

163.15 Indemnifying owner.

1. If the secretary of agriculture determines that the outbreak of an infectious or contagious disease among an animal population constitutes a threat to the general welfare or the public health of the inhabitants of this state, the secretary shall formulate a program of eradication which shall include the condemnation and destroying of the animals exposed to or afflicted with the disease. The program of eradication shall provide for the indemnification of owners of the livestock under this section, if there are no other sources of indemnification. The program shall not be effective until the program has been approved by the executive council.

2. If an animal afflicted with an infectious or contagious disease is destroyed under a program of eradication as provided in this section, the owner shall be compensated according to one of the following methods:

a. (1) A determination of an indemnity amount as agreed to by appraisal. The determination shall be made by appraisers who shall be three competent and disinterested persons, including one who is appointed by the department, one who is appointed by the owner, and one who is appointed by agreement of the department and the owner. The appraisers shall report their appraisal under oath to the department. The appraisers shall receive compensation and expenses as provided for by the program.

(2) A claim for an indemnity filed by the owner shall not exceed the amount agreed upon by the majority decision of the appraisers. For an animal other than registered purebred stock the indemnity amount shall be based on current market prices. For registered purebred stock, the indemnity amount may exceed market prices by not more than fifty percent. The indemnity amount shall be less any amount of indemnification that the owner might be allowed from the United States department of agriculture. An indemnity shall not be allowed for an animal if the department of agriculture and land stewardship determines that the animal has been fed raw garbage as provided in section 163.26.

(3) A claim for an indemnity by the owner and a claim for compensation and expenses by the appraisers shall be filed with the department and submitted by the secretary of agriculture to the executive council for its approval or disapproval.

(4) Upon approval by the executive council, there is appropriated to the department from any moneys in the general fund of the state not otherwise appropriated moneys sufficient to carry out the provisions of this paragraph.

b. A formula established by rule adopted by the department that is effective as determined by the department in accordance with chapter 17A and applicable upon approval of the plan of eradication approved by the executive council. The formula shall be applicable to indemnify owners if the executive council, upon recommendation by the secretary of agriculture, determines that an animal population in this state is threatened with infection from an exceptionally contagious disease.

(1) An owner shall be paid an indemnity amount based on the formula, only if the owner elects to be paid under the formula in lieu of the determination by appointed appraisers as otherwise provided in this section.

(2) The formula shall provide for the payment of the fair market value of an animal based on market prices paid for similar animals according to categories or criteria established by the department, which may include payment based on the species, breed, type, weight, sex, age, purebred status, and condition of the animal. The department may provide for deductions based on other compensation received by the owner for the destruction of the animals. The department may exclude a claim if the person would be ineligible to receive compensation by three appointed appraisers as provided in this section.

(3) If an owner elects to be paid an indemnity amount based on a method that provides either a determination by appointed appraisers or pursuant to a formula, the owner shall not be entitled to revoke the election, unless

otherwise provided by the department. An owner's decision to delay or refuse to make an election under this section shall not affect the condemnation and destruction of afflicted animals under the program of eradication.

(4) Upon approval by the executive council, there is appropriated to the department from any moneys in the general fund of the state not otherwise appropriated moneys sufficient to carry out the provisions of this paragraph.

[SS15, § 2538-1a8a; C24, 27, 31, 35, 39, § **2657**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 163.15]

2002 Acts, ch 1101, §1; 2004 Acts, ch 1163, §7, 8