

MEMORANDUM

To: The House Committee on Agriculture and Natural Resources

From: The Office of Revisor of Statutes

Date: 2/13/2025

Re: H.B. 2254, as Introduced: Requiring milk processors to hold payments in trust for milk producers until full payment is received, with funds in escrow considered held in trust.

Trust and Escrow Requirements

- H.B. 2254 would require a milk processor to hold in trust all payments received from the sale of milk for the benefit of the milk producer¹ from whom the milk was purchased. This would continue until the milk producer receives full payment of the purchase price for the milk.
- The bill would also allow a milk producer to require a milk processor to establish an escrow account for the producer's benefit if the following conditions are met:
 - The producer sells milk to the processor;² and
 - there is a failure to make a timely payment³ to the milk producer;⁴
- Funds held in trust by a milk processor or in an escrow account would be the property of the milk producer.⁵
- However, a processor would not be required to maintain payments in trust or establish an escrow account under the act if:
 - (1) Full payment of the purchase price is not received, and the milk producer does not give written notice to the milk processor by the end of the 30th business day after the final date for payment of the purchase price;⁶ or

¹ "Milk producer" includes any cooperative association that sells or markets milk on behalf of a milk producer.

² Pg. 2, line 7

³ Pg. 1, line 32 ("Timely payment" means a payment made within three days following the payment due date under a milk marketing order or similar terms in a contract.)

⁴ Pg. 3, line 3

⁵ *Id.* at 7

⁶ *Id.* at 11

- (2) a payment instrument received by the milk producer is dishonored, and the milk producer does not give written notice to the milk processor by the end of the 15th business day after the day that the notice of dishonor was received.⁷
- If an escrow account is created under the section, the milk processor would deposit all payments received from the sale of milk or dairy products into the escrow account until the producer receives full payment of the purchase price.⁸
- The escrow account would be established as a segregated, interest-bearing account with a financial institution in the state, with deposits insured by federal insurance corporations.⁹
- The milk processor might combine multiple escrow accounts into a single account if required to establish more than one.¹⁰ If the funds accumulated in a combined escrow account are insufficient to pay all the milk producers who have not received full payment and for whose benefit the account was established, the agent of the institution with whom the escrow account is established would be required to distribute the funds in proportion to the amount then due to each milk producer.

Payment Conditions

- Milk processors could only purchase raw milk if payment is made according to federal milk marketing orders and agreed terms.¹¹
- Payments made to federal milk market administrators on behalf of a milk producer would be considered as delivered to the producer.¹²

Exemptions and Liabilities

- The act would not apply to transactions between cooperative associations acting as marketing agents and their members.¹³
- Milk processors failing to pay producers in accordance with the act would be liable for the purchase price, interest at the highest legal rate and reasonable attorney fees.¹⁴

H.B. 2254 would become effective upon publication in the statute book.

⁷ *Id.* at 15

⁸ Pg. 2, line 10

⁹ *Id.* at 26

¹⁰ *Id.* at 31

¹¹ Pg. 3, line 19

¹² *Id.* at 27

¹³ *Id.* at 32

¹⁴ *Id.* at 34