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P.L. 2004, CHAPTER 13, *approved May 5, 2004*
Assembly, No. 2055

1 **AN ACT** concerning bond requirements for perishable agricultural
2 commodities and for milk and cream, and amending R.S.4:11-20
3 and R.S.4:12-4.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.4:11-20 is amended to read as follows:
9 4:11-20. A license shall not be issued unless and until the applicant
10 has filed a good and sufficient surety bond executed in favor of the
11 secretary in **[his]** the secretary's official capacity, for the benefit of all
12 growers with whom the applicant shall transact business, by a surety
13 company duly authorized to transact business in this State in the sum
14 of at least[\$3,000.00, conditioned on a yearly formula adopted by
15 regulations by the department.]equal to the estimated maximum
16 monthly value of all agricultural commodities to be purchased or
17 received or which may have been purchased or received by the
18 applicant from a producer or producers during the preceding 12
19 months. The bond shall be executed upon a form prescribed by the
20 secretary and shall be subject to **[his]** the secretary's approval as to
21 form and sufficiency. The applicant may in lieu of the bond deposit
22 with the secretary securities approved by the department in an amount
23 equal to the sum secured by the bond required to be filed as herein
24 provided; or may in the alternative, obtain and deposit with the
25 secretary an irrevocable letter of credit to equal the amount of the
26 bond. **[Such]** The securities or letters of credit so deposited with the
27 secretary shall constitute a separate fund and shall be held in trust for
28 and applied exclusively to the payment of claims arising under the
29 provisions of this article against the licensee making such deposit for
30 the period for which **[such]** the license is issued. All proceeds from
31 surety bonds, money or securities shall be distributed to the grower-
32 creditors by the secretary or returned to the licensee if no claims are
33 made. **[The department shall establish a yearly maximum for all such**
34 **bonds, securities, or irrevocable letters of credit which shall not**
35 **exceed \$50,000.00.**

36 The secretary may require a licensee to file an additional bond, after
37 hearing on any complaint against the licensee, but the total amount of
38 all bonds shall not exceed \$100,000.00.]

39 (cf: P.L.1977, c.427, s.4)

40

41 2. R.S.4:12-4 is amended to read as follows:

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 4:12-4. A license shall not be issued unless and until the applicant
2 shall file with the secretary a good and sufficient surety bond, executed
3 by a surety company duly authorized to transact business in this State,
4 in a sum not less than one and one-half times the estimated maximum
5 monthly value of the milk or cream to be purchased or received or
6 which may have been purchased or received by the applicant from a
7 producer or producers during the preceding 12 months. [The
8 maximum amount of the bond or deposit required from any applicant
9 under the provisions of this section shall not exceed \$100,000.00.]

10 The bond shall be approved as to form and sufficiency by the
11 secretary, shall be given to the secretary in [his] the secretary's
12 official capacity and shall be conditioned for the faithful compliance by
13 the licensee with the provisions of this article and for the payment of
14 all amounts due to producers who have sold milk or cream to the
15 licensee, during the period that the license is in force.

16 The applicant may, in lieu of [such] a bond, deposit with the
17 secretary money, or transferable United States Treasury bonds, notes,
18 certificates, bills or other obligations issued or fully and
19 unconditionally guaranteed by the United States Government both as
20 to principal and interest in transferable bearer form , in an amount
21 equal to the sum secured by the bond required to be filed.

22 The money or securities so deposited shall constitute a separate
23 fund and shall be held in trust for, and applied exclusively to, the
24 payment of claims against the licensee making the deposit, arising from
25 the sale of milk or cream to [him] the licensee , and all proceeds from
26 the surety bonds, money or securities shall be distributed to the
27 producer-creditors by the secretary.

28 (cf: P.L.1971, c.81, s.1)

29
30 3. This act shall take effect immediately.

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33 STATEMENT

34
35 This bill would increase the amount of the bond that milk dealers
36 and dealers in other agricultural products would be required to post to
37 cover missed payments to farmers. Under current law, the maximum
38 amount of the bond or deposit required of a purchaser of milk or
39 cream is \$100,000, while for certain other agricultural products the
40 bond required is at least \$3,000 conditioned on a yearly formula
41 adopted by regulations by the Department of Agriculture. This bill
42 requires that anyone purchasing milk or cream post a bond in an
43 amount of at least one and one half times the estimated maximum
44 monthly value of the milk or cream to be purchased or received or
45 which may have been purchased or received by the applicant from a
46 producer or producers during the preceding 12 months. In addition,

1 this bill provides that anyone purchasing other agricultural
2 commodities post a bond in an amount at least equal to the estimated
3 maximum monthly value of all agricultural commodities to be
4 purchased or received by the applicant from a producer or producers
5 during the preceding 12 months.

6 New Jersey dairy farmers are facing a crisis as a result of the
7 declaration of bankruptcy filed by Italian milk conglomerate, Parmalat
8 S.p.A., in December 2003, the parent company of Parmalat North
9 America. Approximately 62 of New Jersey's 130 dairy farmers sell
10 milk to the New Jersey division of Parmalat North America, totaling
11 approximately seven million pounds of milk a month. Parmalat's
12 payments to New Jersey farmers average between \$800,000 and \$1
13 million a month.

14 Under regulations adopted by the Department of Agriculture, milk
15 dealers are required to post a bond of \$100,000 to cover any missed
16 payments to dairy farmers for the milk they produce. This amount of
17 money has proven to be insufficient to cover Parmalat's payments to
18 New Jersey dairy farmers of up to \$1 million a month. Similarly, the
19 provisions of the regulations, adopted to provide protection to
20 producers of perishable commodities offer little or no protection in the
21 current marketplace.

22

23

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25

26 _____
27 Increases maximum bond amount filed with Department of Agriculture
by certain purchasers of milk or cream and agricultural commodities.

ASSEMBLY, No. 2055

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 5, 2004

Sponsored by:

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman ROBERT J. SMITH

District 4 (Camden and Gloucester)

Co-Sponsored by:

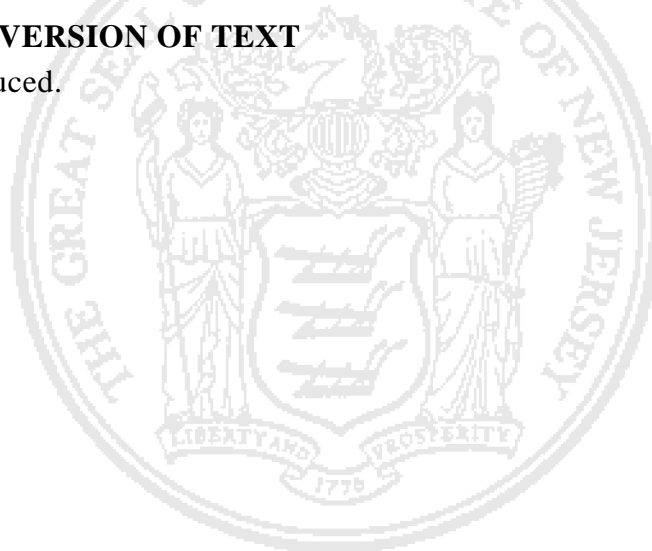
**Assemblywoman McHose, Assemblyman Conaway, Senators Sweeney,
Bryant and Littell**

SYNOPSIS

Increases maximum bond amount filed with Department of Agriculture by certain purchasers of milk or cream and agricultural commodities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/23/2004)

A2055 FISHER, BURZICHELLI

2

1 AN ACT concerning bond requirements for perishable agricultural
2 commodities and for milk and cream, and amending R.S.4:11-20
3 and R.S.4:12-4.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. R.S.4:11-20 is amended to read as follows:

9 4:11-20. A license shall not be issued unless and until the applicant
10 has filed a good and sufficient surety bond executed in favor of the
11 secretary in **[his]** the secretary's official capacity, for the benefit of all
12 growers with whom the applicant shall transact business, by a surety
13 company duly authorized to transact business in this State in the sum
14 of at least ~~[\$3,000.00, conditioned on a yearly formula adopted by~~
15 regulations by the department.]equal to the estimated maximum
16 monthly value of all agricultural commodities to be purchased or
17 received or which may have been purchased or received by the
18 applicant from a producer or producers during the preceding 12
19 months. The bond shall be executed upon a form prescribed by the
20 secretary and shall be subject to **[his]** the secretary's approval as to
21 form and sufficiency. The applicant may in lieu of the bond deposit
22 with the secretary securities approved by the department in an amount
23 equal to the sum secured by the bond required to be filed as herein
24 provided; or may in the alternative, obtain and deposit with the
25 secretary an irrevocable letter of credit to equal the amount of the
26 bond. **[Such]** The securities or letters of credit so deposited with the
27 secretary shall constitute a separate fund and shall be held in trust for
28 and applied exclusively to the payment of claims arising under the
29 provisions of this article against the licensee making such deposit for
30 the period for which **[such]** the license is issued. All proceeds from
31 surety bonds, money or securities shall be distributed to the grower-
32 creditors by the secretary or returned to the licensee if no claims are
33 made. **[The department shall establish a yearly maximum for all such**
34 **bonds, securities, or irrevocable letters of credit which shall not**
35 **exceed \$50,000.00.**

36 The secretary may require a licensee to file an additional bond, after
37 hearing on any complaint against the licensee, but the total amount of
38 all bonds shall not exceed \$100,000.00.]

39 (cf: P.L.1977, c.427, s.4)

40

41 2. R.S.4:12-4 is amended to read as follows:

42 4:12-4. A license shall not be issued unless and until the applicant

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 shall file with the secretary a good and sufficient surety bond, executed
2 by a surety company duly authorized to transact business in this State,
3 in a sum not less than one and one-half times the estimated maximum
4 monthly value of the milk or cream to be purchased or received or
5 which may have been purchased or received by the applicant from a
6 producer or producers during the preceding 12 months. [The
7 maximum amount of the bond or deposit required from any applicant
8 under the provisions of this section shall not exceed \$100,000.00.]

9 The bond shall be approved as to form and sufficiency by the
10 secretary, shall be given to the secretary in [his] the secretary's
11 official capacity and shall be conditioned for the faithful compliance by
12 the licensee with the provisions of this article and for the payment of
13 all amounts due to producers who have sold milk or cream to the
14 licensee, during the period that the license is in force.

15 The applicant may, in lieu of [such] a bond, deposit with the
16 secretary money, or transferable United States Treasury bonds, notes,
17 certificates, bills or other obligations issued or fully and
18 unconditionally guaranteed by the United States Government both as
19 to principal and interest in transferable bearer form , in an amount
20 equal to the sum secured by the bond required to be filed.

21 The money or securities so deposited shall constitute a separate
22 fund and shall be held in trust for, and applied exclusively to, the
23 payment of claims against the licensee making the deposit, arising from
24 the sale of milk or cream to [him] the licensee , and all proceeds from
25 the surety bonds, money or securities shall be distributed to the
26 producer-creditors by the secretary.

27 (cf: P.L.1971, c.81, s.1)

28

29 3. This act shall take effect immediately.

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STATEMENT

33

34 This bill would increase the amount of the bond that milk dealers
35 and dealers in other agricultural products would be required to post to
36 cover missed payments to farmers. Under current law, the maximum
37 amount of the bond or deposit required of a purchaser of milk or
38 cream is \$100,000, while for certain other agricultural products the
39 bond required is at least \$3,000 conditioned on a yearly formula
40 adopted by regulations by the Department of Agriculture. This bill
41 requires that anyone purchasing milk or cream post a bond in an
42 amount of at least one and one half times the estimated maximum
43 monthly value of the milk or cream to be purchased or received or
44 which may have been purchased or received by the applicant from a
45 producer or producers during the preceding 12 months. In addition,
46 this bill provides that anyone purchasing other agricultural

1 commodities post a bond in an amount at least equal to the estimated
2 maximum monthly value of all agricultural commodities to be
3 purchased or received by the applicant from a producer or producers
4 during the preceding 12 months.

5 New Jersey dairy farmers are facing a crisis as a result of the
6 declaration of bankruptcy filed by Italian milk conglomerate, Parmalat
7 S.p.A., in December 2003, the parent company of Parmalat North
8 America. Approximately 62 of New Jersey's 130 dairy farmers sell
9 milk to the New Jersey division of Parmalat North America, totaling
10 approximately seven million pounds of milk a month. Parmalat's
11 payments to New Jersey farmers average between \$800,000 and \$1
12 million a month.

13 Under regulations adopted by the Department of Agriculture, milk
14 dealers are required to post a bond of \$100,000 to cover any missed
15 payments to dairy farmers for the milk they produce. This amount of
16 money has proven to be insufficient to cover Parmalat's payments to
17 New Jersey dairy farmers of up to \$1 million a month. Similarly, the
18 provisions of the regulations, adopted to provide protection to
19 producers of perishable commodities offer little or no protection in the
20 current marketplace.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2055

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2004

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2055.

Assembly Bill No. 2055 increases the amount of the bond that milk dealers and dealers in other agricultural products would be required to post to cover missed payments to farmers. Under current law, the maximum amount of the bond or deposit required of a purchaser of milk or cream is \$100,000, while for certain other agricultural products the bond required is at least \$3,000 conditioned on a yearly formula adopted by regulations by the Department of Agriculture. This bill requires that anyone purchasing milk or cream post a bond in an amount of at least one and one half times the estimated maximum monthly value of the milk or cream to be purchased or received or which may have been purchased or received by the applicant from a producer or producers during the preceding 12 months. In addition, this bill provides that anyone purchasing other agricultural commodities post a bond in an amount at least equal to the estimated maximum monthly value of all agricultural commodities to be purchased or received by the applicant from a producer or producers during the preceding 12 months.

FISCAL IMPACT:

New Jersey dairy farmers are facing a crisis due to the bankruptcy filed by Parmalat S.p.A., in December 2003, the parent company of Parmalat North America. Approximately 62 of New Jersey's 130 dairy farmers sell milk to the New Jersey division of Parmalat North America, totaling approximately seven million pounds of milk a month. Parmalat's payments to New Jersey farmers average between \$800,000 and \$1 million a month.

Under regulations adopted by the Department of Agriculture, milk dealers are required to post a bond of \$100,000 to cover any missed payments to dairy farmers for the milk they produce. This amount has proven to be insufficient to cover Parmalat's payments to New Jersey dairy farmers of up to \$1 million a month. Similarly, the provisions of the regulations, adopted to provide protection to producers of perishable commodities offer little or no protection in the current marketplace.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2055

STATE OF NEW JERSEY

DATED: MARCH 8, 2004

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2055.

This bill would increase the amount of the bond that commercial dealers buying milk and other agricultural products would be required to post to cover missed payments to their farmer-suppliers.

Under current law, the amount of the bond or deposit required of a dealer in dairy products is to be at least one and one-half times the estimated maximum monthly value of such products to be purchased or received from New Jersey dairy farmers, or that the dealer may have purchased or received from those farmers during the preceding year; this bond requirement, however, is capped at \$100,000. For most other agricultural products (fruits and vegetables, hay, and grains), the bond required is at least \$3,000 conditioned on a yearly formula adopted by regulation of the Department of Agriculture.

Under the bill, (1) the \$100,000 cap on the amount of the bond required of milk dealers is eliminated, and (2) the bond requirement for purchasers of other agricultural commodities is set to be at least equal to the estimated maximum monthly value of such commodities to be purchased or received by the dealer from New Jersey producers during the preceding 12 months.

The provisions of this bill are identical to those of Senate Bill No. 1038, which the committee also reports this day.

FISCAL IMPACT

This bill has not been certified as having a fiscal impact.

SENATE, No. 1038

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 9, 2004

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Co-Sponsored by:

Senator Littell

SYNOPSIS

Increases maximum bond amount filed with Department of Agriculture by certain purchasers of milk or cream and agricultural commodities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/10/2004)

S1038 SWEENEY, BRYANT

2

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2 commodities and for milk and cream, and amending R.S.4:11-20
3 and R.S.4:12-4.

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16 monthly value of all agricultural commodities to be purchased or
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18 applicant from a producer or producers during the preceding 12
19 months. The bond shall be executed upon a form prescribed by the
20 secretary and shall be subject to **[his]** the secretary's approval as to
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25 secretary an irrevocable letter of credit to equal the amount of the
26 bond. **[Such]** The securities or letters of credit so deposited with the
27 secretary shall constitute a separate fund and shall be held in trust for
28 and applied exclusively to the payment of claims arising under the
29 provisions of this article against the licensee making such deposit for
30 the period for which **[such]** the license is issued. All proceeds from
31 surety bonds, money or securities shall be distributed to the grower-
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4 monthly value of the milk or cream to be purchased or received or
5 which may have been purchased or received by the applicant from a
6 producer or producers during the preceding 12 months. [The
7 maximum amount of the bond or deposit required from any applicant
8 under the provisions of this section shall not exceed \$100,000.00.]

9 The bond shall be approved as to form and sufficiency by the
10 secretary, shall be given to the secretary in [his] the secretary's
11 official capacity and shall be conditioned for the faithful compliance by
12 the licensee with the provisions of this article and for the payment of
13 all amounts due to producers who have sold milk or cream to the
14 licensee, during the period that the license is in force.

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16 secretary money, or transferable United States Treasury bonds, notes,
17 certificates, bills or other obligations issued or fully and
18 unconditionally guaranteed by the United States Government both as
19 to principal and interest in transferable bearer form in an amount equal
20 to the sum secured by the bond required to be filed.

21 The money or securities so deposited shall constitute a separate
22 fund and shall be held in trust for, and applied exclusively to, the
23 payment of claims against the licensee making the deposit, arising from
24 the sale of milk or cream to [him] the licensee, and all proceeds from
25 the surety bonds, money or securities shall be distributed to the
26 producer-creditors by the secretary.

27 (cf: P.L.1971, c.81, s.1)

28
29 3. This act shall take effect immediately.
30
31

32 STATEMENT
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34 This bill would increase the amount of the bond that milk dealers
35 and dealers in other agricultural products would be required to post to
36 cover missed payments to farmers. Under current law, the maximum
37 amount of the bond or deposit required of a purchaser of milk or
38 cream is \$100,000, while for certain other agricultural products the
39 bond required is at least \$3,000 conditioned on a yearly formula
40 adopted by regulations by the Department of Agriculture. This bill
41 requires that anyone purchasing milk or cream post a bond in an
42 amount of at least one and one half times the estimated maximum
43 monthly value of the milk or cream to be purchased or received or
44 which may have been purchased or received by the applicant from a
45 producer or producers during the preceding 12 months. In addition,
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1 commodities post a bond in an amount at least equal to the estimated
2 maximum monthly value of all agricultural commodities to be
3 purchased or received by the applicant from a producer or producers
4 during the preceding 12 months.

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6 declaration of bankruptcy filed by Italian milk conglomerate, Parmalat
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8 America. Approximately 62 of New Jersey's 130 dairy farmers sell
9 milk to the New Jersey division of Parmalat North America, totaling
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11 payments to New Jersey farmers average between \$800,000 and \$1
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14 dealers are required to post a bond of \$100,000.00 to cover any
15 missed payments to dairy farmers for the milk they produce. This
16 amount of money has proven to be insufficient to cover Parmalat's
17 payments to New Jersey dairy farmers of up to \$1 million a month.
18 Similarly, the provisions of the regulations, adopted to provide
19 protection to producers of perishable commodities offer little or no
20 protection in the current marketplace.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1038

STATE OF NEW JERSEY

DATED: MARCH 8, 2004

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1038.

This bill would increase the amount of the bond that commercial dealers buying milk and other agricultural products would be required to post to cover missed payments to their farmer-suppliers.

Under current law, the amount of the bond or deposit required of a dealer in dairy products is to be at least one and one-half times the estimated maximum monthly value of such products to be purchased or received from New Jersey dairy farmers, or that the dealer may have purchased or received from those farmers during the preceding year; this bond requirement, however, is capped at \$100,000. For most other agricultural products (fruits and vegetables, hay, and grains), the bond required is at least \$3,000 conditioned on a yearly formula adopted by regulation of the Department of Agriculture.

Under the bill, (1) the \$100,000 cap on the amount of the bond required of milk dealers is eliminated, and (2) the bond requirement for purchasers of other agricultural commodities is set to be at least equal to the estimated maximum monthly value of such commodities to be purchased or received by the dealer from New Jersey producers during the preceding 12 months.

The provisions of this bill are identical to those of Assembly Bill No. 2055, which the committee also reports this day.

FISCAL IMPACT

This bill has not been certified as having a fiscal impact.