

248.480 Kentucky Tobacco Settlement Trust Corporation -- Board of directors -- Duties -- Amnesty compensation program -- Liability.

- (1) As used in this section:
 - (a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' attorneys general dated November 23, 1998;
 - (b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;
 - (c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and
 - (d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.
- (2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.
- (3) The corporation shall be directed by a board of directors, which shall include:
 - (a) The Governor, who shall serve as chair of the corporation;
 - (b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;
 - (c) The Attorney General, who shall serve as secretary of the corporation;
 - (d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;
 - (e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;
 - (f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;
 - (g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and
 - (h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.
- (4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

- (5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.
- (6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the National Tobacco Growers Settlement Trust.
- (7) The corporation's duties shall include, but not be limited to:
 - (a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;
 - (b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;
 - (c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;
 - (d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;
 - (e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;
 - (f) Submitting information required by the trustee of the settlement trust;
 - (g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions;
 - (h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section;
 - (i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary;
 - (j) Provide for the distribution of state funds appropriated in 2005 Ky. Acts ch. 173, Parts I and II to the beneficiaries of the National Tobacco Growers Settlement Trust in a manner consistent with this section; and
 - (k) Provide for the distribution of one (1) time payments under the amnesty compensation program described in subsection (8) of this section.
- (8) (a) The corporation shall establish an amnesty compensation program for tobacco quota owners who did not receive payments under the plan adopted by the corporation on March 22, 2004. The program shall grant one (1) time payments to eligible tobacco quota owners, defined in the March 22, 2004, plan, who did not attain certification status with the corporation in 2004. Tobacco quota owners who attained certification with the corporation in 2004

shall not be eligible for the amnesty compensation payments for any 2003 basic quota pounds that were certified previously by the corporation. The program developed by the corporation shall:

1. Determine those quota owners not certified previously under the March 22, 2004, plan and institute an application process for those noncertified quota owners;
 2. Make a one (1) time payment to newly certified quota owners under the amnesty compensation program at the same rate per pound as those quota owners who were certified previously under the March 22, 2004, plan provisions; and
 3. Limit the application process to ninety (90) days, with an ending date no later than October 31, 2006, and make payments to certified beneficiaries within ninety (90) days after the application process has ended.
- (b) Funds required under the amnesty compensation program, including administrative costs of the plan, shall be provided by the Governor's Office of Agricultural Policy under 2006 Ky. Acts ch. 252, Pt. X, sec. B.1.a.(3). In the event funds provided under 2006 Ky. Acts ch. 252, Pt. X, are insufficient to fully carry out the provisions of paragraph (a)2. of this subsection, then the one (1) time payments to newly certified quota owners shall be made in accordance with paragraph (a)2. of this subsection, on a proportionate basis, until all available funds provided in 2006 Ky. Acts ch. 252, Pt. X, are expended.
- (c) The provisions of this subsection shall expire on June 30, 2007.
- (9) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XX, sec. 1, effective April 25, 2006. --
Amended 2005 Ky. Acts ch. 173, Pt. XXII, sec. 1, effective March 20, 2005. --
Created 2000 Ky. Acts ch. 221, sec. 1, effective July 14, 2000.