



1995 ASSEMBLY BILL 230

March 17, 1995 - Introduced by Representatives HAHN, GOETSCH, MUSSER, OTT, JOHNSRUD, FREESE, SILBAUGH, SKINDRUD, GROTHMAN, WARD, OLSEN, ZUKOWSKI, GUNDERSON, SERATTI and OWENS, cosponsored by Senators FITZGERALD, DRZEWIECKI and SCHULTZ. Referred to Committee on Agriculture.

1 **AN ACT to repeal** 127.17 (1) (a) (title) and 127.17 (1) (b) 2. and 3.; **to renumber**
2 **and amend** 127.01 (1), 127.01 (5t), 127.01 (25), 127.02 (3) (b) 1., 127.02 (3) (b)
3 2., 127.06 (2) (b), 127.06 (3), 127.10 (5), 127.13 (1), 127.17 (1) (intro.), 127.17 (1)
4 (a), 127.17 (1) (b) 1., 127.17 (2) (c) and 127.17 (2) (e); **to amend** 20.115 (1) (jm),
5 127.01 (1r), 127.01 (4), 127.01 (5p), 127.01 (6), 127.01 (11), 127.01 (13), 127.01
6 (15), 127.01 (16), 127.01 (18), 127.01 (19) (intro.), 127.01 (21), 127.01 (22),
7 127.01 (28), 127.02 (title), (1) and (2), 127.02 (3) (a) and (am), 127.02 (3m), (4)
8 and (5), 127.03 (2), 127.03 (3) (title) and (a) (intro.), 127.03 (3) (a) 2., 127.03 (3)
9 (a) 3., 127.03 (3) (b), 127.03 (3) (bg), 127.03 (3m), (4) and (5), 127.04, 127.05,
10 127.06 (title), 127.06 (2) (title) and (a), 127.09, 127.10 (title), (1) and (2), 127.10
11 (4), 127.10 (6), 127.105, 127.11 (2), 127.12 (2), 127.13 (2) and (3), 127.15, 127.16,
12 127.17 (2) (title), (a) and (b), 127.17 (2) (c) (title), 127.17 (2) (d), 127.17 (2) (e)
13 (title), 127.17 (3) and 127.17 (5); **to repeal and recreate** 127.01 (5d), 127.01
14 (8) and (9), 127.01 (13m) and (14), 127.01 (25m), 127.01 (26), 127.02 (3) (b)
15 (title), 127.03 (title) and (1), 127.06 (1), 127.07, 127.13 (title) and 127.14; and
16 **to create** 127.01 (5r), 127.01 (5t) (a) and (b), 127.01 (25) (b), 127.03 (3) (a) 2m.,
17 127.03 (3) (bk), 127.05 (3) and (4), 127.06 (1m), 127.06 (3), 127.06 (5) and (6),

1 127.065, 127.067, 127.069, 127.10 (5) (b), 127.13 (1) (c) and 127.17 (1) (b) of the
2 statutes; **relating to:** regulation of grain dealers and warehouse keepers.

Analysis by the Legislative Reference Bureau

This draft makes numerous changes in the laws regulating grain dealers and grain warehouse keepers. A grain dealer buys grain from and sells grain for growers. A grain warehouse keeper stores grain for growers and others. The department of agriculture, trade and consumer protection (DATCP) administers the laws regulating grain dealers and warehouse keepers.

Under current law, certain large grain dealers (Class A grain dealers) must file annual financial statements with DATCP. If a Class A grain dealer fails to meet specified financial standards, the Class A grain dealer must file security with DATCP for the benefit of growers.

Under this bill, Class B (smaller) grain dealers who use contracts under which growers are not paid for grain within a week after receipt of the grain are required to file annual financial statements. If these grain dealers do not meet minimum financial standards, the bill requires them to file security with DATCP for the protection of growers.

The bill strengthens current financial standards applicable to grain dealers. The bill also changes the manner of calculating the amount of security that a grain dealer that does not meet financial standards must file and eliminates the current \$500,000 cap on the amount of security that a grain dealer is required to file.

Under current law, a warehouse keeper that does not meet specified financial standards must file security with DATCP for the benefit of depositors. This bill eliminates the current \$500,000 cap on the amount of security that such a warehouse keeper is required to file.

This bill requires warehouse keepers to make disclosures concerning insurance coverage to their depositors.

This bill requires a grain dealer who purchases grain under a contract under which the grower is not paid within a week of the grain dealer receiving the grain to pay the grower no more than 180 days after the day on which the price of the grain is established.

Under current law, most grain dealers and warehouse keepers are required to register with DATCP. This bill changes the registration requirement to a licensing requirement. The bill reduces the annual fee that must be paid by certain small grain dealers.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.115 (1) (jm) of the statutes is amended to read:

2 20.115 (1) (jm) *Warehouse keeper and grain dealer regulation.* All moneys
3 received from the warehouse keeper ~~registration~~ license and inspection fees and
4 surcharges under s. 127.02 (3) and from the grain dealer ~~registration~~ license fees and
5 surcharges under s. 127.03 (3) for the administration and enforcement of the
6 warehouse keepers and grain dealers security act program under ch. 127.

7 **SECTION 2.** 127.01 (1) of the statutes is renumbered 127.01 (1) (intro.) and
8 amended to read:

9 127.01 (1) (intro.) “Affiliate” means any of the following:

10 (a) An officer, director, or partner, ~~member or manager~~ of a warehouse keeper
11 or grain dealer, ~~any~~.

12 (b) A firm or corporation owned or operated by an officer, director, or partner,
13 ~~member or manager~~ of a warehouse keeper or grain dealer ~~and any~~.

14 (c) A person ~~acting who~~, as agent for a warehouse keeper or grain dealer, ~~who~~
15 is engaged in the business of buying buys or receives grain from, ~~or contracting for~~
16 ~~the growing of grain by~~, a producer ~~on behalf of~~ or contracts with a producer to grow
17 grain for delivery to a warehouse keeper or grain dealer.

18 **SECTION 3.** 127.01 (1r) of the statutes is amended to read:

19 127.01 (1r) “Audited financial statement” means a financial statement on
20 which an independent certified public accountant, or a an independent public
21 accountant, ~~who holds~~ holding a certificate of authority under ch. 442, has expressed
22 an opinion ~~in accordance with~~ according to generally accepted accounting principles
23 and has conducted an audit ~~in accordance with~~ according to generally accepted
24 auditing standards.

25 **SECTION 4.** 127.01 (4) of the statutes is amended to read:

1 127.01 (4) “Cash payment” means payment in the form of currency, certified
2 check, money order, barter, ~~or advance money transfer arrangement with a bank~~
3 ~~which is evidenced in writing~~ or irrevocable letter of credit.

4 **SECTION 5.** 127.01 (5d) of the statutes is repealed and recreated to read:

5 127.01 (5d) “Class A grain dealer” means a person, other than an exempt grain
6 dealer, a Class B grain dealer, a Class B2 grain dealer or a Class C grain dealer, who
7 does any of the following:

8 (a) Buys grain from producers for resale or for introduction into commercial
9 channels.

10 (b) Sells, on behalf of producers, grain received from those producers.

11 (c) A person who is a feeder of livestock or poultry or who operates a feed mill
12 or other manufacturing facility if the person spends \$400,000 or more during that
13 person’s fiscal year to buy grain from producers.

14 **SECTION 6.** 127.01 (5p) of the statutes is amended to read:

15 127.01 (5p) “Class B grain dealer” means a person that, other than a Class B2
16 grain dealer, who buys grain from producers only in connection with ~~or incidental to~~
17 the operation of a feed mill or other manufacturing operation ~~and that expends~~
18 facility operated by that person and who spends less than \$400,000 annually for the
19 ~~purchase of during that person’s fiscal year to buy~~ grain from producers.

20 **SECTION 7.** 127.01 (5r) of the statutes is created to read:

21 127.01 (5r) “Class B2 grain dealer” means a person who buys grain from
22 producers only in connection with the operation of a feed mill or other manufacturing
23 facility operated by that person, who spends less than \$50,000 during that person’s
24 fiscal year to buy grain from producers and who does not buy any grain under a
25 deferred payment contract or a deferred price contract.

1 **SECTION 8.** 127.01 (5t) of the statutes is renumbered 127.01 (5t) (intro.) and
2 amended to read:

3 127.01 **(5t)** (intro.) “Class C grain dealer” means a feeder of livestock or poultry,
4 or a producer ~~that expends less than \$400,000 annually for the purchase of~~ who buys
5 grain from producers solely for his or her own use as a feed or seed or a producer that
6 is engaged solely in selling grain that he or she has produced. “Class C grain dealer”
7 does not include a person who does any of the following:

8 **SECTION 9.** 127.01 (5t) (a) and (b) of the statutes are created to read:

9 127.01 **(5t)** (a) Spends at least \$400,000 during that person’s fiscal year to buy
10 grain from producers.

11 (b) Sells grain other than grain that the person produced.

12 **SECTION 10.** 127.01 (6) of the statutes is amended to read:

13 127.01 **(6)** “Current assets” means cash and assets, ~~including trade or~~
14 ~~investment items,~~ that may can be readily converted into cash in the ordinary course
15 of business within one year after the date of the balance sheet.

16 **SECTION 11.** 127.01 (8) and (9) of the statutes are repealed and recreated to
17 read:

18 127.01 **(8)** “Deferred payment contract” means a contract for the sale of grain
19 from a producer to a grain dealer under which the grain dealer takes custody of the
20 grain more than 7 calendar days before paying the producer in full for the grain.

21 **(9)** “Deferred price contract” means a contract for the sale of grain from a
22 producer to a grain dealer under which the grain dealer takes custody of the grain
23 before the grain dealer and the producer agree on the price that the grain dealer will
24 pay for the grain.

25 **SECTION 12.** 127.01 (11) of the statutes is amended to read:

1 127.01 (11) “Depositor” means any of the following:

2 (a) A person who delivers grain to a warehouse keeper for storage, conditioning,
3 shipping, or handling or eventual sale.

4 (b) ~~An owner or legal holder of~~ A person who owns or legally holds a scale ticket,
5 warehouse receipt or other document that is issued by a warehouse keeper for grain,
6 ~~who is lawfully entitled to possession or payment for the grain represented by the~~
7 ~~ticket, receipt or other document~~ and that entitles that person to receive possession
8 of that grain or its equivalent.

9 **SECTION 13.** 127.01 (13) of the statutes is amended to read:

10 127.01 (13) “Equity statement” means a report of the change in equity from the
11 beginning to the end of the accounting period covered by the report.

12 **SECTION 14.** 127.01 (13m) and (14) of the statutes are repealed and recreated
13 to read:

14 127.01 (13m) “Exempt grain dealer” means a person who buys grain from
15 producers and who makes full cash payment for all grain that the person receives
16 from producers before taking custody of the grain.

17 (14) “Exempt warehouse keeper” means a warehouse keeper who has a total
18 of less than 50,000 bushels of grain obligations to others, for all of the warehouse
19 keeper’s warehouses, at any time during a license year. “Exempt warehouse keeper”
20 does not include a warehouse keeper who represents to any person that the
21 warehouse keeper is bonded or has filed security with the department for the benefit
22 of depositors.

23 **SECTION 15.** 127.01 (15) of the statutes is amended to read:

24 127.01 (15) “Federal act” means the federal warehouse act under 7 USC 241
25 to 271, ~~in effect on September 1, 1985.~~

1 **SECTION 16.** 127.01 (16) of the statutes is amended to read:

2 127.01 (16) “Financial statement” means a financial statement that meets the
3 requirements under s. 127.06 (2) complies with s. 127.06.

4 **SECTION 17.** 127.01 (18) of the statutes is amended to read:

5 127.01 (18) “Grain” means corn, wheat, soybeans, oats, barley, rye, buckwheat,
6 sorghum, flaxseed, milo, sunflower seed and mixed grain as defined in the federal
7 grain standards act of 1916 (~~7 USC 71 et. seq.~~) as amended on July 1, 1980. ~~The term~~
8 to 87k. “Grain” does not include canning crops for processing or grain used or
9 intended for use solely for ~~sowing~~ planting purposes.

10 **SECTION 18.** 127.01 (19) (intro.) of the statutes is amended to read:

11 127.01 (19) (intro.) “Grain dealer” means a Class A grain dealer, Class B grain
12 dealer, Class B2 grain dealer, Class C grain dealer or exempt grain dealer. “Grain
13 dealer” does not include any of the following:

14 **SECTION 19.** 127.01 (21) of the statutes is amended to read:

15 127.01 (21) “Income statement” means a report of the financial results of
16 business operations for a ~~specific~~ the accounting period covered by the report.

17 **SECTION 20.** 127.01 (22) of the statutes is amended to read:

18 127.01 (22) “Interim statement” means a financial statement prepared ~~on a~~
19 ~~date other than the end of~~ for a period shorter than a fiscal year.

20 **SECTION 21.** 127.01 (25) of the statutes is renumbered 127.01 (25) (intro.) and
21 amended to read:

22 127.01 (25) (intro.) “Producer” means ~~an~~ a person who is not a Class A grain
23 dealer, a Class B grain dealer, a Class B2 grain dealer or an exempt grain dealer and
24 who is one of the following:

1 (a) An owner, tenant or operator of land who is engaged in the growing and
2 production of producing grain on the land in this state.

3 **SECTION 22.** 127.01 (25) (b) of the statutes is created to read:

4 127.01 (25) (b) An owner, tenant or operator of land who is engaged in growing
5 and producing grain on land outside of this state and who sells that grain to a grain
6 dealer in this state or deposits that grain with a warehouse keeper in this state.

7 **SECTION 23.** 127.01 (25m) of the statutes is repealed and recreated to read:

8 127.01 (25m) “Reviewed financial statement” means a financial statement,
9 other than an audited financial statement, that meets all of the following
10 requirements:

11 (a) The grain dealer or warehouse keeper attests in writing, under oath, that
12 the financial statement is accurate.

13 (b) The financial statement is reviewed according to generally accepted
14 accounting principles by an independent certified public accountant or an
15 independent public accountant who holds a certificate of authority under ch. 442.

16 **SECTION 24.** 127.01 (26) of the statutes is repealed and recreated to read:

17 127.01 (26) “Statement of cash flows” means a report of cash receipts and cash
18 disbursements from operating, investing and financing activities, including an
19 explanation of changes in cash and cash equivalents for the accounting period
20 covered by the report.

21 **SECTION 25.** 127.01 (28) of the statutes is amended to read:

22 127.01 (28) “Warehouse” means any building, bin or storage facility used for
23 receiving, storing, conditioning, shipping or handling grain. This term “Warehouse”
24 does not include transport vehicles or facilities used for on-farm drying of grain.

25 **SECTION 26.** 127.02 (title), (1) and (2) of the statutes are amended to read:

1 **127.02** (title) ~~Registration requirement for warehouse keepers;~~
2 **Warehouse keepers' licenses and fees.**

3 (1) REQUIREMENT, EXCEPTION. No person may act as a warehouse keeper unless
4 the person obtains holds an annual warehouse keeper's ~~certificate of registration~~
5 license issued by the department. ~~The requirements of this section do not apply to,~~
6 except that an exempt warehouse keeper unless ~~the warehouse keeper holds himself~~
7 ~~or herself out as a bonded or registered warehouse keeper~~ is not required to hold a
8 license.

9 (2) APPLICATION. An application for an annual warehouse keeper's ~~certificate~~
10 ~~of registration~~ license shall be filed on a form prescribed by the department. The
11 application shall include information reasonably required by the department for
12 ~~registration~~ licensing purposes. An application shall be accompanied by all
13 applicable fees and surcharges under sub. (3).

14 **SECTION 27.** 127.02 (3) (a) and (am) of the statutes are amended to read:

15 127.02 (3) (a) (title) *Registration License fees.* The fee for an annual warehouse
16 keeper's ~~certificate of registration~~ license is \$50. A warehouse keeper maintaining
17 more than one business location in this state shall pay an additional ~~registration~~
18 license fee of \$25 for each additional location.

19 (am) (title) *Registration License fee surcharge.* An applicant for an annual
20 warehouse keeper's ~~certificate of registration~~ license shall pay a ~~registration~~ license
21 fee surcharge of \$500 if the department determines that, within 365 days prior to
22 submitting an application for a warehouse keeper's ~~certificate of registration~~ license,
23 the applicant acted as a warehouse keeper without a ~~certificate of registration~~
24 license in violation of sub. (1). Payment of the ~~registration~~ license fee surcharge does
25 not relieve the applicant of other civil or criminal liability that may result from acting

1 as a warehouse keeper without a ~~certificate of registration~~ license, but does not
2 constitute evidence of a violation of law.

3 **SECTION 28.** 127.02 (3) (b) (title) of the statutes is repealed and recreated to
4 read:

5 127.02 (3) (b) (title) *Basic inspection fee.*

6 **SECTION 29.** 127.02 (3) (b) 1. of the statutes is renumbered 127.02 (3) (b), and
7 127.02 (3) (b) (intro.), as renumbered, is amended to read:

8 127.02 (3) (b) (intro.) A warehouse keeper shall pay an annual inspection fee
9 to the department based on the combined storage capacity of all of the warehouse
10 keeper's warehouses in this state. The inspection fee is, if the combined storage
11 capacity is:

12 **SECTION 30.** 127.02 (3) (b) 2. of the statutes is renumbered 127.02 (3) (bm) and
13 amended to read:

14 127.02 (3) (bm) (title) *Supplementary inspection fee.* In addition to the
15 inspection fee specified under subd. 1. par. (b), a warehouse keeper shall annually
16 pay to the department an inspection fee of \$100 for each ~~business~~ warehouse location
17 other than the warehouse keeper's principal ~~business~~ warehouse location.

18 **SECTION 31.** 127.02 (3m), (4) and (5) of the statutes are amended to read:

19 127.02 (3m) (title) ~~REGISTRATION~~ LICENSING CONTINGENT ON PAYMENT OF FEES AND
20 SURCHARGE. The department may not issue or renew a ~~certificate of registration~~
21 license under sub. (1) unless the applicant pays all fees and any applicable surcharge
22 required under sub. (3), as set forth in a statement from the department. The
23 department shall refund a fee or surcharge paid under protest if the department
24 determines that the fee or surcharge was not required to be paid as a ~~condition of~~
25 ~~registration under this section.~~

1 (4) EXPIRATION; NONTRANSFERABLE. The An annual warehouse keeper's
2 ~~certificate of registration~~ license expires on August 31 of each year and is not
3 transferable.

4 (5) DISPLAY. A warehouse keeper shall display prominently a copy of the annual
5 warehouse keeper's ~~certificate of registration~~ license in each ~~business location~~
6 warehouse in this state operated by the warehouse keeper.

7 **SECTION 32.** 127.03 (title) and (1) of the statutes are repealed and recreated to
8 read:

9 **127.03 (title) Grain dealers licenses and fees. (1) REQUIREMENT.** (a) Except
10 as provided in par. (d), no person may do any of the following:

11 1. Operate as a Class A grain dealer unless the person holds an annual license
12 from the department as a Class A grain dealer.

13 2. Operate as a Class B grain dealer unless the person holds an annual license
14 from the department as a Class A grain dealer or a Class B grain dealer.

15 3. Operate as a Class B2 grain dealer unless the person holds an annual license
16 from the department as a Class A grain dealer, a Class B grain dealer or a Class B2
17 grain dealer.

18 (b) No grain dealer may claim to be bonded or claim to have filed security with
19 the department for the benefit of producers unless that grain dealer holds an annual
20 license from the department as a Class A grain dealer, a Class B grain dealer or a
21 Class B2 grain dealer.

22 (c) A Class C grain dealer is not required to be licensed but may voluntarily
23 apply for and receive an annual license from the department as a Class C grain
24 dealer.

25 (d) Paragraph (a) does not apply to an exempt grain dealer.

1 **SECTION 33.** 127.03 (2) of the statutes is amended to read:

2 127.03 (2) APPLICATION. An application for an annual grain dealer's certificate
3 of ~~registration~~ license shall be filed on a form prescribed by the department. The
4 application shall include information reasonably required by the department for
5 ~~registration~~ licensing purposes. An application shall be accompanied by all
6 applicable fees and surcharges under sub. (3).

7 **SECTION 34.** 127.03 (3) (title) and (a) (intro.) of the statutes are amended to
8 read:

9 127.03 (3) (title) ~~REGISTRATION~~ LICENSE FEES. (a) (intro.) The fee for an annual
10 grain dealer's ~~certificate of registration~~ shall be license is as follows:

11 **SECTION 35.** 127.03 (3) (a) 2. of the statutes is amended to read:

12 127.03 (3) (a) 2. For a Class B grain dealer, \$175 plus a surcharge of \$250 if the
13 grain dealer's financial statement under s. 127.06 (2) is not audited.

14 **SECTION 36.** 127.03 (3) (a) 2m. of the statutes is created to read:

15 127.03 (3) (a) 2m. For a Class B2 grain dealer, \$50.

16 **SECTION 37.** 127.03 (3) (a) 3. of the statutes is amended to read:

17 127.03 (3) (a) 3. For a Class C grain dealer voluntarily licensed under sub. (1)
18 (c), \$50.

19 **SECTION 38.** 127.03 (3) (b) of the statutes is amended to read:

20 127.03 (3) (b) In addition to the fee specified under par. (a), if a grain dealer
21 operates more than one truck, the grain dealer shall pay an additional ~~registration~~
22 license fee of \$10 for each additional truck that ~~he or she~~ the grain dealer uses for
23 dealing in grain.

24 **SECTION 39.** 127.03 (3) (bg) of the statutes is amended to read:

1 127.03 (3) (bg) ~~An~~ Except as provided in par. (bk), an applicant for an annual
2 grain dealer's ~~certificate of registration~~ license shall pay a registration license fee
3 surcharge of \$500 if the department determines that, within 365 days prior to
4 submitting an application for a grain dealer's ~~certificate of registration~~ license, the
5 applicant acted as a grain dealer without a ~~certificate of registration in violation of~~
6 license required in sub. (1). Payment of the registration license fee surcharge does
7 not relieve the applicant of other civil or criminal liability that may result from acting
8 as a grain dealer without a ~~certificate of registration~~ license required in sub. (1), but
9 does not constitute evidence of a violation of law.

10 **SECTION 40.** 127.03 (3) (bk) of the statutes is created to read:

11 127.03 (3) (bk) If a grain dealer held a license as a Class B2 grain dealer but
12 operated as a Class A grain dealer or a Class B grain dealer, the surcharge under par.
13 (bg) is \$250 rather than \$500.

14 **SECTION 41.** 127.03 (3m), (4) and (5) of the statutes are amended to read:

15 127.03 (3m) (title) ~~REGISTRATION~~ LICENSING CONTINGENT ON PAYMENT OF FEES AND
16 SURCHARGE. The department may not issue or renew a ~~certificate of registration~~
17 license under sub. (1) unless the applicant pays all fees and any applicable surcharge
18 under sub. (3), as set forth in a statement from the department. The department
19 shall refund a fee or surcharge paid under protest if the department determines that
20 the fee or surcharge was not required to be paid as a ~~condition of registration under~~
21 ~~this section.~~

22 (4) EXPIRATION; NONTRANSFERABLE. ~~The~~ An annual grain dealer's ~~certificate of~~
23 ~~registration~~ license expires on August 31 of each year and is not transferable.

24 (5) DISPLAY. A grain dealer shall display prominently a copy of the ~~annual grain~~
25 ~~dealer's certificate of registration~~ annual license on each truck used ~~that the grain~~

1 ~~dealer uses for dealing in grain operated by the grain dealer and.~~ A grain dealer shall
2 also display a copy of the grain dealer's annual license at the grain dealer's
3 permanent business address, if ~~he or she~~ the grain dealer is required to maintain a
4 permanent business address under s. 127.10 (6).

5 **SECTION 42.** 127.04 of the statutes is amended to read:

6 **127.04 Applicability to nonresident grain dealers.** A nonresident grain
7 dealer, ~~not maintaining an office or place of business in this state,~~ engaged in this
8 state in ~~buying grain from or selling~~ who buys grain from or sells grain for producers
9 who produced the grain in this state, is subject to ~~registration and other provisions~~
10 of this chapter relating to the purchase or sale of grain, ~~whether or not the purchase~~
11 ~~or sale transaction takes~~ without regard to whether those purchases or sales take
12 place wholly or in part in this state and without regard to whether the grain dealer
13 maintains an office or place of business in this state.

14 **SECTION 43.** 127.05 of the statutes is amended to read:

15 **127.05 Warehouse keeper's insurance. (1) REQUIREMENT; EXCEPTION.** A
16 warehouse keeper shall file and maintain with the department a certificate or other
17 satisfactory evidence of fire and extended coverage insurance issued by an insurance
18 company authorized to do business in this state ~~insuring~~ that insures all grain in the
19 custody of the warehouse keeper, whether held for others or owned by the warehouse
20 keeper, at the full local market value of the grain. The requirements of this section
21 do not apply to an exempt warehouse keeper ~~unless the warehouse keeper holds~~
22 ~~himself or herself out as a bonded warehouse keeper.~~

23 **(2) (title) CANCELLATION AND REPLACEMENT.** An insurance policy required under
24 ~~this chapter~~ sub. (1) shall provide that the policy may not be canceled by the
25 warehouse keeper or insurance company except on 30 days' prior written notice

1 served on the department in person or by certified mail. The warehouse keeper shall
2 obtain satisfactory replacement insurance and shall file satisfactory evidence of that
3 replacement insurance with the department within ~~the 30-day period and prior to~~
4 ~~the expiration of the policy~~ 20 days after the cancellation notice is served on the
5 department and at least 10 days before the cancellation takes effect. The department
6 shall suspend the ~~registration~~ license of a warehouse keeper without prior notice or
7 hearing if the warehouse keeper does not secure and file satisfactory evidence of
8 replacement insurance as required under this section.

9 **SECTION 44.** 127.05 (3) and (4) of the statutes are created to read:

10 127.05 (3) INSURANCE DISCLOSURE. Before storing grain for any depositor, a
11 warehouse keeper, including an exempt warehouse keeper, shall clearly disclose in
12 writing and post in a conspicuous location, observable by the public, all of the
13 following information:

14 (a) Whether the grain is insured against fire and other natural perils, including
15 a listing of the types of perils covered.

16 (b) Whether the warehouse keeper has liability insurance covering the
17 warehouse keeper's grain storage operations and whether the insurance covers
18 liability resulting from fraud or malfeasance by the warehouse keeper.

19 (4) DEDUCTIBLES. Neither an insurance policy under sub. (1) nor a warehouse
20 keeper's liability insurance policy may contain any deductible clause that limits the
21 insurer's liability to depositors for the full value of the depositor's covered losses
22 under the policy. This subsection does not prohibit a clause under which the
23 warehouse keeper agrees to indemnify the insurer for a portion of each claim by a
24 depositor that is paid by the insurer under the policy, as long as the clause does not
25 limit the insurer's obligation to pay each depositor.

1 **SECTION 45.** 127.06 (title) of the statutes is amended to read:

2 **127.06 (title) ~~Financial statement~~ statements; warehouse keepers and**
3 **grain dealers.**

4 **SECTION 46.** 127.06 (1) of the statutes is repealed and recreated to read:

5 **127.06 (1) WAREHOUSE KEEPERS; FINANCIAL STATEMENTS REQUIRED.** (a) A
6 warehouse keeper required to be licensed under s. 127.02 (1) shall do all of the
7 following:

8 1. File a financial statement with the warehouse keeper's initial application for
9 a license.

10 2. Except as provided in par. (e), file an annual financial statement with the
11 department on or before the 15th day of the 4th month beginning after the close of
12 the warehouse keeper's fiscal year.

13 (b) A financial statement filed under par. (a) shall be either a reviewed financial
14 statement or an audited financial statement, except that the financial statement
15 shall be an audited financial statement if any of the following apply:

16 1. The warehouse keeper's warehouses have a combined storage capacity of at
17 least 500,000 bushels.

18 2. The warehouse keeper is a sole proprietor and the financial statement is not
19 prepared according to the historical cost basis method of accounting.

20 (c) The department may require an exempt warehouse keeper to file an annual
21 audited financial statement or reviewed financial statement if the department
22 determines that such filing is necessary to protect depositors.

23 (d) The department may require a warehouse keeper, including an exempt
24 warehouse keeper, to file a supplementary financial statement or an interim
25 statement whenever the department determines that such filing is necessary to

1 protect depositors. The department may require a financial statement filed under
2 this paragraph to be an audited financial statement or a reviewed financial
3 statement.

4 (e) The department may extend the filing deadline under par. (a) 2. by up to 30
5 days in response to a written request from a warehouse keeper or an independent
6 certified public accountant, or an independent public accountant holding a
7 certificate of authority under ch. 442, that is auditing or reviewing the financial
8 statement for a warehouse keeper if the department receives the request on or before
9 the 5th day of the 4th month beginning after the close of the warehouse keeper's
10 fiscal year and if the request states the reason for the extension.

11 **SECTION 47.** 127.06 (1m) of the statutes is created to read:

12 127.06 (1m) GRAIN DEALERS; FINANCIAL STATEMENTS REQUIRED. (a) The following
13 grain dealers shall file financial statements under par. (b):

14 1. A Class A grain dealer.

15 2. A Class B grain dealer that uses any deferred price contract or deferred
16 payment contract.

17 3. A grain dealer that claims to be bonded or claims to have filed security with
18 the department for the benefit of producers.

19 (b) A grain dealer specified in par. (a) shall do all of the following:

20 1. File a financial statement with the grain dealer's initial application for a
21 license under s. 127.03 (2).

22 2. Except as provided in par. (e), file an annual financial statement with the
23 department on or before the 15th day of the 4th month beginning after the close of
24 the grain dealer's fiscal year.

1 (c) A financial statement filed under par. (b) shall be either a reviewed financial
2 statement or an audited financial statement, except that the financial statement
3 shall be an audited financial statement if any of the following apply:

4 1. The grain dealer is a Class A grain dealer that buys or sells at least
5 \$2,000,000 worth of grain from producers during the grain dealer's fiscal year.

6 2. The grain dealer is a sole proprietor and the financial statement is not
7 prepared according to the historical cost basis method of accounting.

8 (d) The department may require a Class A grain dealer or a Class B grain dealer
9 that uses any deferred price contract or deferred payment contract to file a
10 supplementary financial statement or an interim statement whenever the
11 department determines that such filing is necessary to protect producers. The
12 department may require a financial statement filed under this paragraph to be an
13 audited financial statement or a reviewed financial statement.

14 (e) The department may extend the filing deadline under par. (b) 2. by up to 30
15 days in response to a written request from a grain dealer or an independent certified
16 public accountant, or an independent public accountant who holds a certificate of
17 authority under ch. 442, that is auditing or reviewing the financial statement for a
18 grain dealer, if the department receives the written request on or before the 5th day
19 of the 4th month beginning after the close of the grain dealer's fiscal year and if the
20 request states the reason for the extension.

21 **SECTION 48.** 127.06 (2) (title) and (a) of the statutes are amended to read:

22 127.06 (2) (title) ~~CONTENTS; GENERAL.~~ (a) Except as provided in ~~par. (b) sub. (3)~~
23 ~~or (4)~~, a financial statement under sub. (1) or (1m) shall consist of a balance sheet,
24 income statement, equity statement, statement of cash flows, notes to financial

1 statements and other information required by the department, and shall be prepared
2 ~~in conformity with~~ according to generally accepted accounting principles.

3 (b) Except as provided in ~~par. (b) sub. (4)~~, a warehouse keeper's financial
4 statement shall disclose, separately and clearly, the warehouse keeper's obligations
5 to depositors in the form of negotiable and nonnegotiable warehouse receipts, scale
6 tickets ~~and~~, collateral warehouse receipts and other grain storage receipts.

7 (c) Except as provided in ~~par. (b) sub. (4)~~, a grain dealer's financial statement
8 shall disclose, separately and clearly, the grain dealer's obligations to producers in
9 the form of scale tickets, receipts, settlement sheets and contracts for grain
10 purchased from producers. ~~All reviewed financial statements shall be sworn to by~~
11 ~~the warehouse keeper or grain dealer filing the statement.~~

12 **SECTION 49.** 127.06 (2) (b) of the statutes is renumbered 127.06 (4) and
13 amended to read:

14 127.06 (4) (title) INITIAL FINANCIAL STATEMENT. ~~A~~ If a warehouse keeper or a
15 Class A grain dealer that has not previously engaged in those businesses may file an
16 initial financial statement, consisting ~~operated as a warehouse keeper or grain~~
17 dealer, the financial statement included with that warehouse keeper's or grain
18 dealer's initial license application may consist of an opening balance sheet and notes
19 to that balance sheet, prepared ~~in conformity with~~ according to generally accepted
20 accounting principles.

21 **SECTION 50.** 127.06 (3) of the statutes is renumbered 127.06 (7) and amended
22 to read:

23 127.06 (7) (title) ~~ACCESS TO~~ FINANCIAL STATEMENT CLOSED TO PUBLIC INSPECTION.
24 ~~A~~ Neither a financial statement nor a disclosure of grain purchases under sub. (5)
25 is not subject to open to public inspection under s. 19.35 and the. The department

1 may keep a financial statement closed to the public, although the department may
2 utilize and release introduce a financial statement as evidence in an enforcement
3 action, brought by or on behalf of the department or in an administrative hearing or
4 court proceeding in which the department is a named party, subject to any protective
5 orders made by the court or administrative tribunal.

6 **SECTION 51.** 127.06 (3) of the statutes is created to read:

7 127.06 (3) FINANCIAL STATEMENT OF SOLE PROPRIETOR. If a warehouse keeper or
8 grain dealer is a sole proprietor, the financial statement for that sole proprietor shall
9 consist of a statement of financial condition, statement of changes in net worth, notes
10 to the financial statements and other information required by the department,
11 except that the financial statement for the sole proprietor's grain operations shall
12 comply with sub. (2) (a).

13 **SECTION 52.** 127.06 (5) and (6) of the statutes are created to read:

14 127.06 (5) GRAIN DEALER; DISCLOSURE OF AMOUNT OF GRAIN PURCHASED. With
15 every financial statement filed under sub. (1m), a grain dealer shall file a statement,
16 on a form furnished by the department, showing the total dollar value of grain that
17 the grain dealer purchased from producers during the grain dealer's last completed
18 fiscal year and during each month of that fiscal year.

19 (6) LIABILITY ADJUSTMENTS. (a) For purposes of s. 127.065 (1) (c) or 127.067 (1)
20 (c), a warehouse keeper or grain dealer may deduct, from the amount of a liability
21 reported in the warehouse keeper's or grain dealer's financial statement, any of the
22 liability adjustments allowed for the warehouse keeper or grain dealer under pars.
23 (b) to (f) if the amount of the liability adjustments and of the offsetting assets are
24 disclosed in the notes to the financial statement. The total amount of the liability
25 adjustments under pars. (b) to (f) may not exceed the total amount of the

1 corresponding assets, identified in the notes to the financial statement, that justify
2 the adjustments.

3 (b) A grain dealer may deduct amounts that the grain dealer has borrowed from
4 a lending institution and deposited with a commodities broker to maintain an
5 account to hedge grain transactions. The amount of the deduction shall be the lesser
6 of the amount deposited with the commodities broker or the amount owed to the
7 lending institution for funds borrowed from the lending institution and deposited
8 with the commodities broker.

9 (c) A grain dealer may deduct amounts that the grain dealer has borrowed from
10 a lending institution to buy grain that has been shipped and is in transit if the grain
11 dealer has a collectible account receivable for that grain on the date of the balance
12 sheet. The amount of the deduction shall be the lesser of the amount receivable by
13 the grain dealer for the grain that has been shipped and is in transit or the amount
14 that the grain dealer owes to the lending institution for funds used to buy that grain.

15 (d) A grain dealer may deduct amounts that the grain dealer has borrowed from
16 a lending institution and that are secured by grain owned by the grain dealer and
17 held in the grain dealer's inventory. The amount of the deduction shall be the lesser
18 of the value of the grain pledged as security or the amount owed to the lending
19 institution.

20 (e) A grain dealer may deduct amounts that the grain dealer has borrowed from
21 a lending institution and used to buy grain that the grain dealer holds in inventory
22 on the date of the balance sheet if the grain dealer has entered into a written contract
23 to sell the grain. The amount of the deduction shall be the lesser of the amount owed
24 to the lending institution or the value of the grain purchased with the borrowed funds
25 and held in inventory to fill the sales contract.

1 (f) A warehouse keeper or a grain dealer may deduct amounts that the
2 warehouse keeper or grain dealer has borrowed from a lending institution and used
3 to pay for fertilizer, pesticides, herbicides or seed that the warehouse keeper or grain
4 dealer holds in inventory on the date of the balance sheet. The amount of the
5 deduction shall be the lesser of the amount owed to the lending institution or the cost
6 of the fertilizer, pesticides, herbicides or seed purchased with the borrowed funds.

7 **SECTION 53.** 127.065 of the statutes is created to read:

8 **127.065 Minimum financial standards; warehouse keepers. (1)**

9 **REQUIREMENT.** Except as provided in sub. (2), a warehouse keeper other than an
10 exempt warehouse keeper shall meet all of the following financial standards:

11 (a) On the date of the warehouse keeper's initial financial statement under s.
12 127.06 (1) (a) 1. and at the end of each fiscal year, the ratio of the warehouse keeper's
13 current assets to current liabilities shall be at least 1.25 to 1.

14 (b) At all times other than the times under par. (a), the ratio of the warehouse
15 keeper's current assets to current liabilities shall be at least 1 to 1.

16 (c) The warehouse keeper's total assets shall at all times exceed total liabilities,
17 adjusted as provided in s. 127.06 (6), by at least \$50,000 or the product obtained by
18 multiplying the capacity of the warehouse keeper's warehouses by 10 cents,
19 whichever is greater.

20 **(2) EXEMPTIONS.** A warehouse keeper is not required to comply with sub. (1) if
21 the warehouse keeper does all of the following:

22 (a) Files with the department a bond or other security that complies with s.
23 127.07.

24 (b) Files monthly reports with the department under s. 127.069.

1 **(3) NOTICE OF CHANGES.** A warehouse keeper that is required to comply with
2 sub. (1) shall notify the department whenever the warehouse keeper knows or has
3 reason to believe that the warehouse keeper no longer meets a financial standard
4 under sub. (1).

5 **SECTION 54.** 127.067 of the statutes is created to read:

6 **127.067 Minimum financial standards; grain dealers. (1) REQUIREMENT.**
7 Except as provided in sub. (2), each Class B grain dealer that uses any deferred
8 payment contract or deferred price contract to buy grain from a producer and each
9 Class A grain dealer shall meet all of the following financial standards:

10 (a) On the date of the grain dealer's initial financial statement under s. 127.06
11 (1m) (b) 1. and at the end of each fiscal year, the ratio of the grain dealer's current
12 assets to current liabilities shall be at least 1.25 to 1.

13 (b) At all times other than the times under par. (a), the ratio of the grain dealer's
14 current assets to current liabilities shall be at least 1 to 1.

15 (c) The grain dealer's total assets shall at all times exceed total liabilities,
16 adjusted as provided in s. 127.06 (6), by \$15,000 or the amount required to achieve
17 a ratio of total liabilities to equity of not more than 5 to 1, whichever is greater.

18 **(2) EXEMPTIONS.** A grain dealer is not required to comply with sub. (1) if the
19 grain dealer does all of the following:

20 (a) Files with the department a bond or other security that complies with s.
21 127.07.

22 (b) Files monthly reports with the department under s. 127.069.

23 **(3) NOTICE OF CHANGES.** A grain dealer that is required to comply with sub. (1)
24 shall notify the department whenever the grain dealer knows or has reason to believe
25 that the grain dealer no longer meets a financial standard under sub. (1).

1 **SECTION 55.** 127.069 of the statutes is created to read:

2 **127.069 Monthly reports; warehouse keepers and grain dealers. (1)**

3 **WAREHOUSE KEEPER.** A warehouse keeper, other than an exempt warehouse keeper,
4 that does not meet the financial standards under s. 127.065 (1) shall file monthly
5 reports with the department. The warehouse keeper shall file each monthly report
6 no later than the 10th day of each month. Each monthly report shall state the
7 inventory of each type of grain in storage in each of the warehouse keeper's
8 warehouses on the last day of the previous month.

9 **(2) GRAIN DEALERS.** (a) All of the following shall file monthly reports with the
10 department:

11 1. A Class A grain dealer that does not meet the financial standards under s.
12 127.067 (1).

13 2. A Class B grain dealer that uses any deferred payment contract or deferred
14 price contract to buy grain from producers and that does not meet the financial
15 standards under s. 127.067 (1).

16 3. A grain dealer that claims to be bonded or that claims to have filed security
17 with the department for the benefit of producers.

18 (b) A grain dealer shall file the monthly report under par. (a) with the
19 department no later than the 10th day of each month. The report shall include all
20 of the following:

21 1. The total number of bushels of each type of grain, and the total cost of each
22 type of grain, that the grain dealer purchased from producers during the previous
23 month.

1 2. The total number of bushels of each type of grain purchased from producers
2 under a deferred payment contract or deferred price contract for which the grain
3 dealer had not paid as of the last day of the previous month.

4 3. The amount that the grain dealer owed producers for each type of grain
5 identified under subd. 2. as of the last day of the previous month. The grain dealer
6 shall estimate the amount owed for grain purchased under deferred price contracts
7 based on the pricing formulas in the contracts and the market prices for grain as of
8 the last day of the previous month.

9 **SECTION 56.** 127.07 of the statutes is repealed and recreated to read:

10 **127.07 Security requirements; warehouse keepers and grain dealers.**

11 **(1) WAREHOUSE KEEPERS.** A warehouse keeper that claims to be bonded or claims to
12 have filed security for the benefit of depositors or that does not meet the financial
13 standards under s. 127.065 (1) and that is not an exempt warehouse keeper shall file
14 with the department, and maintain, security under this section.

15 **(2) GRAIN DEALERS.** All of the following grain dealers shall file with the
16 department, and maintain, security under this section:

17 (a) Class A grain dealer that does not meet the financial standards under s.
18 127.067 (1).

19 (b) A Class B grain dealer that uses any deferred payment contract or deferred
20 price contract to buy grain from producers and that does not meet the financial
21 standards under s. 127.067 (1).

22 (c) A grain dealer that claims to be bonded or that claims to have filed security
23 for the benefit of producers.

1 **(3) FORM OF SECURITY.** Security filed and maintained under sub. (1) or (2) shall
2 comply with the standards promulgated by the department by rule and shall be in
3 one of the following forms:

4 (a) A continuous surety bond that is subject to cancellation by the surety
5 company only upon 90 days' written notice to the department. Notice of cancellation
6 may not affect any liability incurred on the bond within 90 days after notice is served
7 on the department.

8 (b) Cash or negotiable securities.

9 (c) Stocks, bonds or other marketable securities at current market value.

10 (d) An irrevocable bank letter of credit that is issued for an initial period of one
11 year and is automatically renewed at the end of each period unless, at least 90 days
12 before the scheduled renewal date, the issuing bank gives the department written
13 notice that the letter of credit will not be renewed.

14 (e) Personal surety bonds or other 3rd party guarantees that are fully backed
15 by security under par. (b) or (c).

16 **(4) AMOUNT OF SECURITY; WAREHOUSE KEEPERS.** A warehouse keeper that is
17 required to file and maintain security under sub. (1) shall file and maintain security
18 in an amount that is at least 20% of the current market value of all grain that the
19 warehouse keeper has in storage for depositors or \$25,000, whichever is greater.

20 **(5) AMOUNT OF SECURITY; GRAIN DEALERS.** (a) Except as provided under par. (b),
21 a grain dealer that is required to file and maintain security under sub. (2) shall file
22 and maintain security in an amount that is at least equal to the sum of the following,
23 increased to the next highest \$1,000:

1 1. The total amount that the grain dealer owed to producers under deferred
2 payment contracts as of the last day of the previous month or as of another date
3 specified by the department.

4 2. The estimated total amount that the grain dealer owed to producers under
5 deferred price contracts as of the last day of the previous month or as of another date
6 specified by the department. The grain dealer shall estimate the amount owed based
7 on the pricing formulas in the contracts and the market prices for grain as of the last
8 day of the previous month or as of the date specified by the department.

9 3. One of the following:

10 a. Before September 1, 1996, an amount equal to 20% of the dollar amount of
11 the grain dealer's average monthly purchases from producers for the 3 months in
12 which the grain dealer made the largest monthly purchases from producers during
13 the preceding 12 months.

14 b. Beginning on September 1, 1996, an amount equal to 35% of the dollar
15 amount of the grain dealer's average monthly purchases from producers for the 3
16 months in which the grain dealer made the largest monthly purchases from
17 producers during the preceding 12 months.

18 (b) If a grain dealer has operated as a grain dealer for less than one year, the
19 grain dealer shall file and maintain security in an amount specified by the
20 department. The department shall specify an amount that is equal to the amount
21 that the department projects to be the dollar amount of the grain dealer's monthly
22 average grain purchases during the 3 months in which the grain dealer is likely to
23 make the largest monthly purchases from producers during the following 12 months,
24 multiplied by the percentage under par. (a) 3. or, beginning on September 1, 1996,
25 under par. (a) 4.

1 **(6) DEMANDS FOR SECURITY.** (a) The department may require a warehouse
2 keeper or grain dealer to file security whenever one of the following occurs:

3 1. The warehouse keeper ceases to meet the financial standards under s.
4 127.065 (1) or the grain dealer ceases to meet the financial standards under s.
5 127.067 (1).

6 2. The department receives notice of cancellation of a surety bond, or notice of
7 nonrenewal of a letter of credit, filed with the department as security.

8 3. Security filed with the department falls below the amount required under
9 sub. (4) or (5) because of a depreciation in the value of the security or an increase in
10 the amount of security required or for any other reason.

11 4. The warehouse keeper or grain dealer fails to provide information requested
12 by the department that is relevant to a determination of security requirements.

13 (b) If the department requires a warehouse keeper or grain dealer to file
14 security with the department under par. (a), the department shall issue a written
15 demand for security to the warehouse keeper or grain dealer. The demand shall
16 indicate why the security is required, the amount of security required, the basis on
17 which the department determined the amount of security required and the deadline
18 for filing security.

19 (c) If a warehouse keeper or grain dealer fails to file security by the deadline
20 specified under par. (b), the department may summarily suspend the license of the
21 warehouse keeper or grain dealer.

22 (d) If a warehouse keeper or grain dealer fails to file security by the deadline
23 specified under par. (b), the warehouse keeper or grain dealer shall, within 5 days
24 after the deadline, give notice of its failure to file security to all depositors or
25 producers to whom the warehouse keeper or grain dealer is obligated under a grain

1 storage contract or a grain purchase contract. If a warehouse keeper or grain dealer
2 fails to notify depositors or producers under this paragraph, the department shall
3 notify those producers or depositors by publishing a class 3 notice under ch. 985.

4 (7) RELEASE OF SECURITY. The department may, upon request, release security
5 filed by a warehouse keeper or grain dealer under this section only if one of the
6 following occurs:

7 (a) The warehouse keeper or grain dealer achieves and maintains compliance
8 with the applicable financial standards under s. 127.065 (1) or 127.067 (1) as
9 evidenced by 2 successive annual financial statements or one annual financial
10 statement and a reviewed financial statement for the first quarter of the following
11 fiscal year.

12 (b) The warehouse keeper or grain dealer demonstrates to the department's
13 satisfaction that the amount of security on file exceeds the amount required under
14 sub. (4) or (5).

15 (c) The warehouse keeper or grain dealer files alternative security of equal
16 value.

17 (d) The warehouse keeper or grain dealer is no longer in business and
18 demonstrates to the department's satisfaction that all obligations to producers or
19 depositors have been satisfied in full.

20 **SECTION 57.** 127.09 of the statutes is amended to read:

21 **127.09** (title) **Duties of a warehouse keeper. (1) SCALE TICKET OR RECEIPT.**
22 No warehouse keeper may receive grain from any depositor unless the warehouse
23 keeper furnishes the depositor or the depositor's agent with a scale ticket, warehouse
24 receipt or other written evidence of storage receipt or storage at the time the grain
25 is received. The document storage receipt shall include the kind, quality and weight

1 of grain received, and other terms and conditions under which the grain is received.
2 Scale tickets and receipts for grain shall be considered storage receipts unless
3 otherwise clearly designated. A warehouse keeper shall keep copies of all scale
4 tickets and receipts for at least 6 years or for as long as the scale ticket or receipt
5 remains outstanding, whichever is longer. A warehouse keeper shall make copies of
6 all scale tickets and receipts available to the department for inspection and copying
7 upon request.

8 (2) WEIGHT; GRADE; QUALITY. A warehouse keeper shall ~~make accurate~~
9 ~~determinations of~~ accurately determine the weight of grain ~~through the use of~~ using
10 accurate weighing equipment. If ~~determinations are made on the basis of a~~
11 warehouse keeper determines the grade and or quality of grain, the warehouse
12 keeper shall ~~make accurate determinations of~~ accurately determine the grade and
13 or quality through the use of using accurate testing and grading and testing
14 equipment.

15 (3) MAINTAIN FACILITIES. A warehouse keeper shall maintain equipment and
16 facilities ~~which~~ that are adequate to protect grain from loss or abnormal
17 deterioration while in storage and. A warehouse keeper is responsible for the care
18 and safekeeping of stored grain while in storage.

19 (4) MAINTAIN SUFFICIENT INVENTORY. A warehouse keeper shall at all times
20 maintain grain inventories sufficient in quantity and quality to meet all outstanding
21 obligations for grain received from or held in storage for depositors.

22 (5) RECORDS AND ACCOUNTS. A warehouse keeper shall maintain current,
23 complete and accurate records and accounts, including daily position records, of all
24 grain received into or withdrawn from the warehouse, ~~including daily position~~
25 ~~records, which will.~~ The records shall permit the ready determination of total grain

1 ~~on hand or~~ in storage, and all obligations relating to grain received into or withdrawn
2 from storage.

3 **SECTION 58.** 127.10 (title), (1) and (2) of the statutes are amended to read:

4 **127.10 (title) Duties of a grain dealers dealer.** (1) DOCUMENTATION. No
5 grain dealer may purchase grain from or sell grain for any producer unless the grain
6 dealer furnishes the producer or the producer's agent with written documentation
7 evidencing the purchase or sales transaction at the time the grain is purchased or
8 received for sale. Documentation shall include a record of the kind and weight of
9 grain purchased or received for sale, the date of receipt by the grain dealer ~~and,~~ the
10 price of the grain or the formula on which the price is to be based and other terms
11 of purchase or sale. The A grain dealer shall furnish scale tickets or other
12 appropriate receipts to ~~the~~ a producer or the producer's agent ~~whenever~~ immediately
13 upon receiving grain is ~~received~~ from the producer or the producer's agent.

14 (2) WEIGHT; GRADE; QUALITY. A grain dealer shall ~~make accurate determinations~~
15 of accurately determine the weight of grain through the use of using accurate
16 weighing equipment. If ~~determinations are made on the basis of~~ a grain dealer
17 determines the grade and or quality of grain, the grain dealer shall ~~make accurate~~
18 determinations of accurately determine the grade and or quality through the use of
19 using accurate testing and grading and testing equipment.

20 **SECTION 59.** 127.10 (4) of the statutes is amended to read:

21 127.10 (4) COMPLIANCE WITH CONTRACTS. A grain dealer buying grain from or
22 selling grain for producers shall ~~make payment~~ pay for the grain when payment is
23 due under the terms of any the purchase or sale contract ~~or agreement~~. A forged
24 check, check drawn on an account with insufficient funds or other nonnegotiable

1 check is not considered payment under the terms of ~~any purchase or sale~~ the contract
2 ~~or agreement.~~

3 **SECTION 60.** 127.10 (5) of the statutes is renumbered 127.10 (5) (a) and
4 amended to read:

5 127.10 (5) (a) ~~A grain dealer who uses any~~ deferred payment or deferred price
6 contract shall be in writing. A grain dealer shall furnish the producer with a copy
7 of the written contract at the time the contract is entered into or when the grain
8 dealer obtains title to or takes control of the grain, whichever is earliest within 7 days
9 after the grain dealer takes title to the grain covered by the contract. The contract
10 shall state the price of the grain or, in the case of a deferred price contract, the
11 formula ~~on~~ by which the price is to be based, terms of the purchase or sale and the
12 date ~~on which payment is to be made~~ will be determined and the deadline by which
13 the price will be determined.

14 **SECTION 61.** 127.10 (5) (b) of the statutes is created to read:

15 127.10 (5) (b) A deferred payment contract or deferred price contract shall
16 specify the date by which the grain dealer agrees to pay the producer in full. That
17 date may not be more than 180 days after the day on which the contract price is
18 established.

19 **SECTION 62.** 127.10 (6) of the statutes is amended to read:

20 127.10 (6) (title) ~~PERMANENT BUSINESS LOCATION; BUSINESS HOURS.~~ (a) ~~A~~ Each
21 Class A grain dealer and, Class B grain dealer and Class B2 grain dealer shall
22 maintain a permanent business address at which the grain dealer may be readily
23 contacted during business hours. A grain dealer shall provide written notice of the
24 dealer's permanent business address shall be provided to every producer from whom
25 the grain dealer buys grain or for whom the grain dealer sells grain.

1 (b) ~~Any grain dealer under par. (a) who purchases grain under a deferred price~~
2 ~~contract shall have business hours that begin at 9:30 a.m. and that continue until~~
3 ~~1:30 p.m. each week day. Each Class A grain dealer, Class B grain dealer and Class~~
4 ~~B2 grain dealer shall keep business hours at the grain dealer's permanent business~~
5 ~~address under par. (a). On each day that the Chicago Board of Trade is open, the~~
6 ~~grain dealer shall be open for business beginning at least one-half hour before the~~
7 ~~opening of the Chicago Board of Trade and continuing until at least one-half hour~~
8 ~~after the closing of the Chicago Board of Trade. The grain dealer's business hours~~
9 ~~that are required under this paragraph shall be prominently posted at the business~~
10 ~~location grain dealer's permanent business address under par. (a).~~

11 **SECTION 63.** 127.105 of the statutes is amended to read:

12 **127.105 Liability of warehouse keepers and grain dealers. (1)** A
13 warehouse keeper or grain dealer is liable to a producer or depositor if a subsidiary
14 or affiliate of the warehouse keeper or grain dealer fails to pay the producer ~~in full,~~
15 ~~in cash and according to the terms of the contract between the subsidiary or affiliate~~
16 ~~and the producer, amounts owed to the producer by the subsidiary or affiliate when~~
17 ~~due, or fails to return stored grain to the depositor upon demand, according to a~~
18 ~~contract for the storage, purchase or sale of grain.~~

19 **(2)** Any corporation or cooperative that owns, controls or acts as a warehouse
20 keeper or grain dealer is liable to a producer or depositor if the warehouse keeper or
21 grain dealer fails to pay ~~in full, in cash and according to the terms of the contract~~
22 ~~between the warehouse keeper or grain dealer and the producer, amounts owed to~~
23 ~~the producer by the warehouse keeper or grain dealer the producer when due, or fails~~
24 ~~to return stored grain to the depositor upon demand, according to a contract for the~~
25 ~~storage, purchase or sale of grain.~~

1 (3) The department may commence an action in the circuit court ~~for the county~~
2 ~~in which the warehouse keeper or grain dealer is located to enforce this section on~~
3 ~~behalf of producers or depositors to obtain payment of amounts owed under this~~
4 ~~section. The department may settle any claim of a producer or depositor under this~~
5 ~~section with the consent of the claimant and may decline to represent a claimant who~~
6 ~~does not agree to a settlement recommended by the department.~~

7 **SECTION 64.** 127.11 (2) of the statutes is amended to read:

8 127.11 (2) FALSE OR MISLEADING STATEMENT. No warehouse keeper or grain
9 dealer may make any false or misleading statement in any application for a
10 ~~certificate of registration license~~ or in any other statement or report ~~that the~~
11 ~~warehouse keeper or grain dealer is required to be submitted~~ submit to the
12 department under this chapter.

13 **SECTION 65.** 127.12 (2) of the statutes is amended to read:

14 127.12 (2) A grain dealer may, ~~prior to purchasing grain from, or selling grain~~
15 ~~for, a producer or depositor, require as a condition to the purchase or sale that the~~
16 buying grain from or selling grain for a producer or depositor require the producer
17 to provide the grain dealer with a written statement which specifies the existence,
18 ~~nature and amount of that discloses~~ any liens or security interests in the grain, the
19 nature and amount of those liens or security interests and the identity of any lien or
20 security interest holders. No producer ~~or depositor~~ may falsify any information
21 provided to a grain dealer under this subsection, or fraudulently withhold
22 information to obtain a sale of grain.

23 **SECTION 66.** 127.13 (title) of the statutes is repealed and recreated to read:

24 **127.13 (title) Inspection and investigation.**

1 **SECTION 67.** 127.13 (1) of the statutes is renumbered 127.13 (1) (a) and
2 amended to read:

3 127.13 (1) (a) The department may investigate or inspect the operations of a
4 warehouse keeper or grain dealer's operation ~~at any time deemed necessary to~~
5 ~~determine qualifications for a certificate of registration, dealer to determine whether~~
6 the warehouse keeper or grain dealer is in compliance with this chapter or rules
7 promulgated under this chapter, ~~the sufficiency of whether a warehouse keeper has~~
8 sufficient grain on hand to meet obligations to depositors or ~~the ability of the whether~~
9 a grain dealer or warehouse keeper to make payment is able to pay for grain when
10 payment is due.

11 (b) In connection with an investigation or inspection under par. (a), the
12 department may require a grain dealer or warehouse keeper to file a sworn or
13 audited statement of business operations and financial position, including a current
14 daily position statement.

15 **SECTION 68.** 127.13 (1) (c) of the statutes is created to read:

16 127.13 (1) (c) A warehouse keeper or grain dealer shall make available to the
17 department, upon demand, documents and records that the warehouse keeper or
18 grain dealer is required to keep under this chapter or rules promulgated under this
19 chapter so that the department may inspect or copy the documents and records.

20 **SECTION 69.** 127.13 (2) and (3) of the statutes are amended to read:

21 127.13 (2) ANNUAL INSPECTION OF WAREHOUSES. The department shall annually
22 inspect each warehouse in this state operated by a licensed warehouse keeper
23 annually and may inspect such a warehouse at other times.

24 (3) (title) PERIODIC REVIEW OF CLASS A GRAIN DEALERS' RECORDS. The department
25 shall periodically review the records of each Class A grain dealer in this state.

1 **SECTION 70.** 127.14 of the statutes is repealed and recreated to read:

2 **127.14 Claims by producers and depositors; default proceedings and**
3 **payment of claims. (1) FILING CLAIMS.** Any of the following may file a written claim
4 with the department under this section:

5 (a) A producer who claims that a grain dealer has failed to pay the producer for
6 grain when due.

7 (b) A depositor who claims that a warehouse keeper has failed to return stored
8 grain upon demand.

9 **(2) INITIATING DEFAULT PROCEEDINGS.** Upon receiving a written claim under sub.
10 (1), or upon receiving other evidence that a warehouse keeper or grain dealer has
11 defaulted on obligations to producers or depositors, the department may initiate a
12 default proceeding under this section. To initiate a default proceeding, the
13 department shall issue an order requiring all interested producers or depositors to
14 file verified proofs of claim with the department before a specified date or be barred
15 from participating in any recovery made by the department. The department shall
16 publish notice of the order in all of the following ways:

17 (a) By posting a copy of the order in a prominent location at each place of
18 business in this state operated by the warehouse keeper or grain dealer and on each
19 truck operated by the warehouse keeper or grain dealer that can be readily located.

20 (b) By mailing a copy of the order to the warehouse keeper or grain dealer and
21 to the warehouse keeper's or grain dealer's surety, if any.

22 (c) By publishing the contents of the order as a class 3 notice under ch. 985, with
23 the last insertion of the notice not later than 30 days before the deadline for filing
24 claims.

1 (d) By mailing a copy of the order, or equivalent notice, to those producers or
2 depositors who are identified by the department and who appear to have unpaid
3 claims against the warehouse keeper or grain dealer.

4 **(3) AUDIT; PROPOSED ORDER.** If the department initiates a default proceeding
5 under this section, the department shall audit producer or depositor claims filed with
6 the department and shall issue a proposed order allowing or disallowing claims. The
7 department shall mail a copy of the proposed order to the warehouse keeper or grain
8 dealer, to the warehouse keeper's or grain dealer's surety, if any, and to each producer
9 or depositor who filed a timely claim in the proceeding.

10 **(4) UNTIMELY CLAIMS DISALLOWED.** (a) The department shall disallow a claim
11 of a producer or depositor filed after the claim filing deadline specified under sub. (2)
12 unless the department waives the claim filing deadline for good cause shown.

13 (b) The department shall disallow a claim for any payment that was due more
14 than 60 days before the date on which the department first received a written claim
15 under sub. (1).

16 **(5) NOTICE AND HEARING.** The department shall hold a public hearing on its
17 proposed order under sub. (3). The department shall provide a notice of the hearing
18 to each person to whom the department is required to provide a copy of its proposed
19 order under sub. (3).

20 **(6) FINAL ORDER AFTER HEARING.** (a) Before issuing a final decision and order
21 in a default proceeding under this section, the department shall follow the
22 procedures in s. 227.46, except that if after the hearing under sub. (5) there are no
23 objections to the department's proposed order, the department may adopt the
24 proposed order as the department's final decision and order without further notice
25 or hearing.

1 (b) The department shall serve its final decision and order on each person to
2 whom the department is required to provide a copy of its proposed order under sub.
3 (3).

4 **(7) CONVERTING SECURITY TO PAY ALLOWED CLAIMS.** For the purpose of paying
5 claims allowed under sub. (6), the department may convert any security that a
6 warehouse keeper or grain dealer filed with the department and may apply the
7 proceeds to pay the allowed claims.

8 **(8) OBTAINING PAYMENT OF ALLOWED CLAIMS.** The department may demand and
9 receive payment of claims allowed under sub. (6) on behalf of producers or depositors
10 and may commence an action in court to recover those claims. The department may
11 demand and receive grain, money or other assets in order to satisfy claims of
12 producers or depositors.

13 **(9) PAYING ALLOWED CLAIMS.** The department may distribute any grain, money
14 or other assets recovered by the department under sub. (7) or (8) to satisfy claims of
15 producers or depositors allowed by the department under sub. (6). The department
16 shall distribute recovered assets on a proportionate basis based on the amount of
17 each allowed claim. If recovered assets exceed allowed claims, the department shall
18 return the excess to the person who provided the assets.

19 **(10) PRIORITY OF PRODUCER CLAIMS IN INSOLVENCY PROCEEDINGS AND OTHER**
20 **CREDITOR'S ACTIONS.** A producer's claim against a grain dealer for grain sold to that
21 grain dealer is entitled to the same priority in a state insolvency proceeding or other
22 creditor's action as is a claim for labor. This subsection does not affect or impair any
23 other lien, security or priority held by the producer. Neither a final court judgment
24 awarding a producer claim nor a department order allowing a claim under sub. (6)

1 is a prerequisite to filing a producer claim in a state insolvency proceeding or other
2 creditor's action or to the allowance of the priority under this subsection.

3 **SECTION 71.** 127.15 of the statutes is amended to read:

4 **127.15 Rule-making authority.** The department may promulgate rules
5 necessary for the efficient administration and enforcement of this chapter and for the
6 regulation of grain marketing and warehousing practices. Rules may include, but
7 are not limited to, minimum contract specifications, minimum requirements for
8 warehouse receipts or requirements for uniform warehouse receipts, minimum
9 requirements for scale tickets, settlements and other documents, minimum
10 requirements for required records and accounts evidencing transactions in grain and
11 specific prohibited trade practices rules related to grain storage and sales contracts,
12 grain storage receipts, records and accounts kept by warehouse keepers and grain
13 dealers, security filed by warehouse keepers and grain dealers, disclosures to
14 producers and depositors, grain storage and purchase practices and fees paid by
15 warehouse keepers and grain dealers under ss. 127.02 and 127.03.

16 **SECTION 72.** 127.16 of the statutes is amended to read:

17 **127.16 Administration.** In the administration of the this chapter, the
18 department shall have all the powers and authority vested in it the department
19 under ch. 93.

20 **SECTION 73.** 127.17 (1) (intro.) of the statutes is renumbered 127.17 (1) (a)
21 (intro.) and amended to read:

22 127.17 (1) (a) (intro.) If the department determines that a warehouse keeper
23 or grain dealer ~~is not in compliance with a requirement of~~ has violated this chapter
24 or a rule promulgated under this chapter, the department may do any of the
25 following:

1 **SECTION 74.** 127.17 (1) (a) (title) of the statutes is repealed.

2 **SECTION 75.** 127.17 (1) (a) of the statutes is renumbered 127.17 (1) (a) 1. and
3 amended to read:

4 127.17 (1) (a) 1. By special order, require ~~compliance or require the person the~~
5 warehouse keeper or grain dealer to comply or to take specific steps deemed
6 considered reasonably necessary to achieve compliance, including steps to remedy
7 existing deficiencies; or to prevent the loss, damage or abnormal deterioration of
8 grain, ~~or otherwise ensure compliance.~~

9 **SECTION 76.** 127.17 (1) (b) of the statutes is created to read:

10 127.17 (1) (b) A warehouse keeper or grain dealer named in a summary special
11 order under par. (a) 2. may, within 10 days after receiving the order, request a hearing
12 on the order. The department shall hold an informal hearing as soon as possible after
13 receiving a hearing request but no later than 10 days after receiving the hearing
14 request unless the warehouse keeper or grain dealer waives the informal hearing or
15 agrees to a later date for the informal hearing. If the matter is not resolved at the
16 informal hearing, the department shall hold a formal contested case hearing under
17 ch. 227 on the order as soon as reasonably possible. A request for a hearing does not
18 stay a summary special order pending the hearing.

19 **SECTION 77.** 127.17 (1) (b) 1. of the statutes is renumbered 127.17 (1) (a) 2. and
20 amended to read:

21 127.17 (1) (a) 2. If necessary to prevent clear and imminent harm to producers
22 or depositors, issue a special order ~~as provided in par. (a)~~ under subd. 1. on a
23 summary basis.

24 **SECTION 78.** 127.17 (1) (b) 2. and 3. of the statutes are repealed.

25 **SECTION 79.** 127.17 (2) (title), (a) and (b) of the statutes are amended to read:

1 127.17 (2) (title) DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION-CERTIFICATE
2 LICENSE.

3 (a) *Grounds; procedure for suspension or revocation.* ~~Violation of The~~
4 ~~department may deny, suspend or revoke a warehouse keeper's or grain dealer's~~
5 ~~license if the warehouse keeper or grain dealer violates this chapter, or any rule~~
6 ~~adopted promulgated or special order issued under this chapter is grounds for denial,~~
7 ~~suspension or revocation of a certificate of registration.~~ The department may
8 suspend or revoke ~~the dealer's or warehouse keeper's certificate of registration either~~
9 ~~a license by special order under sub. (1) (a) 1. or, if necessary to prevent clear and~~
10 ~~imminent harm to producers or depositors, by a summary special order subject to the~~
11 ~~conditions specified under sub. (1) (b) (a) 2. and 3.~~

12 (b) (title) *Suspension of grain dealer registration license.* If a grain dealer's
13 ~~certificate of registration license~~ is suspended, the grain dealer may not purchase or
14 receive grain from producers ~~and may or~~ sell or ship grain, except under the
15 supervision of the department.

16 **SECTION 80.** 127.17 (2) (c) (title) of the statutes is amended to read:

17 127.17 (2) (c) (title) *Revocation of a grain dealer registration license.*

18 **SECTION 81.** 127.17 (2) (c) of the statutes is renumbered 127.17 (2) (c) 1. and
19 amended to read:

20 127.17 (2) (c) 1. If a grain dealer's ~~certificate of registration license~~ is revoked,
21 the grain dealer may not purchase, receive, sell or ship grain except as the
22 department permits by order.

23 2. If a grain dealer's ~~certificate of registration license~~ is revoked, the grain
24 dealer shall ~~notify every holder of a~~ promptly give notice of that revocation to every

1 producer with whom the grain dealer has an outstanding deferred payment contract
2 or deferred price contract and.

3 3. If a grain dealer's license is revoked, the department shall ~~cause a notice to~~
4 ~~be published~~ publish notice of that revocation in a newspaper having general
5 circulation in the county where the grain dealer's principal place of business is
6 located and in the official state newspaper at least ~~2 times~~ twice during the 2 weeks
7 after revocation ~~and shall cause a notice to be published in the official state~~
8 ~~newspaper at least 2 times during the 2 weeks after revocation.~~

9 4. If a grain dealer's ~~certificate of registration~~ license is revoked, all
10 outstanding deferred payment ~~or~~ contracts and deferred price contracts are
11 terminated. A terminated deferred payment contract or deferred price contract
12 becomes due and payable on the date of revocation. To the extent possible, the date
13 of revocation shall be considered to be the date on which payment was to have been
14 made under the contract giving equitable consideration to extenuating factors.

15 **SECTION 82.** 127.17 (2) (d) of the statutes is amended to read:

16 127.17 (2) (d) (title) *Suspension of a warehouse keeper's registration license.* If
17 a warehouse keeper's ~~certificate of registration~~ license is suspended, the warehouse
18 keeper may not purchase or receive grain from depositors ~~and may~~ or sell or ship
19 grain, except under the supervision of the department.

20 **SECTION 83.** 127.17 (2) (e) (title) of the statutes is amended to read:

21 127.17 (2) (e) (title) *Revocation of a warehouse keeper's registration license.*

22 **SECTION 84.** 127.17 (2) (e) of the statutes is renumbered 127.17 (2) (e) 1. and
23 amended to read:

1 127.17 (2) (e) 1. If a warehouse keeper's ~~certificate of registration~~ license is
2 revoked, the warehouse keeper may not purchase, receive, sell or ship grain except
3 as the department permits by order.

4 2. If a warehouse keeper's ~~certificate of registration~~ license is revoked, the
5 warehouse keeper shall promptly notify every depositor of ~~that fact and the~~
6 revocation.

7 3. If a warehouse keeper's license is revoked, the department shall ~~cause a~~
8 ~~notice to be published~~ publish notice of the revocation in a newspaper having general
9 circulation in the county where the warehouse is located and in the official state
10 newspaper at least ~~2 times~~ twice during the 2 weeks after revocation ~~and shall cause~~
11 ~~a notice to be published in the official state newspaper at least 2 times during the 2~~
12 ~~weeks after revocation.~~

13 **SECTION 85.** 127.17 (3) of the statutes is amended to read:

14 127.17 (3) INJUNCTION. In addition to other penalties or remedies under this
15 chapter, the department may petition any court of competent jurisdiction for a
16 temporary or permanent injunction, including an ex parte temporary restraining
17 order, to prevent, restrain or enjoin any person from violating this chapter or any rule
18 promulgated or special order of issued by the department under this chapter.

19 **SECTION 86.** 127.17 (5) of the statutes is amended to read:

20 127.17 (5) PRIVATE REMEDY. Any person who is injured as a result of a violation
21 of this chapter, or any rules promulgated or special orders issued under this chapter,
22 may bring an action against the violator and may recover twice the amount of ~~the~~
23 that person's proven damages, together with costs, including all reasonable attorney
24 fees. This remedy is not exclusive.

25 **SECTION 87. Effective date.**

