

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1756

By: Enns

4  
5 AS INTRODUCED

6  
7 An Act relating to the Oklahoma Peanut Commission;  
8 amending 2 O.S. 2011, Sections 18-50, as amended by  
9 Section 26, Chapter 1, O.S.L. 2014, 18-51, 18-57, 18-  
10 58 and 18-62 (2 O.S. Supp. 2014, Section 18-50),  
11 which relate to the Oklahoma Peanut Act; removing  
12 authority of the Commissioner of the Oklahoma  
13 Department of Agriculture, Food, and Forestry to  
14 replace the Oklahoma Peanut Commission; modifying  
15 definitions; transferring certain duties to the  
16 executive director of the Commission; modifying  
17 reference to certain form; abolishing revolving fund  
18 for the Oklahoma Peanut Commission; transferring  
19 balance of revolving fund to General Revenue Fund;  
20 modifying reference to certain peanut growers;  
21 repealing 2 O.S. 2011, Sections 18-52, as amended by  
22 Section 1, Chapter 63, O.S.L. 2012, 18-53, 18-54, 18-  
23 55, 18-56 and 18-59 (2 O.S. Supp. 2014, Section 18-  
24 52), which relate to the Oklahoma Peanut Act; and  
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-50, as  
amended by Section 26, Chapter 1, O.S.L. 2014 (2 O.S. Supp. 2014,  
Section 18-50), is amended to read as follows:

Section 18-50. ~~A.~~ Sections 18-50 through 18-62 of this title  
shall be known and may be cited as the "Oklahoma Peanut Act".

1       ~~B. The Oklahoma Peanut Commission shall cease to exist and be~~  
2 ~~replaced by a successor organization if approved by the Commissioner~~  
3 ~~of the Oklahoma Department of Agriculture, Food, and Forestry to~~  
4 ~~receive the assessment contained in the Oklahoma Peanut Act pursuant~~  
5 ~~to the procedures outlined in the Oklahoma Agricultural Commodity~~  
6 ~~Act.~~

7       SECTION 2.       AMENDATORY       2 O.S. 2011, Section 18-51, is  
8 amended to read as follows:

9       Section 18-51. For the purpose of the Oklahoma Peanut Act:

10      1. "Commission" means the Oklahoma Peanut Commission;

11      2. "Grower" means any natural person engaged in growing  
12 peanuts;

13      3. "First purchaser" is any person, public or private  
14 corporation, association or partnership buying or otherwise  
15 acquiring after harvest the property in or to peanuts from a grower.  
16 A mortgagee, pledgee, lienor or other person, public or private,  
17 having a claim against the grower under a nonrecourse loan made  
18 against such peanuts after harvest thereof shall be deemed a  
19 purchaser. The term "first purchaser" shall not include a  
20 harvesting or threshing lienee; and

21      4. ~~"Commercial channels" is the sale of peanuts for use as~~  
22 ~~food, feed, seed or any industrial or chemurgic use, when sold to~~  
23 ~~any commercial buyer, dealer, processor, cooperative, or to any~~  
24

1 ~~person, public or private, who resells any peanuts or product~~  
2 ~~produced from peanuts; and~~

3 5. "Sale" includes any pledge or mortgage of peanuts, after  
4 harvest, to any person, public or private.

5 SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-57, is  
6 amended to read as follows:

7 Section 18-57. A. There is hereby levied an assessment of Four  
8 Dollars (\$4.00) per net ton of peanuts on a farmer's stock basis  
9 marketed in Oklahoma. Such assessment shall be levied and assessed  
10 to the grower at the time of sale, and shall be shown as a deduction  
11 by the first purchaser from the price paid in settlement to the  
12 grower; provided that within sixty (60) days after any sale the  
13 grower may upon submission of a written request therefor to the  
14 executive ~~secretary~~ director obtain a refund in the amount of the  
15 assessment deducted by the first purchaser. The refund to the  
16 grower who has requested such refund shall be made within sixty (60)  
17 days following the request. Such request shall be accompanied by  
18 the producer's ~~Marketing Quota~~ marketing settlement forms ~~(MQ's)~~  
19 which shall be evidence of the payment of the assessment which need  
20 not be verified.

21 B. The availability of a refund and instructions describing the  
22 process of obtaining a refund shall be posted in a conspicuous  
23 public location at all places where the fees are required to be  
24 collected.

1 C. The Oklahoma Peanut Commission shall keep complete records  
2 of all refunds made under the provisions of this section. Records  
3 of refunds may be destroyed two (2) years after the refund is made.

4 D. All funds expended in the administration of the Oklahoma  
5 Peanut Act and for the payment of all claims whatsoever growing out  
6 of the performance of any duties or activities pursuant to the  
7 Oklahoma Peanut Act shall be paid from the proceeds derived from  
8 subsection A of this section. In the case of a lienholder who is a  
9 first purchaser, the assessment shall be deducted by the lienholder  
10 from the proceeds of the claim secured by such lien at the time the  
11 peanuts are pledged or mortgaged. The assessment shall constitute a  
12 preferred lien and shall have priority over all other liens and  
13 encumbrances upon such peanuts. The assessment shall be deducted  
14 and paid as herein provided whether such peanuts are stored in this  
15 or any other state.

16 SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-58, is  
17 amended to read as follows:

18 Section 18-58. A. The assessment imposed shall, before the  
19 twentieth day of the calendar month following the date of  
20 settlement, be paid by the purchaser to the executive ~~secretary~~  
21 director of the Oklahoma Peanut Commission. The executive ~~secretary~~  
22 director shall give the purchaser a receipt.

23 B. ~~There is hereby created in the State Treasury a revolving~~  
24 ~~fund for the Oklahoma Peanut Commission, to be designated the~~

1 ~~Oklahoma Peanut Commission Revolving Fund. The fund shall consist~~  
2 ~~of all assessments received by the Commission. The fund shall be~~  
3 ~~administered in accordance with the provisions of the Revolving Fund~~  
4 ~~Procedures Act~~ Any unexpended balance contained in the Oklahoma  
5 Peanut Commission Revolving Fund as of November 1, 2015, shall be  
6 transferred and deposited to the credit of the General Revenue Fund  
7 of the State Treasury.

8 SECTION 5. AMENDATORY 2 O.S. 2011, Section 18-62, is  
9 amended to read as follows:

10 Section 18-62. A. Before any change in assessment can be made,  
11 a referendum of ~~the members of the Oklahoma Peanut Growers~~  
12 ~~Association~~ peanut growers shall be conducted to determine the  
13 proportion of the ~~members~~ peanut growers that favor continuation of  
14 the program and the proportion of ~~the members~~ peanut growers that  
15 favor discontinuing the program. Thereafter, such referendum shall  
16 be conducted no more than once every three (3) years upon the  
17 receipt by the Oklahoma Peanut Commission of petitions requesting a  
18 referendum signed by at least ten percent (10%) of ~~the members of~~  
19 ~~the Oklahoma Peanut Growers Association~~ peanut growers.

20 B. At any time a referendum is to be held, the Commission shall  
21 write a definition of a producer eligible to vote, and shall cause a  
22 notice to be given, by letter or publication in the official  
23 publication of the Oklahoma Peanut Commission. The Commission shall  
24 send ballots to those persons eligible to vote and shall set the

1 final date for ballots to be returned for tabulation. The  
2 Commission shall provide for the printing of ballots and shall  
3 furnish a double envelope system so that the identity of a voter  
4 cannot be determined. The grower shall return the ballots by way of  
5 a sealed envelope, pre-addressed to the President of the State Board  
6 of Agriculture.

7 C. Tabulation of ballots shall be jointly by the President of  
8 the State Board of Agriculture and chairman of the Oklahoma Peanut  
9 Commission. Whenever the question of levying the assessments is  
10 disapproved, by failure of sixty percent (60%) of growers voting in  
11 the referendum to favor continuation of the assessments, the  
12 proclamation declaring the result shall provide for the termination  
13 of the assessments on April 30, following the date of the  
14 referendum.

15 D. Thirty (30) days after termination of the assessment, all  
16 remaining funds of the Commission shall be transferred to the  
17 experiment stations of Oklahoma State University to be used for  
18 continued research on peanuts.

19 SECTION 6. REPEALER 2 O.S. 2011, Sections 18-52, as  
20 amended by Section 1, Chapter 63, O.S.L. 2012, 18-53, 18-54, 18-55,  
21 18-56 and 18-59 (2 O.S. Supp. 2014, Section 18-52), are hereby  
22 repealed.

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SECTION 7. This act shall become effective November 1, 2015.

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