areas for their present and potential contribution to the physiological, sociological, and economic well-being of urban society.

(2) "Urban forest" means those native or introduced trees and related vegetation in the urban and near-urban areas including, but not limited to, street trees, park trees, residential trees, natural riparian habitats, and trees on other private and public properties.

(3) "Urban area" means an urban place, as that term is defined by the United States Department of Commerce.

Added by Acts 1980, No. 746, §1.

§4383. Authority for forestry commission to implement a program of urban forestry

A. The commission is authorized to implement a program in urban forestry to encourage better tree management and planting in urban areas, to assist the cities in seeking innovative solutions to problems such as tree maintenance and vandalism, and to encourage demonstration projects to maximize the benefits of urban forests.

The commission shall assume the primary responsibility in carrying out the intent of this Part in cooperation with other appropriate local, state and federal agencies such as the Cooperative Extension, the Department of Culture, Recreation and Tourism, the Department of Transportation and Development and the United States Forest Service.

B. The commission shall be the agent of the state and shall have full power to cooperate with those agencies of the federal government which have powers and duties concerning urban forestry, and shall perform all things necessary to secure for this state the benefits of federal urban forestry programs.

C. The commission is authorized to promulgate rules and regulations to establish standards for the implementation of the urban forestry program, which rules and regulations shall be submitted to the House Committee on Natural Resources and Environment and the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development for approval before final promulgation.

Added by Acts 1980, No. 746, §1; Acts 2008, No. 580, §1.

§4384. Technical assistance to urban areas

A. The commission is authorized to provide technical assistance to urban areas with respect to:

- (1) Planning for regional, parish, and local land use analysis projects related to urban forestry.
- (2) Preparation of urban tree plans and the selection of trees in large-scale landscaping and reforestation efforts.
- (3) Development and coordination of training programs for neighborhood and local agency tree planting and maintenance crews.
- (4) Advice to homeowners and neighborhood groups on tree disease, insect problems, tree planting, and maintenance.
- (5) The role of forest ecology in planning for the future of urban areas, including air quality, watershed problems, and energy conservation.
- (6) Retention of native trees and riparian habitats.
- (7) Any other matter relating to the purposes of this Part.

B. The commission and other state agencies are also authorized to assist local tree maintenance programs by making surplus equipment available on loan where feasible for regional and local urban forestry.

Added by Acts 1980, No. 746, §1.

PART VII. ALEXANDER STATE FOREST

§4401. Findings and policies

A. The legislature finds and declares that Alexander State Forest in conjunction with Indian Creek Lake provides the state with one of the best recreational areas in the state with its eight thousand acres of forest and lake. The state forest contains one hundred acres of recreational facilities, two hundred fifty acres of primitive camping area, and two thousand two hundred fifty acres of lake. There are numerous campsites and picnic sites, swimming areas, bath houses, a boat launch, and pavilion. The forest contains the world's tallest fire tower, the one hundred seventy-five foot Woodworth Tower.

B. The legislature declares that it is the policy of the state to preserve and protect the Alexander State Forest by good forest and recreational management planning and by prohibiting any commercial development in the state forest.

Acts 1989, No. 423, §1, eff. June 30, 1989.

§4402. Management plan

A. The State Forestry Commission shall, by rule, in accordance with the Administrative Procedure Act with oversight by the House and Senate Committees on Agriculture, Forestry, Aquaculture and Rural Development, adopt a comprehensive forest and recreational management plan for the Alexander State Forest and Indian Creek Lake.

B. The plan shall:

- (1) Provide for the use of good forest management techniques.
- (2) Preserve and enhance the recreational facilities and activities.
- (3) Preserve and enhance the environmental and ecological regimes, wilderness qualities, natural and scenic areas, and wildlife habitat.
- (4) Provide for educational and research areas.
- (5) Prohibit commercial development within the state forest.

Acts 1989, No. 423, §1, eff. June 30, 1989; Acts 2003, No. 116, §1, eff. May 28, 2003.

§4403. Prohibitions

No portion of the Alexander State Forest shall be used for private commercial development.

Acts 1989, No. 423, §1, eff. June 30, 1989.

PART VIII. LOUISIANA FORESTRY PRODUCTIVITY PROGRAM

§4410. Declaration of public policy; cooperative agreements

A. The legislature does hereby declare that the productivity of Louisiana's forest lands is of vital importance to the people of this state and that the reforestation of forest lands in this state serves the following purposes:

- (1) Insuring a sustainable supply of timber and forest products.
- (2) Aiding the economic well-being of the state by providing jobs and revenue.
- (3) Enhancing the aesthetics of the state.
- (4) Providing suitable habitat for wildlife species.
- (5) Aiding in the purifying of the air.
- (6) Conserving topsoil by discouraging erosion.
- (7) Enhancing water quality.

B. In order to encourage and foster these declared policies, the Department of Agriculture and Forestry may enter into cooperative agreements with landowners to encourage the reforestation of the state's forest lands.

Acts 1997, No. 1377, §1, eff. July 1, 1998.

§4411. Forestry Productivity Fund; disposition of funds

A. Funds equal to seventy-five percent of that portion of the severance tax on timber allocated to the state by Article VII, Section 4(D) of the Constitution of Louisiana shall be deposited immediately upon receipt into the state treasury.

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subsection A of this Section shall be credited to a special fund hereby created in the state treasury to be known as the Forestry Productivity Fund. The monies in this fund shall be used solely as provided in Subsection C of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in the fund. The monies in this fund shall be invested by the

state treasurer in the same manner as monies in the state general fund and interest earned on the investment of these monies shall be credited to this fund, again, following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

C. The monies in the Forestry Productivity Fund shall be used solely for the implementation of the forestry productivity program, including the amount representing the state's involvement in cooperative agreements between landowners and the department for the implementation of approved practices for the reforestation of forest lands in this state. However, no more than twenty-five percent of the monies in the fund shall be used for grants as provided in R.S. 3:4416, and no more than ten percent of the monies available annually in the fund shall be used to administer and provide technical assistance for the forestry productivity program.

Acts 1997, No. 1377, §1, eff. July 1, 1998.

§4412. Assistance through cooperative agreements

A. The involvement of the state in a cooperative agreement may consist of either or both of the following types of assistance:

(1) A direct grant to assist the landowner in implementing an approved practice through the use of the landowner's resources or through contacts with private firms.

(2) Utilization of the state's personnel, equipment, or materials to implement an approved practice if private sector services are unavailable.

B. Approved practices shall include the following:

(1) Site preparation for reforestation by natural or artificial means.

(2) Planting of seeds or seedlings.

(3) Timber stand improvement through removal of undesirable trees.

(4) Such other forestry practices as shall be determined by the commissioner.

C. The commissioner shall determine the extent of the state's involvement in each cooperative agreement which shall not exceed fifty percent of the cost of the cooperative agreement or a total value of assistance of ten thousand dollars to any one landowner during a fiscal year.

Acts 1997, No. 1377, §1, eff. July 1, 1998.

§4413. Administration; powers and duties of the commissioner

The provisions of this Part shall be administered by the commissioner who shall have the following powers and duties:

(1) To adopt rules and regulations in accordance with the Administrative Procedure Act.

(2) To determine which forestry practices shall be approved practices.

(3) To determine which landowners shall be eligible to receive assistance as part of a cooperative agreement.

(4) To determine the extent of the state's participation in a cooperative agreement.

(5) To employ personnel.

(6) To purchase equipment, materials, and supplies.

Acts 1997, No. 1377, §1, eff. July 1, 1998.

§4414. Exclusions and limitations

A. Landowners who have received federal or private funding for reforestation shall not be eligible to participate, on the same acreage, in any cooperative agreement under this Part.

B. Public utility companies and landowners who are engaged in the manufacturing or production of forestry products shall not be eligible to participate in any cooperative agreement under this Part.

Acts 1997, No. 1377, §1, eff. July 1, 1998.

§4415. Requirement of participation; right of action

Each landowner who participates in a cooperative agreement with the department shall enter into a contract approved by the commissioner requiring the land which is subject to the cooperative agreement to remain in forestry usage for a period of ten years. If the agreement is violated, the department shall have a right of action to recover the cost of the state's involvement in the cooperative agreement plus court costs and reasonable attorney fees.

Acts 1997, No. 1377, §1, eff. July 1, 1998.

§4416. Competitive research and cooperative extension grants

A. In order to provide for research and cooperative extension activities to enhance reforestation, increase productivity, and further knowledge regarding the proper application of forestry principles, a competitive grant process shall be created.

B. The commissioner shall adopt rules and regulations to establish procedures for awarding competitive grants under this Part.

Acts 1997, No. 1377, §1, eff. July 1, 1998.

PART IX. FORESTRY PRODUCT FAIRNESS ACT

§4421. Short title

This Part shall be cited as the "Forestry Product Fairness Act."

Acts 2009, No. 352, §1, eff. July 6, 2009.

§4422. Purpose

The Louisiana Legislature recognizes the enormous contribution that the Louisiana forest products industry makes to the state. The continued health of the industry is vital to Louisiana's economic well-being. A fair and equitable process for awarding state incentives to the forest products industry is necessary to maintain economic viability. The purpose of this Part is to provide for a procedure that will ensure an open process for the awarding of incentives, that encourages the use of forest products but does not unfairly advantage one segment of the forest products industry over another, and that does not put existing businesses at a competitive disadvantage.

Acts 2009, No. 352, §1, eff. July 6, 2009.

§4423. Definitions

As used in this Part, the following terms shall have the meanings ascribed below:

(1) "Commissioner" means the Louisiana commissioner of agriculture and forestry.

(2) "Forest products" include the following:

(a) Products that are derived from woody biomass.

(b) Forest wood waste, including residual tops and limbs of trees, unused cull trees, pre-commercial thinnings, and wood or debris from noncommercial tree species, slash, or brush.

(c) Any wood chips or fibers or other organic substances and any inorganic substances recovered from forest wood waste or produced as byproducts of processing wood.

(3) "Incentives" means any tax exemption, tax credit, tax exclusion, tax deduction, rebate, investment, contract, or grant made available by the state to directly support the purchase of forestry products. "Incentives" shall not mean any such benefit available under statutorily provided programs including Louisiana Quality Jobs Program Act (R.S. 51:2451, et seq.), Louisiana Enterprise Zone Act (R.S. 51:1781, et seq.), Industry Assistance (R.S. 47:4301, et seq.), Industrial Tax Exemption (La. Const. Art. VII, Sec. 21(F), Economic Development Award Program (R.S. 51:2341), Economic Development Loan Program (R.S. 51:2312), Tax Equalization (R.S. 47:3201, et seq.), Rapid Response Fund (R.S. 51:2361), and Mega-Project Development Fund (R.S. 51:2365).

Acts 2009, No. 352, §1, eff. July 6, 2009.

§4424. Distribution of incentives and funds

Incentives to directly support the purchase of forestry products shall be approved by the commissioner through a fair and equitable process prior to being awarded. The process shall be open to individuals and both new and existing partnerships, corporations, associations, or other legal entities.

Acts 2009, No. 352, §1, eff. July 6, 2009.

§4425. Rules and regulations

The commissioner and the secretary of the Department of Economic Development shall jointly promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs, for the administration and enforcement of this Part.

Acts 2009, No. 352, §1, eff. July 6, 2009.

CHAPTER 29. DISPARAGEMENT OF AGRICULTURAL OR AQUACULTURAL PRODUCTS

§4501. Legislative findings

The legislature hereby finds, determines, and declares that the production of agricultural and aquacultural food products constitutes an important and significant portion of the state economy and that it is beneficial to the citizens of this state to protect the vitality of the agricultural and aquacultural economy by providing a cause of action for producers of perishable agricultural food products to recover damages for the disparagement of any perishable agricultural or aquacultural food product.

Acts 1991, No. 972, §1.

§4502. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "Disparagement" means dissemination to the public in any manner of any false information that the disseminator knows or should have known to be false, and which states or implies that a perishable agricultural or aquacultural food product is not safe for consumption by the consuming public. Such information is presumed to be false when not based upon reasonable and reliable scientific inquiry, facts, or data.

(2) "Perishable agricultural or aquacultural food product" means any food product of agriculture or aquaculture which is sold or distributed in a form that will perish or decay beyond marketability within a period of time.

Acts 1991, No. 972, §1.

§4503. Cause of action; recovery of damages

Any producer of perishable agricultural or aquacultural food products who suffers damage as a result of another person's disparagement of any such perishable agricultural or aquacultural food product has a cause of action for damages, and for any other appropriate relief in a court of competent jurisdiction.

Acts 1991, No. 972, §1.

§4504. Limitations of action

Any civil action for damages for disparagement of perishable agricultural or aquacultural food products shall be commenced within one year after the cause of action accrues.

Acts 1991, No. 972, §1.

CHAPTER 30. LOUISIANA WEIGHTS AND MEASURES LAW

PART I. GENERAL

§4601. Short title

This Chapter may be cited as the "Louisiana Weights and Measures Law".

Acts 1992, No. 55, §1.

§4602. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "Bulk transfer" means any transfer of motor fuel from one location to another by pipeline tender or marine delivery within a bulk transfer/terminal system, including but not limited to the following:

(a) A marine vessel movement of motor fuel from a refinery or terminal to a terminal.

(b) Pipeline movements of motor fuel from a refinery or terminal to a terminal.

(c) Book transfer of motor fuel within a terminal between licensed suppliers prior to completion of removal across the rack.

(d) Two-party exchange between licensed suppliers or between licensed suppliers and permissive suppliers.

(1.1) "Certificate of conformance" means a document issued by the National Institute of Standards and Technology, or any successor, based on testing in participating laboratories. The document constitutes evidence of conformance of a type with the requirements of National Institute of Standards and Technology Handbooks 44, 105-1, 105-2, or 105-3, or conformance with the requirements of any handbook that may supersede the named handbooks.

(2) "Commercial weighing and measuring device" means any weight, measure, or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, time, distance, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure. Except as otherwise provided, the term shall include scales, weighing devices, and metering and measuring devices commercially used for determining the weight or amount of petroleum products. It shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects the accuracy of the device.

(3) "Commission" means the Commission of Weights and Measures.

(4) "Commissioner" means the commissioner of the Department of Agriculture and Forestry, or his duly authorized representatives acting at his discretion.

(5) "Commodity" means any service or item, or any combination of items, forming a distinctive product, sold in commerce which is affected by any determination of weight, measure, or count.

(6) "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this Chapter.

(7) "Department" means the Louisiana Department of Agriculture and Forestry.

(8) "Director" means the director of weights and measures appointed by the commissioner.

(9) "Net weight" means the weight of the commodity excluding any materials, substances, or items not considered to be part of the commodity. Materials, substances, or items not considered to be part of the commodity include but are not limited to containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons, except that, depending on the type of service rendered, packaging materials may be considered to be part of the service. For example, the service of shipping includes the weight of packaging materials.

(10) "Package" means any commodity packed or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(11) "Person" means both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies, and associations.

(12) "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

(12.1) "Petroleum product" means any refined hydrocarbon mixture including motor oil, kerosene, gasoline, gasohol, diesel fuel, aviation fuel, heating kerosene, and any blend of two or more refined hydrocarbon mixtures except liquefied petroleum gas and natural gas.

(12.2) "Position holder" means the person who holds the inventory position in motor fuel in a terminal as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal.

(13) "Rack" means a mechanism for delivering motor fuel from a refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank car, or other means of transfer that is outside the bulk transfer/terminal system.

(13.1) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages or the same commodity with no fixed pattern of weights.

(14) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

(14.1) "Seagoing vessel" means a commercial ship, vessel, or barge of greater than fifty gross tons or ships, vessels, or barges in possession of an exemption certificate issued under the provisions of R.S. 47:305.1.

(15) "Secondary standards" means the physical standards that are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations.

(16) "Sell or sale" includes barter and exchange.

(17) "Service provider" means any person who, for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions any commercial weighing or measuring device and is registered under this Part.

(18) "Service person" means any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions any commercial weighing or measuring devices and is registered under this Part.

(19) "Standard package" means a package that is one of a lot, shipment, or delivery, or packages of the same commodity with identical net contents declarations.

(19.1) "Vehicle tank" means any vehicle tank, tank truck, tank wagon, or any other container in which gasoline, motor fuel, or any other petroleum products are transported in this state.

(19.2) "Weighmaster" means any person who weighs, measures, or counts any commodity and issues a certificate of weight, measure, or count, except retailers who weigh, measure, or count commodities for sale at retail directly to consumers, or a person engaged in the business of public weighing or measuring for hire.

(20) "Weight" as used in connection with any commodity means net weight; except where the label declares that the product is sold by drained weight, the term means net drained weight.

(21) "Weights, measures, and weighing and measuring devices" includes all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, scanners or scanning devices that determine product identity and price at the point of sale, and any appliances and accessories connected with any such instruments. However, it does not include or refer to devices used to meter or measure, other than by weight, water, natural or manufactured gas, or electricity.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003; Acts 2004, No. 47, §1, eff. May 21, 2004; Acts 2010, No. 495, §1, eff. June 24, 2010.

§4603. Commission of Weights and Measures

A. The Louisiana Commission of Weights and Measures is hereby created within the Department of Agriculture and Forestry. The commission shall be domiciled in Baton Rouge, Louisiana.

B. The commission shall consist of the following ten members appointed by the commissioner as follows:

(1) One representative of retail trades involving sales by weight, measure, or count who shall be appointed by the commissioner from a list of three nominees submitted by the Louisiana Retail Association.

(2) One representative of agricultural industries involving sales by weight, measure, or count.

(3) One representative who shall be appointed by the commissioner from a list of three nominees submitted by the Louisiana Restaurant Association.

(4) One representative of nonagricultural manufacturing, processing, packing, or distribution industries which are commercial weighing and measuring device users.

(5) One representative of commercial weighing and measuring device sales and service industries.

(6) Two representatives of consumers appointed from the state at large.

(7) One representative who shall be appointed by the commissioner from a list of three nominees submitted by the Louisiana Ag Industries Association.

(8) One representative who shall be appointed by the commissioner from a list of three nominees submitted by the Louisiana Livestock Markets Association.

(9) One representative who shall be appointed by the commissioner from a list of three nominees submitted by the Louisiana Oil Marketers and Convenience Stores Association.

C. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

D. Members shall be appointed for terms concurrent with the term of the commissioner of agriculture and forestry. However, members shall serve until their successors in office are appointed and qualified.

E. Any vacancy shall be filled in the same manner as the original appointment for the unexpired portion of the term of the office vacated.

F. A majority of the members of the commission present at a meeting shall constitute a quorum for the transaction of business. All official actions of the commission shall require the affirmative vote of a majority of the members of the commission present.

G. Members of the commission shall not receive any salary for their duties as members. Members may receive a per diem for each day spent in actual attendance of meetings of the commission or of duly appointed committees or subcommittees of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. Members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

H. The commission shall meet two times per year and may meet on the call of the chairman or upon the request of three members or the director.

I. The commission shall employ a director and an assistant director, who shall be appointed by the commissioner, subject to Senate confirmation. The director and assistant director shall be in the unclassified service. The commissioner may employ such other personnel of the commission as he deems appropriate. All employees of the commission shall comprise the division of weights and measures in the department and shall be under the direction and supervision of the commissioner.

J. Employees of the commission shall possess the authority and powers of the commission and the commissioner when implementing the provisions of this Chapter.

Acts 1992, No. 55, §1; Acts 2003, No. 117, §1, eff. July 1, 2003; Acts 2009, No. 24, §1, eff. June 12, 2009.

§4604. Powers

A. The commission shall have the following powers:

(1) To hold hearings and conduct investigations.

(2) To advise the commissioner of the requirements for the registration of weights, measures, and weighing and measuring devices.

(3) To hold hearings on alleged violations of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter.

(4) To advise the commissioner on the civil penalties to be imposed or the injunctive relief to be sought to punish and restrain violations of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter.

(5) To recommend that the commissioner suspend or revoke licenses, certificates, and permits, or impose probation on holders of licenses, certificates, or permits.

(6) To approve examination required for the licensure of service agencies or service persons.

B. The commissioner shall have the following powers:

(1) To issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale.

(2) To seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, or measure, or a reasonable number of the packages or a reasonable quantity of the commodity found to be used, retained, offered, or exposed for sale or sold in violation of the provisions of this Chapter or of the rules and regulations adopted under the provisions of this Chapter.

C. The commissioner may enter into a cooperative endeavor or cooperative agreement with any other governmental agency or entity as he deems necessary to further the public purposes of this Chapter.

Acts 1992, No. 55, §1.

§4605. Adjudicatory hearings

A. All adjudicatory hearings held by the commission shall be conducted in accordance with the following provisions:

(1) The commissioner shall convene the commission for the purpose of hearing the matter.

(2) The commissioner shall appoint a hearing officer who shall preside over the hearing.

(3) The commissioner may issue subpoenas to compel the attendance of witnesses or the production of documents and records anywhere in the state in any hearing before the commission.

(4) The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

(5) The commission shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(6) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the commission, the commissioner shall issue a written opinion based on the record of the hearing.

(7) Except as otherwise provided in this Paragraph, appeals from rulings of the commissioner shall be taken in accordance with the provisions of the Administrative Procedure Act. Notwithstanding the provisions of R.S. 49:964(B), any appeal from a determination of the commission or the commissioner, when filed in forma pauperis, shall be by civil proceedings in the district court for the parish in which the violation occurred.

B. Whenever the commissioner revokes, suspends, or imposes a probation on a license, certificate, or permit, the holder of such license, certificate, or permit shall be informed of the ruling by certified mail.

Acts 1992, No. 55, §1.

§4606. State standards; supply of copies

A. The weights and measures received from the United States under joint resolution of congress approved June 14, 1836 and July 27, 1866, and any weights and measures in conformity therewith applied by the state shall, when they have been certified by the National Institute of Standards and Technology, be the state standard of weights and measures. These state standards shall be submitted to the National Institute of Standards and Technology for certification as often as required by that institute.

B. The state shall supply as many copies of the state standards of weights and measures and as many other weights, measures, and apparatus as are necessary for enforcement personnel to enforce the provisions of this Chapter.

Acts 1992, No. 55, §1.

§4607. Inspection and testing; entry upon premises

A. The department shall keep a general supervision over the weights, measures, and weighing and measuring devices offered for sale, sold, and in use in the state. When not otherwise provided by law, the department may inspect, test, and try all weights, measures, and weighing or measuring devices used, kept, offered, or exposed for sale, in order to ascertain whether or not they are correct.

B. At least once a year and more often if it thinks necessary, the department shall so inspect, test, and try all commercial weighing or measuring devices.

C. From time to time, the department shall weigh or measure and inspect packages or amounts of commodities of whatever kind kept for the purpose of sale, offered or exposed for sale, or sold in the process of delivery, in order to determine whether they contain the amounts represented and whether they are offered for sale or sold in a manner in accordance with law.

D. The department may, for the purposes mentioned in this Section and in the general performance of its official duties, enter and go upon, without formal warrant, any stand, place, building, or premises, or stop any person and require him, if necessary, to proceed, with or without any vehicle involved, to some place which the department may specify.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003.

§4608. Rules and regulations; standard for apparatus

A. The commissioner may adopt rules and regulations for the implementation and enforcement of the provisions of this Chapter. The regulations may, by specific reference, adopt all or part of any handbook, standards or procedures issued or established by the National Institute of Standards and Technology, the American Society for Testing and Materials, their successors, or any other federal or nonprofit agency that prepares and issues nationally recognized standards for commercial weighing and measuring devices. The regulations may include standards of net weight, net measure, or net count for any commodity, product, or article, and specifications and tolerances for all weights, measures, and weighing and measuring devices. These specifications and tolerances shall be designated to eliminate from use, without prejudice to apparatus which conform as closely as practicable to the official standards, those which are not accurate, those which are faulty in that they are not reasonably permanent in their adjustment or will not repeat their indications correctly, and those which facilitate the perpetration of fraud.

B. For purposes of this Chapter, apparatus are correct when they conform to all applicable requirements promulgated as specified in this Section. Other apparatus are incorrect.

C. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003.

§4609. Approval or disapproval of apparatus; procedure

A. Whenever the department compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in its possession, it shall seal or mark the weights, measures, or weighing or measuring devices with appropriate devices.

B. The department shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring devices which, in its best judgment, are not susceptible of satisfactory repair. If the apparatus is incorrect and yet, in its best judgment, may be repaired, the department shall mark or tag it as condemned for repairs.

C. The owners or users of any weights, measures, or weighing or measuring devices which are condemned for repairs shall have them repaired and corrected within a reasonable period specified by

the department. During that time, the owners or users may neither use nor dispose of the apparatus in any way, but shall hold it at the disposal of the department.

D. Any weights, measures, or weighing or measuring devices which have been condemned for repairs and have not been repaired shall be confiscated by the department.

E. The department may require any weight, measure, or any weighing or measuring device to be issued a certificate of conformance prior to use for commercial or law enforcement purposes.

Acts 1992, No. 55, §1.

§4610. Removal of tag unlawfully

No one shall remove from any weight, measure, or weighing or measuring device, contrary to law or regulation, any tag placed thereon by the department.

Acts 1992, No. 55, §1.

§4611. Use of unsealed instruments

No one shall use or have in his possession any commercial weighing or measuring device which has not been sealed by the department at its direction, within the year prior thereto, unless written notice has been given to the department to the effect that the commercial weighing or measuring device is available for examination or is due for re-examination, as the case may be.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003.

§4612. False device prohibited

A. No one shall use, sell, hire, offer, or expose for sale or hire, or have in possession for the purpose of using, selling, or hiring a false weight, measure, or weighing or measuring device or any device to be used or calculated to falsify any weight or measure.

B. No one shall use, sell, hire, offer, or expose for sale or hire, any incorrect commercial weighing or measuring device.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003.

§4613. Commodities in package form; stamping of weight or measure; standard fill

A. No one shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form unless the net quantity of the contents is plainly and conspicuously marked on the outside of the package, in terms of weight, measure, or numerical count. A box or carton used for shipping purposes containing a number of packages which are individually marked as provided in this Subsection need not be so marked itself.

B. No one shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or if it is so wrapped as to mislead the purchaser as to the quantity of the contents, or if the contents of its container fall below the standard of fill prescribed by rules or regulations promulgated as provided in this Section.

C. The commissioner may adopt rules and regulations, in accordance with the Administrative Procedure Act, fixing and establishing, for any commodity in package form, a reasonable standard of fill of containers in order to effectuate the purposes of this Section.

D. There is no violation of this Chapter if a discrepancy between the actual weight or volume at the time of sale to the consumer and the weight marked on the container, or between the fill of the container and the capacity of the container, is due to unavoidable leakage, shrinkage, evaporation, or waste, or to causes beyond the control of the vendor acting in good faith.

E. As used in this Section, the words "in package form" include a commodity in a package, carton, case, can, box, barrel, bottle, phial, or other receptacle, or in coverings or wrappings of any kind, packed by the manufacturer or when packed prior to the order of the commodity by the vendor, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The term shall include both the wholesale and the retail package.

Acts 1992, No. 55, §1.

§4614. Net weights of cereals; exceptions

A. No one shall pack for sale, keep for the purpose of sale, offer or expose for sale, or sell any of the following commodities except in containers of net avoirdupois weights of two, five, ten, twenty-five, fifty, one hundred, and multiples of one hundred pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, hominy, and hominy grits.

B. The provisions of this Section do not apply to:

- (1) The retailing of flours, meals, hominy, and hominy grits direct to the consumer from bulk stock.
- (2) The sale of flours and meals to commercial bakers or blenders in containers of more than one hundred pounds.
- (3) The sale of flours and meals for export.
- (4) Flours, meals, hominy, and hominy grits packed in cartons containing five pounds or less net.
- (5) The exchange of wheat for flour by mills grinding for toll.

Acts 1992, No. 55, §1.

§4615. Meat, poultry, fish, and seafood; ready-to-eat food

A. Meat, poultry, fish, and seafood shall be sold by weight, except the whole shellfish in the shell may be sold by weight, measure, or count. Shellfish are aquatic animals having a shell, such as mollusks, which includes scallops, or crustaceans, which includes lobster and shrimp.

B. The following may be sold by weight, measure, or count:

- (1) Items sold for consumption on the premises.
- (2) Items sold as one of three or more different elements, excluding condiments, comprising a ready-to-eat meal sold as a unit, for consumption elsewhere than on the premises where sold.
- (3) Ready-to-eat chicken parts cooked on the premises but not packaged in advance of sale.
- (4) Sandwiches when offered or exposed for sale on the premises where packed or produced and not intended for resale.

Acts 1992, No. 55, §1.

§4616. Net weight employed in all sales; exemptions

A. Whenever any commodity is sold on the basis of weight, only the net weight of the commodity shall be employed in the sale. All contracts concerning goods sold on a basis of weight shall be understood and construed accordingly.

B. Rope and twine and cordage products may be marked and sold under this Chapter according to gross weight, under rules and regulations adopted by the commissioner consistent with trade practices existing in the rope and twine industry.

Acts 1992, No. 55, §1.

§4617. Fraud by vendors or by purchaser

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

B. No one shall take more than the quantity represented of any commodity, thing, or service, when, as buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity, thing, or service is determined.

C. No one shall misrepresent the name, or type of any fruit, vegetable, grain, meat, or fish, including catfish, sold, or offered or exposed for sale, to any actual or prospective consumer. "Catfish" shall mean only those species within the family of Ictaluridae, Ariidae or Loricariidae.

D. No person shall advertise, sell, offer or expose for sale, or distribute food or food products as "Cajun", "Louisiana Creole", or any derivative thereof unless the food or food product would qualify for the ten percent preference for products produced, processed, or manufactured in Louisiana under R.S. 38:2251 and R.S. 39:1595. Food brought into and processed in Louisiana shall not be considered as food or food products made in Louisiana, for purposes of this Section, unless the food has been substantially transformed by processing in Louisiana.

E. No person shall advertise, sell, offer or expose for sale, or distribute food or food products that do not qualify under this Section for labeling as "Cajun", "Louisiana Creole", or any derivative thereof in any packaging that would lead a reasonable person to believe that the food or food product qualifies as "Cajun" or "Louisiana Creole" food or food products, as defined in this Section.

F.(1) The legislature hereby finds, determines, and declares that the terms "Cajun" and "Louisiana Creole" are terms that refer to the unique and distinctive culture and lifestyle that originated in, are connected with, and have continued to flourish in a region within the state of Louisiana.

(2) The legislature hereby finds, determines, and declares that the terms "Cajun" and "Louisiana Creole," when used in commerce in connection with goods, including agricultural goods or services refer to, and are generally recognized and accepted by Louisiana, national, and foreign consumers as referring to, originating in or being substantially connected with the state of Louisiana and the unique and distinctive culture and lifestyle that originated in, are connected with and have continued to flourish in a region within the state of Louisiana.

(3) The legislature hereby finds, determines, and declares that the use of the terms "Cajun" and "Louisiana Creole," when used in commerce in connection with goods, including agricultural goods or services that do not originate in, are not substantially connected with, or are not substantially transformed in the state of Louisiana, or in or with that unique and distinctive Cajun culture and lifestyle that originated in, are connected with, and have continued to flourish in a region within the state of Louisiana, are primarily geographically deceptively misdescriptive and are likely to cause confusion, mistake, or deception as to the origin, sponsorship, affiliation, connection or approval of said goods or services in, by, with or of the state of Louisiana.

(4) No person shall, on or in connection with any goods, including agricultural goods, or services, or any container for goods including agricultural goods, use in commerce the terms "Cajun" or "Louisiana Creole" or any derivative or combination thereof, in any manner which (a) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with the state of Louisiana, or as to the origin, sponsorship, or approval of such person's goods, including agricultural goods, services, or commercial activities in or by the state of Louisiana; or (b) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of said person's or another person's goods, including agricultural goods, services or commercial activities.

Acts 1992, No. 55, §1; Acts 2002, 1st Ex. Sess., No. 125, §1, eff. April 23, 2002; Acts 2003, No. 1257, §1, eff. July 7, 2003; Acts 2004, No. 9, §1, eff. May 6, 2004; Acts 2006, No. 661, §1, eff. June 29, 2006; Acts 2010, No. 16, §1, eff. May 26, 2010.

§4618. Sales contrary to law prohibited

No one shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law.

Acts 1992, No. 55, §1.

§4619. Observation by customer of weighing or measuring devices

No one shall use in retail trade, except in the preparation of packages packed in advance of sale, a weighing or measuring device which is not so positioned that its indications may be accurately read and the weighing and measuring operation observed from some position which may reasonably be assumed by a customer.

Acts 1992, No. 55, §1.

§4620. Hindering, obstructing, or impersonating prohibited

No one shall hinder or obstruct the department in any way in the performance of its official duties. No one shall impersonate in any way the commissioner, his inspectors, or the director.

Acts 1992, No. 55, §1.

§4621. Service agency; service person; weighmaster; registration; requirements

A. No person may operate as a registered service agency, a registered service person, or as a weighmaster until he is licensed as such as provided for in this Section. The commissioner shall issue the appropriate license applied for by an applicant if the applicant provides evidence satisfactory to the commissioner that the applicant:

(1) Has a thorough working knowledge of all appropriate weights and measures laws, orders, rules, and regulations, as determined by the successful completion of a commission approved and department prescribed examination.

(2) Has possession of, or available for use, weights and testing equipment appropriate in design and adequate in amount.

B. An application for such license shall be submitted by the applicant to the department on a form prescribed and furnished by the department and shall be accompanied by the fee prescribed by this Chapter. Each license shall be issued by the department for the calendar year for which such license is requested and it shall contain, among other information, a license number. Each license must be renewed each calendar year by submission of a request for renewal on a form prescribed and furnished by the department and accompanied by the applicable fee.

C. Minimum test weights, test loads, volumetric provers, and volumetric test measures needed to service and repair commercial weighing and measuring devices shall be equal to the test weights, test loads, volumetric provers, and volumetric test measures established by regulations adopted by the commissioner. The minimum test weights, test loads, volumetric provers, and volumetric test measures adopted by the commissioner must be as stringent as those recommended by the National Institute of Standards and Technology, or its successor.

D. All persons who install, service, or repair commercial weighing or measuring devices in this state shall submit the test weights, volumetric provers, and volumetric test measures to the department's State Metrology Laboratory for approval each year. A current certificate of approval, issued by another state having a National Institute of Standards and Technology certified laboratory, which specifically identifies the test weights, volumetric provers, and volumetric test measures may be accepted in lieu of submitting weights, volumetric provers, and volumetric test measures.

E. Each person who engages in activities which are required by the commissioner to be under the control and supervision of a licensed weighmaster shall employ at least one licensed weighmaster for each shift at each place of business where such activities are conducted.

F. Each licensed service agency or service person shall, within ten days after installing, servicing, repairing, testing, or calibrating any commercial weighing or measuring device, make a report thereof to the department on the appropriate form provided by the department.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003.

§4622. Fees; Weights and Measures Fund

A. Each commercial weighing and measuring device which is subject to the jurisdiction of the department shall be registered annually with the department in accordance with rules and regulations adopted by the commissioner.

B. The registration fee for each commercial weighing and measuring device shall be as follows:

(1) Category 1--zero to 1,000 pounds weight \$35.00

(2) Category 2--over 1,000 to 10,000 pounds
weight \$80.00

(3) Category 3--over 10,000 pounds weight \$185.00

(4) The registration fee of any other commercial weighing and measuring device shall be as established in a fee schedule adopted by the commissioner. The fee rates shall be based on the cost of the work performed.

C. Each weighmaster who is licensed by the commission shall pay an annual license fee of seventy-five dollars.

D. The commissioner shall adopt, by rule, the fees charged for weighing and measuring services performed by the department, including those services performed by the department's State Metrology Laboratory. The fee rates shall be based on the cost of the work performed.

E. The registration fee for each service agency shall be one hundred dollars. The registration fee for each service person shall be fifty dollars.

F. *Repealed by Acts 2003, No. 139, §3, eff. May 28, 2003.*

G.(1) There is hereby created, as a special fund in the state treasury, the Weights and Measures Fund. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall pay an amount equal to the amount received by the state treasury from all assessments, fees, penalties, and other funds received under the provisions of this Chapter into the fund. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The treasurer shall invest the monies in the fund in the same manner as monies in the state general fund. All interest earned from investment of monies in the fund shall be deposited in the fund.

(2) Subject to annual appropriation by the legislature, the monies in the fund shall be used solely to provide for the expenses of the program established by this Chapter and to the carrying out of the powers, duties, functions, and responsibilities of the commission and the commissioner under the provisions of this Chapter.

Acts 1992, No. 55, §1; Acts 2003, No. 117, §1, eff. July 1, 2003; Acts 2003, No. 139, §§1 and 3, eff. May 28, 2003.

§4623. Exemption from Chapter

A. This Chapter does not in any way apply to or affect the provisions pertaining to the Liquefied Petroleum Gas Commission or the storage, handling, sale, transportation, or distribution of liquefied petroleum gas and the measures used in connection therewith as provided in R.S. 40:1841 et seq.

B. This Chapter does not apply to platform scales used solely for safety purposes in connection with the distribution of liquefied petroleum gas; however, this does not prevent the department from entering into any cooperative endeavor or cooperative agreement with the Liquefied Petroleum Gas Commission to certify or register such scales.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003; Acts 2004, No. 47, §1, eff. May 21, 2004.

§4624. Penalty

A. A violator of any provisions of this Chapter or of any rule or regulation adopted under the provisions of this Chapter shall be subject to a civil penalty of not more than five hundred dollars for each act of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Chapter, or of the rules and regulations adopted under the provisions of this Chapter, in the district court for the parish in which the violation occurred.

Acts 1992, No. 55, §1; Acts 2003, No. 139, §1, eff. May 28, 2003.

PART II. PARTICULAR PRODUCTS**SUBPART A. OYSTERS****§4631. Oyster labeling and packaging; sale of shell stock oysters**

A. Oyster meats may be sold by fluid volume or net drained weight at wholesale or retail. Oyster meats may also be sold by count at retail but only at the time of final sale. Prepackaging of oysters being sold by count is prohibited unless the prepackaged item itself is labeled with the net weight of oyster meat contained in such package.

B. Shell stock oysters shall be sold by volumetric measure, weight, or count. All oysters sold by volumetric measure, weight, or count shall be market size and wholesome.

C. Oysters removed from the shell shall be labeled clearly by volume or weight.

D. Any person packaging, labeling, or distributing shucked oysters shall follow the guidelines set forth in the NIST Handbook 130 adopted by the National Conference on Weights and Measures.

E. Oysters shall be shucked and prepackaged only in facilities which are certified by the Department of Health and Hospitals.

F. This Section shall not apply to those oysters which are shucked in a restaurant for immediate consumption on the premises.

Acts 1992, No. 55, §1; Acts 1995, No. 379, §1; Acts 2004, No. 213, §1; Acts 2014, No. 217, §1.

§4632. Inspection and stamping of basket

Each basket may be inspected by the commissioner as provided for in Part I of Chapter 30 of Title 3 and the accuracy of the measure stamped thereon.

Acts 1992, No. 55, §1.

§4633. Inspection of sacks and barrels; standards contents

A. The department may also inspect the sacks and barrels in which the oysters arrive.

B. Each sack of oysters shall contain one basket; each barrel shall contain two baskets. Sacks and barrels shall contain correct measurements at the time of delivery to the consignee, buyer, or importer and at the time of delivery to any subsequent buyer after arrival.

Acts 1992, No. 55, §1.

§4634. Duty of having baskets and oysters inspected

All buyers, sellers, importers, and exporters of oysters may, upon arrival have their baskets inspected and stamped and the oysters inspected and measured, in accordance with R.S. 3:4632 and 4633.

Acts 1992, No. 55, §1.

§4635. Powers of inspectors

The inspecting officer may board any boat arriving with oysters in order to make the inspection and measurement provided by this Subpart and to ascertain the number of sacks, barrels, and baskets arriving and the names and addresses of the sellers, exporters, consignors, buyers, importers, and consignees of the oysters to be inspected and measured and the quantity consigned to each buyer, importer, and consignee, and any other information necessary to perform the duties imposed upon him by law. The owner or other person in charge of the boat or of its manifest shall produce the manifest and allow him to examine it, if he so demands.

Acts 1992, No. 55, §1.

§4636. Certificate of inspection

The department may issue a certificate of inspection and measurement after its inspection. This certificate is prima facie evidence of the inspection and measurement of the oysters under the provisions of this Subpart.

Acts 1992, No. 55, §1.

§4637. Penalty

A. A violator of any provisions of this Subpart or of any rule or regulation adopted under the provisions of this Subpart shall be subject to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Subpart, or of the rules and regulations adopted under the provisions of this Subpart, in the district court for the parish in which the violation occurred.

Acts 1992, No. 55, §1.

SUBPART B. SAW LOGS

§4641. Standard rule for measuring saw logs

A. The standard rule or scale for the measurement of saw logs in this state is the Doyle Log Rule.

B. The procedure for using the Doyle Log Rule is as follows:

Deduct four inches from the top diameter of the log inside the bark as an allowance for slab and edging. Square one-quarter of the remainder and multiply by the length of the log in feet. The result is the contents in board feet.

C. The formula and values for the Doyle Log Rule are as follows:

(1) The formula is:

$$B.M.=D-4/4^2 \% 2 XL$$

(2) The values for the elements of the formula are as follows:

(a) "B.M." is the volume in board feet.

(b) "D" is the top diameter of the log inside the bark in inches.

(c) "L" is the length of the log in feet.

Acts 1992, No. 55, §1.

§4642. Use of any other rule or scale; penalty

A. No person shall compute the measurement of saw logs for severance tax purposes or for settlement of disputes by any other rule or scale than the Doyle Log Rule.

B. Whoever violates the provisions of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than sixty days, nor more than one year, or both.

Acts 1992, No. 55, §1.

SUBPART C. FARM-RAISED CATFISH

§4651. Weight determination procedures

A. Any processor engaged in the processing, handling, storing, preparing, manufacturing, packing, or holding of farm-raised catfish or catfish products shall weigh the catfish or catfish products as they are unloaded from the live haul truck at the processing plant.

B. All water shall be drained from the weighing baskets before the catfish or catfish products are weighed. No deductions for water in the weighing baskets shall be made.

Acts 1992, No. 55, §1.

§4652. Weighing devices

A. A weighing device which has been approved by the department and which is of a type suitable for the weighing of farm-raised catfish or catfish products shall be used.

B. The weighing ticket shall include but is not limited to the following:

(1) The name and address of the processor.

(2) The name of the producer of the catfish or catfish products being weighed.

(3) The date the catfish or catfish products are weighed.

(4) The signature of the individual who weighed the catfish or catfish products.

(5) Any additional information the commissioner of agriculture and forestry deems necessary for the lawful and accurate recording of the weight of farm-raised catfish or catfish products.

C. Copies of all weight tickets shall be furnished to the producers along with settlement sheets.

Acts 1992, No. 55, §1.

SUBPART D. SHRIMP

§4661. Count determinations for shrimp

Shrimp may be sold by count if the size of the shrimp in a container is within the specified count size listed on the container or invoice. Except as otherwise provided by this Section, shrimp shall be sold in accordance with the provisions of R.S. 3:4615.

Acts 2001, No. 394, §1.

SUBPART E. PETROLEUM PRODUCTS

§4671. Sale at retail of petroleum products; failing to meet specifications prohibited

No person shall sell at retail any petroleum product in a manner that fails to comply with law or regulations promulgated by the commissioner. The commissioner's authority to promulgate such regulations is conferred hereby. Nothing in this Subpart shall be construed as regulating the purchase or sale of petroleum products as medicants, germicides, insecticides, or cleaning fluids.

Acts 2003, No. 139, §1, May 28, 2003; Acts 2004, No. 47, §1, eff. May 21, 2004.

§4672. Measuring devices; calibration of vehicle tanks; application of Subpart; removal or change of markings unlawful; certificate of calibration

A. No person shall use any commercial weighing or measuring device in the distribution, handling or sale of petroleum products unless it is true and accurate. The standard of weights and measures applied to commercial weighing and measuring devices shall be those adopted by the commissioner in regulations promulgated pursuant to this Chapter. The standard of weights and measures adopted by the commissioner shall be as stringent as those standards issued by the National Institute of Standards and Technology, the American Society for Testing and Materials, their successors, or any other federal or nonprofit agency that prepares and issues nationally recognized standards for weighing or measuring petroleum products.

B. It shall be the duty of the commissioner to seal and forbid the use of any inaccurate commercial weighing or measuring device until such time as the defect is corrected. The breaking of this seal shall be prima facie evidence of a violation of this Subpart. No person shall refuse to permit the commissioner

to inspect and seal, if deemed necessary, any such commercial weighing or measuring device, or break the seal after being placed on the device.

C. For the purpose of strengthening and making the administration of this Subpart more effective, the commissioner is authorized to require, under regulation promulgated by him, the measuring, calibration, and determination of the capacity in gallons of any vehicle tank, as defined herein, and to require every person to produce evidence of this calibration when deemed necessary.

D. The provisions of this Subpart are not applicable to carriers-for-hire operating under valid permits or certificates of convenience or necessity issued by the Louisiana Public Service Commission and not engaged in transporting gasoline, motor fuel, or any other petroleum products for the purpose of sale, use, or consumption within this state, and persons operating motor busses under franchises or licenses issued by municipalities.

E. No person shall sell, withdraw, or distribute petroleum products from a vehicle tank or from any fuel tank or auxiliary fuel tank for the purpose of distribution or sale, unless the vehicle tank has been measured and calibrated under the provisions of this Subpart. The failure of the owner of any vehicle tank, after notice by the commissioner in accordance with regulations promulgated by him, to submit a vehicle tank for measuring, calibrating, and determining capacity or for inspection under said regulations shall constitute a violation of this Subpart.

F. Proof of the fact that a vehicle tank has been measured and calibrated in compliance with this Subpart shall be a certificate issued by a licensed service agency.

G. *Repealed by Acts 2004, No. 47, §2, eff. May 21, 2004.*

Acts 2003, No. 139, §1, eff. May 28, 2003; Acts 2004, No. 47, §2, eff. May 21, 2004.

§4673. Petroleum product specifications

A. Each type of petroleum product governed by this Subpart and sold or distributed in Louisiana shall meet the specifications established by the commissioner, in regulations promulgated in accordance with this Subpart, for that type of petroleum product.

B. The specifications established by the commissioner shall, at a minimum, conform to the following:

(1) All requirements imposed by federal law or regulations.

(2) Labeled octane, volatility, and other requirements established by the American Society for Testing and Materials, the National Institute of Standards and Technology, their successors, or any other federal or nonprofit agency that prepares and issues nationally recognized standards for establishing octane, volatility, and other requirements for petroleum products.

C. No person shall sell any petroleum product which does not meet the specifications adopted by the commissioner in accordance with this Section unless authorized by the commissioner in regulations promulgated by him.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4674. Minimum ethanol and bio-diesel requirements

A. The legislature hereby finds and declares that the production and use of renewable fuels in Louisiana is a matter of grave public necessity and is vital to the economy of Louisiana. The use of renewable domestic fuels such as ethanol and bio-diesel will expand United States and Louisiana fuel supplies without increasing dependency on foreign oil. Expanding United States and Louisiana fuel supplies through the use of renewable domestic fuels will reduce consumer fuel prices and spur Louisiana's rural economy by increasing production and demand for agricultural raw materials such as

corn. Building plants and distribution centers to produce ethanol and bio-diesel will also serve as an economic boost for our agricultural community. Renewable domestic fuels such as ethanol help Louisiana's environment by providing a clean-burning, high-octane fuel that reduces automotive emissions. Therefore, the establishment of specifications for use of renewable fuels in Louisiana is a matter of public policy.

B. As used in this Section, the following terms shall have the meanings hereinafter ascribed to them:

(1) "Alternate renewable fuel" means liquid fuel that is domestically produced from renewable biomass which can be used in place of ethanol or bio-diesel and it must meet the definition of renewable fuel in the Energy Policy Act of 2005.

(2) For purposes of this Section, "bio-diesel" means:

(a) A fuel comprised of mono-alkyl esters of long chain fatty acids derived from renewable resources including but not limited to vegetable oils, waste grease, or animal fats, and meeting the requirements of the American Society for Testing and Materials (ASTM) D-6751, or

(b) A diesel fuel substitute produced from non-petroleum renewable resources (inclusive of vegetable oils and animal fats) that meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and any blending components derived from renewable fuel.

(3) "Ethanol" means an ethyl alcohol that has a purity of at least ninety-nine percent, exclusive of added denaturants, that adheres to all of the following standards:

(a) It has been denatured in conformity with a method approved by the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice, as specified in the Code of Federal Regulations, Title 27, Parts 20 and 21.

(b) It meets all the requirements of American Society of Testing and Materials (ASTM) D4806, the standard specification for ethanol used as a motor fuel.

(c) It is produced from domestic agricultural products or byproducts or other bio-mass materials including municipal solid waste.

C.(1) Within six months after monthly production of denatured ethanol produced in the state of Louisiana equals or exceeds an annualized production volume of fifty million gallons, two percent of the total gasoline sold by volume in the state shall be denatured ethanol produced from domestically grown feedstock or other bio-mass materials.

(2) The requirements set forth in Paragraph (1) of this Subsection may also be met through the production of an alternate renewable fuel but in no event shall such requirements exceed two percent of the total gasoline sold by volume by owners or operators of fuel distribution terminals.

D.(1) Within six months after monthly production of bio-diesel produced in the state of Louisiana equals or exceeds an annualized production volume of ten million gallons, two percent of the total diesel sold by volume in the state shall be bio-diesel produced from domestically grown feedstock.

(2) The requirements set forth in Paragraph (1) of this Subsection may also be met through the production of an alternate renewable fuel but in no event shall such requirements exceed two percent of the total diesel sold by volume by owners or operators of fuel distribution terminals.

E. Within six months after monthly production of an alternate renewable fuel capable of substituting for ethanol and bio-diesel produced in the state of Louisiana equals or exceeds an annualized production volume of twenty million gallons, two percent of the total motor fuel sold by volume in the state shall be the alternate renewable fuel produced from domestically grown feedstock but in no event shall such requirement exceed two percent of the total motor fuel sold by volume by owners or operators of fuel distribution terminals.

F. Blenders and retailers will have six months to meet the new minimum content requirements. Any combination of alternative fuels, including but not limited to denatured ethanol, bio-diesel and alternative renewable fuel may be used to meet the two percent requirements of Subsections C, D, and E of this Section. The Louisiana Commission of Weights and Measures may waive or extend the six-month time period upon a finding that the quality or supply of bio-diesel or ethanol is insufficient to allow blenders or retailers to meet the minimum content requirements, or upon a finding that the motor fuel distribution terminals are or will be unable to blend ethanol due to delays in obtaining permits or delays in construction or installation of ethanol blending or storage equipment for reasons beyond the control of the terminal owner or operator.

G. Aviation fuels are exempt from the minimum ethanol and bio-diesel requirements in this Section.

H. Fuels containing ethanol or bio-diesel shall not be required to be sold in ozone nonattainment areas.

I. Notwithstanding any provision of law to the contrary, retailers shall not be required to purchase or sell ethanol or bio-diesel in the state of Louisiana.

J. The commissioner shall adopt rules and regulations in accordance with the Administrative Procedure Act for purposes of enforcing and carrying out the provisions of this Section.

K. The commissioner shall adopt rules and regulations requiring incentives to compensate for any costs associated with achieving the minimum ethanol and bio-diesel standards.

Acts 2006, No. 313, §1, eff. June 12, 2006; Acts 2012, No. 811, §1, eff. July 1, 2012.

§4674.1. Biodiesel production; restaurant waste fats, oils, and grease

A. As provided in R.S. 3:4674, the production and use of renewable fuels, including biodiesel, in Louisiana is vital to the economy and environment of Louisiana. To further encourage and promote the production of biodiesel and avoid the unnecessary disposal of material that otherwise could be beneficially used within this state, the legislature hereby finds and declares that waste fats, oils, and grease generated by Louisiana restaurants should be used to produce biodiesel within Louisiana.

B. For purposes of this Section, the following terms shall have the meanings hereinafter ascribed to them unless the context clearly indicates otherwise:

(1) "Biodiesel" means bio-diesel as defined in R.S. 3:4674(B)(2).

(2) "Restaurant" means a food preparation establishment, including but not limited to a coffee shop, cafeteria, sandwich stand, fast food restaurant, or school cafeteria, that gives or offers for sale food to the public, guests, or employees, as well as a kitchen or catering facility in which food is prepared on the premises for serving elsewhere.

(3) "Waste fats, oils, and grease" means waste fats, waste cooking oils, grease trap wastes, and the like that are produced in restaurants.

C. Restaurants shall be encouraged to provide their waste fats, oils, and grease to biodiesel manufacturers. Moreover, restaurants shall be encouraged to gather, process, and store their waste fats, oils, and grease in a manner that facilitates the use of such waste fats, oils, and grease in the production of biodiesel.

D. The commissioner shall study and monitor the production of biodiesel within the state. When the annual capacity of biodiesel production facilities in Louisiana reaches twenty-five million gallons, the commissioner shall provide notice to all restaurants within the state, informing them that the annual capacity of biodiesel production facilities in Louisiana has reached twenty-five million gallons. In such notice, the commissioner shall further encourage each restaurant within this state to provide its waste fats, oils, and grease either directly to a biodiesel manufacturer or to a third party who shall provide such

waste fats, oils, and grease to a biodiesel manufacturer. The notice shall be provided by posting a copy of such notice on the department's website and mailing a copy of such notice to the Louisiana Restaurant Association. The Louisiana Restaurant Association, may disseminate the commissioner's notice to Louisiana restaurants in such manner as it deems appropriate.

Acts 2009, No. 217, §1, eff. June 30, 2009.

§4675. Containers or pumps from which petroleum products not conforming to specifications are sold, to be labeled

If any petroleum product which does not conform to the minimum specifications adopted by the commissioner in accordance with this Subpart is sold or dispensed in this state, the container or pump from which the petroleum product is to be dispensed shall be clearly, distinctly, and conspicuously labeled.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§§4676, 4677. *Repealed by Acts 2004, No. 47, §2, eff. May 21, 2004.*

§4678. Commissioner may take samples

The commissioner is authorized to take samples of all petroleum products and all substitutes for such petroleum products offered for sale, consumption, or distribution in this state. These samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, or from vehicle tanks used in the transporting of such products, or from any storage tank containing petroleum products intended for distribution, sale, or consumption in Louisiana.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4679. Record of products sold

Each dealer, distributor, or importer shall keep a full and complete record of petroleum products received, used, sold, or delivered within this state by him, together with invoices, bills of lading, and other pertinent records and papers as may be required by the commissioner for the reasonable administration of this Subpart until the taxes to which they relate have prescribed. All such records shall be opened for inspection to the commissioner at all reasonable hours.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4680. Commissioner, powers and duties

The commissioner is authorized to establish rules and regulations not inconsistent with the provisions of this Subpart for the purpose of properly enforcing this Subpart. It shall be his duty to faithfully and impartially enforce the provisions of this Subpart, and, for that purpose, he shall have full access, ingress and egress at all reasonable hours to any place where petroleum products are stored, transported, sold, or offered for sale. He is also authorized to open and inspect any case, package, or other container, tank, pump, vehicle tank, or storage tank. He may enter upon any barge, vessel, or other vehicle of transportation, and may take samples from any vehicle tank, not exceeding two litres or one-half gallon per sample, for analysis. He may, with instruments conforming to the weights and measures adopted by him in accordance with this Chapter, check any commercial weighing or measuring device or the volume or weight of contents of any tank, pump, vehicle tank, storage tank, or any other type of container. He is also authorized to inspect all books and records of manufacturers, common or contract carriers, or distributors of petroleum products which may be necessary for the proper enforcement of this Subpart. The commissioner is also authorized to deputize from time to time any sheriff, deputy sheriff, marshal, or other like officer in the state to take a specific sample, whose duty it shall be to send or deliver to the commissioner the sample taken.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4681. Analysis of petroleum products

The commissioner is authorized to prescribe reasonable rules and regulations and to employ the necessary methods for the proper testing and analyzing of all petroleum products sold or distributed for sale, use, or consumption in the state. To that end he is given all the power and authority conferred under this Chapter. All testing and analyzing shall be done in accordance with the procedures established by regulations adopted by the commissioner. The procedures adopted by the commissioner shall be based upon the procedures and standards established by the American Society for Testing and Materials, their successors, or any other federal or nonprofit agency that prepares and issues nationally recognized standards for weights, measures, and weighing and measuring devices or nationally recognized standards for establishing octane, volatility, and other requirements for petroleum products.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4682. Products not conforming to specifications, duty of commissioner

A. When the analysis of a sample of a petroleum product taken in conformity with the provisions of this Subpart discloses that the product from which the sample was taken does not conform to the specifications fixed by the commissioner it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subpart.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner may, by written notice, suspend the sale or distribution of this product. The retailer or distributor upon whom a notice of suspension is served, is prohibited from doing business in the sale or distribution of this product until formally released by order of the commissioner. The order of suspension given by the commissioner must apply only to that product and cannot be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subpart.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4683. Commissioner may seal pumps, etc., used in selling products not conforming to Subpart; interference with commissioner

The commissioner has authority to placard or seal any pump, tank or container used or useful in dispensing petroleum products not conforming to the provisions of this Subpart, and no person shall deface or remove any condemnation placard or seals posted or placed by the commissioner, or in any manner interfere with or obstruct the commissioner in the discharge of his duties under the provisions of this Subpart.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4684. Fee to be collected for testing, etc.

For the purpose of defraying the expenses connected with the inspection, testing, and analyzing of petroleum products in this state and enforcement of this Chapter, there shall be collected by the secretary of the Department of Revenue a fee of four thirty-seconds of one cent per gallon on all petroleum products distributed, sold, or offered or exposed for sale or use or consumption in the state or used or consumed in the state which shall be paid before delivery to agents, dealers, or consumers in the state. The fee does not include liquefied petroleum gas, natural gas, or bulk sale or transfers. Excluding bulk sales or transfers, the fee will be imposed upon the removal from an Internal Revenue Service approved

terminal using the terminal rack. The position holder shall collect the fee imposed from the person who orders the withdrawal at the terminal rack. Exports out of the state shall not be subject to the fee. A fee is also imposed on the above-referenced fuel upon import to the state excluding bulk sale or transfer for delivery within the state. This fee shall be paid by the first importer. However, no fee shall be due on fuels that are eligible for tax refunds under the provisions of R.S. 47:818.15(A)(5) or that are sold for use in or distributed to seagoing vessels as defined in R.S. 3:4602. The secretary of the Department of Revenue is authorized to seize and hold these products on which the fee has not been paid until such time as the fee has been paid. Any expense incurred in the seizure and holding of any product so seized shall be assessed in addition to the fee and collected at the same time the fee is collected.

Acts 2003, No. 139, §1, eff. May 28, 2003; Acts 2004, No. 47, §1, eff. May 21, 2004; Acts 2005, No. 252, §3, eff. July 1, 2006.

§4685. Petroleum Products Fund; disposition of funds

A. All assessments, fees, penalties, and all other funds received under the provisions of this Subpart shall be disposed of in accordance with the following provisions:

(1) All assessments, fees, penalties, and all other funds received by the secretary of the Department of Revenue, the commissioner or the department under the provisions of this Subpart, subject to exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer prior to placing the remaining funds into the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the secretary of the Department of Revenue, the commissioner or the department under the provisions of this Subpart into a special fund which is hereby created in the state treasury and designated as the Petroleum Products Fund.

(3) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the Petroleum Products Fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

B. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Subpart as determined by the commissioner.

(2) To fund any and all costs related to the inspection, regulation, and analysis of petroleum products, any commercial weighing or measuring device used in the distribution, handling or sale of petroleum products and enforcement of this Chapter.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4686. Forfeiture of right to do business because of violation of Subpart

Whoever violates the provisions of this Subpart or of any rule or regulation adopted under the provisions of this Subpart, may, in addition to any civil penalty that may be imposed by the commissioner under this Subpart, for the first and second offense, forfeit the right, for not less than one week nor more than six months, to continue or to engage in the business of buying, selling, or distributing petroleum products at the place of business involved. For any subsequent offense, the offender may forfeit the right to engage in said business for not less than three months nor more than twelve months. This forfeiture shall extend only to the individual guilty of the offense, unless the individual is acting as an agent for a principal who knew of and participated in the violation, or knowing

of the violation, acquiesced therein. The forfeiture shall extend to the right to use the filling station and all tanks, pumps, containers or equipment for the same period of time for the first and second offense. However, if the dealer does not own the property or equipment, and is merely renting, leasing or borrowing it, or is acting as agent for another, the forfeiture will extend to the owner or principal only if the owner or principal knew, or had good reason to know, of the violation. The commissioner has authority on motion in court to take a rule against the dealer, to show cause in not less than two nor more than ten days, inclusive of holidays after the service thereof, why said dealer should not be ordered to cease from further pursuit of business as dealer for the aforesaid period. Violations of the injunction shall be considered as a contempt of court and punished according to law. These motions shall be tried out of term and in chambers, and always by preference.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§§4687, 4688. *Repealed by Acts 2004, No. 47, §2, eff. May 21, 2004.*

§4689. Labeling of lubricating oil

A.(1) The legislature finds and declares that millions of gallons of used oil are generated each year in the state and that this oil is a valuable resource which can be used as an environmentally acceptable source of clean, re-refined product, among other uses.

(2) The legislature finds and declares that the disposal of automotive engine oil and other lubricants is very costly, creates hazards, and depletes the state's and the nation's dwindling supply of petroleum.

(3) It is the intent of the legislature to reduce the amount of used oil improperly disposed and increase the amount that is reused as a valuable product.

B. As used in this Section:

(1) American Petroleum Institute (API) engine oil service classifications are two letter classification performance ratings for which engine oils are designed.

(2) "Lubricating oil" includes any oil classified for the use in an internal combustion engine, hydraulic system, gear box, differential, wheel bearings, or other machinery.

(3) "Recycled oil" means any oil prepared from used oil, for energy recovery or reuse as a petroleum product, by reclaiming, reprocessing, re-refining, or other means to utilize properly treated used oil as a substitute for petroleum products.

(4) "Re-refined oil" means used oil which is refined to remove the physical and chemical contaminants acquired through use, which by itself or when blended with new lubricating oil or additives, meets applicable API and SAE service classifications.

(5) Society of Automotive Engineers (SAE) viscosity grade is the measure of an oil's resistance to flow at a given temperature.

(6) "Used oil" means any oil which has been refined from crude or synthetic oil and as a result of use, becomes unsuitable for its original purpose due to loss of original properties or presence of impurities, but which may be suitable for further use and may be economically recyclable.

C.(1) It shall be unlawful to sell, offer, or keep for sale any lubricating oils, lubricants, or mixtures of lubricants which are adulterated or falsely labeled.

(2) The label shall prominently display the API performance service classification and the SAE viscosity classification.

(3) Previously used oils or recycled oils that have or have not been re-refined shall be plainly labeled and sold as such. The labeling and advertising appearing on any container used to store a used or recycled lubricating oil shall be strictly in accord with the kind of product contained therein. The size

of the letters on the front and back of the container should be consistent with those used in other wording found on the label.

(4) A person may represent a product made in whole or in part from re-refined oil to be substantially equivalent to a product made from virgin oil for a particular end use if the product conforms with the applicable API and SAE service classifications.

Acts 2003, No. 139, §1, eff. May 28, 2003.

§4690. Petroleum bulk sale of motor fuel, temperature adjusted volume required

A. As used in this Section, the following words and phrases shall have the meaning hereinafter ascribed to them:

(1) "Gross gallons" are those gallons that have not been temperature adjusted.

(2) "Net gallons" are those gallons that have been temperature adjusted to sixty degrees Fahrenheit.

(3) "Petroleum product bulk sale" means a single sale of at least seven thousand gross gallons of a petroleum product made at a single place and time other than those sales made on a consignment basis.

(4) "Petroleum jobber" means any person, firm, corporation or association of persons:

(a) Who is a distributor or wholesaler of a petroleum product or who is the intermediate or middleman between the refiner and the retail dealer, the consumer, or another jobber; and

(b) Whose principal business is buying petroleum products for resale to retail dealers, consumers, or other jobbers.

(5) "Refiner" means any person engaged in the refining of crude oil to produce petroleum products and includes any affiliate of such person.

(6) "Retailer" is as defined in R.S. 51:421(A).

B.(1) Any refiner making a petroleum bulk sale of petroleum products to any retailer or petroleum jobber shall make the sale on a temperature adjusted volume basis of net gallons. The net gallons adjustment shall be made in accordance with "API/ASTM-IP Petroleum Measurement Table 6B" of the 1980 American Petroleum Institute's Manual of Petroleum Measurement Standards.

(2) The refiner shall provide the retailer or petroleum jobber with a receipt, invoice, or meter ticket specifying the petroleum product received and the following information:

(a) The gross gallons received.

(b) The temperature at the time of loading.

(c) The APA gravity.

(d) The net gallons purchased.

C. A retailer or petroleum jobber may bring a civil action against a refiner who violates a provision of Subsection B of this Section. The action may be brought, regardless of the amount in controversy, in the district court in any parish in which the refiner or the petroleum jobber or the retailer is doing business.

D. In an action under this Section, the court shall grant equitable relief, that may include a declaratory judgment, any permanent injunctive relief, or any temporary injunctive relief, that the court determines is necessary to remedy the effects of the refiner violation.

E. A retailer or petroleum jobber who prevails in an action brought under this Section shall be awarded the amount of actual damages and shall also be awarded court costs and reasonable attorney's fees in relation to the amount of work performed by the attorney.

F. In addition to any other remedy or damages provided for in this Section, if the court determines that the refiner willfully and knowingly violated the provisions of Subsection B of this Section, the court may award three times the amount of actual damages to the prevailing retailer or petroleum jobber.

Acts 2003, No. 139, §1, eff. May 28, 2003.

SUBPART F. SUGARCANE

§4691. Weight limits; sugar mill scales

A. All sugar mills shall lock out their scales at one hundred thousand pounds gross vehicle weight per load of sugarcane.

B.(1) When a vehicle carrying a load of sugarcane exceeds the weight limit established in Subsection A of this Section, an amount of sugarcane equal to the excess gross weight shall be forfeited by the owner or producer of the sugarcane.

(2) No owner or producer of sugarcane shall be compensated for revenue derived from forfeited sugarcane.

(3) No hauler of sugarcane shall be compensated for hauling forfeited sugarcane.

C. The Department of Agriculture and Forestry shall certify the scales and conduct at least one random inspection of the scales during the harvest season each year.

D. The Department of Agriculture and Forestry shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, as are necessary to implement the provisions of this Section.

Acts 2003, No. 147, §1.

SUBPART G. CAJUN AND LOUISIANA CREOLE GOODS AND SERVICES CONSUMER PROTECTION LAW

§4701. Short title

This Subpart shall be cited as the "Cajun and Louisiana Creole Goods and Services Consumer Protection Law."

Acts 2006, No. 124, §1, eff. June 2, 2006.

§4702. Legislative findings

A. The legislature finds that the terms "Cajun" and "Louisiana Creole" are terms that refer to the unique and distinctive culture and lifestyle that originated in, are connected with and have continued to flourish in a region within the state of Louisiana.

B. The legislature finds that the terms "Cajun" and "Louisiana Creole" when used in commerce in connection with goods, including agricultural goods, or services refer to and are generally recognized and accepted by Louisiana, national and foreign consumers as referring to, originating in or being substantially connected with the state of Louisiana and the unique and distinctive Cajun and Louisiana Creole cultures and lifestyles that originated in, are connected with and have continued to flourish in a region within the state of Louisiana.

C. The legislature finds that the use of the terms "Cajun" and "Louisiana Creole," when used in commerce in connection with goods, including agricultural goods, or services that do not originate in,

are not substantially connected with, or are not substantially transformed in the state of Louisiana, or in or with that unique and distinctive Cajun and Louisiana Creole cultures and lifestyles that originated in, are connected with and have continued to flourish in a region within the state of Louisiana, are primarily geographically deceptively misdescriptive and are likely to cause confusion, mistake or deception as to the origin, sponsorship, affiliation, connection or approval of said goods or services in, by, with or of the state of Louisiana.

D. The legislature deems it appropriate and in the best interests of the state of Louisiana and its citizens to adopt, appropriate, and establish the terms "Cajun" and "Louisiana Creole" and any derivative or combination of either term as certification marks, to be owned by the state of Louisiana and to be used by others engaged in commerce to certify Louisiana as the geographical and regional origin of certain goods, including agricultural goods, or services that originate in, are substantially connected with or have been substantially transformed in the state of Louisiana; to limit the use of the certification marks to those goods, including agricultural goods, or services that originate in, are substantially connected with or have been substantially transformed in the state of Louisiana; and to protect said certification marks against misuse and infringement, in order to ensure that consumers are not deceived or confused as to the origin, sponsorship, affiliation, connection or approval of said goods or services in, by, with or of the state of Louisiana.

Acts 2006, No. 124, §1, eff. June 2, 2006.

§4703. Adoption of certification marks

The terms "Cajun," "Louisiana Creole," and any derivative or combination of either term are hereby adopted, appropriated and established by the legislature as certification marks to be owned by the state of Louisiana.

Acts 2006, No. 124, §1, eff. June 2, 2006.

§4704. Allowable use of the terms "Cajun" and "Louisiana Creole"

No person shall, in commerce, advertise, sell, offer or expose for sale, distribute, package or in any other manner identify any services or goods as "Cajun" or "Louisiana Creole" unless: the services or goods originate in, are substantially connected with, or have been substantially transformed in the state of Louisiana; or the goods would qualify for the ten percent preference pursuant to R.S. 39:1595 for products produced, manufactured, assembled, grown, or harvested in Louisiana.

Acts 2006, No. 124, §1, eff. June 2, 2006.

§4705. Enforcement

A. Notwithstanding any other law to the contrary, the commissioner of agriculture is hereby authorized:

(1) To take any and all actions to enforce this Subpart in order to protect the terms "Cajun" and "Louisiana Creole" and any derivative or combination of either term as certification marks owned by the state of Louisiana.

(2) To take any and all actions to prevent misuse and infringement of the certification marks.

(3) To register, file, or otherwise record Louisiana's claim to the certification marks in any state, national, or international office as may be required or desirable in order to give full force and effect to said certification marks.

B. In addition to the remedies provided in this Section, the commissioner of agriculture, when enforcing this Subpart, shall have all other remedies available to civil plaintiffs under law, including the right to seek injunctive relief.

Acts 2006, No. 124, §1, eff. June 2, 2006.

SUBPART H. AGRICULTURAL AND SEAFOOD PRODUCTS SUPPORT FUND**§4711. Legislative findings**

The legislature hereby finds and declares that the agricultural and seafood industries are of vital importance to this state, the livelihood of its farmers and fishermen, and to the sustenance of the life of its citizens. The legislature further finds that preserving Louisiana's agricultural and seafood industries can and does serve the following public purposes:

- (1) Ensuring the viability of Louisiana's agricultural and seafood industries.
- (2) Ensuring that Louisiana's farmers and fishermen can continue to provide agricultural and seafood products to the consumers of this state.
- (3) Enhancing the economic well-being of this state by providing jobs and tax revenue.

Acts 2004, No. 58, §1, eff. Dec. 7, 2004; Acts 2006, No. 558, §1; Acts 2009, No. 24, §8M, eff. June 12, 2009.

§4712. Use of state-owned trademarks or labels for agricultural and seafood promotions; Agricultural and Seafood Products Support Fund; rules and regulations

A. As used in this Part:

(1) "Agricultural products" shall include aquacultural, horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and farm and range products, and furbearing animals raised or produced on a defined acreage.

(2) "Seafood products" shall include any type of species caught in privately owned waters or public waters, including streams or lakes, or any final derivative resulting from a combination or breakdown of raw seafood products.

B. Any state agency shall assist the Department of Economic Development, when requested by the department, in the development, registration, and licensing of a trademark or label for use in promoting Louisiana agricultural and seafood products. The department may sell licenses for the use of such trademark or label developed and registered by the department to persons, firms, partnerships, corporations, associations, or other organizations, for the sole purpose of promoting Louisiana agricultural and seafood products. Monies derived from such sale shall be deposited immediately upon receipt into the state treasury.

C. There is hereby established a special fund in the state treasury to be known as the Agricultural and Seafood Products Support Fund, hereinafter referred to as the "fund." After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required in Subsection B of this Section shall be credited to the fund. Any grants, gifts, and donations received by the state for the purposes of this Part and any other revenues as may be provided by law shall be credited to the fund. Additionally, monies may be appropriated to the fund by the legislature. The monies in the fund shall be used solely as provided in Subsection D of this Section. All unexpended and unencumbered monies remaining in the fund at the close of each fiscal year shall remain in the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. All interest earned from the investment of the monies in the fund shall be deposited in and remain to the credit of the fund.

D. Subject to appropriation by the legislature, the monies in the fund shall be used for programs to assist Louisiana farmers and fishermen with support and expansion of their industries. Monies may also

be appropriated for reasonable expenses and costs incurred in the development, registration, and licensing of trademarks or labels pursuant to the provisions of this Section.

E. To implement the provisions of this Section, the secretary of economic development may participate in cooperative endeavors and, after consultation with the commissioner of agriculture and forestry, shall adopt such rules and regulations in accordance with the Administrative Procedure Act as he deems necessary.

F. The use of monies from the fund and any rules and regulations adopted shall be subject to oversight review by the Senate and House committees on agriculture, forestry, aquaculture and rural development, the Senate Committee on Commerce, Consumer Protection, and International Affairs, and the House Committee on Commerce.

G. The provisions of this Section shall not apply to or affect funds allocated by Article VII, Section 4, Paragraphs (D) and (E) of the Constitution of Louisiana.

Acts 2006, No. 558, §1; Acts 2009, No. 24, §8M, eff. June 12, 2009.

SUBPART I. LOGO FOR STATE PRODUCTS

§4721. Logo for state products

A. The Department of Agriculture and Forestry may develop and adopt an official logo for products produced in this state.

B. The logo may be registered as a trademark and appropriate steps may be taken to protect the logo from misuse or infringement.

C. The department may license the use of the logo and may adopt rules for determining which products and which producers or manufacturers will be allowed to use the logo.

D. The department by rule may establish fees to be charged for the use of the logo.

E. The department may spend funds to promote the logo.

F. *Repealed by Acts 1997, No. 1116, §2.*

Acts 1988, No. 325, §1; Acts 1997, No. 1116, §2; Acts 2009, No. 24, §§1, 8B, eff. June 12, 2009.

SUBPART J. LOUISIANA CATFISH MARKETING LAW

§4731. Short title

This Subpart shall be cited as the "Louisiana Catfish Marketing Law".

Acts 2009, No. 506, §1, eff. Nov. 1, 2009.

§4732. Legislative findings

The legislature finds that aquaculture sales and consumption have increased worldwide and that the use of antibiotics or chemicals not approved for use in food-producing animals in the United States is permitted in aquaculture in other countries and that consumers of aquaculture in Louisiana should be provided clear information as to where the aquaculture product originates to protect the health and welfare of Louisiana consumers. The legislature further finds that food-misrepresentation or the passing off of less expensive aquaculture products as pricier aquaculture products to unknowing customers and retailers has become an issue in the marketplace and is a deceitful practice. Consumers and retailers should be informed of the country of origin and species of fish in the marketplace.

Acts 2009, No. 506, §1, eff. Nov. 1, 2009.

§4733. Definitions

As used in this Subpart, the following terms shall have the meanings ascribed below:

- (1) "Catfish" means only those species within the family Ictaluridae, Ariidae or Loricariidae.
- (2) "Catfish product" means any item capable of use as human food which is made wholly or in part from any catfish or portion thereof, except products which contain catfish only in small proportions or historically have not been, in the judgment of the commissioner, considered by consumers as products of the United States commercial catfish industry and which are exempted from definition as a catfish product by the commissioner under such conditions as he may prescribe to assure that the catfish or portions thereof contained therein are not adulterated and that such products are not represented as catfish products. "Catfish product" shall be deemed capable of use as human food unless it is denatured or otherwise identified as required by regulations prescribed by the commissioner to deter its use as human food, or unless it is naturally inedible to humans.
- (3) "Commissioner" means the Louisiana commissioner of agriculture and forestry.
- (4) "Department" means the Louisiana Department of Agriculture and Forestry.
- (5) "Direct retail sale" means the sale of catfish, catfish products, siluriformes, or siluriforme products individually or in small quantities directly to the consumer.
- (6) "Distributor" means any person offering for sale, exchange, or barter any catfish, catfish products, siluriformes, or siluriforme products destined for direct retail sale in Louisiana.
- (7) "Farm-raised catfish" means a catfish that has been specifically produced in fresh water according to the usual and customary techniques of commercial aquaculture and includes fillets, steaks, nuggets, and any other flesh from a "farm-raised catfish".
- (8) "Food service establishment" means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.
- (9) "Label" means a display of written, printed, or graphic matter upon or affixed to the container or wrapper in which catfish, catfish products, siluriformes, or siluriforme products are offered for direct retail sale.
- (10) "Labeling" means all labels and other written, printed, or graphic matter upon a catfish, catfish product, siluriforme, or siluriforme product or any of its containers or wrappers, offered for direct retail sale.
- (11) "Menu" means any listing of food and beverage options for a diner or customer to select from regardless of its form.
- (12) "Person" includes any individual, partnership, corporation, and association, or other legal entity.
- (13) "Processor" means any person engaged in handling, storing, preparing, manufacturing, packing, or holding catfish, catfish products, siluriformes, or siluriforme products.
- (14) "Producer" means any person engaged in the business of harvesting catfish or siluriformes, by any method, intended for direct retail sale.
- (15) "Product name" means the name of the catfish, catfish product, siluriforme, or siluriforme product intended for retail sale which identifies it as to kind, class, or specific use.
- (16) "Retailer" means any person offering for sale catfish, catfish products, siluriformes, or siluriforme products to individual consumers and representing the last sale prior to human consumption and includes food service establishments unless otherwise stated herein.

(17) "River or lake catfish" means a catfish that has been produced in a freshwater lake, river, or stream but has not been produced according to the usual and customary techniques of commercial aquaculture.

(18) "Siluriforme" means fish in the taxonomic order Siluriformes and including those within the taxonomic families Siluridae, Clariidae, and Pangasiidae and those commonly known as basa and tra.

(19) "Siluriforme product" means any item capable of use as human food which is made wholly or in part from any siluriforme or portion thereof. "Siluriforme product" shall be deemed capable of use as human food unless it is denatured or otherwise identified as required by regulations prescribed by the commissioner to deter its use as human food, or unless it is naturally inedible to humans.

(20) "Wholesaler" means any person offering for sale any catfish, catfish products, siluriformes, or siluriforme products destined for direct retail sale in Louisiana.

Acts 2009, No. 506, §1, eff. Nov. 1, 2009.

§4734. Notice of country of origin

A. All retailers of catfish, catfish products, siluriformes, or siluriforme products shall notify consumers, at the final point of sale of the catfish, catfish products, siluriformes, or siluriforme products to the consumers, of the country of origin of the catfish, catfish products, siluriformes, or siluriforme products.

B. A retailer of catfish or catfish products may designate the catfish or catfish product as having a United States country of origin only if:

(1) It is hatched, raised, harvested, and processed in the United States, in the case of farm-raised catfish.

(2) It is harvested in waters of the United States or a territory of the United States and is processed in the United States or a territory of the United States, in the case of river or lake catfish.

C. The notice of country of origin for catfish shall distinguish between farm raised or wild caught.

D.(1) Retailers shall notify consumers of the country of origin of the catfish, catfish products, siluriformes, or siluriforme products by means of a label, stamp, mark, placard, or other clear and visible sign on the catfish, catfish products, siluriformes, or siluriforme products, or on the package, display, holding unit, or bin containing the catfish, catfish products, siluriformes, or siluriforme products at the final point of sale to consumers.

(2) If the catfish, catfish products, siluriformes, or siluriforme products are already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with the requirements of this Subpart.

(3) The commissioner may require that any person that prepares, stores, handles, or distributes catfish, catfish products, siluriformes, or siluriforme products for retail sale maintain a verifiable recordkeeping audit trail that permits the commissioner to verify compliance with this Subpart and any rules or regulations promulgated hereunder.

E.(1) No owner or manager of a restaurant that sells imported catfish shall misrepresent to the public, either verbally, on a menu, or on signs displayed on the premises, that the catfish is domestic.

(2) If the food service establishment offers for sale only catfish or catfish products having a United States country of origin, they may notify consumers of this information with a sign placed in a prominent location in the food service establishment in lieu of disclosure on the menu.

(3) Signs notifying consumers of the sale of catfish or catfish products having a United States country of origin shall be approved, as indicated by a stamp or seal, by the department. Any liability arising from failure to disclose country of origin shall remain with the wholesaler, retailer, or food service establishment.

F. Any distributor or wholesaler engaged in the business of supplying catfish, catfish products, siluriformes, or siluriforme products to a retailer or food service establishment shall provide information to the retailer or food service establishment indicating the country of origin of the catfish or siluriformes or the country of origin of the catfish or siluriformes used in making the catfish product or siluriforme product. The information shall include certification of origin through a state or federal agency that regulates the processing of catfish, catfish products, siluriformes, or siluriforme products or through a federal agency that verifies catfish, catfish products, siluriformes, or siluriforme products produced in countries other than the United States that meet similar sanitation requirements.

G.(1) Advertising of any catfish, catfish product, siluriformes, or siluriforme products shall notify consumers of the country of origin of the catfish, catfish products, siluriformes, or siluriforme products.

(2) The term "catfish" shall not be used as a common name or used to advertise, distribute, or label any other fish or fish product except for those species defined as catfish in R.S. 3:4733(1) or catfish product in R.S. 3:4733(2).

(3) It is unlawful to use the term "catfish" in the advertising, distributing, labeling, or selling of any of those species within the family of Siluridae, Clariidae, and Pangasiidae or any other fish not defined as catfish in R.S. 3:4733(1) or catfish product in R.S. 3:4733(2).

(4) The department and the Louisiana Restaurant Association shall employ a marketing campaign that places an emphasis on highlighting the benefits of patronizing Louisiana restaurants and eating domestic catfish.

H. The commissioner shall regulate and inspect retail and food service establishments and shall have authority to enter the premises of any wholesaler, processor, distributor, retailer, or any other person selling catfish, catfish products, siluriformes, or siluriforme products in order to determine compliance with this Subpart; however, the commissioner shall only inspect restaurants to determine compliance with this Subpart when the department receives a complaint. In addition, any wholesaler or distributor shall provide his sales and purchases records of catfish, catfish products, siluriformes, or siluriforme products upon request by the commissioner.

I. This Subpart shall not apply to catfish or catfish products exported out of the United States.

Acts 2009, No. 506, §1, eff. Nov. 1, 2009; Acts 2010, No. 16, §1, eff. May 26, 2010.

§4735. Penalties

A. The commissioner shall notify, in writing, any retailer or food service establishment in violation of this Subpart and shall give the retailer or food service establishment three days to correct the violation. No penalties shall apply to any retailer or food service establishment that corrects the violation within three days from the date of notification by the commissioner.

B. In addition to any other civil or criminal penalties, any person who violates any of the provisions of this Subpart or who otherwise misrepresents as catfish any other fish or other fish product not defined as catfish in R.S. 3:4733(1) or as catfish product in R.S. 3:4733(2) shall be punished by a fine of not more than one thousand dollars. For a second offense, a person shall be punished by a fine of not more than two thousand dollars. For any subsequent violations, a person shall be punished by a fine of not more than five thousand dollars or by having the license for the retail or food establishment suspended indefinitely or until such establishment has corrected the violation, or both. Any retailer offering catfish or catfish products for sale that are found to be designated incorrectly as to the country of origin or the method of production shall not be held liable by reason of the conduct of another if the retailer proves they had no knowledge of the violation.

C. Any person against whom a complaint is made or who has been made subject to a fine or license suspension as provided by this Section may avail themselves of a due process administrative hearing.

D. Any owner or manager of a restaurant who is found guilty of a violation of this Section shall, upon a first offense, be fined one hundred dollars; upon a second offense, be fined two hundred fifty dollars and upon a third or subsequent offense, be fined one thousand dollars.

Acts 2009, No. 506, §1, eff. Nov. 1, 2009; Acts 2010, No. 16, §1, eff. May 26, 2010.

§4736. Testing

The commissioner shall have authority to enter the premises of any wholesaler, distributor, or retailer to pull samples of catfish, catfish products, siluriformes, or siluriforme products for laboratory testing to test for species identification or any other testing as may be necessary to determine compliance with this Subpart.

Acts 2009, No. 506, §1, eff. Nov. 1, 2009.

§4737. Rules and regulations

The commissioner shall promulgate rules and regulations for the administration and enforcement of this Subpart.

Acts 2009, No. 506, §1, eff. Nov. 1, 2009.

§4738. Cooperative endeavor agreement

The Department of Health and Hospitals and the Department of Agriculture and Forestry shall enter into a written cooperative endeavor agreement authorizing the Department of Agriculture and Forestry to perform inspections in order to determine compliance with this Subpart.

Acts 2009, No. 506, §1, eff. Nov. 1, 2009.