

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1573 Session of
1997

INTRODUCED BY BUNT, BELFANTI, WAUGH, B. SMITH, FLEAGLE,
HENNESSEY, GORDNER, MAJOR, E. Z. TAYLOR, HERMAN, FARGO,
MILLER, HESS, HERSHEY, COLAIZZO, ITKIN, MCGILL, PHILLIPS,
SCRIMENTI, COY, KREBS, LYNCH, CLARK, KELLER, BAKER,
ZIMMERMAN, ARMSTRONG, ROSS, BARD, SATHER, HALUSKA, FAIRCHILD,
TRELLO, STEELMAN, HARHART, CAPPABIANCA, CIVERA, YOUNGBLOOD,
SAYLOR, WILT, BENNINGHOFF AND ZUG, JUNE 4, 1997

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, DECEMBER 8, 1997

AN ACT

1 ~~Amending the act of September 20, 1961 (P.L.1541, No.657),~~ <—
2 ~~entitled, as reenacted and amended, "An act providing for the~~
3 ~~issuing, administration, enforcement and termination of~~
4 ~~marketing programs on agricultural commodities; imposing~~
5 ~~powers and duties on the Secretary of Agriculture; providing~~
6 ~~for the creation and operation of advisory boards;~~
7 ~~prescribing the content of programs; and providing for the~~
8 ~~imposition and collection of fees," further providing for the~~
9 ~~definition of "agricultural commodity."~~
10 AMENDING TITLE 3 (AGRICULTURE) OF THE PENNSYLVANIA CONSOLIDATED <—
11 STATUTES, FURTHER DEFINING "GARBAGE" FOR PURPOSES OF DOMESTIC
12 ANIMALS; PROVIDING FOR PAYMENT OF INDEMNIFICATION AND
13 DEPOPULATION INCENTIVES FOR AVIAN INFLUENZA; FURTHER
14 PROVIDING FOR GENERAL TESTING AND INSPECTION OF SCANNING
15 DEVICES; PROVIDING FOR THE ISSUING, ADMINISTRATION,
16 ENFORCEMENT AND TERMINATION OF MARKETING PROGRAMS ON
17 AGRICULTURAL COMMODITIES; IMPOSING POWERS AND DUTIES ON THE
18 SECRETARY OF AGRICULTURE; PROVIDING FOR THE CREATION AND
19 OPERATION OF ADVISORY BOARDS; PRESCRIBING THE CONTENT OF
20 PROGRAMS; PROVIDING FOR THE IMPOSITION AND COLLECTION OF
21 FEES; AND MAKING A REPEAL.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 ~~Section 1. Section 2(6) of the act of September 20, 1961~~ <—

~~(P.L.1541, No.657), known as the Pennsylvania Agricultural
Commodities Marketing Act of 1968, reenacted and amended July
16, 1968 (P.L.359, No.179), is amended to read:~~

~~Section 2. Definitions. When used in this act, the
following words and phrases shall have the following meanings,
unless the context indicates otherwise:~~

~~* * *~~

~~(6) "Agricultural commodity" means agricultural,
aquacultural, horticultural, viticultural and dairy products,
livestock and the products thereof, ranch raised fur bearing
animals and the products thereof, the products of poultry and
bee raising, forestry and forestry products, and any and all
products raised or produced on farms intended for human
consumption and the processed or manufactured products thereof
intended for human consumption, transported or intended to be
transported in commerce.~~

~~* * *~~

~~Section 2. This act shall take effect in 60 days.~~

SECTION 1. THE DEFINITION OF "GARBAGE" IN SECTION 2303 OF
TITLE 3 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO
READ:

§ 2303. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

* * *

["GARBAGE." ALL WASTE MATERIAL RESULTING FROM THE HANDLING,
PREPARATION, COOKING OR CONSUMPTION OF FOOD, EXCEPT THAT THE
TERM SHALL NOT INCLUDE WASTE FROM ORDINARY HOUSEHOLD OPERATIONS
WHICH IS FED DIRECTLY TO DOMESTIC ANIMALS ON THE SAME PREMISES

1 WHERE THE HOUSEHOLD IS LOCATED. THE TERM ALSO DOES NOT INCLUDE
2 ANY WASTE OR RESIDUALS FROM FOOD PROCESSING OPERATIONS.]

3 "GARBAGE." ALL WASTE OR RESIDUALS RESULTING FROM THE
4 HANDLING, PREPARATION, COOKING OR CONSUMPTION OF FOOD DERIVED IN
5 WHOLE OR IN PART FROM THE MEAT OF ANY ANIMAL, INCLUDING POULTRY
6 AND FISH, OR OTHER ANIMAL MATERIAL AND OTHER REFUSE OF ANY
7 CHARACTER THAT HAS BEEN ASSOCIATED WITH THE MEAT OF ANY ANIMAL
8 OR OTHER ANIMAL MATERIAL. THE TERM DOES NOT INCLUDE WASTE FROM
9 ORDINARY HOUSEHOLD OPERATIONS THAT IS FED DIRECTLY TO SWINE ON
10 THE SAME PREMISES WHERE THE HOUSEHOLD IS LOCATED.

11 * * *

12 SECTION 2. ~~SECTIONS 2333 AND 4112(C) OF TITLE 3 ARE SECTION~~ <—
13 2333 OF TITLE 3 IS AMENDED TO READ:

14 § 2333. RESTRICTION ON PAYMENT OF INDEMNIFICATION AND
15 DEPOPULATION INCENTIVE.

16 (A) GENERALLY.--NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
17 INDEMNIFICATION UNDER SECTION 2331 (RELATING TO INDEMNIFICATION)
18 AND DEPOPULATION INCENTIVE UNDER SECTION 2332 (RELATING TO
19 DEPOPULATION INCENTIVE) SHALL BE PAID ONLY FOR DOMESTIC ANIMALS.

20 (B) AVIAN INFLUENZA.--NOTWITHSTANDING ANY OTHER PROVISION OF
21 LAW, WHETHER A DOMESTIC ANIMAL, DOMESTIC ANIMAL PRODUCT OR OTHER
22 PROPERTY IS CONDEMNED BY THE DEPARTMENT AND SLAUGHTERED OR
23 DESTROYED UNDER SECTION 2331 OR VOLUNTARILY SLAUGHTERED OR
24 DESTROYED BY THE OWNER UNDER SECTION 2332 TO ERADICATE OR
25 PREVENT THE SPREAD OF AVIAN INFLUENZA, THE AMOUNT PAYABLE BY THE
26 DEPARTMENT SHALL, IN ALL CASES, BE THE SAME MAXIMUM PERCENTAGE <—
27 OF APPRAISED VALUE AS DETERMINED BY THE DEPARTMENT. ALL OTHER <—
28 PROVISIONS OF SECTIONS 2331 AND 2332 SHALL APPLY TO ANY PAYMENT
29 UNDER THIS SUBSECTION.

30 SECTION 3. SECTION 4112(C) OF TITLE 3 IS AMENDED AND THE <—

1 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

2 § 4112. GENERAL TESTING AND INSPECTIONS.

3 * * *

4 (C) GENERAL TESTING AND INSPECTION OF SCANNING DEVICES.--
5 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER TO THE
6 CONTRARY, WITHIN THE 12-MONTH PERIOD ENDING ON [JUNE 30, 1998]
7 JUNE 30, 1999, AND EVERY 12-MONTH PERIOD THEREAFTER, THE
8 DEPARTMENT SHALL TEST AND INSPECT TO ASCERTAIN IF THEY ARE
9 CORRECT ALL COMMERCIALY USED UNIVERSAL PRODUCT CODE SCANNING
10 SYSTEMS AND PRICE LOOK UP DEVICES. A CITY OR COUNTY MAY TEST AND
11 INSPECT SUCH DEVICES AND SYSTEMS IF SPECIFIED IN ITS MEMORANDUM
12 OF UNDERSTANDING ENTERED INTO WITH THE DEPARTMENT IN ACCORDANCE
13 WITH SECTION 4125 (RELATING TO DIVISION OF RESPONSIBILITIES).
14 SUCH DEVICES AND SYSTEMS SHALL BE EXEMPT FROM THE ANNUAL TESTING
15 AND INSPECTION REQUIREMENTS OF THIS SUBSECTION IF THE DEVICE OR
16 SYSTEM IS INSPECTED AT LEAST ANNUALLY ON AN UNANNOUNCED BASIS AS
17 PART OF A PRIVATE CERTIFICATION PROGRAM WHICH CONFORMS WITH THE
18 EXAMINATION PROCEDURES FOR PRICE VERIFICATION AS ADOPTED BY THE
19 NATIONAL CONFERENCE OF WEIGHTS AND MEASURES.

20 (D) INTERIM PROCEDURES.--IN ORDER TO FACILITATE THE SPEEDY <—
21 IMPLEMENTATION OF SUBSECTION (C), THE DEPARTMENT SHALL
22 PROMULGATE, ADOPT AND USE GUIDELINES TO PROVIDE FOR THE
23 CERTIFICATION OF INDIVIDUALS TO TEST AND INSPECT ALL
24 COMMERCIALY USED UNIVERSAL PRODUCT CODE SCANNING SYSTEMS AND
25 PRICE LOOK UP DEVICES. THE GUIDELINES SHALL BE PUBLISHED IN THE
26 PENNSYLVANIA BULLETIN. THE GUIDELINES SHALL NOT BE SUBJECT TO
27 REVIEW PURSUANT TO SECTION 205 OF THE ACT OF JULY 31, 1968
28 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS
29 LAW, AND SECTION 204(B) AND 301(10) OF THE ACT OF OCTOBER 15,
30 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT,

1 OR THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE
2 REGULATORY REVIEW ACT, AND SHALL BE EFFECTIVE FOR A PERIOD OF
3 NOT MORE THAN TWO YEARS. AFTER THE EXPIRATION OF THE TWO-YEAR
4 PERIOD, THE GUIDELINES SHALL EXPIRE AND SHALL BE REPLACED BY
5 REGULATIONS WHICH SHALL BE PROMULGATED, ADOPTED AND PUBLISHED AS
6 PROVIDED BY LAW. NOTHING IN THIS ACT SHALL BE CONSTRUED TO
7 RELIEVE THE DEPARTMENT OF THE RESPONSIBILITY, PRIOR TO JUNE 30,
8 1999, TO CONDUCT TESTS AND INSPECTIONS OF ALL COMMERCIALY USED
9 UNIVERSAL PRODUCT CODE SCANNING SYSTEMS AND PRICE LOOK UP
10 DEVICES ON A PERIODIC BASIS AND IN RESPONSE TO COMPLAINTS AND TO
11 INITIATE APPROPRIATE ENFORCEMENT ACTIONS.

12 SECTION 3 4. TITLE 3 IS AMENDED BY ADDING A CHAPTER TO READ: <—

13 CHAPTER 45

14 AGRICULTURAL COMMODITIES MARKETING

15 SEC.

16 4501. SHORT TITLE OF CHAPTER.

17 4502. DEFINITIONS.

18 4503. POWERS AND DUTIES OF SECRETARY.

19 4504. COMMODITY MARKETING BOARD.

20 4505. PROVISIONS OF MARKETING PROGRAMS.

21 4506. EFFECTING MARKETING PROGRAMS.

22 4507. TERMINATING MARKETING PROGRAMS.

23 4508. MARKETING PROGRAM REVIEW AND AMENDMENTS.

24 4509. NOTICE OF ISSUANCE.

25 4510. COLLECTION OF FEES.

26 4511. RULES AND REGULATIONS FOR ENFORCEMENT.

27 4512. ADVANCED DEPOSITS.

28 4513. SEVERABILITY.

29 § 4501. SHORT TITLE OF CHAPTER.

30 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE

1 AGRICULTURAL COMMODITIES MARKETING ACT.

2 § 4502. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
4 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 "AGRICULTURAL COMMODITY." AGRICULTURAL, AQUACULTURAL,
7 HORTICULTURAL, VITICULTURAL AND DAIRY PRODUCTS, LIVESTOCK AND
8 THE PRODUCTS THEREOF, RANCH RAISED FURBEARING ANIMALS AND THE
9 PRODUCTS THEREOF, THE PRODUCTS OF POULTRY AND BEE RAISING,
10 FORESTRY AND FORESTRY PRODUCTS, AND ANY AND ALL PRODUCTS RAISED
11 OR PRODUCED ON FARMS INTENDED FOR HUMAN CONSUMPTION AND THE
12 PROCESSED OR MANUFACTURED PRODUCTS THEREOF INTENDED FOR HUMAN
13 CONSUMPTION, TRANSPORTED OR INTENDED TO BE TRANSPORTED IN
14 COMMERCE.

15 "COMMODITY MARKETING BOARD" OR "BOARD." THE PERSONS WHO ARE
16 APPOINTED BY THE SECRETARY OF AGRICULTURE FROM AMONG PRODUCERS
17 WHOSE COMMODITIES ARE SUBJECT TO AN ISSUED MARKETING PROGRAM.

18 "COOPERATIVE ASSOCIATION." ANY COOPERATIVE MARKETING
19 ASSOCIATION OF PRODUCERS WHICH THE SECRETARY OF AGRICULTURE
20 DETERMINES, AFTER APPLICATION BY THE COOPERATIVE ASSOCIATION:

21 (1) TO BE QUALIFIED UNDER THE PROVISIONS OF THE CO-
22 OPERATIVE MARKETING ASSOCIATIONS ACT (42 STAT. 388, 7 U.S.C.
23 §§ 291 AND 292) AND ORGANIZED AS A COOPERATIVE AGRICULTURAL
24 ASSOCIATION UNDER THE LAWS OF THIS COMMONWEALTH AND ANY OTHER
25 STATE; AND

26 (2) TO HAVE FULL AUTHORITY IN THE SALE OF AFFECTED
27 AGRICULTURAL COMMODITY OF ITS MEMBERS AND TO BE ENGAGED IN
28 MAKING COLLECTIVE SALES OF OR MARKETING THE COMMODITY OR ITS
29 PRODUCTS FOR ITS MEMBERS.

30 "MARKETING CONTRACT." A CONTRACT OR AGREEMENT BETWEEN A

1 COMMODITY MARKETING BOARD AND A PERSON FOR THE PERFORMANCE OF
2 SERVICES RELATING TO ADVERTISING, MARKETING, PROMOTION, RESEARCH
3 OR OTHER OBJECTIVES IN FURTHERANCE OF A MARKETING PROGRAM.

4 "MARKETING PROGRAM." A PROGRAM ESTABLISHED PURSUANT TO THIS
5 CHAPTER GOVERNING THE COLLECTION OF FEES AND ADMINISTRATION OF
6 BUDGETS TO IMPLEMENT PROJECTS TO BENEFIT PRODUCERS IN THIS
7 COMMONWEALTH DURING ANY SPECIFIED PERIOD OR PERIODS.

8 "PERSON." AN INDIVIDUAL, FIRM, CORPORATION, ASSOCIATION OR
9 ANY OTHER BUSINESS UNIT.

10 "PRODUCER." A PERSON ENGAGED WITHIN THIS COMMONWEALTH OR A
11 PRODUCTION AREA WITHIN THIS COMMONWEALTH IN THE BUSINESS OF
12 PRODUCING AGRICULTURAL COMMODITIES OR CAUSING AGRICULTURAL
13 COMMODITIES TO BE PRODUCED.

14 "SALES AGENT." ANY PERSON, INCLUDING INDIVIDUALS,
15 PARTNERSHIPS, CORPORATIONS, COOPERATIVE ASSOCIATIONS AND
16 UNINCORPORATED COOPERATIVE ASSOCIATIONS, WHO PURCHASES OR
17 HANDLES OR RECEIVES OR SELLS OR CONTRACTS TO SELL AN AFFECTED
18 AGRICULTURAL COMMODITY.

19 § 4503. POWERS AND DUTIES OF SECRETARY.

20 (A) ADMINISTRATION AND ENFORCEMENT OF CHAPTER.--SUBJECT TO
21 THE PROVISIONS CONTAINED IN THIS CHAPTER, THE SECRETARY SHALL
22 ADMINISTER AND ENFORCE THE PROVISIONS OF THIS CHAPTER, AND SHALL
23 HAVE AND SHALL EXERCISE ALL ADMINISTRATIVE POWERS NECESSARY TO
24 EFFECTUATE THE PURPOSES OF THIS CHAPTER, INCLUDING THE ISSUANCE
25 OF MARKETING PROGRAMS, THE APPOINTMENT OF MEMBERS TO COMMODITY
26 MARKETING BOARDS AS PROVIDED IN SECTION 4504 (RELATING TO
27 COMMODITY MARKETING BOARD) AND THE PROVIDING OF PERSONNEL,
28 STAFF, LEGAL COUNSEL AND OFFICE FACILITIES REQUIRED FOR THE
29 ADMINISTRATION AND ENFORCEMENT OF MARKETING PROGRAMS.

30 (B) GROUNDS FOR PUBLIC HEARING.--WHENEVER THE SECRETARY HAS

1 REASON TO BELIEVE THAT THE ISSUANCE OF A MARKETING PROGRAM OR
2 AMENDMENTS TO AN EXISTING MARKETING PROGRAM WILL TEND TO
3 EFFECTUATE THIS CHAPTER, THE SECRETARY SHALL, EITHER UPON HIS
4 OWN MOTION OR UPON APPLICATION OF ANY PRODUCER OR ANY
5 ORGANIZATION OF PRODUCERS, GIVE DUE NOTICE OF AN OPPORTUNITY FOR
6 A PUBLIC HEARING UPON A PROPOSED MARKETING PROGRAM OR AMENDMENTS
7 TO AN EXISTING MARKETING PROGRAM.

8 (C) PUBLICATION OF NOTICE OF HEARING.--NOTICE OF ANY HEARING
9 CALLED FOR THIS PURPOSE SHALL BE GIVEN BY THE SECRETARY BY
10 PUBLISHING A NOTICE OF THE HEARING, FOR A PERIOD OF NOT LESS
11 THAN FIVE CONSECUTIVE PUBLICATION DAYS, IN A DAILY NEWSPAPER OF
12 GENERAL CIRCULATION, PUBLISHED IN THE CAPITAL OF THE
13 COMMONWEALTH AND IN ANY OTHER NEWSPAPER OR NEWSPAPERS AS THE
14 SECRETARY MAY PRESCRIBE. NO PUBLIC HEARING SHALL BE HELD PRIOR
15 TO 20 DAYS AFTER THE LAST DAY OF THE PERIOD OF PUBLICATION.

16 (D) MAILING TO PRODUCERS.--THE SECRETARY SHALL ALSO MAIL A
17 COPY OF THE NOTICE OF A HEARING AND A COPY OF THE PROPOSED
18 MARKETING PROGRAM OR PROPOSED AMENDMENTS TO ALL PRODUCERS WHOSE
19 NAMES AND ADDRESSES APPEAR UPON LISTS OF SUCH PERSONS WHICH
20 SHALL BE COMPILED IN THE DEPARTMENT.

21 (E) SPECIFICS OF NOTICE.--THE NOTICE OF HEARING SHALL SET
22 FORTH THE DATE AND PLACE OF THE HEARING, AND THE AREA COVERED BY
23 THE PROPOSED MARKETING PROGRAM, OR THE PROPOSED AMENDMENTS, AND
24 A STATEMENT THAT THE SECRETARY WILL RECEIVE AT THE HEARING, IN
25 ADDITION TO TESTIMONY AND EVIDENCE AS TO THE PROPOSED MARKETING
26 PROGRAM, TESTIMONY AND EVIDENCE AS TO OTHER NECESSARY AND
27 RELEVANT MATTERS, INCLUDING RATE OF ASSESSMENT, AND WITH RESPECT
28 TO THE ACCURACY AND SUFFICIENCY OF LISTS ON FILE WITH THE
29 SECRETARY, WHICH SHOW THE NAMES AND ADDRESSES OF PRODUCERS AND
30 THE QUANTITIES OF AGRICULTURAL COMMODITIES PRODUCED BY THE

1 PRODUCERS IN THE MARKETING SEASON NEXT PRECEDING THE HEARING.

2 (F) HEARING REQUIREMENTS.--THE HEARING SHALL BE PUBLIC, AND
3 ALL TESTIMONY SHALL BE RECEIVED UNDER OATH. A FULL AND COMPLETE
4 RECORD OF ALL PROCEEDINGS AT THE HEARINGS SHALL BE MADE AND
5 MAINTAINED ON FILE IN THE OFFICE OF THE SECRETARY. AT HEARINGS
6 THE SECRETARY SHALL RECEIVE, IN ADDITION TO OTHER NECESSARY AND
7 RELEVANT MATTERS, TESTIMONY AND EVIDENCE REGARDING THE RATE OF
8 ASSESSMENT AND TESTIMONY AND EVIDENCE WITH RESPECT TO THE
9 ACCURACY AND SUFFICIENCY OF THE LISTS ON FILE WITH THE
10 SECRETARY, WHICH SHOW THE NAMES OF THE PRODUCERS AND THE
11 QUANTITIES OF AGRICULTURAL COMMODITIES PRODUCED BY THE PRODUCERS
12 IN THE MARKETING SEASON NEXT PRECEDING THE HEARING.

13 (G) ISSUANCE OF MARKETING PROGRAM.--AFTER NOTICE AND
14 HEARING, THE SECRETARY MAY ISSUE A MARKETING PROGRAM IF THE
15 SECRETARY FINDS AND SETS FORTH IN THE MARKETING PROGRAM THAT THE
16 PROGRAM WILL TEND TO EFFECTUATE THE PURPOSES OF THIS CHAPTER.

17 § 4504. COMMODITY MARKETING BOARD.

18 (A) ESTABLISHMENT OF COMMODITY MARKETING BOARD.--

19 (1) EACH MARKETING PROGRAM, ISSUED PURSUANT TO THIS
20 CHAPTER, SHALL PROVIDE FOR THE ESTABLISHMENT OF A COMMODITY
21 MARKETING BOARD, WHICH SHALL HAVE PRIMARY DECISION MAKING
22 AUTHORITY RELATIVE TO MARKETING CONTRACTS AND OTHER PROJECTS
23 IN FURTHERANCE OF THE PROGRAM. THE NUMBER, REPRESENTATION,
24 QUALIFICATIONS AND TERMS OF BOARD MEMBERS AND THE SCHEDULE OF
25 REGULAR BOARD MEETINGS AND PROCEDURE FOR CALLING SPECIAL
26 BOARD MEETINGS SHALL BE ESTABLISHED IN THE ISSUED MARKETING
27 PROGRAM. NO MARKETING PROGRAM SHALL BE ISSUED TO ESTABLISH A
28 COMMODITY BOARD OF LESS THAN FIVE MEMBERS, ONE OF WHOM SHALL
29 BE THE SECRETARY, OR THE SECRETARY'S DESIGNEE. THE OTHER
30 BOARD MEMBERS SHALL BE APPOINTED BY THE SECRETARY FROM AMONG

1 THE AGRICULTURAL PRODUCERS WHOSE COMMODITIES SHALL BE SUBJECT
2 TO THE MARKETING PROGRAM. IN MAKING THESE APPOINTMENTS, THE
3 SECRETARY SHALL CONSIDER NOMINATIONS SUBMITTED BY THE
4 PRODUCERS. NO DECISION BY THE BOARD SHALL BE EFFECTIVE
5 UNLESS, PURSUANT TO REGULAR OR SPECIAL MEETINGS, A MAJORITY
6 OF BOARD MEMBERS WERE PRESENT AND A MAJORITY OF THOSE PRESENT
7 VOTED IN SUPPORT OF THE DECISION. ALL DECISIONS RENDERED BY
8 THE BOARD SHALL BE RECORDED IN WRITTEN MINUTES OF THE
9 MEETING, AND THE RECORDED MINUTES SHALL BE MADE AVAILABLE TO
10 THE SECRETARY AND TO THE PRODUCERS WHOSE COMMODITIES ARE
11 SUBJECT TO THE MARKETING PROGRAM.

12 (2) IF THE SECRETARY REQUIRES SALES AGENTS TO COLLECT
13 PRODUCER CHARGES UNDER SECTION 4510(B) (RELATING TO
14 COLLECTION OF FEES), AN ADDITIONAL MEMBER SHALL BE APPOINTED
15 TO THE BOARD BY THE SECRETARY. THIS MEMBER SHALL REPRESENT
16 THESE SALES AGENTS WHO ARE SUBJECT TO THE MARKETING PROGRAM
17 COLLECTION AGREEMENT. IN MAKING THE APPOINTMENT, THE
18 SECRETARY SHALL CONSIDER NOMINATIONS BY THE SALES AGENTS.

19 (B) BOARD MEMBERS.--NO MEMBER OF A COMMODITY MARKETING BOARD
20 SHALL RECEIVE A SALARY, BUT EACH SHALL BE ENTITLED TO ACTUAL
21 EXPENSES INCURRED WHILE ENGAGED IN PERFORMING THE DUTIES
22 AUTHORIZED BY THIS CHAPTER. ANY MARKETING PROGRAM ESTABLISHED
23 UNDER THIS CHAPTER MAY AUTHORIZE A PAYMENT NOT TO EXCEED \$100
24 PER DAY, AND EXPENSES FOR EACH DAY IN WHICH A BOARD MEMBER OR
25 SUBCOMMITTEE MEMBER IS PERFORMING A DUTY NECESSARY TO THE
26 FUNCTION OF THE BOARD.

27 (C) POWERS AND DUTIES OF BOARD.--IN ADMINISTERING THE
28 MARKETING PROGRAM THE BOARD SHALL HAVE THE FOLLOWING POWERS AND
29 DUTIES:

30 (1) TO DETERMINE ALL MATTERS PERTAINING TO THE MARKETING

1 PROGRAM ISSUED BY THE SECRETARY.

2 (2) TO HIRE AND EMPLOY PERSONNEL WHICH THE BOARD DEEMS
3 NECESSARY FOR THE PROPER ADMINISTRATION OF THE MARKETING
4 PROGRAM AND TO FIX THE COMPENSATION AND TERMS OF EMPLOYMENT
5 OF PERSONNEL. THE HIRING, EMPLOYMENT, COMPENSATION AND TERMS
6 OF EMPLOYMENT OF PERSONNEL UNDER THIS PARAGRAPH SHALL NOT BE
7 SUBJECT TO THE PROVISIONS OF THE ACT OF APRIL 9, 1929
8 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

9 (3) TO ADOPT WRITTEN PROCEDURES FOR ACQUIRING AND
10 DISPOSING OF PROPERTY, AND, SUBJECT TO THESE PROCEDURES, TO
11 ACQUIRE, OWN, USE, HIRE, LEASE, OPERATE AND DISPOSE OF
12 PERSONAL PROPERTY, REAL PROPERTY AND INTERESTS IN REAL
13 PROPERTY.

14 (4) TO MAKE AND ENTER INTO ALL CONTRACTS AND AGREEMENTS,
15 IN ACCORDANCE WITH THE PROVISIONS OF THE LAW, WHICH THE BOARD
16 DEEMS NECESSARY OR INCIDENTAL TO THE FURTHERANCE OF THE
17 MARKETING PROGRAM OR PERFORMANCE OF DUTIES AND POWERS UNDER
18 THIS CHAPTER. MARKETING CONTRACTS AND THE PROCEDURES AND
19 DECISIONS RELATED TO CONTRACTS SHALL NOT BE SUBJECT TO
20 COMPETITIVE BIDDING REQUIREMENTS OF ANY OTHER STATUTE OR
21 OTHER REQUIREMENTS PRESCRIBED IN THE ADMINISTRATIVE CODE OF
22 1929. THE BOARD SHALL ADOPT WRITTEN PROCUREMENT PROCEDURES
23 FOR ALL MARKETING CONTRACTS. PROCEDURES SHALL INCLUDE:

24 (I) THE METHOD OR METHODS WHICH THE BOARD MAY USE TO
25 INVITE PROPOSALS FOR MARKETING CONTRACTS AND THE MANNER
26 OF NOTICE TO BE GIVEN TO PROSPECTIVE CONTRACTING PARTIES.

27 (II) THE MINIMUM QUALIFICATIONS OF A PROSPECTIVE
28 CONTRACTING PARTY NECESSARY FOR CONSIDERATION BY THE
29 BOARD IN MARKETING CONTRACTS.

30 (III) THE MANNER IN WHICH A CONTRACT OFFER IS

1 ACCEPTED AND A MARKETING CONTRACT IS AWARDED BY THE
2 BOARD. NOTWITHSTANDING ANY OTHER REQUIREMENT OF THIS
3 SUBSECTION, THE BOARD MAY MAKE SOLE SOURCE PROCUREMENTS
4 WHEN THERE IS ONLY ONE SOURCE FOR THE REQUIRED SERVICE
5 AND MAY MAKE EMERGENCY PROCUREMENTS WHEN THE BOARD
6 DETERMINES IN WRITING THAT THE PROCEDURE IS NECESSARY DUE
7 TO THE URGENCY OF THE PARTICULAR SITUATION.

8 (5) TO RECEIVE, ACCOUNT FOR AND DISBURSE ALL MONEYS
9 COLLECTED PURSUANT TO THE ISSUED MARKETING PROGRAM.

10 (6) TO PREPARE A BUDGET FOR THE ADMINISTRATION,
11 OPERATING COSTS AND EXPENSES OF THE PROGRAM.

12 (7) TO RECEIVE AND REPORT TO THE SECRETARY COMPLAINTS OR
13 VIOLATIONS OF THE MARKETING PROGRAM AND TO ASSIST AND
14 COOPERATE WITH THE SECRETARY IN THE ENFORCEMENT THEREOF.

15 (8) TO ESTABLISH COMMITTEES OR SUBCOMMITTEES TO CARRY
16 OUT ASSIGNED DUTIES AND FUNCTIONS, AND TO DESIGNATE BOARD
17 MEMBERS AND NONBOARD MEMBERS TO SERVE ON SUCH COMMITTEES AND
18 SUBCOMMITTEES.

19 (9) TO COLLECT AND GATHER INFORMATION AND DATA RELEVANT
20 TO THE PROPER ADMINISTRATION OF THE MARKETING PROGRAM.

21 (10) TO CHARGE FEES AND TO ASSIST THE SECRETARY IN THE
22 IMPOSITION OF FEES AND THE COLLECTION OF FEES AND REVENUES
23 UNDER THIS CHAPTER.

24 (11) TO ISSUE AN ANNUAL REPORT ON THE OPERATION OF THE
25 PROGRAM.

26 (12) TO RECOMMEND AMENDMENTS TO THE MARKETING PROGRAM
27 AND AMENDMENTS TO THIS ACT AND REGULATIONS ISSUED UNDER THIS
28 CHAPTER.

29 (D) LIMITATION.--NO FINANCIAL OBLIGATION SHALL BE INCURRED
30 BY ANY BOARD BEYOND THE EXTENT TO WHICH MONEY SHALL HAVE BEEN

1 PROVIDED UNDER THE AUTHORITY OF THIS CHAPTER. NO OBLIGATION OR
2 LIABILITY OF ANY TYPE INCURRED BY A BOARD CREATED PURSUANT TO
3 THIS CHAPTER SHALL BE AN OBLIGATION OR LIABILITY OF THE
4 COMMONWEALTH, AND NO BOARD SHALL HAVE THE POWER TO PLEDGE THE
5 CREDIT OR TAXING POWER OF THE COMMONWEALTH NOR TO MAKE ITS DEBTS
6 PAYABLE OUT OF ANY MONEYS EXCEPT THOSE PROVIDED FOR BY THIS
7 CHAPTER.

8 (E) DAIRY INDUSTRY MARKETING PROGRAM.--ANY MARKETING PROGRAM
9 ISSUED UNDER THIS CHAPTER SPECIFICALLY FOR THE DAIRY INDUSTRY
10 SHALL PROVIDE FOR THE ESTABLISHMENT OF A BOARD OF 21 MEMBERS,
11 WHO SHALL INCLUDE THE SECRETARY, OR HIS DESIGNEE, AND 20 PERSONS
12 APPOINTED BY THE SECRETARY WHO ARE ACTIVE IN THE PRODUCTION OF
13 MILK, INCLUDING, BUT NOT LIMITED TO, REPRESENTATIVES OF MILK
14 COOPERATIVES AND FARMING ASSOCIATIONS, PRODUCER-HANDLERS OF MILK
15 AND INDEPENDENT DAIRY FARMERS. IN ADDITION TO THE POWERS AND
16 DUTIES CONTAINED IN SUBSECTION (C), THE COMMODITY MARKETING
17 BOARD OF THE DAIRY PROMOTION PROGRAM SHALL HAVE THE POWER TO
18 ELECT OR APPOINT FROM THE MEMBERSHIP OF THE BOARD A CHAIRMAN,
19 VICE CHAIRMAN, SECRETARY AND TREASURER AND TO HOLD SPECIAL
20 MEETINGS AT THE REQUEST OF THE CHAIRMAN OR UPON REQUEST OF ONE-
21 THIRD OF THE MEMBERS OF THE BOARD.

22 § 4505. PROVISIONS OF MARKETING PROGRAMS.

23 SUBJECT TO THE LEGISLATIVE RESTRICTIONS AND LIMITATIONS SET
24 FORTH IN THIS CHAPTER, ANY MARKETING PROGRAM ISSUED BY THE
25 SECRETARY PURSUANT TO THIS CHAPTER MAY CONTAIN ANY OR ALL OF THE
26 FOLLOWING PROVISIONS:

27 (1) PROVISIONS FOR THE ESTABLISHMENT OF PLANS FOR
28 ADVERTISING AND SALES PROMOTION TO MAINTAIN PRESENT MARKETS,
29 OR TO CREATE NEW OR LARGER MARKETS FOR AGRICULTURAL
30 COMMODITIES GROWN OR PRODUCED IN THIS COMMONWEALTH. PLANS

1 SHALL BE DIRECTED TOWARD INCREASING THE SALE OF SUCH
2 COMMODITIES WITHOUT REFERENCE TO ANY PARTICULAR FIRM'S OR
3 INDIVIDUAL'S BRAND OR TRADE NAME. NO ADVERTISING OR SALES
4 PROMOTION PROGRAM SHALL BE ISSUED BY THE SECRETARY, WHICH
5 SHALL MAKE USE OF FALSE OR UNWARRANTED CLAIMS ON BEHALF OF
6 ANY PRODUCT OR DISPARAGE THE QUALITY, VALUE, SALE OR USE OF
7 ANY OTHER AGRICULTURAL COMMODITY.

8 (2) PROVISIONS FOR THE ESTABLISHMENT OF RESEARCH
9 PROGRAMS DESIGNED TO BENEFIT PRODUCERS, OR FOR AGRICULTURE IN
10 GENERAL.

11 (3) PROVISIONS ESTABLISHING OR PROVIDING AUTHORITY FOR
12 ESTABLISHING AN INFORMATION AND SERVICE PROGRAM DESIGNED TO
13 ACQUAINT PRODUCERS AND OTHER INTERESTED PERSONS WITH QUALITY
14 STANDARDS AND QUALITY IMPROVEMENTS.

15 (4) PROVISIONS ALLOWING THE SECRETARY AND THE COMMODITY
16 MARKETING BOARD TO COOPERATE WITH ANY OTHER STATE OR FEDERAL
17 AGENCY, OR OTHER ORGANIZATION WHOSE ACTIVITIES MAY BE DEEMED
18 BENEFICIAL TO THE PURPOSE OF THIS CHAPTER.

19 (5) PROVISION MAY BE MADE IN THE PROGRAM TO EXEMPT, OR
20 ALLOW SUITABLE ADJUSTMENTS OR CREDITS, IN CONNECTION WITH AN
21 AGRICULTURAL COMMODITY ON WHICH A MANDATORY CHECKOFF FOR
22 MARKET DEVELOPMENT IS REQUIRED UNDER THE AUTHORITY OF ANY
23 FEDERAL LAW.

24 § 4506. EFFECTING MARKETING PROGRAMS.

25 (A) REFERENDUM REQUIRED.--NO MARKETING PROGRAM, OR AMENDMENT
26 THERETO, SHALL BECOME EFFECTIVE UNLESS AND UNTIL THE SECRETARY
27 DETERMINES BY A REFERENDUM WHETHER OR NOT THE AFFECTED PRODUCERS
28 ASSENT TO THE PROPOSED ACTION.

29 (B) MAJORITY VOTE.--THE SECRETARY SHALL CONDUCT THE
30 REFERENDUM AMONG THE AFFECTED PRODUCERS, AND THE AFFECTED

1 PRODUCERS SHALL BE DEEMED TO HAVE ASSENTED TO THE PROPOSED
2 PROGRAM IF, OF THOSE VOTING, A MAJORITY BY NUMBER AND A MAJORITY
3 BY VOLUME ASSENT TO THE PROPOSED PROGRAM.

4 (C) VOTE OF COOPERATIVE ASSOCIATION.--IN DETERMINING WHETHER
5 A MARKETING PROGRAM OR AN AMENDMENT TO THE MARKETING PROGRAM HAS
6 BEEN APPROVED BY PRODUCERS, THE SECRETARY SHALL CONSIDER THE
7 VOTE OF A COOPERATIVE ASSOCIATION AS THE VOTES OF ITS MEMBERS,
8 PROVIDING THE COOPERATIVE HAS FIRST NOTIFIED ITS MEMBERS IN
9 WRITING AT LEAST 30 DAYS IN ADVANCE OF ITS INTENTION TO CAST A
10 REPRESENTATIVE VOTE. THE NOTICE SHALL INFORM THE PRODUCER OF THE
11 RIGHT TO CAST A VOTE INDIVIDUALLY AND SHALL INCLUDE THE
12 FOLLOWING WORDING IN BOLD FACE TYPE: WARNING - IF YOU DO NOT
13 EXERCISE YOUR RIGHT TO VOTE YOUR COOPERATIVE HAS THE RIGHT TO
14 VOTE FOR YOU. EACH PRODUCER SHALL RECEIVE A BALLOT FROM THE
15 SECRETARY. THE BALLOT SHALL CONTAIN THE FOLLOWING WORDING IN
16 BOLD FACE TYPE: WARNING - IF YOU DO NOT EXERCISE YOUR RIGHT TO
17 VOTE YOUR COOPERATIVE HAS THE RIGHT TO VOTE FOR YOU. IF THE
18 PRODUCER VOTES INDIVIDUALLY, THE VOTE SHALL BE DEDUCTED FROM THE
19 COOPERATIVE REPRESENTATIVE VOTE.

20 (D) PROCEDURE.--ANY REFERENDUM REQUIRED UNDER THIS CHAPTER
21 SHALL BE CONDUCTED IN ACCORDANCE WITH REASONABLE RULES AND
22 REGULATIONS TO BE ESTABLISHED AND PROMULGATED BY THE SECRETARY.

23 (E) PENNSYLVANIA DAIRY PRODUCTS PROMOTION PROGRAM.--THE
24 SECRETARY MAY ESTABLISH WITHOUT A REFERENDUM A PENNSYLVANIA
25 DAIRY PRODUCTS PROMOTION PROGRAM, PROVIDED THAT THE PROGRAM IS
26 FINANCED BY VOLUNTARY CONTRIBUTIONS CREDITED AGAINST ASSESSMENTS
27 PAYABLE TO THE NATIONAL DAIRY PROMOTION AND RESEARCH BOARD
28 PURSUANT TO THE DAIRY AND TOBACCO ADJUSTMENT ACT OF 1983 (PUBLIC
29 LAW 98-180, 97 STAT. 1128). THIS PROGRAM SHALL TERMINATE, UNLESS
30 CONTINUED BY REFERENDUM AS PROVIDED IN THIS SECTION, NOT LATER

1 THAN SIX MONTHS FOLLOWING THE DISAPPROVAL OF THE FEDERAL DAIRY
2 PROMOTION PROGRAM BY A MAJORITY OF PRODUCERS VOTING IN A
3 NATIONWIDE REFERENDUM. THE ESTABLISHMENT, TERMINATION, AMENDMENT
4 AND MANAGEMENT OF THE PENNSYLVANIA DAIRY PRODUCTS PROMOTION
5 PROGRAM SHALL, EXCEPT AS PROVIDED IN THIS SUBSECTION, BE
6 CONDUCTED PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

7 § 4507. TERMINATING MARKETING PROGRAMS.

8 SUBJECT TO APPROVAL OF THE APPROPRIATE COMMODITY MARKETING
9 BOARD, THE SECRETARY SHALL SUSPEND OR TERMINATE ANY MARKETING
10 PROGRAM OR ANY PROVISIONS OF ANY MARKETING PROGRAM WHENEVER THE
11 SECRETARY FINDS THAT THE PROVISIONS OR PROGRAM DOES NOT TEND TO
12 EFFECTUATE THIS CHAPTER WITHIN THE STANDARDS AND SUBJECT TO THE
13 LIMITATIONS AND RESTRICTIONS IMPOSED IN THIS CHAPTER. A
14 SUSPENSION OR TERMINATION SHALL NOT BE EFFECTIVE UNTIL THE
15 EXPIRATION OF THE CURRENT MARKETING SEASON. IF THE SECRETARY
16 FINDS THAT THE TERMINATION OF ANY MARKETING PROGRAM IS REQUESTED
17 IN WRITING BY MORE THAN 33 1/3% OF THE AFFECTED PRODUCERS WHO
18 PRODUCE FOR MARKET MORE THAN 50% OF THE VOLUME OF AGRICULTURAL
19 COMMODITIES PRODUCED WITHIN THE DESIGNATED PRODUCTION AREA FOR
20 MARKET, THE SECRETARY SHALL TERMINATE OR SUSPEND FOR A SPECIFIED
21 PERIOD THE MARKETING PROGRAM OR PROVISIONS THEREOF. THE
22 TERMINATION SHALL BE EFFECTIVE ONLY IF ANNOUNCED ON OR BEFORE
23 THE DATE AS MAY BE SPECIFIED IN THE PROGRAM. IF 10% OF THE
24 PRODUCERS IN A COMMODITY GROUP OF OVER 2,000 AFFECTED PRODUCERS
25 OR 15% OF THE PRODUCERS IN A COMMODITY GROUP OF LESS THAN 2,000
26 AFFECTED PRODUCERS REQUEST IN WRITING THAT A REFERENDUM BE HELD
27 ON THE QUESTION OF TERMINATING THE PROGRAM, THE SECRETARY MUST
28 ANNOUNCE AND CONDUCT A REFERENDUM WITHIN A REASONABLE PERIOD OF
29 TIME, AND IN ANY CASE, WITHIN ONE YEAR OF THE REQUEST, A
30 MARKETING PROGRAM SHALL BE TERMINATED IF SO VOTED BY A MAJORITY

1 OF THOSE VOTING.

2 § 4508. MARKETING PROGRAM REVIEW AND AMENDMENTS.

3 (A) REVIEW.--EVERY FIVE YEARS THE SECRETARY SHALL CALL A
4 REFERENDUM OF AFFECTED PRODUCERS WITHIN EACH AGRICULTURAL
5 COMMODITY GROUP FOR WHICH A MARKETING PROGRAM EXISTS TO
6 DETERMINE WHETHER OR NOT A MAJORITY OF THOSE VOTING STILL DESIRE
7 A MARKETING PROGRAM.

8 (B) REFERENDUM ON AMENDMENTS.--THE SECRETARY SHALL CALL FOR
9 A REFERENDUM ON AMENDMENTS TO A MARKETING PROGRAM WITHIN A
10 REASONABLE PERIOD OF TIME, UPON THE REQUEST OF THE ADVISORY
11 BOARD OR WITH WRITTEN REQUEST OF 10% OF THE PRODUCERS IN A
12 COMMODITY GROUP OF OVER 2,000 AFFECTED PRODUCERS OR 15% OF THE
13 PRODUCERS IN A COMMODITY GROUP OF LESS THAN 2,000 AFFECTED
14 PRODUCERS. IN VOTING ON AN AMENDMENT TO THE MARKETING PROGRAM,
15 THE VOTE SHALL BE ONLY ON THE AMENDMENT, AND SHALL NOT TERMINATE
16 THE PROGRAM.

17 § 4509. NOTICE OF ISSUANCE.

18 UPON THE ISSUANCE OF ANY MARKETING PROGRAM OR ANY SUSPENSION,
19 AMENDMENT OR TERMINATION THEREOF, A NOTICE SHALL BE PUBLISHED IN
20 A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE CAPITAL OF
21 THE COMMONWEALTH AND IN SUCH OTHER NEWSPAPERS AS THE SECRETARY
22 MAY PRESCRIBE. NO PROGRAM OR ANY SUSPENSION, AMENDMENT OR
23 TERMINATION THEREOF SHALL BECOME EFFECTIVE UNTIL THE TERMINATION
24 OF A PERIOD OF 20 DAYS FROM THE DATE OF THE PUBLICATION. IT
25 SHALL ALSO BE THE DUTY OF THE SECRETARY TO MAIL A COPY OF THE
26 NOTICE OF THE ISSUANCE TO ALL PRODUCERS DIRECTLY AFFECTED BY THE
27 TERMS OF THE PROGRAM, SUSPENSION, AMENDMENT OR TERMINATION,
28 WHOSE NAMES AND ADDRESSES MAY BE ON FILE IN THE OFFICE OF THE
29 SECRETARY, AND TO EVERY PERSON WHO FILES IN THE OFFICE OF THE
30 SECRETARY A WRITTEN REQUEST FOR NOTICE.

1 § 4510. COLLECTION OF FEES.

2 (A) GENERAL RULE.--ANY MARKETING PROGRAM ISSUED PURSUANT TO
3 THIS CHAPTER SHALL PROVIDE FOR THE COLLECTION OF FEES TO DEFRAY
4 THE NECESSARY EXPENSES INCURRED IN THE FORMATION, ISSUANCE,
5 ADMINISTRATION AND ENFORCEMENT OF THE MARKETING PROGRAM AND
6 SHALL INCLUDE THE AMOUNT, TIME, METHOD AND CONDITION OF PAYMENT.
7 FEES TO BE CHARGED SHALL NOT BE IN EXCESS OF THAT WHICH WILL
8 GENERATE REVENUES OF 5% OF THE GROSS MARKET VALUE OF PRODUCTION
9 AND MARKETING OF THE COMMODITY SUBJECT TO THE MARKETING PROGRAM.
10 EACH AND EVERY PRODUCER AFFECTED BY ANY MARKETING PROGRAM ISSUED
11 UNDER THIS CHAPTER SHALL PAY TO THE SECRETARY AT THE TIME AND IN
12 THE MANNER AS PRESCRIBED BY THE PROGRAM AS ADOPTED THE CHARGES
13 PROVIDED BY THIS SUBSECTION.

14 (B) COLLECTION BY SALES AGENTS.--FOR THE CONVENIENCE OF
15 MAKING COLLECTIONS OF ANY PRODUCER CHARGES ESTABLISHED PURSUANT
16 TO THIS SECTION, THE SECRETARY SHALL HAVE THE AUTHORITY AND MAY,
17 BY REGULATION, UPON THE REQUEST OF A COMMODITY MARKETING BOARD,
18 REQUIRE SALES AGENTS TO COLLECT PRODUCER CHARGES UPON THE SALE
19 OF THE AGRICULTURAL COMMODITY.

20 (C) APPROPRIATION.--ANY MONEY COLLECTED BY THE SECRETARY
21 UNDER THIS ACT IS HEREBY SPECIFICALLY APPROPRIATED TO THE
22 DEPARTMENT FOR THE ADMINISTRATION OF THE MARKETING PROGRAMS FOR
23 WHICH THEY WERE COLLECTED. WHEN A MARKETING PROGRAM IS
24 DISCONTINUED, THE SURPLUS MONEY SHALL BE MADE AVAILABLE FOR THE
25 ADMINISTRATION OF THIS CHAPTER OR OF FUTURE MARKETING PROGRAMS
26 INVOLVING THE SAME COMMODITY.

27 (D) AUDITING STANDARDS.--EACH BOARD SHALL ADOPT AND PUBLISH
28 A SET OF AUDITING STANDARDS, CONSISTENT WITH GENERALLY ACCEPTED
29 AUDITING STANDARDS, AGAINST WHICH THE MONEYS IT COLLECTS
30 PURSUANT TO THIS CHAPTER AND EXPENDS IN ACCORDANCE WITH THE

1 TERMS OF THIS CHAPTER CAN BE AUDITED. EACH BOARD SHALL ENGAGE AN
2 OUTSIDE AUDITING FIRM TO CONDUCT ANNUALLY AN AUDIT OF ITS
3 COLLECTIONS AND EXPENDITURES. AN AUDIT UNDER FEDERAL LAW OR
4 REGULATION MAY BE ACCEPTED BY THE BOARD AS LONG AS IT MEETS THE
5 MINIMUM STANDARDS ESTABLISHED UNDER THIS SECTION.

6 § 4511. RULES AND REGULATIONS FOR ENFORCEMENT.

7 THE SECRETARY SHALL, WITH THE ADVICE OF THE COMMODITY
8 MARKETING BOARD, MAKE AND PROMULGATE RULES AND REGULATIONS AS
9 MAY BE NECESSARY TO EFFECTUATE THIS CHAPTER AND TO ENFORCE THE
10 PROVISIONS OF ANY MARKETING PROGRAM, ALL OF WHICH SHALL HAVE THE
11 FORCE AND EFFECT OF LAW. THE SECRETARY MAY INSTITUTE AN ACTION
12 AT LAW OR IN EQUITY AND MAY ESTABLISH PENALTIES AS MAY APPEAR
13 NECESSARY TO ENFORCE COMPLIANCE WITH THIS CHAPTER, OR ANY RULE
14 OR REGULATION, OR MARKETING PROGRAM COMMITTED TO THE SECRETARY'S
15 ADMINISTRATION IN ADDITION TO ANY OTHER REMEDY UNDER THIS
16 CHAPTER.

17 § 4512. ADVANCED DEPOSITS.

18 PRIOR TO THE ISSUANCE OF ANY MARKETING PROGRAM, THE SECRETARY
19 MAY REQUIRE THE APPLICANT THEREFOR TO DEPOSIT AN AMOUNT AS THE
20 SECRETARY MAY DEEM NECESSARY TO DEFRAY THE EXPENSE OF PREPARING
21 AND MAKING THE MARKETING PROGRAM EFFECTIVE. FUNDS SHALL BE
22 RECEIVED, DEPOSITED AND DISBURSED BY THE SECRETARY IN ACCORDANCE
23 WITH THE PROVISIONS OF HANDLING FUNDS IN THIS CHAPTER. THE
24 SECRETARY MAY REIMBURSE THE APPLICANT IN THE AMOUNT OF THE
25 DEPOSIT FROM ANY FUNDS RECEIVED THROUGH THE ADOPTING OF A
26 MARKETING PROGRAM PURSUANT TO THIS CHAPTER.

27 § 4513. SEVERABILITY.

28 THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE. IF ANY
29 PROVISION OF THIS CHAPTER OR ITS APPLICATION TO ANY PERSON OR
30 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT

1 OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER WHICH CAN BE
2 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

3 SECTION 4 5. THE ACT OF SEPTEMBER 20, 1961 (P.L.1541, <—
4 NO.657), KNOWN AS THE PENNSYLVANIA AGRICULTURAL COMMODITIES
5 MARKETING ACT OF 1968, IS REPEALED.

6 ~~SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.~~ <—

7 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY. <—