

FOOD AND AGRICULTURAL CODE

SECTION 62500-62508

62500. The production and distribution of milk, and the components thereof, is hereby declared to be a business affected with a public interest. This chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health and welfare of the people of this state.

62501. It is hereby declared that the dairy industry is a paramount agricultural industry of the state, and the normal processes of producing and marketing milk are enterprises of vast economic importance to the state and of vital importance to the consuming public which should be safeguarded and protected in the public interest. The Legislature finds that the marketing of milk requires producers to receive prompt payment. It is the policy of this state to protect producers against loss of payment for bulk milk. The public interest requires the establishment of a system to provide payment security for producers.

62502. It is recognized by the Legislature that the powers conferred upon the director by Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700) are inadequate to enable the dairy industry to maintain satisfactory producer payment protection. Therefore, those powers must be supplemented by the powers conferred by this chapter upon the director to establish and administer a milk producers security trust fund.

62503. This chapter shall be liberally construed. If any article, section, subdivision, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional or invalid as applied to any person or as applied under certain circumstances, that decision shall not affect the validity of the remaining provisions of this chapter or the application of this chapter to any other person or under any other circumstances.

The Legislature hereby declares that it would have enacted each article, section, subdivision, sentence, clause, or phrase of this chapter regardless of the fact that one or more other articles, sections, subdivisions, sentences, clauses, or phrases are declared unconstitutional or invalid.

62504. Chapter 1 (commencing with Section 61301), Chapter 2

(commencing with Section 61801), and Chapter 3 (commencing with Section 62700) shall be liberally construed as being complementary of, and supplemental to, this chapter, and these chapters shall constitute a single comprehensive scheme for the regulation of the production and handling of milk. However, each of the chapters, and each article, section, subdivision, sentence, clause, and phrase of each chapter is severable.

If one of the chapters or any article, section, subdivision, sentence, clause, or phrase of any one of the chapters is for any reason held void, invalid, or unconstitutional, the decision shall not affect the validity of any other chapter or any of its articles, sections, subdivisions, sentences, clauses, or phrases.

62505. This chapter does not preclude any producer from bringing any action against any handler in any court of competent jurisdiction.

62506. In order to effectuate the purposes of this chapter, the Milk Producers Security Trust Fund is hereby created.

62507. It is hereby declared, as a matter of legislative determination, that producers and handlers appointed to the Milk Producers Security Trust Fund Board are intended to represent and further the interest of a particular agricultural industry concerned, and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to the board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

62508. This chapter shall be known and may be cited as the Norman S. Waters-Ruben S. Ayala Milk Producers' Security Act of 1987.

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SECTION 62520-62521

62520. Unless otherwise defined in this chapter, or the context otherwise requires, the definitions contained in Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), or Chapter 3 (commencing with Section 62700) govern the construction of this chapter.

62521. For purposes of this chapter, the following terms mean:

(a) (1) "Acceptable security" means a surety bond from an admitted insurer, deposits of government securities, a letter of credit, or other form of performance guarantee acceptable to the secretary and meeting the requirements as acceptable security pursuant to law. Any instrument used as acceptable security shall contain provisions the secretary may prescribe, shall have an effective life of no less than two years, shall name the secretary as the beneficiary of the instrument, shall be clean and irrevocable if the security is a letter of credit, shall provide that the secretary may draw upon it up to the total amount in the event of the handler's payment default, and, except as otherwise provided in paragraph (3), shall be verified to the secretary as being in effect and complying with the provisions of this chapter at the end of every six-month interval following the date on which a handler originally posts the instrument. Except as provided in paragraphs (2) and (3), acceptable securities provided to the secretary shall not be released by the secretary unless the handler's average monthly purchases, as determined annually by the secretary, fall below thirty million dollars (\$30,000,000), or the fund cash, whichever is higher. Any interest accrued by the instrument shall be the property, and for the benefit, of the handler posting the instrument.

(2) Subject to the provisions of this chapter, a handler who has posted an acceptable security shall have the right to replace that instrument with a new acceptable security meeting the requirements of this chapter at the end of every six-month interval following the date on which the handler originally posted the instrument. The secretary shall release the issuer of any acceptable security from all past, present, or future obligations secured by the acceptable security upon the secretary's acceptance of replacement security meeting the requirements of this chapter and the secretary shall then provide written confirmation to the issuer of the original acceptable security that an acceptable replacement security had been provided.

(3) Upon receipt of an affidavit confirming that the amount paid under an acceptable security posted pursuant to this chapter was equal to the total amount of that instrument, the secretary shall release the issuer of that acceptable security from all past, present, and future liability. Upon receipt of an affidavit confirming any other amount paid by an issuer under an acceptable

security posted pursuant to this chapter, the secretary shall release the issuer of that security to the extent of the issuer's payment.

(b) "Board" means the Milk Producers Security Trust Fund Board.

(c) "Covered milk" means milk that would, in the event of a default in payment by the purchasing handler, qualify for coverage under Article 5 (commencing with Section 62580) of Chapter 2.5 of Part 3.

(d) "Fund" means the Milk Producers Security Trust Fund created pursuant to Section 62506.

(e) "Fund cash" means the combined value of the security charges collected pursuant to Section 62561 and any increments received pursuant to Section 62573.

(f) (1) Except as provided in paragraph (2), "fund surplus" means the portion of fund cash at any particular time that consists of increments received by the fund pursuant to Section 62573.

(2) If payment of producer claims pursuant to Article 7 (commencing with Section 62620) reduces the fund cash to thirty million dollars (\$30,000,000), "fund surplus" shall thereafter mean the amount by which the fund cash exceeds thirty million dollars (\$30,000,000).

(g) "Handler" means any person who as owner, agent, broker, or intermediary, either directly or indirectly, receives, purchases, or otherwise acquires ownership, possession, or control of milk in unprocessed or bulk form from a producer or a producer-handler for the purpose of manufacturing, processing, selling, or other handling. It includes cooperative associations that, either directly or indirectly, receive, purchase, or otherwise acquire ownership, possession, or control of milk from other handlers or producers who are nonmembers of the cooperative.

(h) "Milk" means bulk whole milk, bulk reduced-fat milk, bulk lowfat milk, bulk skim milk, bulk condensed skim, and bulk cream, and any other combination of these products which have not had nondairy ingredients added. It does not include milk which has been packaged in bottles, cartons, dispenser cans, or other consumer packages.

(i) "Producer" means any person that produces milk from five or more cows whose bulk milk is received, acquired, or handled by a handler. It includes the nonprofit cooperative associations described in Article 3 (commencing with Section 61871) of Chapter 2 in the sale of milk of its member producers to other handlers.

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SECTION 62540-62543

62540. The director shall appoint a Milk Producers Security Trust Fund Board consisting of seven members.

The director shall appoint two members of the first board for a term of one year, two members for a term of two years, and three members for a term of three years. Thereafter, all appointments shall be for a term of three years, and no member shall be appointed to more than three consecutive three-year terms.

Members of the board shall include three milk producers, two representatives of handlers licensed under Chapter 2 (commencing with Section 61801), and two nonproducer members representing cooperative associations of milk producers.

62541. Each member of the board shall be paid one hundred dollars (\$100) per day plus travel expenses, including expenses for lodging and meals, which are incurred in the attendance at board meetings or in conducting the business of the board. All per diem and expense claims are subject to approval by the director.

62542. The board shall advise the director on the administration of the fund, including, but not limited to, the amount of the fund defaults under this chapter and the implementation of the security charge necessary to accomplish its functions.

62543. The board may, by contract, with the approval of the director, engage the services of an accounting firm or other consultants or agencies which the board determines to be necessary.

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SECTION 62560-62574

62560. (a) The security charges provided for in Section 62561 shall be collected until January 1, 2007. Unless otherwise permitted by this section, the secretary shall thereafter discontinue collection of the security charges. The fund shall consist of the security charges collected, the value of any alternative financial instrument, and acceptable securities provided by handlers pursuant to subdivision (c).

(b) If, after January 1, 2007, payment of producer claims reduces the fund cash below thirty million dollars (\$30,000,000), the secretary may resume collecting security charges in order that the fund cash is thereafter maintained at thirty million dollars (\$30,000,000). Security charges necessary to return the fund cash to thirty million dollars (\$30,000,000) shall, subject to subdivision (c), be collected from all handlers making purchases of milk, including handlers who have posted acceptable securities pursuant to subdivision (c).

(c) If, in any month, 110 percent of any handler's average monthly milk purchases, computed over the preceding 12 months, unless the increase in value of milk purchases is the result of substantial business expansion or the result of a merger or acquisition, in which case the 12-month computation requirement does not apply, exceeds the fund cash as of the end of that month, or thirty million dollars (\$30,000,000) whichever is higher, the secretary shall require that handler to provide acceptable securities within 10 working days in an amount equal to the difference between the fund cash or thirty million dollars (\$30,000,000) whichever is higher, and 110 percent of that handler's average monthly milk purchases. When handlers have provided acceptable securities covering the difference, the secretary shall not collect security charges from those handlers for the portion of their average monthly milk purchases covered by acceptable securities. Shipments to handlers failing to provide acceptable securities within 10 working days of notice by the secretary of the obligation to post acceptable securities, as required by this subdivision, shall be listed by the secretary as ineligible for coverage under the fund pursuant to Section 62586.

(d) The secretary shall calculate the value of milk handlers' average monthly milk purchases at least once each year for those handlers whose previous average monthly milk purchases exceed twenty million dollars (\$20,000,000). If, as a result of any such calculation, the secretary determines that a handler must provide additional acceptable securities to satisfy the requirements of subdivision (c), that handler shall provide additional acceptable securities within 10 working days of notice by the secretary.

(e) In the event a handler fails to comply with subdivision (d):

(1) In addition to paying all other amounts required by this chapter, including any security charges then in effect under subdivision (a) of Section 62561, that handler shall pay an enhanced security charge on all purchased milk to be computed as follows:

(A) (i) One and seven-tenths mills per pound (\$0.0017) for class 1 fat.

(ii) Nine-tenths mills per pound (\$0.0009) for class 1 solids-not-fat.

(iii) One-tenth mill per pound (\$0.0001) for class 1 fluid.

(B) (i) Three and two-tenths mills per pound (\$0.0032) for classes 2, 3, 4a, and 4b fat.

(ii) One and three-tenths mills per pound (\$0.0013) for classes 2, 3, 4a, and 4b solids-not-fat.

(2) A handler shall be liable for the enhanced security charges required by this section until the handler provides the required additional acceptable securities to the secretary. Notwithstanding Section 62521 and subdivision (b) of this section, enhanced security charges paid pursuant to this paragraph shall be deposited into the trust fund and become part of the fund cash.

(f) If a handler fails to timely provide acceptable securities, or additional acceptable securities, as required by this section, the secretary shall promptly give notice of that fact to all producers who have a contract on file with the secretary, all cooperative associations, and other interested parties. A handler failing to post acceptable securities may also be subject to revocation, suspension, or nonrenewal or placement of conditions upon the milk handler's license pursuant to Sections 62146, 62149, and 62151.

(g) In consultation with the Milk Producers Security Trust Fund Advisory Board, the secretary may consider and use alternative financial instruments, in addition to, or in lieu of, using security charges to meet the financial security requirements of this section.

62561. (a) The following security charges shall be in effect for any period for which the secretary has implemented collections under this chapter:

(1) (A) One and seven-tenths mills per pound (\$0.0017) for class 1 fat.

(B) Nine-tenths mills per pound (\$0.0009) for class 1 solids-not-fat.

(C) One-tenth mill per pound (\$0.0001) for class 1 fluid.

(2) (A) Three and two-tenths mills per pound (\$0.0032) for classes 2, 3, 4a, and 4b fat.

(B) One and three-tenths mills per pound (\$0.0013) for classes 2, 3, 4a, and 4b solids-not-fat.

(b) The secretary shall add the security charges to the prices established for all classes of milk in accordance with Chapter 2 (commencing with Section 61801). The secretary is only authorized by this article to collect security charges on covered milk.

62562. Any increase in classified prices due to Section 62561 shall be considered as part of the minimum prices required to be paid to producers under other provisions of this code. No other provisions of this chapter modify the minimum payment requirements contained in Chapter 1 (commencing with Section 61301) and Chapter 2 (commencing with Section 61801).

62563. Any handler subject to any pooling plan in effect under Chapter 3 (commencing with Section 62700) shall continue to be obligated for the minimum prices provided for in the stabilization and marketing plans on the pooled usage of the handler. However, any part of the minimum prices that is attributable to the security charges established pursuant to Section 62561 shall be deducted before producer prices are determined under the pooling plan.

Any handler subject to the pooling plan that receives milk that is not included in the calculation of producer prices determined under the pooling plan shall be obligated to pay the security charges established pursuant to Section 62561 for any portion of that milk that is assigned to class 1, class 2, class 3, class 4a, and class 4b usage.

The amount of any handler's obligation attributable to the security charges established pursuant to Section 62561 shall be remitted by the secretary to the fund by the end of the month following the month the pool calculations were completed.

62564. Any handler receiving milk not subject to any pooling plan in effect pursuant to Chapter 3 (commencing with Section 62700) shall be obligated to remit to the secretary any security charges in effect pursuant to Section 62561 for class 1, class 2, class 3, class 4a, and class 4b products produced from the milk and may deduct the security charges from the minimum prices required to be paid to producers.

62564.5. Any producer-handler who has milk production that is exempt pursuant to Section 62708, 62708.1, 62708.5, or 62722 from the pooling plan in effect pursuant to Chapter 3 (commencing with Section 62700) shall be exempt from any security charges established pursuant to this article for that exempt production.

62565. Security charges may be collected by the director through direct payment or through pool accounting procedures established by the director pursuant to Chapter 3 (commencing with Section 62700).

62566. The director may add a penalty of 10 percent to amounts which are not paid when due.

62567. If any handler or producer-handler does not provide the information necessary to determine the amount due, when required, the director shall estimate the amount due from the records of the department or from any other source of information which is available.

62568. The director may take all appropriate action against any person to recover any unpaid amounts. In any action, a declaration by the director which states the amount required to be paid, including penalty, is prima facie evidence of the delinquency. The presumption established by this section is a presumption affecting the burden of proof.

62569. Any money which is collected by the director pursuant to this chapter shall be deposited in a bank or other depository which is approved by the director. Funds which are so collected are exempt from Sections 11270 and 11272 of the Government Code and shall be deposited and disbursed only to pay for milk produced and delivered within this state, which has not been otherwise paid for, including pool equalization fund obligations, attorney's fees and other costs incurred in litigation involving the fund, expenses generated by the auditing requirement imposed by Section 62570, expenses generated by the use of alternative financial instruments pursuant to Section 62560, and for the costs set forth in Section 62573. The expenditure of those funds is exempt from Section 925.6 of the Government Code.

Nothing in this section prevents the director from using the increment received from investment, reinvestment, or deposit of money specified in Section 62573, in the manner provided by Section 62574.

62570. All fund activities shall be subject to an audit at least once every two years by an auditing firm recommended by the board and selected by the director. A copy of the audit shall be delivered to the director within 30 days after completion.

62571. Notwithstanding Section 13340 of the Government Code, any money which is collected by the director pursuant to this chapter is hereby continuously appropriated to the director to carry out only those purposes provided for in Section 62569. The appropriation which is made in this section is exempt from Section 16304 of the Government Code.

62572. Any money which is deposited pursuant to Section 62569, which the director determines is available for investment, may be invested or reinvested by the Treasurer in any of the securities described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing with Section 16500) of that part, and handled in the same manner as money in the State Treasury. For these purposes, the money may also be combined with funds determined by the director to be available for investment pursuant to Section 58939.

62573. Any increment which is received from investment, reinvestment, or deposit of money pursuant to Section 62572 shall be deposited to the credit of the fund. The Treasurer may deduct from this remittance an amount equal to the reasonable costs incurred in carrying out Section 62572 and this section or may bill the director for the costs, and the director shall pay the costs from money collected pursuant to this chapter.

Nothing in this section prevents the director from using the increment in a manner provided by Section 62574.

62574. Immediately following the payment to the fund of the increment provided in Section 62573, if the secretary determines that there is a fund surplus, the secretary may, after consultation with the Trust Fund Board, transfer an amount equal to the increment referenced in the section to an account administered by the Dairy Marketing Branch of the department to be used to reduce the producer and handler assessments that would otherwise be imposed pursuant to Article 14 (commencing with Section 62211) of Chapter 2. One-half of the increment so transferred shall be used to reduce the obligation of producers and one-half shall be used to reduce the obligation of handlers pursuant to that article.

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SECTION 62580-62587

62580. Except as otherwise provided in this chapter, milk shipped by a producer to a handler which meets the following criteria shall be considered for coverage pursuant to this chapter:

(a) Milk shipment was made after December 31, 1986.

(b) A valid contract between the producer and handler pursuant to Chapter 1 (commencing with Section 61310) or Chapter 2 (commencing with Section 61801) has been filed with the director prior to the date the milk was shipped, unless the shipment was made in the first five days after the contract was executed. This requirement shall not apply to all shipments made prior to the effective date of this chapter.

(c) The handler was licensed and bonded as required by Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801) when the contract was filed with the director.

(d) The milk was produced within the state and delivered to a plant within the state.

(e) The director has not issued a prior notice that the shipments would not be covered by the fund.

(f) The shipment was not made under a custom processing arrangement with the producer retaining title.

(g) The producer or cooperative shipping the milk had a direct contract with the handler. In the case of a cooperative, only the milk of its members shipped under the contract is covered. Milk shipped to a handler under a contract held by intermediaries, brokers, or agents is not covered.

(h) The producer does not have a beneficial ownership interest in the handler to whom shipments were made.

(i) The producer is in compliance with this chapter, Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700).

62580.5. Any producer entity, including a nonprofit cooperative that severs a disqualifying beneficial-ownership interest in a handler to which it supplies bulk milk, shall not have trust fund coverage for future milk shipments to that handler for a period of 12 months after notice is given to the secretary of termination of the beneficial ownership interest unless a waiver is granted subject to Section 62587.

62581. Only shipments which occur during the first 35 days from the date of the earliest shipment for which a producer has not been paid are eligible.

62582. If future shipments to a handler are not eligible for coverage under this chapter in the event of a default, the secretary shall notify all producers who have a contract on file with the secretary, all cooperative associations, and other interested parties. Future shipments will not be eligible when any of the following events occur:

(a) The handler fails to maintain a valid license or bond as required under Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801).

(b) The handler has failed to pay producers as required under Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801).

(c) The handler has failed to pay the amount due the pool equalization fund provided for in Chapter 3 (commencing with Section 62700).

(d) The handler fails to submit, when requested by the secretary, executed contracts that establish the relationship between affected parties.

62583. If, on the date of the notice issued pursuant to Section 62582, a producer has a contract with the handler which is on file with the secretary, and that producer has received payment from a handler whose milk purchases have been declared ineligible, shipments by that producer which occur more than five days from the date of the notice of ineligibility issued by the secretary will not be considered in determining any claim the producer may make against the fund, unless the secretary reestablishes eligibility for future shipments to be covered by the fund.

62584. If, on the date of the notice issued pursuant to Section 62582, a producer does not have a contract with the handler which is on file with the secretary, shipments by that producer which occur more than five days from the date of the notice of ineligibility issued by the secretary will not be considered in determining any claim the producer may make against the fund, unless the secretary reestablishes eligibility for future shipments to be covered by the fund.

62585. If the director issues a notice pursuant to Section 62582, the director may again qualify shipments to the handler if any of the following occur:

(a) The handler has corrected the deficiency upon which the notice was originally issued and has done all of the following:

(1) Paid all amounts owed to producers, including interest, provided for in Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801). Producers are not entitled to receive interest on amounts for which they have been paid by the fund after the date of payment by the fund.

(2) Reimbursed the fund for any payments made by the fund due to a default by the handler plus interest at the rate of 12 percent per annum from the date of payment by the fund.

(3) Paid any amount owed to the pool equalization fund.

(4) Paid any assessments, penalties, or other amounts owed under

federal, state, or local laws.

(b) Four years have elapsed since the date of the default in payment.

62586. The director shall periodically publish a list of all handlers to whom shipments are not eligible for coverage under the fund.

62587. The director may waive any of the provisions of this article if, after consultation with the board, the director finds that a hardship would be imposed on persons subject to this chapter which is not consistent with the intent of this chapter.

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SECTION 62600-62604

62600. Any producer who does not receive payment for milk sold or delivered to a handler in the manner required by Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801) shall promptly notify the director.

62601. The director shall, upon his or her own motion or upon information from a producer, producer representative, or any other person, promptly take whatever action is necessary to determine whether a payment default has occurred.

62602. The director may, but is not required to, investigate a payment default which occurred more than one year prior to the date the director received the information.

62603. If the director determines that a payment default has occurred, the director shall notify the handler that it has one business day from receipt of the notification to correct the payment deficiency. If the director determines that a payment default has not occurred, the director shall so notify the handler and complaining party.

62604. When a payment default has occurred, which was not corrected within one business day after notification, the director shall issue a notice pursuant to Section 62582 which identifies the defaulting handler and informs producers of the provisions of Sections 62583 and 62584. The notice shall also inform producers of their rights to file claims pursuant to Article 7 (commencing with Section 62620).

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SECTION 62620-62625

62620. If the director determines that the fund is liable for any nonpayments to producers, the director shall provide to the producers, who have a contract with the defaulting handler on file with the director, a claim form. The claim form, which shall be verified, shall be returned to the director within 60 days from the date the claim forms are mailed by the director. The producer need only verify that a nonpayment has occurred. The amount of the nonpayment shall be determined by the director.

62621. If a verified claim form is not filed as required by Section 62620, the director and the fund are relieved of any further duty or liability pursuant to this chapter.

62622. Upon receipt of all verified claim forms from producers or the expiration of the time allowed to file claims, whichever occurs first, the director shall calculate the amount due each producer and shall notify each producer of their calculated amount and the relationship that amount bears to the total of all claims. Any producer not satisfied with the determination of the director may, within 30 days of receiving the notice pursuant to this section, request the director to review his or her calculated amount.

62623. For purposes of this chapter, the amounts owed to the producers shall be calculated as follows:

(a) Only shipments which occur during the first 35 days from the date of the earliest shipment for which a producer has not been paid shall be used.

(b) The minimum prices established in the stabilization and marketing plans applied to the usage assigned under the pooling plan shall be used for cooperative marketing associations.

(c) The price specified in the contract with the handler shall be used for manufacturing milk producers unless a lower price is contained in the stabilization and marketing plans, in which case the lower price shall be used.

(d) The minimum prices established in the stabilization and marketing plans shall be used for direct market milk producers who are not shipping their milk under the pooling plan.

(e) The quota, base, and overbase prices, as provided for in the pooling plan, shall be used for producers, other than cooperative marketing associations, who ship their milk directly to a handler.

(f) Deductions shall be made for those items which the handler customarily deducts from the payments, unless the deductions are in

violation of Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), or Chapter 3 (commencing with Section 62700), or the deductions are for voluntary assignments made by the producer.

(g) The producer's share of any bond recovery under Chapter 1 (commencing with Section 61301) or Chapter 2 (commencing with Section 61801) shall be deducted.

62624. Two hundred thousand dollars (\$200,000) shall be deducted from the total of the amount owed to all producers, as calculated in Section 62623, and the balance shall be paid from the fund on a pro rata basis. The amount calculated pursuant to Section 62623 shall be the basis for prorating.

62625. A prorated payment shall be made to all affected producers based on the amount payable pursuant to Section 62624 when there is not sufficient money in the fund. Additional payments shall be made on a quarterly basis until the total amount due is paid. Each payment shall take into consideration all claims that have been partially satisfied and new claims approved since the previous payment.

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SECTION 62640-62641

62640. If a handler defaults in payments to the pool equalization fund provided for in Chapter 3 (commencing with Section 62700) and the secretary determines that additional efforts will not result in collection of the amount due, the secretary, after consultation with the board, may pay money from the Milk Producers Security Trust Fund to the pool equalization fund to cover the amount of the default. However, the secretary shall first exhaust all administrative and legal remedies within his or her authority against the defaulting handler, and execute all judgments resulting from those remedies, prior to recommending to the board this payment from the Milk Producers Security Trust Fund.

62641. No payment shall be made from the Milk Producers Security Trust Fund to the pool equalization fund for unpaid amounts which were owed for milk handled prior to January 1, 1987.

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SECTION 62660-62667

62660. The director may use money in the Department of Food and Agriculture Fund derived from assessments and fees collected pursuant to Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700) to the extent necessary to defray the costs of administering this chapter, except costs for which the fund is liable, as provided for in Section 62569.

62661. The director is the instrumentality of this state for the purpose of administering and enforcing this chapter and to execute the legislative intent expressed in this chapter, and is hereby vested with the administrative authority specified in this chapter.

62662. The director may exercise any or all of the powers conferred by Chapter 2 (commencing with Section 11150) of Division 3 of Title 2 of the Government Code upon the head of a department with respect to hearings and investigations under this chapter.

62663. For purposes of enforcing this chapter, the director may investigate any and all transactions between producers and handlers, between nonprofit cooperative associations and producers, and among handlers. For that purpose, the director shall have access to, and may enter at all reasonable hours, any place where milk is being stored, bottled, or manufactured and where milk is being bought, sold, or handled, or where the books, papers, records, or documents which relate to those transactions are kept. The director may inspect and copy those books, papers, records, or documents at any place within the state.

62665. Any order of the director made pursuant to this chapter which substantially affects the rights of any directly affected party shall be subject to judicial review upon petition to the appropriate court. The petition shall be filed within 30 days after the effective date of the order.

62666. Any producer who recovers from the fund shall subrogate to the director all rights of recovery against any person or organization, and the producer shall execute and deliver to the

director instruments and papers and perform any other acts necessary to carry out this section.

62667. Any payments made to producers from the fund due to a handler's default shall accrue interest at the rate of 12 percent per annum from the date of payment. The payments and accrued interest is a judgment against the defaulting handler. The judgment shall be considered a lien on all real and personal property of the defaulting handler. The director may file the lien for record with any county recorder where a defaulting handler's property is located and shall specify the amount owed, the name of the handler, the federal social security number or the federal employer tax number if known, and the last known address of the handler. The lien shall remain in full force and effect until the handler has repaid to the fund an amount equal to the default.
