

CHAPTER 31**(HB 346)**

AN ACT relating to milk marketing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.9-408 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:
 - (a) Would impair the creation, attachment, or perfection of a security interest; or
 - (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.
- (2) Subsection (1) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.
- (3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:
 - (a) Would impair the creation, attachment, or perfection of a security interest; or
 - (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.
- (4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) of this section would be effective under law other than this article but is ineffective under subsection (1) or (3) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:
 - (a) Is not enforceable against the person obligated on the promissory note or the account debtor;
 - (b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

- (c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
 - (d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;
 - (e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and
 - (f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.
- (5) This section prevails over any inconsistent provisions of the following statutes and any administrative regulations based on those statutes: KRS 56.230(2), 138.320(3), 138.665(4), 138.720(5), 139.250, 154A.400(3), 190.047(1), 190.070(2)(c), 217B.535(2), 228.070(2), 230.300(9), 234.330(10), 243.630(2), ~~260.730(3)~~, 260.815, 288.460(2), 292.320(2)(b), 294.036(3), 304.3-410(2)(f), 304.3-520(5), 333.080, 350.135(1), 365.430(27), and 368.070(2).
- (6) Subsection (3) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

Section 2. The following KRS section is repealed:

- 260.675 Title of KRS 260.675 to 260.760.
- 260.680 Definitions for KRS 260.675 to 260.760.
- 260.690 Administration of KRS 260.675 to 260.760.
- 260.705 Prohibited marketing practices.
- 260.710 Filing price schedules.
- 260.715 Powers and duties of department.
- 260.720 Copies of department record are admissible.
- 260.725 Powers of department with respect to other governmental agencies.
- 260.730 License for dealers and handlers.
- 260.735 Grounds for suspension, revocation, or refusal to issue license.
- 260.740 Hearing and notice on suspension, revocation, or refusal to issue license -- Judicial review.
- 260.750 Assessment of dairy products -- Confidential nature of information received by department.
- 260.755 Revolving fund.
- 260.760 Injunction.

260.991 Penalties for milk marketing violations.

Approved March 07, 2002