

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

2

HOUSE BILL 816
Committee Substitute Favorable 5/14/13

Short Title: Tobacco Growers Assessment Act.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE TOBACCO GROWERS TO ASSESS THEMSELVES TO
3 PROMOTE THE INTERESTS OF TOBACCO GROWERS

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 106 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 50D.

8 "Tobacco Growers Assessment Act.

9 **"§ 106-568.40. Title.**

10 This Article shall be known as the "Tobacco Growers Assessment Act."

11 **"§ 106-568.41. Purpose.**

12 It is in the public interest for the State to enable growers of tobacco to assess themselves in
13 order to raise funds to promote the interests of tobacco growers. This assessment shall be in
14 addition to the assessment authorized by Article 50C of Chapter 106 of the General Statutes to
15 promote export sales of tobacco and the assessment authorized by Article 50A of Chapter 106
16 of the General Statutes for tobacco research.

17 **"§ 106-568.42. Definitions.**

18 The following definitions apply in this Article:

- 19 (1) Association. – The Tobacco Growers Association of North Carolina, Inc., a
20 North Carolina nonprofit corporation.
21 (2) Buyer. – Any person engaged in the business of buying tobacco from a
22 producer of tobacco grown in North Carolina, including a broker, dealer, or
23 agent of the buyer.
24 (3) Department. – The North Carolina Department of Agriculture and Consumer
25 Services.
26 (4) Person. – An individual, a partnership, a firm, or a corporation.
27 (5) Tobacco. – Flue-cured tobacco.
28 (6) Tobacco grower. – A person who (i) is a North Carolina resident, (ii) owns,
29 manages, or has a financial interest in tobacco production, and (iii) is
30 actively involved in tobacco production.

31 **"§ 106-568.43. Referendum.**

32 (a) The Association may conduct among tobacco growers a referendum upon the
33 question of whether an assessment shall be levied on tobacco sold in this State.

34 (b) The Association shall determine:

- 35 (1) The amount of the proposed assessment.
36 (2) The time and place of the referendum.



1 (3) Procedures for conducting the referendum and counting of votes.

2 (4) Any other matters pertaining to the referendum.

3 (c) The amount of the proposed assessment shall be stated on the referendum ballot.
4 The amount may not exceed fifteen cents (15¢) for each hundred pounds of tobacco marketed
5 in this State. If the assessment is approved in the referendum, the Association may set the
6 assessment at an amount equal to or less than the amount stated on the ballot. If the Association
7 sets a lower amount than the amount approved by referendum, it may increase the amount
8 annually without a referendum by no more than one cent (1¢) for each hundred pounds of
9 tobacco marketed. The increased rate may not exceed the amount approved by referendum and
10 may not exceed the maximum allowable rate of fifteen cents (15¢) for each hundred pounds.

11 (d) All tobacco growers may vote in the referendum. Any dispute over eligibility to
12 vote or any other matter relating to the referendum shall be determined by the Association. The
13 Association shall make reasonable efforts to provide tobacco growers with notice of the
14 referendum and an opportunity to vote.

15 **"§ 106-568.44. Payment and collection of assessment.**

16 (a) The assessment shall not be collected unless more than two-thirds of the votes cast
17 in the referendum are in favor of the assessment. If more than two-thirds of the votes cast in the
18 referendum are in favor of the assessment, then the Association shall notify the Department of
19 the amount of the assessment and the effective date of the assessment. The Department shall
20 notify all tobacco buyers of the assessment.

21 (b) Each tobacco producer shall pay the assessment on all tobacco sold to a buyer.

22 (c) A buyer of tobacco shall collect the assessment when buying tobacco by deducting
23 the assessment from the price paid to the producer. The buyer shall remit collected assessments
24 to the Department no later than the 10th day of the following month. The Department shall
25 provide forms to buyers for reporting the assessment. If the total assessments collected by a
26 buyer in a month are less than twenty-five dollars (\$25.00), the buyer may keep the
27 assessments until the total amount due is at least twenty-five dollars (\$25.00) or the end of the
28 calendar quarter, whichever comes first. All buyers shall file at least one report in each calendar
29 quarter in which they purchase tobacco from a producer, regardless of the amount due.

30 (d) A buyer of tobacco shall keep records of the amount of tobacco purchased and the
31 date purchased. All information or records regarding purchases of tobacco by individual buyers
32 shall be kept confidential by employees or agents of the Department and the Association and
33 shall not be disclosed except by court order.

34 (e) The Association may bring an action to recover any unpaid assessments, plus the
35 reasonable costs, including attorneys' fees, incurred in the action.

36 **"§ 106-568.45. Use of assessments; refunds.**

37 (a) At least once per month, the Department shall remit all funds collected under this
38 Article to the Association. The Association shall use the funds to promote the interests of
39 tobacco growers. The Association shall prepare an annual report on the use of assessment
40 funds. Copies of the annual report shall be made available to growers at the Association's
41 annual meeting, and a copy shall also be sent to the Commissioner of Agriculture.

42 (b) A tobacco grower may request a refund of the assessment collected under this
43 Article by submitting a written request for a refund to the Association within 30 days from the
44 last date on which the assessment was collected from the grower. A refund request shall be
45 accompanied by proof of payment of the assessment satisfactory to the Association. The
46 Association shall mail a refund to the grower within 30 days of receipt of a properly
47 documented refund request.

48 **"§ 106-568.46. Termination of assessment.**

49 Upon receipt of a petition signed by at least ten percent (10%) of the tobacco growers in
50 North Carolina known to the Association, the Department shall notify the Association, and the
51 Association shall, within six months, conduct a referendum upon the question of continuing the

1 assessment. If a majority of the votes cast in the referendum are against continuing the
2 assessment, or if the Association fails to conduct a referendum within the six-month period, the
3 assessment expires at the end of the six-month period. If a majority of the votes cast in the
4 referendum are in favor of continuing the assessment, then no subsequent referendum shall be
5 held for at least three years."

6 **SECTION 2.** This act is effective when it becomes law. The Association may
7 conduct a referendum at any time after the effective date of this act.