

**CHAPTER 151. SECURITY FUNDS, BONDING
AND ALTERNATIVE SECURITY**

- Sec.
- 151.1. Written agreements by cooperatives.
 - 151.2. Payments to the Milk Producers' Security Fund.
 - 151.3. Notice to member of cooperatives, associations, or producers concerning right to opt out of Producers' Security Fund.
 - 151.4. Initial retroactive payments to Milk Producers' Security Fund.
 - 151.5. Notice with respect to claims against the Milk Producers' Security Fund.
 - 151.6. Valuation of United States government obligations as collateral.
 - 151.7. Withdrawals from Cooperative Security Fund.
 - 151.8. Adjustments for Federal support program.
 - 151.9. Calculation of bonding obligation.
 - 151.10. Election to substitute bond or alternative security for Security Fund payments.
 - 151.11. Election to change from bond or alternative security to Security Fund.
 - 151.12. Payment into the Producer Security Fund for farm separated cream.
 - 151.13. Definitions.

Authority

The provisions of this Chapter 151 issued under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302); and the Milk Producers' and Cooperative Security Funds Act (31 P. S. §§ 625.1—625.23) (Repealed), unless otherwise noted.

Source

The provisions of this Chapter 151 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094, unless otherwise noted.

§ 151.1. Written agreements by cooperatives.

- (a) A cooperative shall submit copies of its current standard marketing agreements to the Board by October 15, 1980.
- (b) A cooperative shall submit new member marketing agreements and amendments to existing member marketing agreements and contracts with other qualified cooperatives to the Board at least 15 days prior to the effective date of an agreement. The Board will act to approve or disapprove the contracts at its next regularly scheduled public meeting following submission of the agreements. A disapproval of an agreement shall be communicated to the cooperative in question together with reasons for the disapproval.

Source

The provisions of this § 151.1 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.2. Payments to the Milk Producers' Security Fund.

- (a) Payment of \$.01 per hundredweight as required by section 6(a) of the Milk Producers' and Cooperative Security Funds Act (31 P. S. § 625.6(a))

(Repealed) shall be computed on the basis of milk received during each calendar month beginning with milk received during the month of October 1980.

(b) Payment of \$.01 per hundredweight shall be remitted by each dealer in full so as to be received in the office of the Board by the 25th day of the month immediately succeeding the month in which the milk was purchased.

Source

The provisions of this § 151.2 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.3. Notice to member of cooperatives, associations, or producers concerning right to opt out of Producers' Security Fund.

Notice to members of a cooperative or association of producers as required by section 6(d) of the Milk Producers' and Cooperative Security Funds Act (31 P. S. § 625.6(d)) shall be in the following form:

MEETING NOTICE

Pursuant to the Laws of the State of Pennsylvania, you are hereby notified of a special meeting of the Board of Directors of _____, (Cooperative) to be held _____ at _____, at _____ (Date) (Time) (Location)

The purpose of this meeting is to consider whether or not to participate in the Pennsylvania Cooperative Security Fund.

Pennsylvania has established a fund to reimburse cooperative members in the event the cooperative fails. Cooperatives have the option of electing not to participate in the fund by an affirmative vote of a majority of the members of the Board of Directors.

If the Board decides not to participate in the fund, _____ Cooperative, will not be required to pay \$.01 per hundredweight on all member milk marketed and the members of _____ Cooperative, will not be eligible to receive payment from the fund in the event the cooperative is adjudged bankrupt.

The Board meeting indicated above is for the purpose of considering whether or not to participate in the Cooperative Security Fund.

Signed: _____

Title: _____

MEETING NOTICE

Pursuant to the Laws of the State of Pennsylvania, you are hereby notified of a special meeting of delegates of _____ to be held _____ (Cooperative) (Date) at _____, at _____ (Time) (Location)

The purpose of this meeting is to consider whether or not to participate in the Pennsylvania Cooperative Security Fund.

Pennsylvania has established a fund to reimburse cooperative members in the event the cooperative fails. Cooperatives have the option of electing not to participate in the fund by an affirmative vote of the majority of delegates at a special or annual meeting.

If the delegates decide not to participate in the fund, _____ Cooperative, will not be required to pay \$.01 per hundredweight on all member milk marketed and the member of _____ Cooperative, will not be eligible to receive payment from the fund in the event the cooperative is adjudged bankrupt.

The delegate meeting indicated above is for the purpose of considering whether or not to participate in the Cooperative Security Fund.

Signed: _____

Title: _____

Source

The provisions of this § 151.3 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.4. Initial retroactive payments to Milk Producers' Security Fund.

(a) A milk dealer who at the inception of the Milk Producers' Security Fund elects to make payments to that fund shall make payments for milk received during the months of July, August and September 1980. These payments shall be sent so as to be received by the Board on or before November 22, 1980.

(b) A milk dealer not licensed on July 10, 1980 who, subsequent to that date, applies for a license and elects to participate in the Milk Producers' Security Fund shall make an additional payment in addition to the dealer's regular monthly payments, calculated by multiplying the payment for the first full calendar month of operation by three. The payment shall be received by the Board no later than the 25th day of the third full calendar month of operation by the dealer. The new dealer shall make regular monthly payments on the 25th day of each month as provided by this chapter for other dealers.

Source

The provisions of this § 151.4 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.5. Notice with respect to claims against the Milk Producers' Security Fund.

(a) The Board will give written notice by first class mail to producers believed to be affected within 5 days after discovery that a licensed milk dealer has defaulted in making payment for milk received from producers in accordance with § 143.12 (relating to terms of payment).

(b) A producer affected by the default shall file verified claims within 30 days of the date of the notice from the Board. A claim postmarked later than 30 days after notice from the Board will not be considered.

(c) The claim period as specified in section 8(b) of the Milk Producers' and Cooperative Security Funds Act (31 P. S. § 625.8) (Repealed) may not exceed 58 days.

Source

The provisions of this § 151.5 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.6. Valuation of United States government obligations as collateral.

United States government interest-bearing obligations and negotiable bonds for the United States deposited with the Board as collateral for a surety bond of a milk dealer or as alternate security under sections 9(b) and 10(2) of the Milk Producers' and Cooperative Security Funds Act (31 P. S. §§ 625.9(b) and 625.10(2)) (Repealed) shall have their value determined in the following manner:

(1) The valuation shall be determined by the market quotation listed in the *Wall Street Journal* on the first day of each calendar quarter.

(2) Valuation of the security shall be reviewed quarterly and adjusted in accordance with the latest quotation. When the valuation indicates that the collateral posted with the bond is worth less than the amount of the bond, the Board may require that additional collateral be posted within 15 days. When the valuation indicates that the collateral posted with the bond is worth more than the amount of the bond, the Board upon request will return the portion of the collateral as will not reduce the collateral held by the Board below the amount of the bond.

Source

The provisions of this § 151.6 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.7. Withdrawals from Cooperative Security Fund.

(a) A cooperative participating in the Cooperative Security Fund shall submit to the Board on or before the first day of participation in the Cooperative Security Fund a complete list of members and nonmember patrons belonging to the cooperative, together with the complete mailing address for each member or nonmember patron. Each participating cooperative shall provide the Board by the 25th day of each calendar month subsequent to the first month of participation in the Cooperative Security Fund with appropriate additions and deletions to the member and nonmember patron list.

(b) The Board will give notice by first class mail to listed members and nonmember patrons of the opportunity to file claims for withdrawal from the Cooperative Security Fund within 5 days of discovery of an adjudication of bankruptcy of a participating cooperative.

(c) Members and nonmember patrons of the bankrupt cooperative who desire to participate in the withdrawal from the Cooperative Security Fund shall file

verified claims with the Board within 30 days of the date of notice from the Board. A claim postmarked later than 30 days after the date of notice from the Board will not be considered.

(d) The Board will examine the claims filed by members or nonmember patrons of the bankrupt cooperative and will determine after hearing upon at least 5 days notice to the claimants and to the bankrupt cooperative the amount due each claimant. A certification of the amount determined to be due each claimant will be filed with the fiscal agent, each claimant and the bankrupt cooperative within 60 days after the claimants have filed verified claims.

Source

The provisions of this § 151.7 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.8. Adjustments for Federal support program.

At the end of each calendar quarter beginning with October—December 1980, a milk dealer who has participated in the Milk Producers' Security Fund or a cooperative who has participated in the Cooperative Security Fund, may apply to the Board for a rebate of net monthly payments made to the appropriate fund during the quarter, adjusted for a cash credit it has received from the appropriate fund during the same period, with respect to the milk equivalent value of butter, cheese or nonfat dry milk manufactured by the dealer or on its account and sold to the Commodity Credit Corporation of the United States during the calendar year under the Price Support Program (Section 201(c) of the Agricultural Act of 1949, as amended). The milk equivalent value of butter, cheese or nonfat dry milk for which application is made by a milk dealer for a rebate from the Milk Producers' Security Fund shall be calculated based upon yield factors used for such products under the Price Support Program. A rebate made from the appropriate fund under this section shall be at the rate of \$.01 per hundredweight of the milk equivalent value of the product sold to the Commodity Credit Corporation. An application by a milk dealer or participating cooperative for a rebate under this section shall be accompanied by a purchase receipt or other supporting records issued by the Commodity Credit Corporation documenting purchase of a product from the dealer during the calendar year. An application shall be filed with the Board on or before the 30th day after the close of the calendar quarter.

Source

The provisions of this § 151.8 adopted October 17, 1980, effective October 18, 1980, 10 Pa.B. 4094.

§ 151.9. Calculation of bonding obligation.

(a) For the purpose of sections 7(c) and 8 of the Milk Producers' Security Act (act) (31 P. S. §§ 626.7(c) and 626.8), the Board will use the following method

to ascertain the highest aggregate amount owed by the dealer to producers for a 40-day period during the preceding 12 months:

- (1) Review the amount owed by the milk dealer to all its producers for each month in the preceding calendar year.
 - (2) Identify the 2 consecutive months in which the sum of the amounts owed was the highest.
 - (3) Divide the sum of the amounts owed from paragraph (2) by the total number of days in the 2 consecutive months.
 - (4) Multiply the quotient from paragraph (3) by 40.
- (b) As used in sections 7(c) and 8 of the act and in subsection (a), “amount owed” has the following meanings:
- (1) For a purchase subject to minimum pricing fixed by the Board, “amount owed” means the amount the milk dealer was required to pay the producer under the applicable Board order, even though the actual amount paid exceeded the Board-established minimum price.
 - (2) For a purchase not subject to minimum pricing fixed by the Board, “amount owed” means the actual amount the milk dealer lawfully paid the producer.

Authority

The provisions of this § 151.9 amended under section 14 of the Milk Producers’ Security Act (31 P. S. § 626.14).

Source

The provisions of this § 151.9 adopted March 27, 1981, effective March 28, 1981, 11 Pa.B. 1088; amended August 9, 2002, effective August 10, 2002, 32 Pa.B. 3893. Immediately preceding text appears at serial pages (276995) to (276996).

§ 151.10. Election to substitute bond or alternative security for Security Fund payments.

Dealers making payments into the Milk Producers’ Security Fund, may elect to withdraw from the fund and provide a bond or alternative security in lieu of payments into the fund only on the date for filing of the milk dealer’s license renewal application for the next succeeding licensing year. Notice of the election shall accompany the license renewal application. The election shall be effective at the beginning of the succeeding licensing year. A dealer making the election may not be entitled to repayment of funds previously paid into the Producers’ Security Fund.

Source

The provisions of this § 151.10 adopted March 27, 1981, effective March 28, 1981, 11 Pa.B. 1088.

§ 151.11. Election to change from bond or alternative security to Security Fund.

A dealer who initially submits a surety bond or alternative security, and subsequently elects to participate in the Milk Producers' Security Fund may make the election effective at the beginning of any licensing year. A dealer who makes the election shall notify the Board of the election on or before June 15th of the preceding licensing year. A dealer making the election shall submit an advance payment of \$.01 per hundredweight on purchases made during the months of March, April and May of the licensing year preceding the licensing year in which the election becomes effective. The advance payment shall be made by the dealer so as to be received in the office of the Board on or before June 15th of the licensing year immediately preceding the licensing year for which the election is effective.

Source

The provisions of this § 151.11 adopted March 27, 1981, effective March 28, 1981, 11 Pa.B. 1088.

§ 151.12. Payment into the Producer Security Fund for farm separated cream.

For purposes of computing payment into the Producers' Security Fund on purchases of farm separated cream, payment shall be based upon the whole milk equivalent of the cream at 3.5% butterfat.

Source

The provisions of this § 151.12 adopted March 27, 1981, effective March 28, 1981, 11 Pa.B. 1088.

§ 151.13. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

In good standing—For the purposes of section 2(b) of the Milk Producers' and Cooperative Security Funds Act (31 P. S. § 625.2(b)) (Repealed), a milk dealer or handler shall be considered to be in good standing so long as a payment due for milk purchased is received in the office of the Milk Marketing Board by the 25th day of the month succeeding the month in which the milk covered by the payment is purchased.

Trust company—For the purposes of the Milk Producers and Cooperative Security Funds Act, a bank and trust company as defined in section 102(g) of the Banking Code of 1965 (7 P. S. § 102(g)) or a national bank which has been granted trust or fiduciary powers and authority under 12 U.S.C. §§ 21—221.

Source

The provisions of this § 151.13 adopted March 27, 1981, effective March 28, 1981, 11 Pa.B. 1088.

[Next page is 160-1.]

151-8

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