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Senate Bill 996 (as enacted)  
Sponsor: Senator Tom Casperson  
Senate Committee: Agriculture  
House Committee: Agriculture

**PUBLIC ACT 487 of 2012**

Date Completed: 2-13-13

**CONTENT**

The bill created the "Wildlife Depredations Indemnification Act" to do the following:

- Require the Michigan Department of Agriculture and Rural Development (MDARD) to pay indemnification for the death, injury, or loss of livestock from wolves, coyotes, and cougars.
- Require animal owners to report an incident to MDARD within 24 hours and verify the type and number of animals for which indemnification is sought.
- Require an owner to give MDARD documentation, upon request, that the animals had official identification if required under the Animal Industry Act.
- Require MDARD to appraise and inventory the animals and to pay an indemnification claim within 45 days.
- Specify that a claimant is entitled to receive twice the amount of the claim if MDARD fails to meet the 45-day requirement.
- Require MDARD to reimburse a claimant 100% of fair market value, for each animal included in a claim, up to \$4,000 for each animal.
- Establish procedures for determining the amount of indemnification.

- Require MDARD to deduct from the indemnification amount any compensation from any other source for the death, injury, or loss of animals.
- Provide that acceptance of compensation under the Act constitutes a full and complete release of any claim against the State.
- Specify conditions under which animals are ineligible for indemnification.
- Require an owner to give the Department of Natural Resources (DNR) access to the owner's property, upon request, if the DNR believes an on-site visit will assist its investigation.

The bill also allows MDARD to make an indemnification payment of up to \$100,000 per incident that is the basis for a valid indemnification claim, from any budgetary line item, and provides that any agreement for an indemnification payment of a larger amount is subject to specific appropriations and may not be paid from MDARD funds.

The bill took effect on December 28, 2012.

## Indemnification Program

The Act requires MDARD to provide indemnification for the death, injury, or loss of livestock from wolves, coyotes, and cougars. Indemnification for missing animals may be paid only if there is a history of livestock losses to the owner, as evidenced by a prior MDARD payment due to the death or injury of livestock from wolves.

To be eligible for indemnification, the owner of the livestock must do all of the following:

- Report the incident to MDARD within 24 hours after the animal is discovered to be dead, injured, or missing.
- File with MDARD a claim for indemnification verifying the type and number of animals for which indemnification is sought.
- Upon request, give the DNR access to the owner's property as necessary to conduct an investigation, if the DNR believes that an on-site visit will assist its investigation.
- Upon request, provide MDARD with documentation that the animals had official identification, if required under the Animal Industry Act.

Verification may include photographs of the animals or tracks, or other information that provides support for the claim. If the claim seeks indemnification for missing animals, a notarized statement from the owner specifying the date of birth of each missing animal and the date on which the animals were discovered missing, along with evidence of prior indemnification payment due to death or injury of livestock from wolves, will be sufficient documentation that one or more animals are missing and eligible for indemnification.

(The Wildlife Depredations Indemnification Act defines "livestock" as that term is defined in the Animal Industry Act, i.e., those species of animals used for human food and fiber or used for service to humans. The term includes cattle, sheep, new world camelids (e.g., llamas), goats, bison, privately owned cervid (e.g., deer),

ratites (e.g., ostrich), swine, equine, poultry, aquaculture, and rabbits. It does not include dogs or cats.)

## Appraisal & Payment

Within 45 days after receiving a claim for indemnification, MDARD must appraise and inventory the livestock for which indemnification is sought and make an indemnification payment to a person who is eligible to receive indemnification under the Act. If MDARD fails to make the payment within the 45-day period, the person is entitled to receive twice the amount of the original claim.

Except as otherwise provided, MDARD must reimburse the claimant, for each animal included in the claim, 100% of the fair market value, on the date of the appraisal, of livestock of that type marketable for the purpose for which the animal was intended to be marketed, but not more than \$4,000 for each animal. The appraisal determination may not delay the slaughter, destruction, or disposition of the livestock animals.

The Department must deduct from the indemnification amounts described above any compensation received, or to be received, from any other source, including indemnification by the U.S. Department of Agriculture, insurance, or salvage value. The animal owner must give MDARD all records indicating other sources of indemnity. An affidavit signed by the owner attesting to the amount of compensation for the livestock received, or to be received, from any other source must accompany the appraisal certificate before indemnification is paid under the Act.

The Department may make an indemnification payment of up to \$100,000 per incident that is the basis for a valid claim under the Act, from any line item in the annual MDARD budget in the applicable fiscal year. Any agreement between MDARD and a livestock owner for an indemnification payment greater than \$100,000 per incident must contain a provision indicating that indemnification is subject to specific appropriations by the

Legislature and may not be paid from MDARD funds.

#### Release of Claim & Ineligibility

Acceptance of compensation under the Act will constitute a full and complete release of any claim the owner has against the State or its departments, agencies, officers, employees, agents, and contractors related to the death, injury, or loss of the livestock, to the extent they acted on behalf of the State, within the scope of their employment with the State or under the direction of the State, its departments, agencies, officers, or employees.

The right to indemnity under the Act does not apply to livestock determined by MDARD to have been imported without meeting import requirements (such as an official interstate health certificate or official interstate certificate of veterinary inspection), required testing, or required vaccination, or livestock determined by MDARD to have been illegally moved within the State.

In addition, an owner is not entitled to indemnity from the State for an animal that comes into the owner's possession with the owner's knowledge that the animal is diseased or is suspected of having been exposed to an infectious, contagious, or toxicological disease. The Department may not indemnify an owner for animals that have been exposed to an animal that comes into the owner's possession with the owner's knowledge that the animal is diseased or suspected of having been exposed to an infectious, contagious, or toxicological disease.

MCL 287.361-287.365

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

The bill will have no fiscal impact on MDARD's practices of indemnification payments, which are to be made by the Department as provided for in Article 1, Section 453(2) of Public Act 200 of 2012, the FY 2012-13 appropriations act for

MDARD. That Act also appropriates \$50,000 GF/GP for FY 2012-13 for this purpose, reflecting the average payout of such payments in recent years of \$40,000 to \$50,000. In previous years, it had been the practice that the DNR would reimburse MDARD for indemnification payments. Under the bill, those payments will be the direct responsibility of MDARD.

Fiscal Analyst: Bruce Baker  
Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.