

Agriculture and Markets

ARTICLE 6-A INDEMNIFICATION FOR RABIES

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§ 105-c. Temporary emergency. The present losses to livestock in certain areas of the state resulting from the disease in animals known as rabies threaten to impair the agricultural economy of the communities affected. This article is enacted in the exercise of the police power and its purposes generally are to protect the public welfare. The provisions of this article shall not apply to the city of New York.

§ 105-d. Indemnification for rabies. Each county shall be liable for damages resulting within the county to domestic animals from the disease known as rabies and indemnification therefor shall be made in the manner provided by this article. The term "domestic animals" as used in this article shall mean domesticated sheep, horses, cattle, swine and goats. Such indemnification shall not exceed the actual damage and shall in no event exceed the sum of five hundred dollars for each animal in the case of damage to horses or cattle, or one hundred fifty dollars for each animal in the case of damage to swine, goats or sheep, provided, however, that in the case of registered purebred bovine animals indemnification may be made in an amount not to exceed seven hundred dollars for each animal.

The board of supervisors of each county shall have power to cause to be assessed, levied and collected in the same manner as other charges against the county, such sums of money as shall be necessary to pay indemnification on account of damages resulting from rabies as provided in this article.

§ 105-e. Damage appraisal and report. The owner of a domestic animal which has died as a result of rabies shall immediately upon discovery thereof notify any assessor of the city or town where the death occurred of the fact thereof, and that he claims indemnity therefor, and requires that the damages be determined. Such assessor, immediately upon receiving such notification, shall inquire into the matter. If he deems it necessary, he shall examine witnesses in relation thereto. No indemnification shall be paid unless there shall be presented to the assessor a report from a laboratory officially approved for rabies examination by the state commissioner of health, showing the presence of rabies in each animal for which indemnity is claimed. If the assessor is satisfied that the animal or animals died of rabies, he shall determine the amount of the damages resulting therefrom and shall thereupon make a report in the form prescribed by the commissioner and shall state therein the amount of damages. The report shall be signed by the

assessor, one copy of which shall be accompanied by an official laboratory report showing the presence of rabies. Two copies of the report shall be filed by the assessor in the office of the county treasurer, and a third copy shall be delivered by the assessor to the claimant. The county treasurer shall immediately approve or disapprove the claim. If he shall approve the claim, he shall endorse a copy of the report with a statement in accordance with the form prescribed by the commissioner certifying that the amount of the damage so reported by the assessor has been set aside by him for payment to the claimant from funds made available by the county for such purpose, and he shall immediately forward the copy of the report with such endorsement thereon to the commissioner. Upon receipt of such report, the commissioner shall examine the same and may investigate the same on his own part. The commissioner shall either confirm the amount of the damage reported by the assessor or modify it by such increase or decrease of the amount thereof as may appear proper and adequate in view of the facts and, if the facts so warrant, may disallow the same. The decision of the commissioner shall be in writing, and a copy thereof shall be mailed to the county treasurer and to the claimant.

§ 105-f. Review by commissioner. If the claimant desires to appeal the county treasurer's disapproval of his claim or if he is dissatisfied with the amount of the damage as set forth in the assessor's report, he may, within ten days after the receipt of the report, present to the commissioner a request for a review. The county treasurer may, within ten days after receiving the report of the assessor, if dissatisfied with the damages stated in the report, present to the commissioner a request for a review. Upon receipt of such request, from either the claimant or the county treasurer, the commissioner shall cause an investigation to be made of the facts surrounding the death of the animal or animals described therein and the amount of damage incurred thereby for which indemnification should be made in accordance with the intent of this article. The claimant shall permit the commissioner or his duly authorized representative to enter the premises where the animal or animals for which indemnification is claimed were kept, harbored or pastured, and shall furnish to the commissioner or his duly authorized representative whatever information and proof may be available to the claimant and deemed necessary by the commissioner or his representative to complete the investigation. After the completion of such investigation the commissioner shall make his decision in writing as set forth in the preceding section.

§ 105-g. Review by court. The decision of the commissioner may be reviewed by the claimant or the county treasurer in the manner provided by article seventy-eight of the civil practice law and rules, but such review must be instituted within twenty days after receipt of the commissioner's decision, otherwise the commissioner's decision shall be final.

§ 105-h. Payment to claimant by county. If the decision of the commissioner increases or decreases the amount to be paid to the claimant above or below the amount originally approved by the county treasurer, the county treasurer shall, upon receipt of the

commissioner's decision, adjust the county's share in accordance therewith. Upon receipt of the commissioner's decision and provided a review thereof has not been instituted as herein provided, the county treasurer shall forward to the claimant the county's check for the amount of indemnity allowed. If the commissioner shall disallow the claim, the county shall not be liable for the payment of any amount of indemnity.

§ 105-i. Partial reimbursement by state. Each county shall be entitled to partial reimbursement by the state for payments by the county of indemnification on account of damages resulting from rabies as provided in this article, to the extent of fifty per centum of the amount of its approved expenditures for such indemnification. Not later than the last day in each of the months of June, September, December and March the county treasurer of each county which has made payments to claimants during the three months' period ending on such days pursuant to the provisions of this article shall make a report to the commissioner of agriculture and markets of the amount of its expenditures for payments to claimants under this article and apply for state reimbursement to the extent of fifty per centum of its approved expenditures therefor. Such report and application shall be in such form and contain such information as may be required by such commissioner. The commissioner shall thereupon promptly certify to the comptroller for payment the amount of state reimbursement due the county thereon. The amounts so certified by the commissioner of agriculture and markets, after audit by and on the warrant of the comptroller, shall be paid to the county treasurers of the respective counties to which such reimbursement is due, from any moneys available by appropriation therefor.

§ 105-j. Enforcement of article. The commissioner shall supervise the enforcement of this article. It shall be unlawful for any officer to neglect or refuse to perform his duties under the provisions of this article and such neglect or refusal shall be cause for his removal from office.