

MANUFACTURING MILK LAW OF 2001 (EXCERPT)
Act 267 of 2001

288.678 Other forms of security; request for information from financial and insurance services of department of consumer and industry services.

Sec. 118.

(1) A licensee or applicant for a license as a dairy plant not providing a security device under section 117 or 119 shall provide any of the following forms of security, in a form and subject to terms and conditions considered necessary by the department, for the benefit of producers who may be damaged by a default in payment, the value of which shall be in an amount determined by the department to be the greater of the value of the greatest milk receipts that the dairy plant has received within a consecutive 30-day period during that dairy plant's most recent fiscal year or the value of the greatest milk receipts that the dairy plant is anticipated to receive during a consecutive 30-day period within the licensing period:

(a) A commercial surety bond made payable to the department on a form provided by or acceptable to the department and subject to cancellation only after written notice to the department at least 90 days before cancellation. The commercial surety bond shall be issued by a surety company authorized to do business in this state and conditioned upon the faithful and proper discharge of the duty to pay a producer, when payment is due as provided for in section 115, for milk received by the dairy plant.

(b) A certificate of deposit or money market certificate that is issued or endorsed to the department and that cannot be canceled or redeemed, or from which funds cannot be transferred or withdrawn, without the written authorization of the department. The certificate shall be from a financial institution authorized to do business in this state whose deposits are federally insured.

(c) Stocks, bonds, or securities acceptable to the department that are issued or endorsed to the department and readily convertible to cash by the department and subject to redemption or sale only upon written permission of the department.

(d) An irrevocable letter of credit filed as security on a form provided by or acceptable to the department with the department and made payable to the department issued by a financial institution acceptable to the department and licensed to do business in this state. The letter of credit shall provide for automatic renewal unless, at least 90 days before the scheduled renewal date, the issuing financial institution gives written notice received by the department that the letter of credit is not to be renewed. The irrevocable letter of credit shall provide that in the event the financial institution gives timely notice of nonrenewal as set forth above, the department is permitted to draw on the letter of credit to cover any potential losses, whether known or unknown at the time of the draw, that have been or may be incurred on behalf of the producers. The money drawn from the letter of credit shall be held in an interest-bearing account by the department. Money in the account in excess of the total dollar amount of the approved claims after an adequate time period to discover and approve or disapprove claims shall be repaid to the bank. The excess money is to be paid to the milk plant if the bank has provided the department with a waiver of payment to the bank and has authorized payment to the dairy plant on a form approved by the department.

(e) Life insurance policies acceptable to the department that are issued or endorsed to the department that prohibit the insurer from making any payment to the policy beneficiaries unless the insurer first pays the equivalent of the cash surrender value to the department and provides that the cash surrender value is paid to the department upon cancellation or surrender of the policy.

(f) Other security acceptable to the department.

(2) The department may request information from the office of financial and insurance services of the department of consumer and industry services regarding the financial viability of the financial or insurance institution issuing any security device described in subsection (1).

History: 2001, Act 267, Eff. Feb. 8, 2002