

17-1616. Marketing contracts; injunction to prevent breach. (a) The association and the association's members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over 10 years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. The contract may provide that the association may sell or resell products of the association's members with or without taking title thereto; and pay over to the association's members the resale price, after deducting all necessary selling, overhead, and other costs and expenses, and other proper reserves, including interest on common or preferred stock not exceeding the greater of 8% per annum or the contract interest rate set forth in subsection (a) of K.S.A. 16-207, and amendments thereto, at the time of issuance thereof and reserves for retiring the stock, if any. These limitations shall not apply to dividends paid by subsidiaries created hereunder to parent cooperative corporations operating under this act.

(b) The bylaws and the marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by such member or stockholder of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees in case any action is brought upon the contract by the association; and any such provision shall be valid and enforceable in the courts of this state. In the event of the such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

History: L. 1921, ch. 148, § 16; R.S. 1923, 17-1616; L. 1931, ch. 150, § 7; L. 1992, ch. 227, § 16; July 1.