

NEBRASKA CORN RESOURCES ACT

Administration: This Act is administered by the Nebraska Corn Development, Utilization and Marketing Board, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. Telephone: (402) 471-2787.

Revisions: The provisions of this Act were last revised during the 2012 session of the Nebraska Legislature.

Rules: A regulation has been promulgated by the above named board under this Act, known as Title 37, Chapter 1, Nebraska Administrative Code – Nebraska Corn Development, Utilization, and Marketing Board Rules.

Index

<u>Section</u>	<u>Subject</u>
2-3601.....	Act, how cited.
2-3602.....	Intent and purpose of act.
2-3603.....	Definitions, where found.
2-3604.....	Board, defined.
2-3605.....	Grower, defined.
2-3606.....	First purchaser, defined.
2-3607.....	Commercial channels, defined.
2-3608.....	Delivered or delivery, defined.
2-3609.....	Sale, defined.
2-3610.....	Corn, defined.
2-3611.....	Board; members.
2-3612.....	Board; vacancy; how filled.
2-3614.....	Board; appointment of members; procedure.
2-3615.....	Board; membership districts.
2-3616.....	Board; meeting; appoint member.
2-3617.....	Board; members; terms.
2-3618.....	Board; elect officers.
2-3619.....	Board; compensation; expenses.
2-3620.....	Board; removal of member; grounds.
2-3621.....	Board; meetings.
2-3622.....	Board; duties and responsibilities.
2-3623.....	Sale of corn; fee; when paid.

2-3627.....	Fees; adjusted by board; when.
2-3628.....	Pledge or mortgage; corn used as security; fee; refund; procedure.
2-3629.....	Fee; when assessed.
2-3630.....	Fee; when not applicable.
2-3631.....	Purchaser deduct fee; maintain records; public information; quarterly statement.
2-3632.....	Board; annual report; contents; public information.
2-3633.....	Nebraska Corn Development, Utilization, and Marketing Fund; created; purpose; investment.
2-3634.....	Board; cooperate with University of Nebraska and other organizations; purpose.
2-3635.....	Violations; penalty.

2-3601. Act, how cited.

Sections 2-3601 to 2-3635 shall be known and may be cited as the Nebraska Corn Resources Act.

Source: Laws 1978, LB 639, § 1; Laws 1996, LB 1336, § 1.

2-3602. Intent and purpose of act.

It is declared to be the public policy of the State of Nebraska to protect and foster the health, prosperity, and general welfare of its people by protecting and stabilizing the corn industry and the economy of the areas producing corn. The Corn Development, Utilization, and Marketing Board shall be the agency of the State of Nebraska for such purpose. In connection with and in furtherance of such purpose, it is declared to be in the interest of the public welfare of the state that the producers of corn be permitted and encouraged to develop, carry out, and participate in programs of research, education, market development, and promotion. It is the purpose of the Nebraska Corn Resources Act to provide the authorization and to prescribe the necessary procedures whereby corn producers in this state may finance programs to achieve the activities expressed in the act.

Source: Laws 1978, LB 639, § 2; Laws 2012, LB1057, § 1.

2-3603. Definitions, where found.

For purposes of the Nebraska Corn Resources Act, unless the context otherwise requires, the definitions found in sections 2-3604 to 2-3610 shall be used.

Source: Laws 1978, LB 639, § 3; Laws 1996, LB 1336, § 2.

2-3604. Board, defined.

Board shall mean the Corn Development, Utilization, and Marketing Board.

Source: Laws 1978, LB 639, § 4.

2-3605. Grower, defined.

Grower shall mean any landowner personally engaged in growing corn, a tenant of the landowner personally engaged in growing corn, and both the owner and tenant jointly and shall include a person, partnership, limited liability company, association, corporation, cooperative, trust, sharecropper, and other business unit, device, and arrangement.

Source: Laws 1978, LB 639, § 5; Laws 1993, LB 121, § 72.

2-3606. First purchaser, defined.

First purchaser shall mean any person, public or private corporation, association, partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property in or to corn from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, when the actual or constructive possession of such corn is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim.

Source: Laws 1978, LB 639, § 6; Laws 1993, LB 121, § 73.

2-3607. Commercial channels, defined.

Commercial channels shall mean the sale of corn for any use, to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any corn or product produced from corn.

Source: Laws 1978, LB 639, § 7.

2-3608. Delivered or delivery, defined.

Delivered or delivery shall mean receiving corn for any use, except for storage, and includes receiving corn for consumption, for utilization, or as a result of sale in the State of Nebraska.

Source: Laws 1996, LB 1336, § 3.

2-3609. Sale, defined.

Sale shall include any pledge or mortgage of corn after harvest to any person, public or private.

Source: Laws 1978, LB 639, § 9.

2-3610. Corn, defined.

Corn shall not include popcorn or sweet corn.

Source: Laws 1978, LB 639, § 10.

2-3611. Board; members.

The board shall be composed of nine members who (1) are citizens of Nebraska, (2) are at least twenty-one years of age, (3) have been actually engaged in growing corn in this state for a period of at least five years, and (4) derive a substantial portion of their income from growing corn.

The Director of Agriculture, the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources, and the president of the Nebraska Corn Growers Association shall be ex officio members of the board but shall have no vote in board matters.

Source: Laws 1978, LB 639, § 11.

2-3612. Board; vacancy; how filled.

Except for the position of the at-large member, whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy from the district in which the vacancy exists. If the vacant position is that of the at-large member, the appointment to fill such vacancy shall be made at large by the board.

Source: Laws 1978, LB 639, § 12; Laws 1992, LB 971, § 1.

2-3613. Repealed. Laws 1992, LB 971, § 2.

2-3614. Board; appointment of members; procedure.

Members of the board shall be appointed by the Governor on a nonpartisan basis. Candidates for appointment by the Governor to the initial board may place their names on a candidacy list for the respective district by filing a petition signed by at least fifty growers of such district with the Governor. Candidates for appointment to subsequent boards or to fill a vacancy in either a district or at-large membership position shall file such petitions with the existing board. Qualified individuals residing within their district shall be eligible for nomination as candidates from such district.

Source: Laws 1978, LB 639, § 14; Laws 1996, LB 1336, § 4.

2-3615. Board; membership districts.

One member shall be appointed from each of the following districts:

- (a) District 1. The counties of Butler, Saunders, Douglas, Sarpy, Seward, Lancaster, Cass, Otoe, Saline, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson;
- (b) District 2. The counties of Adams, Clay, Fillmore, Franklin, Webster, Nuckolls, and Thayer;
- (c) District 3. The counties of Merrick, Polk, Hamilton, and York;
- (d) District 4. The counties of Knox, Cedar, Dixon, Dakota, Pierce, Wayne, Thurston, Madison, Stanton, Cuming, Burt, Colfax, Dodge, and Washington;

(e) District 5. The counties of Sherman, Howard, Dawson, Buffalo, and Hall;

(f) District 6. The counties of Hayes, Frontier, Gosper, Phelps, Kearney, Hitchcock, Red Willow, Furnas, and Harlan;

(g) District 7. The counties of Boyd, Holt, Antelope, Garfield, Wheeler, Boone, Platte, Valley, Greeley, and Nance; and

(h) District 8. The counties of Sioux, Dawes, Box Butte, Sheridan, Scotts Bluff, Banner, Kimball, Morrill, Cheyenne, Garden, Deuel, Cherry, Keya Paha, Brown, Rock, Grant, Hooker, Thomas, Blaine, Loup, Arthur, McPherson, Logan, Custer, Keith, Lincoln, Perkins, Chase, and Dundy.

Source: Laws 1978, LB 639, § 15.

2-3616. Board; meeting; appoint member.

Within thirty days after the appointment of the initial board, such board shall conduct its first regular meeting. At this meeting, the board shall appoint the ninth member to the board. Such appointment shall be made at large and the appointee shall meet the same qualifications as the other members on the board.

Source: Laws 1978, LB 639, § 16.

2-3617. Board; members; terms.

(1) The initial term of office for members of the appointed board shall be as follows: Three district members shall be appointed for one year; three district members shall be appointed for two years; and two district members shall be appointed for three years. The term of the member appointed at large shall be three years.

(2) Upon completion of the initial term, the term of office for members of the board shall be for three years.

Source: Laws 1978, LB 639, § 17.

2-3618. Board; elect officers.

The board shall elect from its members a chairperson and such other officers as may be necessary.

Source: Laws 1978, LB 639, § 18.

2-3619. Board; compensation; expenses.

The voting members of the board, while engaged in the performance of their official duties, shall receive compensation at the rate of twenty-five dollars per day while so serving, including travel time. In addition, members of the board shall receive reimbursement for actual and necessary

expenses on the same basis and subject to the same conditions as provided in sections 81-1174 to 81-1177 for state employees.

Source: Laws 1978, LB 639, § 19; Laws 1981, LB 204, § 11.

2-3620. Board; removal of member; grounds.

A member of the board shall be removable by the Governor for cause. He shall first be given a copy of written charges against him and also an opportunity to be heard publicly. In addition to all other causes, a member ceasing to (1) be a resident of the state, (2) live in the district from which he was appointed, or (3) be actually engaged in growing corn in the state shall be deemed sufficient cause for removal from office.

Source: Laws 1978, LB 639, § 20.

2-3621. Board; meetings.

The board shall meet at least once every three months and at such other times as called by the chairperson or by any four members of the board.

Source: Laws 1978, LB 639, § 21.

2-3622. Board; duties and responsibilities.

The duties and responsibilities of the board shall be prescribed in the authority for the corn program and to the extent applicable shall include the following:

(1) To develop and direct any corn development, utilization, and marketing program. Such program may include a program to make grants and enter into contracts for research, accumulation of data, and construction of ethanol production facilities;

(2) To prepare and approve a budget consistent with limited receipts and the scope of the corn commodity program;

(3) To adopt and promulgate such rules and regulations as are necessary to enforce the Nebraska Corn Resources Act in accordance with the Administrative Procedure Act;

(4) To procure and evaluate data and information necessary for the proper administration and operation of the corn commodity program;

(5) To employ personnel and contract for services which are necessary for the proper operation of the program;

(6) To establish a means whereby any grower of corn has the opportunity at least annually to offer his or her ideas and suggestions relative to board policy for the upcoming year;

(7) To authorize the expenditure of funds and contracting of expenditures to conduct proper activities of the program;

(8) To bond the treasurer and such other persons necessary to insure adequate protection of funds;

(9) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board, and to keep these records open to examination by any grower-participant during normal business hours;

(10) To prohibit any funds collected by the board from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state legislation. The board shall not expend more than twenty-five percent of its annual budget to influence federal legislation; and

(11) To make refunds for overpayment of fees according to rules and regulations adopted and promulgated by the board.

Source: Laws 1978, LB 639, § 22; Laws 1983, LB 505, § 5; Laws 1985, LB 60, § 2; Laws 1986, LB 1230, § 18.

Cross References

- **Administrative Procedure Act**, see section 84-920.

2-3623. Sale of corn; fee; when paid.

There is hereby levied a fee of five-tenths of a cent per bushel upon all corn sold through commercial channels in Nebraska or delivered in Nebraska. The fee shall be paid by the grower at the time of sale or delivery and shall be collected by the first purchaser. Under the Nebraska Corn Resources Act, no corn shall be subject to the fee more than once.

Source: Laws 1978, LB 639, § 23; Laws 1983, LB 505, § 6; Laws 1987, LB 610, § 2; Laws 1996, LB 1336, § 5; Laws 2012, LB1057, § 2.

2-3624. Repealed. Laws 1981, LB 11, § 38.

2-3625. Repealed. Laws 1981, LB 11, § 38.

2-3626. Repealed. Laws 1981, LB 11, § 38.

2-3627. Fees; adjusted by board; when.

Until December 31, 1978, the fee levied pursuant to section 2-3623 shall not exceed one-tenth of one cent per bushel. Beginning January 1, 1979, the board may, whenever it shall determine that the fees provided by section 2-3623 are yielding more than is required to carry out the intent and purposes of sections 2-3601 to 2-3635, reduce such fees for such period as it shall deem justified, but not less than one year. If the board, after reducing such fees finds that sufficient revenue is not being produced by such reduced fees, it may restore in full or in part such fees not to exceed four-tenths of a cent per bushel.

Source: Laws 1978, LB 639, § 27.

2-3628. Pledge or mortgage; corn used as security; fee; refund; procedure.

In the case of a pledge or mortgage of corn as security for a loan under the federal price support program or other government agricultural loan programs, the fee shall be deducted from the proceeds of such loan at the time the loan is made. If, within the life of the loan plus thirty days after the collection of a fee for corn that is mortgaged as security for a loan under the federal price support program or other government agricultural loan programs, the grower decides to purchase the corn and use it as feed, the grower shall be entitled to a refund of the checkoff fee previously paid. The refund shall be payable by the board upon the grower's written application to the board for a refund of the amount deducted. Each application for a refund by a grower shall have attached thereto proof of the tax deducted.

Source: Laws 1978, LB 639, § 28; Laws 1996, LB 1336, § 6.

2-3629. Fee; when assessed.

The fee, provided for by section 2-3623, shall be deducted, as provided by sections 2-3601 to 2-3635, whether such corn is stored in this state or any other state.

Source: Laws 1978, LB 639, § 29.

2-3630. Fee; when not applicable.

The fee imposed by section 2-3623 shall not apply to the sale of corn to the federal government for the ultimate use of consumption by the people of the United States when the State of Nebraska is prohibited from imposing such fee by the Constitution of the United States and laws enacted pursuant thereto.

Source: Laws 1978, LB 639, § 30.

2-3631. Purchaser deduct fee; maintain records; public information; quarterly statement.

(1) The purchaser, at the time of settlement, shall deduct the corn fee and shall maintain the necessary record of the fee for each purchase of corn on the grain settlement form or check stub showing payment to the grower for each purchase. Such records maintained by the purchaser shall provide the following information:

- (a) Name and address of the grower and seller;
- (b) The date of the purchase;
- (c) The number of bushels of corn sold; and
- (d) The amount of fees collected on each purchase.

Such records shall be open for inspection during normal business hours observed by the purchaser.

(2) The purchaser shall render and have on file with the board by the last day of each January, April, July, and October, on forms prescribed by the board, a statement of the number of bushels of corn purchased in Nebraska. At the time the statement is filed, the purchaser shall pay and remit to the board the fee as provided for in section 2-3623.

Source: Laws 1978, LB 639, § 31.

2-3632. Board; annual report; contents; public information.

The board shall prepare and make available an annual report on or before January 1 of each year, which report shall set forth in detail the income received from the corn assessment for the previous year and shall include:

(1) The expenditure of all funds by the board during the previous year for the administration of the Nebraska Corn Resources Act;

(2) The action taken by the board on all contracts requiring the expenditure of funds by the board;

(3) A description of all such contracts;

(4) A detailed explanation of all programs relating to the discovery, promotion, and development of markets and industries for the utilization of corn, the direct expense associated with each program, and copies of such programs if in writing; and

(5) The name and address of each member of the board and a copy of all rules and regulations promulgated by the board.

Such report and a copy of all contracts requiring expenditure of funds by the board shall be available to the public upon request.

Source: Laws 1978, LB 639, § 32; Laws 2012, LB1057, § 3.

2-3633. Nebraska Corn Development, Utilization, and Marketing Fund; created; use; investment.

The Nebraska Corn Development, Utilization, and Marketing Fund is created. All fees collected pursuant to the Nebraska Corn Resources Act and any repayments relating to the fund, including license fees or royalties, shall be credited to the fund for the uses and purposes of the act and its enforcement. Such fund shall be expended solely for the administration of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1978, LB 639, § 33; Laws 1995, LB 7, § 19; Laws 2012, LB1057, § 4.

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.

- **Nebraska State Funds Investment Act**, see section 72-1260.

2-3634. Board; cooperate with University of Nebraska and other organizations; purpose.

The board shall not be authorized to set up research or development units or agencies of its own, but shall limit its activity to cooperation and contracts with the University of Nebraska Institute of Agriculture and Natural Resources and other proper local, state, or national organizations, public or private, in carrying out the purposes of sections 2-3601 to 2-3635.

Source: Laws 1978, LB 639, § 34.

2-3635. Violations; penalty.

Any person violating any of the provisions of sections 2-3601 to 2-3635 shall be guilty of a Class III misdemeanor.

Source: Laws 1978, LB 639, § 35.