

# State of Wisconsin



2017 Senate Bill 599

Date of enactment: **March 28, 2018**  
Date of publication\*: **March 29, 2018**

## 2017 WISCONSIN ACT 155

AN ACT *to repeal* 126.01 (20) (a), 126.11 (3) (f), 126.41 (2) (f), 126.44 (1) (c), 126.46 (5m) (a) 1., 126.46 (5m) (a) 2., 126.47 (3) (a) 1., 126.47 (3) (a) 2., 126.56 (3) (f) and 126.88 (1) (c); *to renumber* 126.41 (9) (a), 126.41 (9) (b) and 126.47 (1) (b) 2.; *to renumber and amend* 126.41 (9) (intro.), 126.44 (1) (a), 126.44 (1) (b), 126.46 (5m) (a) (intro.), 126.47 (1) (b) 1. (intro.), 126.47 (1) (b) 1. a., 126.47 (1) (b) 1. b., 126.47 (3) (a) (intro.) and 126.48 (3); *to consolidate, renumber and amend* 126.01 (20) (intro.) and (b); *to amend* 126.11 (6), 126.11 (9) (intro.), 126.13 (1) (a) 2., 126.13 (1) (b) 2., 126.13 (1) (d), 126.13 (4m), 126.16 (1) (b), 126.16 (1) (c) 1. b., 126.16 (3) (a) (intro.), 126.16 (3) (a) 2., 126.16 (3) (b), 126.26 (5), 126.28 (4m), 126.41 (6) (intro.), 126.44 (1) (d), 126.44 (3), 126.44 (6m), 126.46 (1), 126.47 (3) (b), 126.47 (7) (a) (intro.), 126.47 (7) (am), 126.48 (1), 126.48 (2), 126.56 (9) (intro.), 126.58 (4m) and 126.88 (1) (b); and *to create* 126.13 (1) (e), 126.16 (3) (am), 126.16 (3) (c), 126.40 (6m), 126.40 (7e) (a) (intro.), 126.40 (7e) (b), 126.41 (6) (ag), 126.41 (6) (ar), 126.41 (6) (br) 4., 126.44 (1) (a) 1., 126.44 (1) (a) 2., 126.44 (1) (b) 1., 126.44 (1) (b) 2., 126.44 (1) (e), 126.47 (1) (ae), 126.47 (3) (ae), 126.47 (3) (c), 126.47 (5m) (title), 126.47 (5m) (a), 126.47 (5m) (b) (intro.), 126.47 (7) (ae), 126.485, 126.56 (2) (c), 126.70 (4) (gm), 126.70 (4) (L) and 126.73 (4) of the statutes; **relating to**: various changes to the Agricultural Producer Security Program, providing an exemption from emergency rule procedures, and granting rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 126.01 (20) (intro.) and (b) of the statutes are consolidated, renumbered 126.01 (20) and amended to read:

126.01 (20) "Reviewed financial statement" means a contractor's financial statement, other than an audited financial statement, if all of the following apply: (b) The financial statement that is reviewed by an independent certified public accountant licensed or certified under ch. 442.

**SECTION 2.** 126.01 (20) (a) of the statutes is repealed.

**SECTION 3.** 126.11 (3) (f) of the statutes is repealed.

**SECTION 4.** 126.11 (6) of the statutes is amended to read:

126.11 (6) FEE CREDITS. If the combined balance in the fund contributed by grain dealers and grain warehouse keepers, as defined in s. 126.25 (9), exceeds ~~\$2,000,000~~ \$2,300,000 on May 31 of any license year, the department shall credit 50 percent of the excess amount against license fees charged under sub. (4) (b) to contributing grain dealers who file timely license renewal applications for the next license year. The department shall credit each contributing grain dealer on a prorated basis, in proportion to the total fees that the grain dealer paid under sub. (4) (b) for the 4 preceding license years as a contributing grain dealer.

**SECTION 5.** 126.11 (9) (intro.) of the statutes is amended to read:

126.11 (9) ~~SWORN AND NOTARIZED~~ APPLICANT STATEMENT. (intro.) As part of a license application under sub.

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(3), an applicant shall provide a ~~sworn and notarized~~ statement, signed by the applicant or an officer of the applicant, that reports all of the following:

**SECTION 6.** 126.13 (1) (a) 2. of the statutes is amended to read:

126.13 (1) (a) 2. Any deferred payment contract obligations under s. 126.11 (9) (c) to a grain producer or producer agent that has not, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the grain dealer.

**SECTION 7.** 126.13 (1) (b) 2. of the statutes is amended to read:

126.13 (1) (b) 2. Any deferred payment contract obligations under s. 126.11 (9) (c) to a grain producer or producer agent that has not, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the grain dealer.

**SECTION 8.** 126.13 (1) (d) of the statutes is amended to read:

126.13 (1) (d) ~~-A- Except as provided under par. (e),~~ a grain dealer licensed under s. 126.11 may not incur any obligations under deferred payment contracts for grain procured in this state unless the contractor first notifies the department and files an annual financial statement with the department.

**SECTION 9.** 126.13 (1) (e) of the statutes is created to read:

126.13 (1) (e) A grain dealer licensed under s. 126.11 is not required to notify the department or file an annual financial statement with the department under par. (d) for an obligation incurred under a deferred payment contract, for grain procured in this state, with a grain producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the grain dealer.

**SECTION 10.** 126.13 (4m) of the statutes is amended to read:

126.13 (4m) INTERIM FINANCIAL STATEMENT. The department may, at any time, require a grain dealer licensed under s. 126.11 to file an interim financial statement with the department. ~~The grain dealer shall provide, with the interim financial statement, the grain dealer's sworn and notarized statement that the financial statement is correct.~~ An interim financial statement need not be a reviewed financial statement or an audited financial statement.

**SECTION 11.** 126.16 (1) (b) of the statutes is amended to read:

126.16 (1) (b) A grain dealer who reports any deferred payment contract obligations under s. 126.11 (9) (c) or 126.13 (1) (d), other than deferred payment contract obligations to a grain producer or producer agent who permanently waived eligibility to file a default claim under s. 126.70 (1) (b) and (c), shall file security with the department, and maintain that security until the department releases it under sub. (8) (b), unless ~~the grain dealer~~

~~has positive equity and the grain dealer's annual financial statement under s. 126.13 (1) shows that the grain dealer has positive equity and~~ a debt to equity ratio of not more than 4.0 to 1.0.

**SECTION 12.** 126.16 (1) (c) 1. b. of the statutes is amended to read:

126.16 (1) (c) 1. b. The grain dealer's highest total, at any time during the preceding 12 months, of unpaid obligations for producer grain procured in this state under deferred payment contracts, excluding any unpaid obligations under a deferred payment contract, for grain procured in this state, with a grain producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the grain dealer.

**SECTION 13.** 126.16 (3) (a) (intro.) of the statutes is amended to read:

126.16 (3) (a) (intro.) ~~Except as provided in par. (b),~~ a grain dealer who is required to file or maintain security under ~~this section sub. (1) (a)~~ shall at all times maintain security that is at least equal to the sum of the following:

**SECTION 14.** 126.16 (3) (a) 2. of the statutes is amended to read:

126.16 (3) (a) 2. The grain dealer's highest total, at any time during the preceding 12 months, of unpaid obligations for producer grain procured in this state under deferred payment contracts, excluding any unpaid obligation under a deferred payment contract, for grain procured in this state, with a grain producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the grain dealer.

**SECTION 15.** 126.16 (3) (am) of the statutes is created to read:

126.16 (3) (am) A grain dealer who is required to file or maintain security under sub. (1) (b) shall at all times maintain security that is at least equal to the grain dealer's highest total, at any time during the preceding 12 months, of unpaid obligations for producer grain procured in this state under deferred payment contracts, excluding any unpaid obligation under a deferred payment contract, for grain procured in this state, with a grain producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the grain dealer.

**SECTION 16.** 126.16 (3) (b) of the statutes is amended to read:

126.16 (3) (b) A grain dealer who is required to file or maintain security ~~only~~ under sub. (1) (c) 2. shall at all times maintain security at least equal to the grain dealer's estimated default exposure, as defined in sub. (1) (c) 1., less \$20,000,000.

**SECTION 17.** 126.16 (3) (c) of the statutes is created to read:

126.16 (3) (c) If more than one of pars. (a) to (b) applies to a grain dealer, the grain dealer shall at all times maintain security at least equal to the greatest amount of security that the grain dealer is required to maintain under any one of pars. (a) to (b).

**SECTION 18.** 126.26 (5) of the statutes is amended to read:

126.26 (5) FEE CREDIT. If Beginning on January 1, 2023, if the combined fund balance contributed by grain warehouse keepers and grain dealers, as defined in s. 126.10 (9), exceeds \$300,000 \$2,300,000 on May 31 of any license year, the department shall credit 12.5 percent of the excess amount against grain warehouse inspection fees charged under sub. (3) (b) to contributing grain warehouse keepers who file timely license renewal applications for the next license year. The department shall credit each contributing grain warehouse keeper on a pro-rated basis, in proportion to the total inspection fees that the warehouse keeper has paid under sub. (3) (b) for the 4 preceding license years.

**SECTION 19.** 126.28 (4m) of the statutes is amended to read:

126.28 (4m) INTERIM FINANCIAL STATEMENT. The department may, at any time, require a grain warehouse keeper licensed under s. 126.26 (1) to file an interim financial statement with the department. ~~The grain warehouse keeper shall provide, with the interim financial statement, the warehouse keeper's sworn and notarized statement that the financial statement is correct.~~ An interim financial statement need not be a reviewed financial statement or an audited financial statement.

**SECTION 20.** 126.40 (6m) of the statutes is created to read:

126.40 (6m) "Deferred payment contract" means a contract for the procurement of producer milk under which all of the following apply to a milk contractor's payment:

(a) For producer milk received during the first 15 days of the preceding month, the milk contractor's payment is due after the 4th day of the month, based on an estimated price that is at least 80 percent of the class III price published by the regional federal milk market administrator for the month preceding the month in which the milk is received, or 80 percent of the contract price, whichever is greater.

(b) For producer milk received during the preceding month, the balance of the milk contractor's payment is due after the 19th day of the month.

**SECTION 21.** 126.40 (7e) (a) (intro.) of the statutes is created to read:

126.40 (7e) (a) (intro.) Seventy-five percent of the following:

**SECTION 22.** 126.40 (7e) (b) of the statutes is created to read:

126.40 (7e) (b) The milk contractor's highest total, at any time during the 12 preceding months, of unpaid

obligations for producer milk procured in this state under a deferred payment contract, excluding any unpaid obligations under a deferred payment contract, for milk procured in this state, with a milk producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the milk contractor.

**SECTION 23.** 126.41 (2) (f) of the statutes is repealed.

**SECTION 24.** 126.41 (6) (intro.) of the statutes is amended to read:

126.41 (6) SWORN AND NOTARIZED APPLICANT STATEMENT. (intro.) As part of a license application under sub. (2), an applicant shall provide a ~~sworn and notarized~~ statement, signed by the applicant or an authorized officer of the applicant, that reports all of the following information:

**SECTION 25.** 126.41 (6) (ag) of the statutes is created to read:

126.41 (6) (ag) The amount of payments under par. (a) made under deferred payment contracts.

**SECTION 26.** 126.41 (6) (ar) of the statutes is created to read:

126.41 (6) (ar) Whether the applicant has had any obligations under deferred payment contracts, for milk procured in this state, at any time since the beginning of the applicant's last completed fiscal year.

**SECTION 27.** 126.41 (6) (br) 4. of the statutes is created to read:

126.41 (6) (br) 4. The amount of payments under subd. 3. made under deferred payment contracts.

**SECTION 28.** 126.41 (9) (intro.) of the statutes is renumbered 126.47 (5m) (intro.) and amended to read:

126.47 (5m) (intro.) A milk contractor who ~~files and maintains~~ is required to file or maintain security under s. ~~126.47 this section~~ shall provide a monthly report to the department containing ~~either all~~ any of the following:

**SECTION 29.** 126.41 (9) (a) of the statutes is renumbered 126.47 (5m) (b) 1.

**SECTION 30.** 126.41 (9) (b) of the statutes is renumbered 126.47 (5m) (b) 2.

**SECTION 31.** 126.44 (1) (a) of the statutes is renumbered 126.44 (1) (a) (intro.) and amended to read:

126.44 (1) (a) (intro.) A milk contractor shall file an annual financial statement with the department, before the department first licenses the milk contractor under s. 126.41 (1), unless the milk contractor reports no more than 150,000 hundredweight of milk under s. 126.41 (6) (bg). if the milk contractor's license application shows any of the following:

**SECTION 32.** 126.44 (1) (a) 1. of the statutes is created to read:

126.44 (1) (a) 1. That the amount of producer milk reported under s. 126.41 (6) (bg) exceeds 150,000 hundredweight.

**SECTION 33.** 126.44 (1) (a) 2. of the statutes is created to read:

126.44 (1) (a) 2. Any deferred payment contract obligations under s. 126.41 (6) (ar) to a milk producer or producer agent that has not, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the milk contractor.

**SECTION 34.** 126.44 (1) (b) of the statutes is renumbered 126.44 (1) (b) (intro.) and amended to read:

126.44 (1) (b) (intro.) Except as provided in par. (e) or (d), a milk contractor licensed under s. 126.41 (1) shall file an annual financial statement with the department during each license year. ~~The if the milk contractor's license application for that year shows any of the following:~~

(cm) A milk contractor shall file ~~the~~ an annual financial statement under par. (b) by the 15th day of the 4th month following the close of the milk contractor's fiscal year. The department may extend the filing deadline for up to 30 days if the milk contractor, or the accountant preparing the financial statement, files a written extension request at least 10 days before the filing deadline.

**SECTION 35.** 126.44 (1) (b) 1. of the statutes is created to read:

126.44 (1) (b) 1. That the amount of producer milk reported under s. 126.41 (6) (bg) exceeds 150,000 hundredweight and the milk contractor is not a contributing milk contractor who procures milk in this state solely as a producer agent.

**SECTION 36.** 126.44 (1) (b) 2. of the statutes is created to read:

126.44 (1) (b) 2. Any deferred payment contract obligations under s. 126.41 (6) (ar) to a milk producer or producer agent that has not, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the milk contractor.

**SECTION 37.** 126.44 (1) (c) of the statutes is repealed.

**SECTION 38.** 126.44 (1) (d) of the statutes is amended to read:

126.44 (1) (d) Rather than filing an annual financial statement under par. (b), a milk contractor who is disqualified under s. 126.45 (3) (a) may file, during each fiscal year, a compilation of financial information that is satisfactory to the department ~~along with the milk contractor's sworn and notarized statement that the financial information is correct.~~ The milk contractor shall file the financial information by the 15th day of the 4th month following the close of the milk contractor's fiscal year. The department may extend the filing deadline for up to 30 days if the milk contractor, or an accountant preparing the financial information, files a written extension request at least 10 days before the filing deadline.

**SECTION 39.** 126.44 (1) (e) of the statutes is created to read:

126.44 (1) (e) 1. Except as provided in subd. 2., a milk contractor licensed under s. 126.41 may not incur any obligations under a deferred payment contract for milk procured in this state unless the contractor first noti-

fies the department and files an annual financial statement with the department.

2. A milk contractor licensed under s. 126.41 is not required to notify the department or file an annual financial statement with the department under subd. 1. for an obligation incurred under a deferred payment contract, for milk procured in this state, with a milk producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the milk contractor.

**SECTION 40.** 126.44 (3) of the statutes is amended to read:

126.44 (3) QUARTERLY FINANCIAL STATEMENTS. A milk contractor licensed under s. 126.41 (1) who is not a contributing milk contractor shall file quarterly financial statements with the department for the first 3 quarters in each of the milk contractor's fiscal years. The milk contractor shall file each quarterly financial statement no later than 60 days after the end of the fiscal quarter to which the financial statement pertains. ~~With each quarterly financial statement, the milk contractor shall include the milk contractor's sworn and notarized statement that the financial statement is correct.~~

**SECTION 41.** 126.44 (6m) of the statutes is amended to read:

126.44 (6m) INTERIM FINANCIAL STATEMENT. The department may, at any time, require a milk contractor licensed under s. 126.41 (1) to file an interim financial statement with the department. ~~With the interim financial statement, the milk contractor shall provide the milk contractor's sworn and notarized statement that the financial statement is correct.~~ An interim financial statement need not be a reviewed financial statement or an audited financial statement.

**SECTION 42.** 126.46 (1) of the statutes is amended to read:

126.46 (1) GENERAL. A contributing milk contractor shall pay an annual fund assessment for each license year, including an assessment for deferred payment contracts entered into under s. 126.485, in the amount specified by the department by rule.

**SECTION 43.** 126.46 (5m) (a) (intro.) of the statutes is renumbered 126.46 (5m) (a) and amended to read:

126.46 (5m) (a) Divide the amount of security that the milk contractor is required to file under s. 126.47 (3) (b) by ~~75 percent of the following:~~ the amount of the milk contractor's estimated default exposure.

**SECTION 44.** 126.46 (5m) (a) 1. of the statutes is repealed.

**SECTION 45.** 126.46 (5m) (a) 2. of the statutes is repealed.

**SECTION 46.** 126.47 (1) (ae) of the statutes is created to read:

126.47 (1) (ae) A milk contractor who reports any deferred payment contract obligations under s. 126.41 (6) (ar) or 126.44 (1) (e) 1., other than deferred payment

contract obligations to a milk producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the milk contractor, shall file security with the department, and maintain that security until the department releases it under sub. (7) (ae), unless the milk contractor's annual financial statement under s. 126.44 (1) shows that the milk contractor has positive equity and a debt to equity ratio of not more than 4.0 to 1.0.

**SECTION 47.** 126.47 (1) (b) 1. (intro.) of the statutes is renumbered 126.40 (7e) (intro.) and amended to read:

126.40 (7e) (intro.) ~~In this paragraph, "estimated~~ "Estimated default exposure" means 75 percent the sum of the following:

**SECTION 48.** 126.47 (1) (b) 1. a. of the statutes is renumbered 126.40 (7e) (a) 1. and amended to read:

126.40 (7e) (a) 1. If the milk contractor reports unpaid milk payroll obligations under s. ~~ss.~~ 126.41 (6) (b) 1. and ~~(9) (a)~~ 126.47 (5m) (b) 1., the highest amount of unpaid milk payroll obligations, reported under s. 126.41 (6) (b) 1. or ~~(9) (a)~~ 126.47 (5m) (b) 1., that the milk contractor had at any time during the last 12 months.

**SECTION 49.** 126.47 (1) (b) 1. b. of the statutes is renumbered 126.40 (7e) (a) 2. and amended to read:

126.40 (7e) (a) 2. If the milk contractor reports monthly milk payroll obligations under s. ~~ss.~~ 126.41 (6) (b) 2. and ~~(9) (b)~~ 126.47 (5m) (b) 2., the highest amount of milk payroll obligations, reported under s. 126.41 (6) (b) 2. or ~~(9) (b)~~ 126.47 (5m) (b) 2., that the milk contractor incurred in any month during the last 12 months.

**SECTION 50.** 126.47 (1) (b) 2. of the statutes is renumbered 126.47 (1) (b).

**SECTION 51.** 126.47 (3) (a) (intro.) of the statutes is renumbered 126.47 (3) (a) and amended to read:

126.47 (3) (a) ~~Except as provided in par. (b), a~~ A milk contractor who is required to file or maintain security under sub. (1) ~~(a)~~ shall at all times maintain security in an amount at least equal to ~~at least 75 percent of the following:~~ the milk contractor's estimated default exposure.

**SECTION 52.** 126.47 (3) (a) 1. of the statutes is repealed.

**SECTION 53.** 126.47 (3) (a) 2. of the statutes is repealed.

**SECTION 54.** 126.47 (3) (ae) of the statutes is created to read:

126.47 (3) (ae) A milk contractor who is required to file or maintain security under sub. (1) (ae) shall at all times maintain security that is at least equal to the milk contractor's highest total, at any time during the preceding 12 months, of unpaid obligations for producer milk procured in this state under a deferred payment contract, excluding any unpaid obligation under a deferred payment contract, for milk procured in this state, with a milk producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the milk contractor.

**SECTION 55.** 126.47 (3) (b) of the statutes is amended to read:

126.47 (3) (b) A milk contractor who is required to file or maintain security ~~only~~ under sub. (1) (b) shall at all times maintain security at least equal to the milk contractor's estimated default exposure, ~~as defined in sub. (1) (b) 1.,~~ less \$20,000,000.

**SECTION 56.** 126.47 (3) (c) of the statutes is created to read:

126.47 (3) (c) If more than one of pars. (a) to (b) applies to a milk contractor, the milk contractor shall at all times maintain security at least equal to the greatest amount of security that the milk contractor is required to maintain under any one of pars. (a) to (b).

**SECTION 57.** 126.47 (5m) (title) of the statutes is created to read:

126.47 (5m) (title) MONTHLY REPORTS.

**SECTION 58.** 126.47 (5m) (a) of the statutes is created to read:

126.47 (5m) (a) The milk contractor's total unpaid obligations at the end of the previous month for producer milk procured in this state under a deferred payment contract, excluding any unpaid obligation under a deferred payment contract, for milk procured in this state, with a milk producer or producer agent that has, under s. 126.70 (1) (b), permanently waived eligibility to file a default claim against the milk contractor.

**SECTION 59.** 126.47 (5m) (b) (intro.) of the statutes is created to read:

126.47 (5m) (b) (intro.) Either of the following:

**SECTION 60.** 126.47 (7) (a) (intro.) of the statutes is amended to read:

126.47 (7) (a) (intro.) The department may release security filed under sub. (1) (a), except for any amount of security that the milk contractor is required to file under sub. (1) (ae) or (b), if any of the following applies:

**SECTION 61.** 126.47 (7) (ae) of the statutes is created to read:

126.47 (7) (ae) The department may release security filed under sub. (1) (ae), except for any amount of security that the milk contractor is required to file under sub. (1) (a) or (b), if any of the following applies:

1. The milk contractor has not had any deferred payment contract obligations since the beginning of the milk contractor's last completed fiscal year.

2. The milk contractor files 2 consecutive annual financial statements under s. 126.44 showing that the milk contractor meets the applicable equity requirement and debt to equity ratio under sub. (1) (ae).

**SECTION 62.** 126.47 (7) (am) of the statutes is amended to read:

126.47 (7) (am) The department may release security filed under sub. (1) (b), except for any amount of security that the milk contractor is required to file because sub. (1) (a) or (ae) applies to the milk contractor, if the milk contractor files 2 consecutive annual financial statements

under s. 126.44 showing that the milk contractor no longer has negative equity, a current ratio of less than 1.25 to 1.0, or a debt to equity ratio of more than 2.0 to 1.0.

**SECTION 63.** 126.48 (1) of the statutes is amended to read:

126.48 (1) **FIRST MONTHLY PAYMENT.** By Except as provided under the terms of a deferred payment contract that satisfies the requirements under s. 126.485, by the 4th day of each month, a milk contractor shall pay for producer milk received during the first 15 days of the preceding month. The milk contractor shall base the payment on an estimated price that is at least 80 percent of the class III price published by the regional federal milk market administrator for the month preceding the month in which the milk is received, or 80 percent of the contract price, whichever is greater.

**SECTION 64.** 126.48 (2) of the statutes is amended to read:

126.48 (2) **SECOND MONTHLY PAYMENT.** By Except as provided under the terms of a deferred payment contract that satisfies the requirements under s. 126.485, by the 19th day of each month, a milk contractor shall pay the balance due for producer milk received during the preceding month.

**SECTION 65.** 126.48 (3) of the statutes is renumbered 126.487, and 126.487 (intro.), as renumbered, is amended to read:

**126.487 Payment explanation.** (intro.) The department may, by rule, require a milk contractor to provide a milk producer or producer agent with a written explanation of each payment under ~~this section s. 126.48 or of each deferred payment under s. 126.485.~~ The department may specify the content of the explanation, including information related to any of the following:

**SECTION 66.** 126.485 of the statutes is created to read:

**126.485 Milk contractors; deferred payment contracts.** (1) **CONTRACT IN WRITING.** A milk contractor may not procure milk from any milk producer or producer agent under a deferred payment contract before the contract is reduced to writing and signed by the parties. The milk contractor shall provide a copy of the signed contract to the other party.

(2) **CONTENTS OF CONTRACT.** A milk contractor may not enter into a deferred payment contract unless the deferred payment contract includes all of the following:

(a) A unique contract identification number.

(b) The specific payments required under s. 126.48 (1) or (2), or portion thereof, that are deferred under the contract.

(c) The date by which the milk contractor agrees to make full payment for the milk.

(d) The milk contractor's permanent business location.

(e) A statement in clear and conspicuous print immediately above the contract signature line stating: "The

milk contractor (buyer) becomes the owner of any milk that the producer or producer agent (seller) delivers to the milk contractor under this contract. The producer or producer agent relinquishes ownership and control of the milk, and may become an unsecured creditor pending payment."

(f) A statement that the milk contractor deducts the deferred payment contract assessment established by the department by rule under s. 126.46 (1) from the amount paid to a milk producer or producer agent under a deferred payment contract.

(g) Other information required under this section by the department.

(3) **RULE MAKING.** The department may promulgate rules to modify the requirements for the contents of deferred payment contracts under sub. (2).

(4) **PAYMENT DUE DATES.** (a) The due date by which a milk contractor agrees to make full payment for milk under a deferred payment contract may not be more than 120 days after the date on which the milk contractor's payments would have been due under s. 126.48 (2).

(b) A milk contractor shall make full payment under a deferred payment contract by the due date specified in the contract under sub. (2) (c), or if the parties agree by another date that satisfies par. (a).

(5) **DEFERRED PAYMENT CONTRACT ASSESSMENT.** From the amount that a milk contractor pays to a milk producer or producer agent under a deferred payment contract, the milk contractor shall deduct a deferred payment contract assessment. The assessment shall equal the total amount owed under the contract before the assessment is deducted, multiplied by the deferred payment assessment rate that applies under s. 126.46 (1) when the contract is made. The milk contractor shall disclose the assessment amount.

**SECTION 67.** 126.56 (2) (c) of the statutes is created to read:

126.56 (2) (c) A vegetable contractor who spends less than \$15,000 per license year to procure processing vegetables from vegetable producers and producer agents.

**SECTION 68.** 126.56 (3) (f) of the statutes is repealed.

**SECTION 69.** 126.56 (9) (intro.) of the statutes is amended to read:

126.56 (9) ~~SWORN AND NOTARIZED~~ APPLICANT STATEMENT. (intro.) As part of a license application under sub. (3), an applicant shall provide a ~~sworn and notarized~~ statement, signed by the applicant or an officer of the applicant, that reports all of the following:

**SECTION 70.** 126.58 (4m) of the statutes is amended to read:

126.58 (4m) **INTERIM FINANCIAL STATEMENT.** The department may, at any time, require a vegetable contractor licensed under s. 126.56 (1) to file an interim financial statement with the department. ~~The vegetable contractor shall provide, with the interim financial statement, the~~

~~vegetable contractor's sworn and notarized statement that the financial statement is correct.~~ An interim financial statement need not be a reviewed or audited financial statement.

**SECTION 71.** 126.70 (4) (gm) of the statutes is created to read:

126.70 (4) (gm) That the claim relates to a payment that first became due, under a deferred payment contract for milk, after the payment due date under s. 126.485 (4) (b).

**SECTION 72.** 126.70 (4) (L) of the statutes is created to read:

126.70 (4) (L) That the claimant was eligible, at any time before filing a default claim under sub. (2), to file a claim against the defaulting contractor in a federal bankruptcy proceeding under 11 USC 101 et seq. initiated by a party other than the claimant, or a proceeding under ch. 128 initiated by a party other than the claimant, or both, and did not file a claim against the defaulting contractor in each proceeding in which the claimant was eligible to file a claim.

**SECTION 73.** 126.73 (4) of the statutes is created to read:

126.73 (4) SUBROGATION. The department is subrogated to the rights of a claimant who obtains a payment under s. 126.72 (1) or (2) in an amount equal to the payment, against the defaulting contractor and against any party that would otherwise be liable to the claimant for the amount of the default.

**SECTION 74.** 126.88 (1) (b) of the statutes is amended to read:

126.88 (1) (b) Maintain a combined fund balance attributable to grain dealers and grain warehouse keepers of at least ~~\$1,000,000~~ \$1,200,000, but not more than ~~\$6,000,000~~ \$7,000,000.

**SECTION 75.** 126.88 (1) (c) of the statutes is repealed.

**SECTION 76. Nonstatutory provisions.**

(1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of agriculture, trade and consumer protection shall promulgate the rules required under section 126.46 (1) of the statutes for the period before the effective date of the permanent rules promulgated under section 126.46 (1) of the statutes. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, a rule promulgated under this subsection may remain in effect for not more than 24 months. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

**SECTION 77. Initial applicability.**

(1) DISALLOWED CLAIMS. The treatment of section 126.70 (4) (L) of the statutes first applies to a claim that is filed on the effective date of this subsection.

**SECTION 78. Effective dates.** This act takes effect on the 30th day after the day of publication, except as follows:

(1) DISALLOWED CLAIMS. The treatment of section 126.70 (4) (L) of the statutes takes effect on the 60th day after the effective date of this subsection.