



Arkansas Catfish Promotion Statutes

Ark. Code Ann. §§ 2-9-101 through -112

Current through 2012 Fiscal Sess. and the Nov. 6, 2012 election

§ 2-9-101. Purpose

The purpose of this chapter is to promote the growth and development of the catfish industry in Arkansas by research, extension, promotion, and market development, thereby promoting the general welfare of the people of Arkansas.

§ 2-9-102. Definitions

As used in this chapter:

- (1) "Catfish industry" means any person or entity involved in rearing, processing, or selling of pond-raised catfish for potential profit, including any person, group, or company involved in a support industry;
- (2) "Commercial catfish producer" means any person or entity involved in rearing catfish for potential profit;
- (3) "Feed seller", "seller", or "feed dealer" means any person or entity that sells feed to a commercial catfish producer; and
- (4) "Processor" means any person, group, or entity that purchases catfish from a commercial producer for the purpose of redistribution.

§ 2-9-103. Creation; members; terms; compensation; office; agents

(a) The Arkansas Catfish Promotion Board is created. The board shall be composed of seven (7) members appointed by the Governor as follows:

(1)(A) The Catfish Farmers of Arkansas, Inc., shall submit to the Governor the names of six (6) persons who are members of the catfish industry. The list of nominees shall include commercial catfish producers, processors, and feed dealers identified as such. The Arkansas Farm Bureau Federation shall submit to the Governor the names of six (6) persons who are commercial catfish producers. All members shall be residents of Arkansas.

(B) The Governor shall appoint four (4) members from the list submitted by the Catfish Farmers of Arkansas, Inc., and three (3) members from the list submitted by the Arkansas Farm Bureau Federation to serve on the board.

(2) Each year, not less than thirty (30) calendar days prior to the expiration of the terms of the current members of the board whose terms expire, the organizations named in subdivision (a)(1)(A) of this section shall submit to the Governor the names of two (2) nominees for each position to be filled on the board from the respective organizations, subject to the foregoing qualifications, and the Governor shall appoint the new members from each list of nominees. If no lists are submitted, the appointments shall be at the discretion of the Governor.

(3)(A) Each member selected shall serve for a term of two (2) years and until his or her successor is selected as provided in this section.

(B) However, the initial members of the board shall be appointed for terms that will result in three (3) members' terms expiring after one (1) year and four (4) members' terms expiring after two (2) years.

(4) A midterm vacancy on the board shall be filled by appointment by the Governor from a list submitted within thirty (30) calendar days from the organization making the nomination for the position being vacated.

(5) A member of the board may be removed by a majority vote of the remaining board members for conviction of a felony, for not attending three (3) consecutive meetings, or if the member no longer meets the qualifications for his or her initial appointment.

(b) The President of the Catfish Farmers of Arkansas, Inc., shall call an organizational meeting of the board and shall preside until officers are elected. Members of the board shall organize immediately after their appointment and shall elect a chair, a vice chair, and a secretary-treasurer from the membership of the board, whose duties shall be those customarily exercised by those officers or specifically designated by the board. The board may appoint an executive director, who shall be the chief operating officer of the board and whose duties shall be designated by the board.

(c) The board may provide a salary for the executive director and for other necessary employees from funds derived from the assessments imposed in this chapter. Members of the board shall serve without compensation but may be reimbursed for reasonable expenses.

(d) The principal office of the board shall be located in Little Rock, Pulaski County, Arkansas.

(e) The resident agents of the board shall be the executive director of the board and the chair of the board, or either of them.

§ 2-9-104. Powers and duties of board

The Arkansas Catfish Promotion Board may:

- (1) Plan and conduct a program of research, market development, and advertising designed to promote the catfish industry in Arkansas;
- (2) Use funds derived from the assessments imposed in this chapter for research, extension, market development, and advertising designed to promote the catfish industry in Arkansas, including salaries and administration expenses;
- (3) Have perpetual succession as a body politic and corporate and adopt bylaws for the regulation of its affairs and the conduct of its business;
- (4) Prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (5) Sue and be sued in its own name;
- (6) Purchase, sell, or lease property of every description, real, personal, or mixed, including buildings or other facilities and equipment for the conduct of its business;
- (7) Execute contracts and other instruments necessary or convenient in the exercise of its powers and functions; and
- (8) Do any other acts and things necessary or convenient to carry out the purposes of this chapter and to exercise the powers granted by this chapter.

§ 2-9-105. Funding applications

Disbursement of funds generated by this chapter shall be made only upon motion formally adopted by the Arkansas Catfish Promotion Board and presented to the Treasurer of State and only for the purpose prescribed in this chapter.

§ 2-9-106. List of commercial producers; right to vote in referenda

(a) The Arkansas Catfish Promotion Board shall maintain a list of commercial producers of catfish who

are entitled to vote in referenda, shall prepare ballots for the referenda, and shall prescribe voting procedures. The board shall mail a ballot by registered mail to every commercial catfish producer identified on the list maintained by the board. Each producer shall be entitled to only one (1) vote.

(b) In all referenda, in order to be eligible to vote, a commercial catfish producer must have purchased catfish feed in the period from twelve (12) months immediately preceding the date of the referendum to not less than thirty (30) calendar days immediately preceding the date of the referendum.

(c) The Director of the Department of Finance and Administration shall be reimbursed from funds collected for the costs of holding referenda.

§ 2-9-107. Election on levy of assessment

(a)(1) Within a reasonable time after July 30, 1999, the Arkansas Catfish Promotion Board shall cause an election to be held on the question of the levy of an assessment on the sale of catfish feed within the State of Arkansas to commercial catfish producers at a rate determined by the board, such rate of assessment not to exceed five dollars (\$5.00) per ton of catfish feed sold.

(2) If a majority of the commercial catfish producers voting at the election vote for the levy of the assessment, the assessment shall be applicable to all sales of catfish feed made on and after a date specified by the board, which date shall not be later than ninety (90) calendar days after certification of the results of the election.

(3) The assessment shall be a continuing levy until either terminated by the board or until another election is held at which a majority of the commercial catfish producers voting at an election vote against the levy. The rate of assessment approved at an election shall not be increased except pursuant to the majority vote of the commercial catfish producers voting at a subsequent election.

(b)(1) When petitions containing the signatures of thirty percent (30%) of the commercial catfish producers in the state, as determined by the latest available agricultural census data, are filed with the board requesting that the question of continuing the assessment be submitted to a vote of the catfish producers, the board shall cause an election to be held within ninety (90) calendar days after the filing of the petitions, to be conducted in the same manner as the initial election held on the question of the levy of the assessment.

(2) If a majority of the commercial catfish producers voting at the election vote against the levy of the assessment, the assessment shall not be levied as of the date ten (10) calendar days after the date of the election. The levy may be reapproved, in the same manner as the initial election and subject to the same vote requirements, at an election called by the board not earlier than twelve (12) months after the date of the previous election suspending the levy of the assessment.

(c)(1) The assessment imposed and levied by this section shall be collected by the Director of the Department of Finance and Administration from each seller of catfish feed, who shall add the assessment to the purchase price of catfish feed sold in this state to commercial catfish producers.

(2) Each seller of catfish feed, when remitting assessments collected to the director, may deduct not more than one percent (1%) of the gross amount of the assessments to cover the cost of compliance.

§ 2-9-108. Budgets; audits

(a) The Arkansas Catfish Promotion Board shall prepare an annual budget, a copy of which shall be maintained at the principal office of the board and shall be open for public inspection during business hours.

(b) The board shall be audited annually in accordance with generally accepted auditing procedures, and a copy of the audit shall be filed with the Legislative Joint Auditing Committee.

§ 2-9-109. Assessment records

(a)(1) Every person required to pay the assessment provided for in this chapter shall keep a complete and accurate record of all catfish feed handled by him or her.

(2) The records shall be in such form and contain other information as the Arkansas Catfish Promotion Board shall prescribe by rule or regulation.

(3) The records shall be preserved for a period of two (2) years and shall be offered for inspection at any time upon written demand by the Director of the Department of Finance and Administration or his or her authorized agent or representative.

(b)(1) At such times as the director may require, every person required to pay the assessment provided for in this chapter shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this chapter.

(2) The director has the power to cause any authorized agent or representative to enter upon the premises of any person required to pay the assessment provided for in this chapter and examine or cause to be examined by the agent any books, papers, and records which deal in any way with the payment of the assessment or enforcement of the provisions of this chapter.

§ 2-9-110. Refunds of assessments

(a) So long as the assessment on the sale of catfish feed continues to be levied as provided in this chapter, any catfish producer may request and receive a refund of such assessment, provided he or she makes a written application therefor with the Director of the Department of Finance and Administration within sixty (60) calendar days after the date of sale, supported by copies of sales slips from the seller of the catfish feed and a refund form approved by the Arkansas Catfish Promotion Board.

(b) The director shall create and approve a refund claim form.

§ 2-9-111. Penalty

(a)(1) Any seller who fails to file a report, collect an assessment, or remit any assessment when due shall pay a penalty not to exceed five percent (5%) of the amount of the assessment that should have been collected or remitted, plus an additional penalty not to exceed one percent (1%) of the amount of the assessment that should have been collected or remitted for each month of delay, or fraction of a month, after the first month the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the Director of the Department of Finance and Administration and shall be disposed of in the same manner as funds derived from the payment of an assessment as provided in this chapter.

(b) The director shall collect the penalties levied in this section, together with the delinquent assessment, by any or all of the following methods:

(1) Voluntary payment; or

(2) Legal proceedings instituted in a court of competent jurisdiction seeking any remedies available, including, but not limited to, injunctive relief to enjoin any seller owing the assessment or penalties from engaging in business as a seller of catfish feed until the amount of the assessment due and all penalties are paid.

(c) Any person required to pay the assessment provided for in this chapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation punishable by a fine not exceeding five hundred dollars (\$500).

§ 2-9-112. Arkansas Catfish Promotion Fund

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, the Arkansas Catfish Promotion Fund.

(b) The fund shall consist of those special revenues from assessments as specified in this chapter, there to be used in such manner as the Arkansas Catfish Promotion Board deems appropriate for Arkansas catfish promotion and research and for the operation and maintenance of the board office and payment of expenses of the board members as set out in § 2-9-103.