

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Laws Governing Agricultural Marketing and Bargaining

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §1017, sub-§4, as amended by PL 2005, c. 333, §3, is further amended to read:

4. Notification of insufficient or no payment. Producers may notify the Department of Agriculture, Food and Rural Resources of insufficient or no payment for potatoes or rotation crops after acceptance by any processor, dealer, broker, agent or retailer in the State in violation of subsection 1, paragraph B.

A. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's agent, upon notification by producers of insufficient or no payment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings, hold a hearing, unless such hearing is waived by the processor, dealer, broker, agent or retailer against whom the charge has been made. The processor, dealer, broker, agent or retailer accused of nonpayment shall provide the commissioner with a copy of the contract, if any, and all other materials and information to enable the commissioner to carry out the provisions of this section. Upon finding after investigation that the processor, dealer, broker, agent or retailer has violated the contract, express or implied, the commissioner may recover the proceeds of the bond required by section 1015 and apply those proceeds against the amounts owed producers. In the event the bond proceeds are inadequate to cover the debts owed producers, the commissioner shall require the processor, dealer, broker, agent or retailer to post an additional bond sufficient to cover the remaining debt owed to the producer or producers.

(1) ~~The commissioner, after determination upon a hearing of insufficient payment or nonpayment of debts owed to a producer, may require the licensee, who has been accused or found guilty after a hearing of insufficient payment or nonpayment of debts owed a producer,~~ to formulate a schedule of payments to the producer that is satisfactory to the commissioner. The schedule of payments may not exceed a 30-day period.

(2) ~~The licensee accused of or found by, who after a hearing is determined~~ to be in default of payment to a producer, shall submit a payment schedule to the commissioner within one week from the commissioner's request for a payment schedule. In the event that the schedule of payment is not satisfactory to the commissioner, the commissioner shall establish the schedule of payment not to exceed a 30-day period.

(3) The commissioner shall file a complaint with the District Court seeking to suspend the license of any licensee who fails to conform to the payment schedule established in this section until the producer is paid the total claim to which the producer is entitled.

(4) Upon the filing of a complaint by the commissioner in the District Court, the licensee shall post a bond sufficient to cover the total claim owed the producer on the date on which the complaint is filed. The bond required for an appeal procedure may be waived by the District Court in the event that the bond required in paragraph A is valid and sufficient to cover the total claim owed the producer.

(5) Nothing in this section may be construed to prohibit a producer from seeking redress for insufficient payment or nonpayment from licensees in any court or in accordance with any federal procedure established to obtain redress.

Sec. 2. 13 MRSA §1955, sub-§3, as enacted by PL 1973, c. 621, §1, is amended to read:

3. Handler. ~~"Handler," in the case of potatoes, means "processor" as defined under Title 7, section 1012, subsection 14 and in the case of other agricultural products means any person engaged in the business or practice of:~~

- A. Acquiring agricultural products from producers or associations of producers for processing or sale;
- B. Grading, packaging, handling, storing or processing agricultural products received from producers or associations of producers;
- C. Contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product; or
- D. Acting as an agent or broker for a handler in the performance of any function or act specified in paragraph A, B or C.

In the case of potatoes, "handler" means a processor as defined under Title 7, section 1012, subsection 14 or a person or company acting as an agent, broker or dealer as defined under Title 7, section 1012, subsections 1, 3 and 5, respectively, for a processor located or licensed in the State and providing more than 100,000 hundredweight of potatoes annually to any one processor.

Effective June 30, 2008