AGRICULTURAL COMMODITIES MARKETING ACT

Act 232 of 1965

AN ACT relating to the marketing of agricultural commodities or agricultural commodity inputs; to provide for marketing and research programs, agreements, referendums by producers, assessments on producers, and commodity committees; and to prescribe certain functions of the department of agriculture relative thereto including powers of enforcement of this act; and to prescribe remedies and penalties.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1974, Act 324, Imd. Eff. Dec. 15, 1974 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

The People of the State of Michigan enact:

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290.651 Agricultural commodities marketing act; short title.

Sec. 1.

This act shall be known and may be cited as the "agricultural commodities marketing act".

History: 1965, Act 232, Eff. Mar. 31, 1966
Constitutionality: The Michigan supreme court, in Dukesherer Farms, Inc v Director of the Department of Agriculture, 405 Mich 1; 273 NW2d 877 (1979), found the agricultural commodities marketing act and the Michigan cherry promotion and development program instituted pursuant to the act constitutional.

290.652 Definitions.

Sec. 2.

As used in this act:

(a) "Agricultural commodity" means all agricultural, aquacultural, silvicultural, horticultural, floricultural, or viticultural products, livestock or livestock products, Christmas trees, bees, maple syrup, honey, commercial fish or fish products, and seeds produced in this state, either in their natural state or as processed by the producer of the commodity. The kinds, types, and subtypes of products to be classed together as an agricultural commodity for the purposes of this act shall be determined on the basis of common usage and practice.

(b) "Agricultural commodity input" means an item used in the production, processing, or packaging of an agricultural commodity that is assessed by a specific marketing agreement. Agricultural commodity input does not include feed, fertilizer, and pesticides.

(c) "Committee" means the commodity committee or advisory board established under a marketing program.

(d) "Department" means the department of agriculture and rural development.

(e) "Director" means the director of the department.

(f) "Distributor" means a person engaged in selling, offering for sale, marketing, or distributing an agricultural commodity or agricultural commodity input that he or she has purchased or acquired from a producer or that the person is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. Distributor does not include a retailer of an agricultural commodity except for either of the following:

(i) A retailer that purchases or acquires from or handles on behalf of a producer an agricultural commodity not previously subjected to regulations by the marketing program covering the agricultural commodity.

(ii) A retailer specifically identified by a marketing program that is subject to an assessment.

(g) "Financial institution" means a state or nationally chartered bank, member of the farm credit system, savings and loan association, savings bank, and credit union, whose deposits are insured by an agency of the United States government and that maintains a principal or branch office located in this state under the laws of this state or the United States.

(h) "Handler" means a person that takes title to and is engaged in the operation of packing, cleaning, drying, packaging, sizing, hauling, grading, selling, offering for sale, or marketing a marketable agricultural commodity or an agricultural commodity input in commercial quantities as defined in a marketing program, that as owner, agent, or otherwise, ships or causes an agricultural commodity or agricultural commodity input to be shipped.

(i) "Livestock" means that term as defined in section 3 of the animal industry act, 1988 PA 466, MCL 287.703.

(j) "Marketing agreement" means an agreement entered into, with the director, by producers, distributors, processors, or handlers under this act and binding only on those signing the agreement.

(k) "Marketing program" means a program established by order of the director under this act prescribing rules and regulations governing the marketing for processing, distributing, selling, or handling an agricultural commodity produced in this state or agricultural commodity input during a specified period and that the director determines would be in the public interest.

(l) "Processor" means a person engaged in canning, freezing, dehydrating, drying, fermenting, distilling, extracting, preserving, grinding, crushing, milling, or otherwise preserving or changing the form of an agricultural commodity for the purpose of marketing it.

(m) "Producer" means a person engaged in the business of producing, or causing to be produced for any market, an agricultural commodity or agricultural commodity input in quantity beyond that person's own family use, and having a value at first point of sale of more than $800.00 or of an amount as otherwise expressly provided for in a marketing program for the agricultural commodity or agricultural commodity input in any 1 growing and marketing season within the last 3 years.

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History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1978, Act 146, Imd. Eff. May 12, 1978 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002 ;-- Am. 2019, Act 133, Eff. Feb. 19, 2020

290.653 Marketing agreements; provisions allowed; provisions required; substantial compliance.

Sec. 3.

(1) Any marketing agreement or marketing program authorized under this act may contain 1 or more of the following:

(a) Provisions for establishing advertising and promotional programs.

(b) Provisions for establishing market development programs.

(c) Provisions for establishing and supporting research designed to improve or develop new agricultural commodities or agricultural commodity inputs and contribute to the effectiveness of the program.

(d) Provisions for development and dissemination of market information.

(e) Provision for accepting grants, royalties, license fees, interest, gifts, income, or other items of value that enhance the purpose of the marketing program or marketing agreement.

(f) Provision for contracting with organizations, agencies, or individuals to carry out the activities described in this act.

(g) Provisions for either or both of the following:

(i) Establishing standards for quality, purity, condition, size, or other accepted standards for that industry for agricultural commodities or agricultural commodity inputs sold as fresh, seed, or processed and standards for pack or container, or both, for agricultural commodities or agricultural commodity inputs sold for use as fresh, seed, or processed products.

(ii) Inspection and grading of the fresh, seed, or processed agricultural commodity or agricultural commodity input in accordance with the grading standards so established.

(h) Provision for determining the existence and extent of any surplus in any marketing period for any agricultural commodity or agricultural commodity input, or of any grade, size, or quality of any agricultural commodity or agricultural commodity input, and providing for handling and equitably sharing the cost of such surplus handling among the producers of the agricultural commodity or agricultural commodity input. Before provisions under this subdivision are included in any marketing program, particular attention shall be given to determining that Michigan producers affected by the provisions produce a sufficient proportion of the product covered by the provisions for the program to be effective in the particular market toward which the provisions would be applicable.

(i) Provision for payment of assessments for all usable products purchased from producers according to established grades.

(j) Provision for payment of assessments on agricultural commodity inputs.

(k) Provision for exemption of nonparticipating producers.

(l) Provision for the awarding of grants from money collected pursuant to this act. The grants may be awarded to organizations, agencies, or individuals with whom the committee has contracted for activities described in this section.

(2) A proposed marketing program shall include definition of terms, purpose, maximum rate of an assessment, method of collection of the assessment, and nominating procedures, qualifications, representation, and size of the committee as well as other provisions considered necessary by a committee. This subsection does not invalidate any marketing programs established under this act before the effective date of the amendatory act that added this sentence that are in substantial compliance with this act as determined by the director.

(3) A marketing agreement or marketing program that allows the committee to contract with organizations, agencies, governmental entities, institutions of higher education, individuals, or other legal entities in order to carry out the activities described in this act or allows the committee to award grants may provide in the marketing agreement or marketing program that the marketing program or marketing agreement be allowed to participate in the income or earnings of any royalties or license fees derived from the results of those activities. However, the marketing program or marketing agreement shall provide that the royalties or license fees be utilized only in the manner provided for in that marketing program or marketing agreement.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

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290.654 Inspection and grading; approved inspectors.

Sec. 4.

For the purpose of this act, all inspection and grading shall be performed by or under the supervision of trained inspectors approved by the director or by inspectors supplied under cooperative agreement between the department and the United States department of agriculture.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.655 Assessments to defray program and administrative costs; collection; maximum assessment to be specified; collection by processors, distributors, or handlers; disposition; trust fund; complaint; notice of due date; ability to borrow money; assessment for loans and interest.

Sec. 5.

(a) Assessments shall be collected from each producer of a marketable agricultural commodity produced in this state and directly affected by a marketing program issued for the agricultural commodity to defray all program and administrative costs except for nonparticipating producers as provided for under section 3(1)(k). Assessments shall be collected on agricultural commodity inputs in this state directly affected by a marketing program established for the agricultural commodity input in order to defray all marketing program and administrative costs. Subject to approval by the director, assessments may also be collected from either producers or distributors, or both, and manufacturers, of a marketable agricultural commodity produced in this state or an agricultural commodity input used in this state if the director determines that the unique nature of the agricultural commodity or agricultural commodity input or the industry structure warrants the assessment of both the producer and the distributors of the agricultural commodity or agricultural commodity input.

(b) Each marketing program shall specify the maximum assessment on an agricultural commodity or an agricultural commodity input and may provide for any other assessment mechanism as approved by the director to be collected to cover program and administrative costs.

(c) Pursuant to the marketing program and for convenience, the processors, distributors, or handlers of the agricultural commodity or agricultural commodity input may be required to collect and remit producer assessments to the committee at no cost to the marketing program unless the marketing program expressly provides for the payment of a reasonable fee for making the deduction and remittance.

In the case of a marketing program that provides for the imposition of an assessment, the processors, distributors, or handlers dealing with the producer shall collect the assessment from the producer by deducting the assessment from the gross amount owing to the producer and shall remit the assessment and data to the committee within a reasonable time period as established by the committee. A processor, distributor, or handler who fails to deduct or remit the assessment is liable to the committee for any assessments not deducted or remitted. If a processor, distributor, or handler is not involved at the first point of sale of an agricultural commodity or agricultural commodity input, or is not within this state and the assessment is not deducted and remitted, the producer shall remit the assessments to the committee on all sales of the agricultural commodity or agricultural commodity input, subject to a marketing program and within a time period specified by the committee.

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(d) All assessments deducted or collected and held by a processor, distributor, or handler for over 92 days shall be deposited in a separate interest bearing escrow account held jointly with the marketing program committee and not commingled with other funds. Interest accrued in the escrow account shall be forwarded to the committee.

(e) All assessments collected or deducted shall be considered trust funds and be remitted quarterly or more frequently if required by the marketing program to the appropriate committee.

(f) A committee may file a written complaint with the director documenting that a processor, distributor, handler, or producer has failed to deduct or remit any assessment due to the committee pursuant to a marketing program. Upon receipt of such a complaint, the director shall conduct an investigation of the allegations. If, after investigation, the director finds that the processor, distributor, handler, or producer has failed to deduct or remit an assessment to the committee, the director shall request by certified mail the processor, distributor, handler, or producer to remit the assessment within 10 days after the director determines that a deduction or remittance was not made. In the case of the failure to deduct an assessment, the director shall compute the amount that reasonably should have been deducted and impose an assessment in that amount. If the assessment is not remitted within 30 days after the request or is not in compliance with a written agreement for full payment, the director may file an action in a court of competent jurisdiction to collect the assessment. Venue in such an action is the place where the processor, distributor, handler, or producer has its primary place of business. In any action to recover an assessment under this subsection, if the director prevails, the court shall award to the director all costs and expenses in bringing the action, including, but not limited to, reasonable and actual attorney fees, court costs, and audit expenses. If the director does not prevail, he or she shall charge the committee for reasonable and actual attorney fees, court costs, and expenses incurred in bringing about the action.

(g) Each committee shall specify the date the assessment is due in the account of the marketing program on that production. Producers, processors, distributors, or handlers of the affected agricultural commodity or agricultural commodity input shall be given reasonable notice of the due date.

(h) A committee established pursuant to this act has the ability to borrow money in anticipation of the receipt of assessments if the following conditions are met:

(i) The loan will not be requested or authorized, or will not mature, within 90 days before a resubmittal or termination referendum for the marketing program.

(ii) The amount of the loan does not exceed 50% of the annual average assessment revenue during the previous 3 years. In the case of a marketing program that has been in existence for less than 3 years, the loan does not exceed 25% of the projected annual assessment revenue.

(iii) The loan repayment period does not exceed the life of the marketing program.

(iv) The loan has the prior written consent of the director. The director may request an audit of the committee by the auditor general before approving the loan.

(i) The director shall assess against the agricultural commodity input or the producers of the agricultural commodity all outstanding loans, including interest, approved under subsection (h) if the marketing program is inactive or is terminated.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1966, Act 130, Imd. Eff. June 23, 1966 ;-- Am. 1974, Act 324, Imd. Eff. Dec. 15, 1974 ;-- Am. 1978, Act 146, Imd. Eff. May 12, 1978 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.656 Marketing program; temporary suspension, duration.

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Sec. 6.

The operation of a marketing program, or any part thereof, may be temporarily suspended by the director upon recommendation by the committee for a period of not longer than 1 growing and marketing season if the program or part is deemed undesirable during such season.

History: 1965, Act 232, Eff. Mar. 31, 1966

290.657 Committee; establishment; appointment, qualifications, and terms of members; reapportionment of districts; expenses and per diem; duties and responsibilities; conducting business at public meeting; notice of meeting; availability of writings to public; exemption of certain information from freedom of information act.

Sec. 7.

(1) A marketing program shall provide for the establishment of a committee to consist of an odd number of members which shall be not less than 5 and not more than 13.

(2) The members of the committee shall be appointed by the governor with the advice and consent of the senate from nominations received from the producers and handlers or processors of the agricultural commodity or agricultural commodity input for which the marketing program is established. Nominating procedures, qualifications, representation, term of office, and size of the committee shall be prescribed in the marketing program for which the committee is appointed. Each committee shall be composed of producers and handlers or processors who are directly affected by the marketing program in the proportion of representation as prescribed by the program. The term of office of a committee member is 3 years or until such time as his or her successor is appointed and qualified.

(3) The director or his or her representative shall serve as a nonvoting ex officio member. Additional nonvoting ex officio members may serve if approved for in a specific marketing program.

(4) A committee, with the advice and consent of the director and the commission of agriculture, may reapportion either the number of committee members or member districts, or both. Reapportionment of the districts shall be on the basis of production or industry representation. The reapportionment may be commenced 30 days after the effective date of the amendatory act that added this subsection. Reapportionment of either members or districts shall not occur more often than twice in any 5-year period and shall not occur within 6 months before a referendum.

(5) After the reapportionment described in subsection (4), if the residence of a member of the committee falls outside of the district for which he or she serves on the committee and falls within the district for which another member serves on the committee, then both members shall continue to serve on the committee for a term equal to the remaining term of the member who served for the longest period of time. After the reapportionment described in subsection (4), if a district is created in which no member serving on the committee resides, then a member shall be selected in the manner as prescribed in each program. After a reapportionment or redistricting, a committee may temporarily have more members than prescribed in the marketing program until the expiration of the term of the longest serving member from that district.

(6) A member of a committee is entitled to reimbursement for actual expenses and a per diem payment to be set by the committee not to exceed the commission of agriculture rate

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while attending meetings of the committee or while engaged in the performance of official responsibilities delegated by the committee.

(7) The duties and responsibilities of a committee shall be prescribed in the order establishing the marketing program and to the extent applicable shall include the following duties and responsibilities:

(a) Developing procedures relating to the marketing program.

(b) Recommending amendments to the marketing program as are considered advisable.

(c) Preparing the estimated budget required for the proper operation of the marketing program.

(d) Developing methods for collecting and auditing the assessments.

(e) Collecting and assembling information and data necessary for proper administration of the marketing program.

(f) Performing other duties necessary for the operation of the marketing program as agreed upon with the director.

(8) The business which a committee may perform shall be conducted at a public meeting of the committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) Subject to section 10(b) and except as otherwise provided in this subsection, a writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Except for information regarding penalties levied under this act, information relating to specific assessments to a specific person under a marketing program as well as names and addresses of producers shall be exempt from disclosure to any other person or committee. This subsection does not prevent the director or the department from obtaining information necessary to confirm compliance with this act and does not prevent the director or the department from disclosing statistical information so long as that disclosure does not reveal specific assessments or production levels of any producer, handler, or processor.

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History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1978, Act 146, Imd. Eff. May 12, 1978 ;-- Am. 1980, Act 196, Imd. Eff. July 8, 1980 ;-- Am. 1992, Act 145, Imd. Eff. July 15, 1992 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.658 Disposition of money or assets collected; expenditures.

Sec. 8.

(1) Money, assets, or other items of value collected or received under this act, whether collected from assessments, received as grants or gifts, or earned from royalties or license fees or derived from any activities performed by another organization, agency, or individual and conducted under a marketing program, are not state money and must be deposited in a financial institution in this state. The money must be allocated to the marketing program under which it is collected or received and be disbursed only for the necessary expenses incurred for the marketing program according to the rules established under the marketing program and for grants authorized under a marketing agreement or marketing program.

(2) Except as otherwise provided for in this subsection, all expenditures must be audited by a certified public accountant at least annually and not later than 30 days after completion of the audit, the certified public accountant shall give copies of the audit to the members of the committee and the director. An activity and financial report must be published annually and

made available to interested parties. A committee with annual collected producer assessments of $40,000.00 or less, based on a 3-year average, must be audited once in the second or third year between referenda. Nothing in this subsection prevents the department from conducting oversight activities authorized by this act.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 1997, Act 20, Imd. Eff. June 12, 1997 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002 ;-- Am. 2024, Act 60, Imd. Eff. June 20, 2024

290.659 Refunds.

Sec. 9.

(1) Money remaining from the assessments collected under a marketing program may be refunded at the close of any marketing season upon a pro rata basis to all persons from whom assessments were collected. If the committee finds that the money may be necessary to defray the cost of operating a marketing program in succeeding marketing seasons, all or any portion of the money may be carried over into succeeding seasons.

(2) Upon termination of any marketing program, all money remaining and not required to defray the expenses of operating the marketing program shall be refunded on a pro rata basis to persons from whom assessments were collected. If the committee finds that the refundable amount is so small as to make impracticable the computation and refunding of the money, it may be used to defray the expenses incurred by the department in the formulation, adoption, administration, or enforcement of any subsequent marketing program for the commodity or for agricultural research for that commodity. In the case of money earned from royalties, license fees, or other assets that may be collected or received after termination of a marketing program, that money shall be allocated to any institution of higher education engaged in agricultural or nutritional research, as determined by the director.

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History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.660 Petition for program or amendment; notice; public hearing; decision by director; producers.

Sec. 10.

(a) Whenever the director has received a petition signed by 25%, or 200, whichever is less, of the producers of an agricultural commodity regarding the adoption of a marketing program or amendments to an existing marketing program, he or she shall give notice of a public hearing on the proposed marketing program or the proposed amendments to an existing marketing program. After receiving a petition for the establishment of a marketing program, the director may appoint a temporary producer committee to develop the proposed marketing program to be considered at the public hearing.

(b) The director may require all handlers or processors of the agricultural commodity or distributors of the agricultural commodity input as individuals or through their trade associations to file with him or her within 30 days a report, properly certified, showing the correct names and addresses of all producers of the agricultural commodity from whom such handler, processor, or distributor received such agricultural commodity or agricultural commodity input in the marketing season next preceding the filing of such report. The director

shall not make public or provide to anyone for private use the information contained in the individual reports of handlers or processors filed with the director pursuant to this section.

(c) The director shall issue a decision within 45 days after the close of the hearing based upon his or her findings and deliver to all parties of record appearing at the hearing and any other interested parties upon the request of those interested parties, by mail or otherwise, copies of the findings and recommendation approving or disapproving of the proposed marketing program. The recommendation shall contain the text in full of any proposed marketing program or amendment of an existing marketing program. The recommendation shall be substantially within the purview of the notice of hearings and shall be supported by evidence taken at the hearing or by documents of which the director is authorized to take official notice.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

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290.661 Referendum to determine assent of producers and processors.

Sec. 11.

(1) After recommending the adoption or amendment of a marketing program, the director shall determine by a referendum whether the affected producers assent to the proposed action. If provisions prescribed in section 3(1)(h) are part of the proposed marketing program, the director shall also determine by a referendum if processors assent to the proposed action. The director shall conduct the referendum within 45 days after the issuance of the recommendation. The affected producers shall be considered to have assented to the proposal if more than 50% by number of those voting representing more than 50% of the volume of the affected agricultural commodity produced by those voting assent to the proposal. The affected processors, if provisions prescribed in section 3(1)(h) are in the marketing program, shall be considered to have assented to the proposal if more than 50% by number of those voting representing more than 50% of the volume of the affected agricultural commodity processed by those voting assent to the proposal.

(2) A marketing program involving provisions prescribed in section 3(1)(h) shall not be instituted without assent of both the affected producers and the affected processors.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1978, Act 146, Imd. Eff. May 12, 1978 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.662 Referendum; director to establish procedures for determination of volume.

Sec. 12.

The director shall establish procedures for determination of volume for the conduct of referendums and other necessary procedures. For the purpose of referendums under this act, a producer is entitled to 1 vote representing a single firm, individual proprietorship, corporation, company, association, partnership, husband-wife or family ownership.

History: 1965, Act 232, Eff. Mar. 31, 1966

290.663 Termination of program; petition, hearing, recommendation, referendum.

Sec. 13.

(a) Upon written petition duly signed by 25%, or 200, of the producers affected by the program, whichever is less, the director shall, within 30 days, give 10 days' notice and hold a hearing on termination of a program.

(b) Within 30 days after the close of the hearings, the director, after consulting with the committee, shall issue a recommendation, give public notice, and notify all producers of record, all parties appearing at the hearing and any other interested parties.

(c) The director, upon recommending termination of a marketing program, shall, within 30 days, conduct a referendum to determine whether the affected producers assent to the proposed action. The affected producers shall be deemed to have assented to the termination of the program if 51% or more by number of those voting, representing 51% or more of the volume of those voting, vote in favor of its termination.

History: 1965, Act 232, Eff. Mar. 31, 1966

290.664 Program approved by referendum; duties of director.

Sec. 14.

If a program has been approved in referendum, the director shall:

(a) Insure that the program is self-supporting.

(b) Supervise all committee activities to assure program operations are in accord with the rules established under the program as approved by the referendum.

(c) Coordinate administrative activities between the committee and the department.

(d) Confer and cooperate with the legally constituted authorities of other states and the United States.

History: 1965, Act 232, Eff. Mar. 31, 1966

290.665 Repealed. 2002, Act 601, Imd. Eff. Dec. 20, 2002.

Compiler's Notes: The repealed section pertained to proposed marketing programs.

290.666 Deposit by applicants of funds for expenses; reimbursement.

Sec. 16.

Prior to the adoption of a marketing program, the director may require the applicants therefor to deposit with him such funds as he deems necessary to defray the expenses of preparing and establishing the marketing program. The funds shall be received, deposited and disbursed by the director in the same manner as other fees received by him under this act. The applicants shall be reimbursed in the amount of the deposit from fees received under such program, if established.

History: 1965, Act 232, Eff. Mar. 31, 1966

290.667 Marketing agreements with producers, handlers and others; effective upon signing.

Sec. 17.

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(1) The director may enter into marketing agreements with producers, handlers, or other parties where such agreements will tend to supplement or aid in the accomplishment of the objectives of a marketing program.

(2) The execution of a marketing agreement does not affect the adoption, administration, or enforcement of any marketing program under this act. The director may hold a concurrent hearing upon a proposed marketing agreement and a proposed marketing program in the manner provided in this act, giving due notice and opportunity for hearing for a marketing agreement.

(3) When a marketing agreement is proposed for any agricultural commodity or agricultural commodity input, the director shall call a public hearing. The director's decision to enter into or not enter into a marketing agreement is subject to the same requirements for justification on the basis of factual evidence introduced at the hearing. A marketing agreement, if recommended by the director, shall become effective when signed by the director and the other parties to the agreement.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.668 Rules and regulations; duty of director.

Sec. 18.

The director may make and promulgate such rules and regulations as may be necessary to effectuate the provisions and intent of this act, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

History: 1965, Act 232, Eff. Mar. 31, 1966
Admin Rule: R 285.301.1 et seq. of the Michigan Administrative Code.

290.668a Rescission of R 290.1 to R 290.18.

Sec. 18a.

R 290.1 to R 290.18 of the Michigan administrative code are rescinded.

History: Add. 2012, Act 95, Imd. Eff. Apr. 12, 2012

290.668b Rescission of R 285.311.

Sec. 18b.

R 285.311 of the Michigan administrative code is rescinded.

History: Add. 2012, Act 91, Imd. Eff. Apr. 12, 2012

290.669 Action to enforce compliance; injunction; jurisdiction.

Sec. 19.

The director may institute an action necessary to enforce compliance with this act, a rule promulgated under this act, or a marketing agreement or program adopted under this act and committed to his or her administration. In addition to any other remedy provided by law, the director may apply for relief by injunction to protect the public interest without being

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compelled to allege or prove that an adequate remedy at law does not exist. The application may be made to a court of competent jurisdiction.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1980, Act 196, Imd. Eff. July 8, 1980 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.670 Suspension of statute where marketing program approved; exception.

Sec. 20.

(a) If a marketing program is approved for a commodity for which there is a state commission or council operating pursuant to a statute, such statute is suspended during the period of operation of the marketing program under this act, except that the appointed members of an existing commission or council shall be members of the commodity committee for the duration of the terms for which they were appointed, and no fees or assessments shall be collected under such act while it is suspended.

(b) If the producers of an agricultural commodity for which there is a state commission or council pursuant to a statute, vote for discontinuance of a marketing program, then the provisions of such commission or council shall be reinstated, and the appointed members on the commodity committee shall be members of the commission or council for the duration of the terms for which they were appointed on the committee.

(c) Voluntary commodity organizations may be assigned duties which are necessary for the effective operation of a marketing program and allowed expenses to cover such duties. Organizations to be assigned such responsibilities shall be named and their duties defined in the program.

History: 1965, Act 232, Eff. Mar. 31, 1966

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290.671 Referendum; requirements; exception; time period.

Sec. 21.

(1) Except as otherwise provided in subsection (2), all marketing programs established under this act shall be resubmitted to a referendum of the producers during each fifth year of operation.

(2) A producer referendum under subsection (1) is not required for a marketing program if all the following circumstances exist:

(a) The agricultural commodity or agricultural commodity input subject to the marketing program is involved in a commodity checkoff program established pursuant to federal law.

(b) The federal commodity checkoff program involving the agricultural commodity provides for a mechanism for a producer referendum.

(c) The marketing program involving the agricultural commodity or agricultural commodity input is entirely financed by that federal commodity checkoff program.

(3) If the federal commodity checkoff is suspended or terminated, a marketing program established under this act shall conduct a referendum of the producers within 18 months after the suspension or termination.

History: 1965, Act 232, Eff. Mar. 31, 1966 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.672 Interest on unpaid assessment.

Sec. 22.

If the assessment is not paid by the date specified by a committee as permitted under section 5(g), the unpaid assessment shall be subject to an interest charge of 1% per month.

History: Add. 1974, Act 324, Imd. Eff. Dec. 15, 1974 ;-- Am. 1996, Act 216, Imd. Eff. May 28, 1996 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.673 Violations; penalties.

Sec. 23.

(1) Except as provided in subsections (2) and (3), a person who violates this act is guilty of a misdemeanor punishable by a fine of up to $1,000.00 a day.

(2) A member of the board who intentionally violates section 7(8) shall be subject to the penalties prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) If the board arbitrarily and capriciously violates section 7(9), the board shall be subject to the penalties prescribed in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1974, Act 324, Imd. Eff. Dec. 15, 1974 ;-- Am. 1980, Act 196, Imd. Eff. July 8, 1980 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

290.674 Venue for prosecution of violation; enforcement; institution of prosecution for violation.

Sec. 24.

(1) Except as provided in subsections (2) and (3), prosecution for violation of this act may be instituted in any county in which any of the defendants reside, or in which the violation was committed, or in which any of the defendants have a principal place of business. State and county law enforcement officers shall enforce this act.

(2) A prosecution for a violation of section 7(8) shall be instituted in the manner provided for in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A prosecution for a violation of section 7(9) shall be instituted in the manner provided for in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1974, Act 324, Imd. Eff. Dec. 15, 1974 ;-- Am. 1980, Act 196, Imd. Eff. July 8, 1980 ;-- Am. 2002, Act 601, Imd. Eff. Dec. 20, 2002

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