

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 882

Short Title: Conform NC Law to Commodities Exchange Act. (Public)

Sponsors: Senator Carpenter.

Referred to: Commerce.

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE LAW GOVERNING CONTRACTS FOR "FUTURES"
TO THE FEDERAL COMMODITY EXCHANGE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 16-3 reads as rewritten:

"§ 16-3. Certain contracts as to "futures" void.

Every contract, whether in writing or not, whereby any person shall agree to sell and deliver any cotton, Indian corn, wheat, rye, oats, tobacco, meal, lard, bacon, salt pork, salt fish, beef, cattle, sugar, coffee, stocks, bonds, and choses in action, at a place and at a time specified and agreed upon therein, to any other person, whether the person to whom such article is so agreed to be sold and delivered shall be a party to such contract or not, when, in fact, and notwithstanding the terms expressed of such contract, it is not intended by the parties thereto that the articles or things so agreed to be sold and delivered shall be actually delivered, or the value thereof paid, but it is intended and understood by them that money or other thing of value shall be paid to the one party by the other, or to a third party, the party to whom such payment of money or other thing of value shall be made to depend, and the amount of such money or other thing of value so to be paid to depend upon whether the market price or value of the article so agreed to be sold and delivered is greater or less at the time and place so specified than the price stipulated to be paid and received for the articles so to be sold and delivered, and every contract commonly called "futures" as to the several articles and things hereinbefore specified, or any of them, by whatever other name called, and every contract as to the said several articles and things, or any of them, whereby the parties thereto contemplate and intend no real transaction as to the article or thing agreed to be delivered, but only the payment of a sum of money or other thing of value, such payment and the amount thereof and the person to whom the same is to be paid to depend on whether or not the market price or value is greater or less than the price so agreed to be paid for the said article or thing at the time and place specified in such contract, shall be utterly null and

1 void; and no action shall be maintained in any court to enforce any such contract,
2 whether the same was made in or out of the State, or partly in and partly out of this
3 State, and whether made by the parties thereto by themselves or by or through their
4 agents, immediately or mediately; nor shall any party to any such contract, or any agent
5 of any such party, directly or remotely connected with any such contract in any way
6 whatever, have or maintain any action or cause of action on account of any money or
7 other thing of value paid or advanced or hypothecated by him or them in connection
8 with or on account of such contract and agency; nor shall the courts of this State have
9 any jurisdiction to entertain any suit or action brought upon a judgment based upon any
10 such contract. This section shall not be construed so as to apply to any person, firm or
11 corporation, or his or their agents, engaged in the business of manufacturing or
12 wholesale merchandising in the purchase and/or sale of the necessary commodities
13 required in the ordinary course of their business; nor shall this section be construed so
14 as to apply to any contract with respect to the purchase and/or sale for future delivery of
15 any of the articles or things mentioned and referred to in this section, where such
16 purchase and/or sale is made on any exchange on which any such article or things are
17 regularly bought and sold, or contracts therefor regularly entered into, and the rules and
18 regulations of such exchange are such that either party to such contract may require
19 delivery thereof: Provided, such contract is made in accordance with such rules and
20 regulations.

21 In addition, neither this section nor any other section of this Article shall be
22 construed to apply to any person, firm, corporation, or other entity, either as principal or
23 agent, or to any contract, that is excluded or exempted under the Commodity Exchange
24 Act, as provided in section 16(e)(2) of the Commodity Exchange Act, 7 U.S.C. §
25 16(e)(2) and, accordingly, each section of this Article shall be considered a "law that
26 regulates or prohibits the operation of bucket shops" within the meaning of section
27 16(e)(2) of the Commodity Exchange Act."

28 **SECTION 2.** This act becomes effective October 1, 2001.