

§ 607. Sale by Secretary; additional options; validation of assignments; publication of information

The Secretary shall sell cotton held or acquired by him pursuant to authority of this chapter at his discretion subject only to the conditions and limitations of this chapter: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of this chapter, make public such information as he deems necessary in order to effectuate the purposes of this chapter.

(May 12, 1933, ch. 25, title I, § 7, 48 Stat. 34; June 16, 1933, ch. 90, title II, § 221, 48 Stat. 210; Aug. 24, 1935, ch. 641, § 33, 49 Stat. 775.)

AMENDMENTS

1935—Act Aug. 24, 1935, among other changes, inserted provisions as to presumption of validity of assignments made prior to Jan. 11, 1934 of option contracts exercised prior to Jan. 18, 1934 if in good faith, for full value, and without fraud or speculation by the assignee.

1933—Act June 16, 1933, amended section generally.

SUBCHAPTER III—COMMODITY BENEFITS

§ 608. Powers of Secretary

(1) Investigations; proclamation of findings

Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or

more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this chapter.

(2) Agreements for adjustment of acreage or production and for rental or benefit payments

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this chapter, and to make such adjustment program practicable to operate and administer, and

(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter, and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this chapter.

(3) Payments by Secretary

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

(4) Additional investigation; suspension of exercise of powers

Whenever, during a period during which any of the powers conferred in subsection (2) or (3) of this section is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3) of

this section, and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

(5) Hearings; notice

In the course of any investigation required to be made under subsection (1) or (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

(6) Commodity in which payment made

No payment under this chapter made in an agricultural commodity acquired by the Secretary in pursuance of this chapter shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

(7) Additional payments to producers of sugar beets or sugarcane

In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

(8) Pledge by rice producer for production credit of right to rental or benefit payments

In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this chapter, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a

payee to receive such rental or benefit payments.

(9) Advances of payments on stored nonperishable commodity

Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest.

(May 12, 1933, ch. 25, title I, § 8, 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; May 9, 1934, ch. 263, § 14, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 7, 49 Stat. 46; Aug. 24, 1935, ch. 641, §§ 2, 4-7, 49 Stat. 751, 753-762.)

CODIFICATION

Section as originally enacted consisted of subsections (1) to (5). Act Aug. 24, 1935, amended section by striking out or amending and redesignating the various subsections.

AMENDMENTS

1935—Subsec. (1) was, together with subsecs. (2) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935, which also struck out former (1) as amended by acts May 9, 1934, and March 18, 1935.

Subsec. (2) was, together with subsecs. (1) and (3) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (2), as amended by act Apr. 7, 1934, was designated section 8b of the Agricultural Adjustment Act, section 608b of this title, and amended by section 4 of said act Aug. 24, 1935.

Subsec. (3) was, together with subsecs. (1), (2), and (4) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (3) was struck out by section 5 of said act Aug. 24, 1935, which also added section 8c to the Agricultural Adjustment Act, section 608c of this title.

Subsec. (4) was, together with subsecs. (1) to (3) and (5) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (4) was struck out by section 6 of said act Aug. 24, 1935, which also added sections 8d and 8e to the Agricultural Adjustment Act, section 608d and former section 608e, respectively, of this title.

Subsec. (5) was, together with subsecs. (1) to (4) and (6) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (5) was designated section 8f of the Agricultural Adjustment Act, section 608f of this title, and amended by section 7 of said act Aug. 24, 1935.

Subsecs. (6) to (9) were, together with subsecs. (1) to (5), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935.

1934—Act May 9, 1934, amended subsec. (1) generally. Act Apr. 7, 1934, amended subsec. (2) by striking out proviso.

VALIDITY OF AGREEMENTS AND LICENSES PRESERVED UNDER 1935 ACT

Act Aug. 24, 1935, ch. 641, § 38, 49 Stat. 776, provided that: "Nothing contained in this Act [see Tables for classification] shall (a), invalidate any marketing agreement or license in existence on the date of the en-

actment hereof [Aug. 24, 1935], or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8(1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8(1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act [this chapter]; *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937, except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act."

§ 608-1. Omitted

CODIFICATION

Section, act July 2, 1940, ch. 521, §9, 54 Stat. 729, which related to adjustments between payee and third persons, was omitted as executed.

§ 608a. Enforcement of chapter

(1) to (4) Omitted

(5) Forfeitures

Any person exceeding any quota or allotment fixed for him under this chapter by the Secretary of Agriculture and any other person knowingly participating or aiding in the exceeding of such quota or allotment shall forfeit to the United States a sum equal to the value of such excess at the current market price for such commodity at the time of violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(6) Jurisdiction of district courts

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to this chapter, in any proceeding now pending or hereafter brought in said courts.

(7) Duties of United States attorneys; investigation of violations by Secretary; hearings

Upon the request of the Secretary of Agriculture, it shall be the duty of the several United States attorneys, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to this chapter. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this chapter, the Secretary shall have power to institute an investigation and, after

due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.

(8) Cumulative remedies

The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(9) "Person" defined

The term "person" as used in this chapter includes an individual, partnership, corporation, association, and any other business unit.

(May 12, 1933, ch. 25, title I, §8a, as added May 9, 1934, ch. 263, §4, 48 Stat. 672; amended Aug. 24, 1935, ch. 641, §§8-10, 49 Stat. 762; June 3, 1937, ch. 296, §§1, 2(c), 50 Stat. 246, 247; June 25, 1948, ch. 646, §1, 62 Stat. 909; Pub. L. 87-128, title I, §141(2), Aug. 8, 1961, 75 Stat. 304.)

CODIFICATION

Provisions of subsecs. (1) to (4), relating to establishment, regulation and determination of sugar quotas, agreements limiting or regulating child labor, wages, and adjustment of disputes in the sugar industry, and prescribing penalties for violations thereof, were omitted since they ceased to apply on Sept. 1, 1937, in accordance with the provisions of section 510 of the Sugar Act of 1937, act Sept. 1, 1937, ch. 898, 50 Stat. 916. Section 510 of act Sept. 1, 1937, provided in part that: "The provisions of the Agricultural Adjustment Act, as amended [this chapter], shall cease to apply to sugar upon the enactment of this Act [Sept. 1, 1937]". Provisions similar to former subsecs. (1) to (4) were contained in the Sugar Act of 1948, section 1100 et seq. of this title, which expired on Dec. 31, 1974.

AMENDMENTS

1961—Subsec. (5). Pub. L. 87-128 struck out "willfully" after "Any person" and substituted provision for forfeiture of a sum equal to the value of the excess at the current market price for the commodity at the time of violation for provision for forfeiture of a sum equal to three times the current market value of the excess.

1937—Subsec. (6). Act June 3, 1937, §2(c), struck out "the provisions of this section, or of".

1935—Subsec. (1). Act Aug. 24, 1935, §8, substituted "persons engaged in handling" for "handlers" wherever appearing; struck out "or in competition with," in par. (B); inserted "directly" before "to burden" in par. (B); and struck out "in any way" in par. (B).

Subsec. (6). Act Aug. 24, 1935, §9, inserted "or" after "regulation," and struck out "or license".

Subsec. (7). Act Aug. 24, 1935, §10, inserted last sentence.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys" in subsec. (7). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding 491 of Title 48, Territories and Insular Possessions.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of subsections (5),