



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 80
[2005 Assembly Bill 635]

Producer Security and Potatoes

Current law creates the Agriculture Producer Security Program. This program protects the producers of milk, grain, and vegetables in the event that a person who purchases the milk, grain, or vegetables defaults on the promise to pay the producers. The purchasers of these agricultural commodities are required to be licensed by the Department of Agriculture, Trade and Consumer Protection (DATCP) and to make payments into a trust fund. In the event of a default by the purchaser on payments to producers, the trust fund is available to reimburse producers for approximately 90% of the amount in default.

Act 80 authorizes certain vegetable purchasers who are licensed by DATCP and who purchase only potatoes for processing to withdraw from the Agriculture Producer Security Program. If the potato buyer opts out of the program and defaults on a contract with a farmer, the farmer is not eligible for reimbursement under the program.

In order to be able to withdraw from the Agriculture Producer Security Program, a potato buyer must be licensed by the federal government under the Perishable Agricultural Commodities Act (PACA). Under PACA, farmers have a first claim on assets in the event of a bankruptcy of a purchaser. Under the Act, a potato buyer must agree not to enter into any purchasing contracts in which payment is due more than 30 days after it receives potatoes and must provide notice to farmers that the potato buyer does not participate in the Agriculture Producer Security Program. Under the Act, a potato buyer must give DATCP a statement promising that the buyer will not enter an unwritten contract to take control of potatoes more than 10 days before payment and has no unpaid obligations under an unwritten contract to take control of potatoes more than 10 days before payment. A potato buyer who opts out of the program is exempt from most of the requirements of the program.

With respect to the fees paid by potato buyers who opt out of the Agriculture Producer Security Program, the Act imposes a fee of \$500 for that buyer and exempts that buyer from the annual license fee.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

In order to resume participation in the Agriculture Producer Security Program, the potato buyer must obtain a security bond to cover potential default, and provide financial information to DATCP. The Act requires the potato buyer to give 30 days notice to DATCP that the buyer intends to resume participation in the Agriculture Producer Security Program. The buyer must file security with DATCP equal to 75% of the highest amount owed to Wisconsin producers at any time in the fiscal year. Under the Act, the security must be kept at least two years, or for a longer time period as required by DATCP. Under the Act, a buyer who resumes participation in the program must commence making annual license fee payments at the beginning of the second license year after resuming participation.

Effective Date: The Act has an effective date of February 1, 2006, which coincides with the beginning of the license year under the Agriculture Producer Security Program.

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MCP:jal:tlu