CHAPTER 15

Agricultural Marketing Generally

**SECTION 46‑15‑10.** General duties of Department of Agriculture.

For the purpose of aiding, establishing and providing proper facilities for the efficient handling of farm and other food products in the interest of the farmer, consumer and general public and to assist in the disposal and sale of such products the Department of Agriculture shall be responsible for the implementation of the provisions of this chapter.

HISTORY: 1962 Code Section 3‑200; 1975 (59) 258.

CROSS REFERENCES

Department of Agriculture, generally, see Section 46‑3‑10 et seq.

Library References

Agriculture 2.

Westlaw Topic No. 23.

C.J.S. Agriculture Sections 10 to 31.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Agriculture Section 6, General Duties of the Department.

**SECTION 46‑15‑20.** General powers of Department of Agriculture.

The powers of the Department under this chapter shall be:

(1) To request established research agencies to make for it such studies and surveys as may be necessary to determine if and where wholesale farmers’ markets should be established within the State; the kind and size of the markets best suited to the various sections of the State; the estimated cost of constructing such markets; and such other information as may be necessary to determine the probable economic feasibility of proposed markets; and otherwise to make and to have such studies and surveys made;

(2) To acquire by purchase, lease, gift or otherwise suitable sites within the State to be used as wholesale farmers’ markets and to erect thereon necessary buildings and marketing facilities; and to operate and maintain such markets for the handling, classifying, grading and sale of fruits, vegetables, poultry, eggs, dairy products, livestock and other farm products;

(3) To construct and equip and to remodel, reconstruct and re‑equip buildings and other facilities to form part of any market and for such purposes to expend any funds in its hands or to which it may be entitled, not otherwise appropriated or pledged and the Commission shall be empowered to construct and equip, and to remodel, reconstruct and re‑equip buildings and other facilities to form a part of any market, and for such purposes may expend any funds in its hands, or to which it may be entitled, and not otherwise appropriated or pledged, and the proceeds of any revenue bonds, whose issuance is authorized by this article. To obtain funds to be used in whole or in part for the construction and equipment or for the remodeling, reconstruction and re‑equipment of a Farm Market Project, the Commission shall be empowered to issue revenue bonds. The bonds shall be payable solely from the revenues derived from the projects, for which the proceeds shall be expended. Neither the faith and credit of the State nor of the Commission shall be pledged for the payment of the principal and interest of such bonds, and there shall be on the face of each bond a statement, plainly worded, to that effect. Nor shall the members of the Commission or any other person signing the bonds be personally liable thereon.

In order to avail itself of the authorizations of this chapter, the Commission shall adopt a resolution providing for the issuance of the bonds, and prescribing their tenor, terms and conditions thereof. A copy of the resolution shall be submitted to the Agriculture and Natural Resources Committees of the House of Representatives and Senate for their study and consideration and such bonds may not be advertised or issued until approved by a concurrent resolution of the General Assembly. Such bonds shall be serial bonds, maturing in equal or unequal amounts, at such times and on such occasions as the Commission shall determine; provided, that the last maturing bonds of any issue shall become due not later than thirty years from their date, and the first maturing of any bonds issued pursuant to this article shall fall due within five years from the date such bonds bear. They shall bear such rate of interest, shall be in such denominations, shall carry such registration privileges, shall be payable in such medium of payment, and at such place or places, and shall be subject to such terms of redemption, with or without premium, as such resolutions may prescribe.

All bonds issued pursuant to this article shall be executed in the name of the Commission by its Chairman and shall be countersigned by the State Treasurer, and the seal of the Commission shall be affixed or impressed thereon. The delivery of the bonds so executed shall be valid notwithstanding changes in officers or seal occurring after such execution.

Such bonds shall be sold at public sale after notice published at least seven days prior to such sale in a newspaper having a general circulation in the State of South Carolina, and in a financial publication published in the City of New York, N. Y.; provided, that if no bid is received upon such notice which is acceptable to the Commission, such bonds may be then sold at private sale at any time within thirty days after date for receiving bids as given in such notice; provided, further, that such bonds may, in the discretion of the Commission, be sold to the federal government, or any agency thereof, or to the state government, or any agency thereof, at private sale, without any public advertisement. In all instances, the bonds shall be sold in such way as the Commission shall determine to be most advantageous.

The principal of and interest on such bonds shall have the tax exempt status prescribed by Section 12‑1‑60.

It shall be lawful for all executors, administrators, guardians and fiduciaries, and all sinking fund commissions to invest any moneys in their hands in such bonds.

To the end that projects authorized by this article may be properly financed, and that payment of the interest and principal of all bonds issued pursuant to the provisions of this article shall be adequately secured, the Commission shall be empowered, in its discretion:

(a) To issue bonds in such amount as shall not exceed the estimate of the cost of the project intended to be constructed from the proceeds of such bonds, plus such further sum as may be needed to pay the interest on such bonds until adequate revenues are derived from such project, which period shall not exceed three years from the date of such bonds.

(b) To apply, within the limitations of item (a) above, a portion of the proceeds of the bonds to the interest to become due thereon.

(c) To pledge the whole or any part of the revenues of the project, whose construction is made possible, in whole or in part, through the proceeds of the bonds, for the payment of the principal and interest of the bonds as they respectively mature.

(d) To covenant that no services or facilities afforded by the particular project shall be used free of charge.

(e) To covenant that fees or rents shall be charged for the use of all facilities afforded by the project, and that the schedule of fees and charges to be put into effect shall be designed to produce sufficient revenues to:

(1) Pay the cost of operating and maintaining the particular project;

(2) Pay the interest and principal of bonds issued to finance the project as they respectively become due;

(3) Create adequate reserves to meet the payment of such principal and interest;

(4) Provide for contingencies; and

(5) Provide an adequate reserve for depreciation and obsolescence.

(f) To covenant against the mortgaging or disposal of all or any part of any project and against permitting or suffering any lien to be created thereon.

(g) To covenant against the use of any revenues derived from the project for any purposes except those enumerated in item (e) of this section.

(h) To covenant that the proceeds derived from the sale of such bonds shall be applied solely to the project, whose construction is thereby financed, and within the limitations of item (a) of this section to pay interest on such bonds and that any surplus shall be used solely for the retirement of such bonds.

(i) To covenant as to what, if any, additional bonds may be issued payable from revenues of such project and the conditions under which parity bonds may be issued, or in the alternative, to covenant that all additional bonds payable from the revenues of any project be junior and subordinate to the lien of the first issue of bonds payable from the revenues of such project.

(j) To provide for the terms, form, registration, exchange, execution and authentication of bonds, and for the replacement of lost, destroyed or mutilated bonds.

(k) To make covenants with respect to the use of the project and its facilities and any services rendered by such project.

(l) To covenant with respect to the deposit and segregation of all funds derived from such project into proper accounts.

(m) To covenant that all revenues from any project and the proceeds of all revenue bonds be deposited with the State Treasurer, who shall be empowered to disburse and segregate them in accordance with the terms of the resolution providing for the issuance of any bonds.

(n) To lease any of the facilities of any project on such terms and for such periods of time as, in the opinion of the Commission, are best designed to produce the revenues required to operate the project and to meet the payment of the principal and interest of bonds issued for such project.

(o) To provide for the optional or mandatory call of any bonds issued pursuant to this article, on such terms and conditions as the resolution authorizing such bonds shall prescribe.

(p) To prescribe the procedure, if any, by which the terms of any contract with the bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(q) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys.

(r) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(s) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation.

(t) To make such further covenants as may, in the opinion of the Commission, be deemed necessary in order to insure the proper sale of any bonds issued pursuant to this article.

(u) To impose a statutory lien upon any project, whose construction is financed in whole or in part by the proceeds of bonds issued pursuant to this article. Such a statutory lien shall extend to such project, its appurtenances and extensions, additions, improvements and enlargements, and shall inure to the benefit of the holders of any bonds or coupons secured thereby.

Should, pursuant to the provisions of this article, a statutory lien be imposed upon any project, such project shall remain subject to such statutory lien until the payment in full of the principal and interest of the bonds secured thereby. Any holder of any of the bonds or any of the coupons representing interest thereon may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce the statutory lien, and may, by suit, action, mandamus, or other proceedings, enforce and compel performance of all duties of the officials of the Commission, including the fixing of sufficient rates, the collection of revenues, the proper segregation of the revenues of the project, and the proper application thereof. Provided, however, that the statutory lien shall not be construed to give any such bond or coupon holder authority to compel the sale of such project, or any part thereof.

If there be any default in the payment of the principal of or interest upon any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the project on behalf of the Commission with power to fix and charge rates and collect revenues sufficient to provide for the payment of any bonds or other obligations outstanding against such project and for the payment of the expenses of operating and maintaining the same and to apply the income and revenues of the project in conformity with this section and the resolution providing for the issuance of such bonds.

Should, at any time, the Commission consider it necessary or desirable to refinance any bonds issued pursuant to the provisions of this section, then it may avail itself of the authorizations of Chapter 17 Title 6 to enable it to refinance, or to refinance and improve, as contemplated by such chapter. Following a determination made by the Commission that bonds should be sold and a finding that the revenues or other moneys estimated to thereafter be available for the repayment thereof will provide moneys required for the payment of the principal and interest on the bonds then proposed to be issued, the Commission shall submit the following information to the State Fiscal Accountability Authority:

(1) The principal amount of the bonds proposed to be issued.

(2) The purpose or purposes for which the proceeds of such bonds are to be expended.

(3) The maturity schedule of the bonds proposed to be issued.

(4) A schedule showing the annual debt service requirements on all outstanding bonds of the Commission.

(5) A schedule showing the amount and source of revenues available for the payment of the debt service requirements established by the schedule required in item (4).

(6) The method to be employed in selling the proposed bonds.

(7) Any other information which the State Fiscal Accountability Authority shall require.

If the State Fiscal Accountability Authority shall determine that the funds estimated to thereafter be available for the repayment of the Commission’s bonds, including the proposed bonds, will be sufficient to provide for the payment of the principal and interest on the Commission’s bonds thereafter to be outstanding as they become due, the State Fiscal Accountability Authority is authorized to give its approval to the issuance, in whole or in part, of the proposed bonds, subject to such conditions, if any, as it may impose.

(4) To employ market managers and such technical, clerical and other help as shall be necessary to carry out the purposes and intent of this chapter and Article 1 of Chapter 19 and fix their compensation and necessary expenses;

(5) To rent space in and on the markets on such terms and for such periods of time and to make such reasonable charges for the use of the markets and their facilities and services as shall be sufficient to defray the expenses of the operation and maintenance thereof, as well as the whole or a portion of the cost of acquiring and constructing them;

(6) To request established educational agencies to instruct the farmers of the State, through and in connection with the markets established under this chapter and Article 1 of Chapter 19, in the standardization, grading, packing, processing, loading, refrigerating, diversion and distribution of farm products and otherwise to give and to have such instruction given;

(7) To request established research agencies to carry on research work through and in connection with the markets established under this chapter and Article 1 of Chapter 19 and otherwise to carry on and to have such research work carried on;

(8) To receive and use federal grants for all or any of the purposes of this chapter and Article 1 of Chapter 19 and to receive and use any other grants or contributions for such purposes;

(9) To place processing equipment and to establish marketing facilities on markets within the State, whether established under the provisions of this chapter and Article 1 of Chapter 19 or not, on such terms and conditions as the Department shall deem proper;

(10) To make such loans to local marketing authorities established under the provisions of this chapter and Article 1 of Chapter 19 as the Department shall deem to be economically sound; to make grants to such local marketing authorities and to place processing equipment and to locate marketing facilities on such markets on such terms and conditions as the Department shall deem proper;

(11) To coordinate all wholesale farmers’ markets within the State insofar as it is possible to do so, whether established under the provisions of this chapter and Article 1 of Chapter 19 or not, into a market system; and

(12) To make and promulgate such rules and regulations as, in the opinion of the Department, shall be necessary to carry out the purposes of this chapter and Article 1 of Chapter 19.

HISTORY: 1962 Code Section 3‑200.1; 1975 (59) 258; 1978 Act No. 616.

CROSS REFERENCES

Provision that rules and regulations adopted by the Department of Agriculture pursuant to this section must be filed with the Secretary of State and posted in each market, see Section 46‑15‑30.

Rules and regulations, state farmer’s markets, see S.C. Code of Regulations R. 5‑190.

Library References

Agriculture 2.

Westlaw Topic No. 23.

C.J.S. Agriculture Sections 10 to 31.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Agriculture Section 6, General Duties of the Department.

**SECTION 46‑15‑21.** Abolition of State Agricultural Marketing Commission.

Effective July 1, 1975, the State Agricultural Marketing Commission is abolished and all powers, duties, assets and liabilities of the commission are devolved upon the Department of Agriculture to be exercised by the Commission of Agriculture.

HISTORY: 1977 Act No. 214 Section 8.

**SECTION 46‑15‑30.** Filing and posting of rules and regulations.

Any rules and regulations made and promulgated under the provisions of paragraph (12) of Section 46‑15‑20 shall be filed with the Secretary of State and shall be posted in a conspicuous place in each market. When so filed and posted such rules and regulations shall have the force and effect of law.

HISTORY: 1962 Code Section 3‑200.2; 1975 (59) 258.

Attorney General’s Opinions

The sale of lottery tickets on Farmers Market property is prohibited by virtue of Code of Regulations R 5‑190. S.C. Op.Atty.Gen. (January 30, 2002) 2002 WL 399645.

**SECTION 46‑15‑40.** Availability of inspection, grading, and buyers’ services to other markets.

The inspection, grading and buyers’ services herein provided for shall be available to private markets, cooperative markets and markets of any political subdivision at such reasonable charges as the Department may make and in compliance with the rules and regulations which the Department may promulgate.

HISTORY: 1962 Code Section 3‑200.3; 1975 (59) 258.

**SECTION 46‑15‑50.** Market records.

The Department shall keep such records with respect to the markets established by it under the provisions of this chapter and Article 1 of Chapter 19 and shall require the keeping of such records by the local marketing authorities established hereunder as in its judgment will contribute to a better knowledge of farm market needs and cost and will suggest ways of increasing the efficiency in the operation of the markets.

HISTORY: 1962 Code Section 3‑200.4; 1975 (59) 258.

**SECTION 46‑15‑60.** Deposit and disbursement of proceeds of operations.

All funds realized from or in connection with the operation of the wholesale farmers’ markets established by the Department under the provisions of this chapter and Article 1 of Chapter 19 shall be deposited monthly with the State Treasurer to the account of the Department to be expended for the purposes authorized in this chapter.

HISTORY: 1962 Code Section 3‑200.5; 1975 (59) 258.

**SECTION 46‑15‑70.** Agricultural Marketing Advisory Council; membership and terms.

To assist and advise the Department of Agriculture to carry out its responsibilities prescribed in this chapter, there is hereby created the Agricultural Marketing Advisory Council which shall consist of the Commissioner of Agriculture and the President of Clemson University and five public members appointed by the Governor. One appointed member shall be a commercial producer of fruits or vegetables; one shall be a commercial producer of poultry or eggs; one shall be a commercial producer of livestock; one shall be a wholesale produce merchant; and one shall be a retail grocer. Terms of appointed members shall be for two years only from June 4, 1975. The Commissioner of Agriculture shall serve as chairman of the council.

HISTORY: 1962 Code Section 3‑200.6; 1975 (59) 258.

**SECTION 46‑15‑80.** Agricultural Marketing Advisory Council; meetings and compensation.

The council shall meet as often as may be deemed necessary at the call of the chairman. Appointed members shall receive mileage, per diem and subsistence as is provided by law for state boards, committees and commissions for attending meetings of the committee. Provided, that the Council shall meet at least quarterly.

HISTORY: 1962 Code Section 3‑200.7; 1975 (59) 258.

**SECTION 46‑15‑90.** Agricultural Marketing Advisory Council; duties.

In the exercise of its functions the council shall make recommendations to the Commissioner of Agriculture as to the implementation and administration of the responsibilities of the Department under this chapter and conduct studies and compile information as deemed necessary as a basis for such recommendation.

HISTORY: 1962 Code Section 3‑200.8; 1975 (59) 258.

**SECTION 46‑15‑100.** Penalties.

Any person who shall, within the bounds of any market established under the provisions of this chapter and Article 1, Chapter 19, violate any of the provisions hereof is guilty of a misdemeanor, punishable by a fine of not exceeding one hundred dollars or imprisonment for not exceeding thirty days.

HISTORY: 1962 Code Section 3‑200.9; 1975 (59) 258; 2017 Act No. 31 (S.570), Section 5, eff May 10, 2017.

Effect of Amendment

2017 Act No. 31, Section 5, substituted “is guilty” for “or any rule or regulation promulgated hereunder shall be guilty”, and made a nonsubstantive change.

Library References

Agriculture 16.

Westlaw Topic No. 23.

C.J.S. Agriculture Sections 85 to 87, 200 to 203.