



State of Wisconsin
2001 - 2002 LEGISLATURE

500N

LRB-03921/2

RCT:kmg:kjf

(MY)

DOA:.....Walker – Agricultural producer security

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

see pp. 36, 37,
44, 65, 67, 75, 90,
94, 95, 121, 122, 129
(LPS: check all pages.)

1

*DON'T
GEN. CAT.*
AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

AGRICULTURE

AGRICULTURAL PRODUCER SECURITY

This bill changes the laws concerning milk contractors, grain dealers, grain warehouse keepers, and vegetable contractors (contractors). A milk contractor is a person who buys milk from milk producers or who markets milk on behalf of producers. A grain dealer is a person who buys grain from grain producers or who markets grain on behalf of producers. A grain warehouse keeper is a person who operates a warehouse in which the person stores grain that belongs to someone else. A vegetable contractor is a person who buys vegetables from vegetable producers for use in food processing or who markets processing vegetables on behalf of producers.

Under current law, this state requires certain contractors to post security with DATCP to provide payment in case the contractors default on payments to producers. This bill establishes a segregated fund, called the agricultural producer security fund (the fund), into which certain contractors must pay, and out of which DATCP provides payment to, producers when those contractors default on payments to producers. Under the bill, some contractors are still required to post security with DATCP. The statutory changes concerning agricultural producer security take effect during 2002, on February 1 for vegetable contractors, on May 1 for milk contractors, and on September 1 for grain dealers and warehouse keepers.

1 4. The grain dealer fails to reimburse a bond surety, within 60 days after the
2 bond surety issues a reimbursement demand under s. 126.73 (2), for the full amount
3 that the surety pays to the department under s. 126.72 (2) or (3) for the benefit of
4 claimants affected by that grain dealer's default.

5 **(3) PAYMENTS BY DISQUALIFIED GRAIN DEALER.** (a) The department may not return
6 to a disqualified grain dealer any fund assessments that the grain dealer paid as a
7 contributing grain dealer.

8 (b) A disqualified grain dealer remains liable for any unpaid fund installment
9 under s. 126.15 that became due while the grain dealer was a contributing grain
10 dealer. A disqualified grain dealer is not liable for any fund installment that becomes
11 due after the grain dealer is disqualified under sub. (2).

12 **126.15 Contributing grain dealers; fund assessments.** (1) **GENERAL.** A
13 contributing grain dealer shall pay an annual fund assessment for each license year.
14 The assessment equals \$20 or the sum of the following, whichever is greater, unless
15 the department by rule specifies a different assessment:

16 (a) The grain dealer's current ratio assessment. The current ratio assessment
17 for a license year equals the grain dealer's current ratio assessment rate under sub.
18 (2) multiplied by the amount reported under s. 126.11 (9) (a) in the grain dealer's
19 license application for that license year.

20 (b) The grain dealer's debt to equity ratio assessment. The debt to equity ratio
21 assessment for a license year equals the grain dealer's debt to equity ratio
22 assessment rate under sub. (4) multiplied by the amount reported under s. 126.11
23 (9) (a) in the grain dealer's license application for that license year.

24 (c) The grain dealer's deferred payment assessment. The deferred payment
25 assessment for a license year equals the grain dealer's deferred payment assessment

1 (b) A grain dealer's current ratio assessment factor under sub. (2) (b) to (d) is
2 0.000045 except that, for the grain dealer's 5th or higher consecutive full license year
3 as a contributing grain dealer, the grain dealer's current ratio assessment factor is
4 0.000036.

5 (4) DEBT TO EQUITY ASSESSMENT RATE. A grain dealer's debt to equity ratio
6 assessment rate is calculated, at the beginning of the license year, as follows:

7 (a) If the grain dealer has filed an annual financial statement under s. 126.13
8 and that financial statement shows ^{positive equity and} a debt to equity ratio of not more than 4.0 to 1.0,
9 the grain dealer's debt to equity ratio assessment rate equals the greater of zero or
10 the debt to equity ratio assessment factor in sub. (5) (a) multiplied by the following
11 amount:

- 12 1. Subtract 4 from the debt to equity ratio.
- 13 2. Divide the amount determined under subd. 1. by 3.
- 14 3. Raise the amount determined under subd. 2. to the 3rd power.
- 15 4. Subtract 1.7 from the debt to equity ratio.
- 16 5. Divide the amount determined under subd. 4. by 1.75.
- 17 6. Raise the amount determined under subd. 5. to the 7th power.
- 18 7. Add the amount determined under subd. 3. to the amount determined under
19 subd. 6.
- 20 8. Add 2 to the amount determined under subd. 7.

21 (b) If the grain dealer has filed an annual financial statement under s. 126.13
22 and that financial statement shows a debt to equity ratio of greater than 4.0 to 1.0,
23 but less than 5.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals
24 the debt to equity ratio assessment factor in sub. (5) (b) multiplied by the following
25 amount:

- 1 1. Subtract 4 from the debt to equity ratio.
- 2 2. Divide the amount determined under subd. 1. by 3.
- 3 3. Raise the amount determined under subd. 2. to the 3rd power.
- 4 4. Subtract 1.7 from the debt to equity ratio.
- 5 5. Divide the amount determined under subd. 4. by 1.75.
- 6 6. Raise the amount determined under subd. 5. to the 7th power.
- 7 7. Add the amount determined under subd. 3. to the amount determined under
- 8 subd. 6.
- 9 8. Add 2 to the amount determined under subd. 7.

10 (c) If the grain dealer has filed an annual financial statement under s. 126.13
11 and that financial statement shows ^{negative equity of} a debt to equity ratio of at least 5.0 to 1.0, the
12 grain dealer's debt to equity ratio assessment rate equals the debt to equity ratio
13 assessment factor in sub. (5) (b) multiplied by 86.8244.

14 (d) Except as provided in par. (e), if the grain dealer has not filed an annual
15 financial statement under s. 126.13, the grain dealer's debt to equity ratio
16 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)
17 multiplied by 8.77374.

18 (e) If the grain dealer has not filed an annual financial statement under s.
19 126.13 and the grain dealer procures grain in this state solely as a producer agent,
20 the grain dealer's debt to equity ratio assessment rate is 0.00025, except that it is
21 0.000175 for the grain dealer's 5th or higher consecutive full license year of
22 participation in the fund.

23 (5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR. (a) A grain dealer's debt to equity
24 ratio assessment factor under sub. (4) (a) is 0.0000125, except that it is zero for the

1 (8) NOTICE OF ANNUAL ASSESSMENT AND QUARTERLY INSTALLMENTS. When the
2 department issues an annual license to a contributing grain dealer, the department
3 shall notify the grain dealer of all of the following:

4 (a) The amount of the grain dealer's annual fund assessment under this
5 section.

6 (b) The amount of each required quarterly installment under sub. (7) and the
7 date by which the grain dealer must pay each installment.

8 (c) The penalty that applies under sub. (7) (d) if the grain dealer fails to pay any
9 quarterly installment when due.

10 **126.16 Grain dealers; security. (1) SECURITY REQUIRED.** (a) A grain dealer
11 shall file security with the department, and maintain that security until the
12 department releases it under sub. (8) (a), if all of the following apply when the
13 department first licenses the grain dealer under s. 126.11:

14 1. The grain dealer reports more than \$500,000 in grain payments under s.
15 126.11 (9) (a).

16 2. The grain dealer files an annual financial statement under s. 126.13 (1) (a)
17 and that financial statement shows negative equity.

18 (b) A grain dealer who reports any deferred payment contract obligations under
19 s. 126.11 (9) (c) or 126.13 (1) (d) shall file security with the department, and maintain
20 that security until the department releases it under sub. (8) (b), unless the grain
21 dealer has positive equity and one of the following applies:

22 1. The grain dealer's annual financial statement under s. 126.13 covers a fiscal
23 year ending on or before January 1, 2006, and shows a debt to equity ratio of not more
24 than 5.0 to 1.0.

1 1. Issue a summary order under s. 127.85 (2) that prohibits the grain dealer
2 from procuring producer grain or requires the grain dealer to pay cash on delivery
3 for all producer grain.

4 2. Suspend or revoke the grain dealer's license.

5 (8) RELEASING SECURITY. (a) The department may release security filed under
6 sub. (1) (a), except for any amount of security that the grain dealer is required to file
7 because sub. (1) (b) applies to the grain dealer, if any of the following applies:

8 1. The grain dealer reports, for at least 2 consecutive years, no more than
9 \$500,000 in annual grain payments under s. 126.11 (9) (a) and the grain dealer pays
10 the quarterly fund assessment that would have been required of the grain dealer if
11 the grain dealer had been a contributing grain dealer on the most recent quarterly
12 installment date under s. 126.15 (7).

13 2. The grain dealer's annual financial statement under s. 126.13 shows positive
14 equity for at least 2 consecutive years and the grain dealer pays the quarterly fund
15 assessment that would have been required of the grain dealer if the grain dealer had
16 been a contributing grain dealer on the most recent quarterly installment date under
17 s. 126.15 (7).

18 (b) The department may release security filed under sub. (1) (b), except for any
19 amount of security that the grain dealer is required to file because sub. (1) (a) applies
20 to the grain dealer, if any of the following applies:

21 1. The grain dealer has not had any deferred payment contract obligations
22 since the beginning of the grain dealer's last completed fiscal year.

23 2. The grain dealer files 2 consecutive annual financial statements under s.
24 126.13 showing that the grain dealer meets the applicable ^{equity requirement and} debt to equity ratio under
25 sub. (1) (b).

1 (b) A disqualified grain warehouse keeper remains liable for any unpaid fund
2 installment under s. 126.30 that became due while the grain warehouse keeper was
3 a contributing grain warehouse keeper. A disqualified grain warehouse keeper is not
4 liable for any fund installment that becomes due after the grain warehouse keeper
5 is disqualified under sub. (2).

6 **126.30 Grain warehouse keepers; fund assessments.** (1) GENERAL. A
7 contributing grain warehouse keeper shall pay an annual fund assessment for each
8 license year. The assessment equals \$20 or the sum of the following, whichever is
9 greater, unless the department by rule specifies a different assessment:

10 (a) The grain warehouse keeper's current ratio assessment. The current ratio
11 assessment for a license year is the amount, expressed as dollars, equal to the grain
12 warehouse keeper's current ratio assessment rate under sub. (2) multiplied by the
13 number of bushels that the grain warehouse keeper reports under s. 126.26 (2) (e)
14 or (10).

15 (b) The warehouse keeper's debt to equity ratio assessment. The debt to equity
16 ratio assessment for each license year is the amount, expressed as dollars, equal to
17 the grain warehouse keeper's debt to equity ratio assessment rate under sub. (4)
18 multiplied by the number of bushels that the warehouse keeper reports under s.
19 126.26 (2) (e) or (10).

20 (2) CURRENT RATIO ASSESSMENT RATE. A grain warehouse keeper's current ratio
21 assessment rate is calculated, at the beginning of the license year, as follows:

22 (a) If the grain warehouse keeper has filed an annual financial statement
23 under s. 126.28 and that financial statement shows a current ratio of at least 1.25
24 to 1.0, the grain warehouse keeper's current ratio assessment rate equals the greater

1 8. Add the amount determined under subd. 4. to the amount determined under
2 subd. 7.

3 9. Add 2 to the amount determined under subd. 8.

4 (c) If the grain warehouse keeper has filed an annual financial statement under
5 s. 126.28 and that financial statement shows a current ratio of less than or equal to
6 1.0 to 1.0, the warehouse keeper's current ratio assessment rate equals the current
7 ratio assessment factor in sub. (3) (b) multiplied by 120.81376.

8 (d) If the grain warehouse keeper has not filed an annual financial statement
9 under s. 126.28, the warehouse keeper's current ratio assessment rate equals the
10 current ratio assessment factor in sub. (3) (b) multiplied by 5.71235.

11 **(3) CURRENT RATIO ASSESSMENT FACTOR.** (a) A grain warehouse keeper's current
12 ratio assessment factor under sub. (2) (a) is 0.00003 except that, for the grain
13 warehouse keeper's 5th or higher consecutive full license year as a contributing grain
14 warehouse keeper, the grain warehouse keeper's current ratio assessment factor is
15 zero.

16 (b) A grain warehouse keeper's current ratio assessment factor under sub. (2)
17 (b) to (d) is 0.000045 except that, for the grain warehouse keeper's 5th or higher
18 consecutive full license year as a contributing grain warehouse keeper, the grain
19 warehouse keeper's current ratio assessment factor is 0.000036.

20 **(4) DEBT TO EQUITY RATIO ASSESSMENT RATE.** A grain warehouse keeper's debt to
21 equity ratio assessment rate is calculated, at the beginning of the license year, as
22 follows:

23 (a) If the grain warehouse keeper has filed an annual financial statement
24 under s. 126.28 and that financial statement shows ^{positive equity and} a debt to equity ratio of not more
25 than 4.0 to 1.0, the grain warehouse keeper's debt to equity ratio assessment rate

1 (c) If the grain warehouse keeper has filed an annual financial statement under
2 s. 126.28 and that financial statement shows ^{negative equity or} a debt to equity ratio of at least 5.0 to
3 1.0, the grain warehouse keeper's debt to equity ratio assessment rate equals the
4 debt to equity ratio assessment factor in sub. (5) (b) multiplied by 86.8244.

5 (d) If the grain warehouse keeper has not filed an annual financial statement
6 under s. 126.28, the grain warehouse keeper's debt to equity ratio assessment rate
7 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by 8.77374.

8 (5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR. (a) A grain warehouse keeper's
9 debt to equity ratio assessment factor under sub. (4) (a) is 0.0000125, except that it
10 is zero for the grain warehouse keeper's 5th or higher consecutive full license year
11 as a contributing grain warehouse keeper.

12 (b) A grain warehouse keeper's debt to equity ratio assessment factor under
13 sub. (4) (b) to (d) is 0.00001875, except that it is 0.000015 for the grain warehouse
14 keeper's 5th or higher consecutive full license year as a contributing grain warehouse
15 keeper.

16 (6) QUARTERLY INSTALLMENTS. (a) A contributing grain warehouse keeper shall
17 pay the grain warehouse keeper's annual fund assessment in equal quarterly
18 installments that are due as follows:

- 19 1. The first installment is due on October 1 of the license year.
- 20 2. The 2nd installment is due on January 1 of the license year.
- 21 3. The 3rd installment is due on April 1 of the license year.
- 22 4. The 4th installment is due on July 1 of the license year.

23 (b) A contributing grain warehouse keeper may prepay any of the quarterly
24 installments under par. (a).

1 (b) On December 1, 2002, the department may release security maintained
2 under sub. (2), unless the grain warehouse keeper is required to file security under
3 sub. (1).

4 (c) The department may release security to the extent that the security exceeds
5 the amount required under sub. (3).

6 (d) The department may release security if the grain warehouse keeper files
7 alternative security, of equivalent value, that the department approves.

8 (e) The department shall release security if the grain warehouse keeper has
9 gone out of business and has fulfilled all grain obligations to depositors.

10 **126.32 Grain warehouse keepers; records. (1) RECORDS AND ACCOUNTS;**
11 **GENERAL.** A grain warehouse keeper shall maintain current, complete, and accurate
12 records and accounts of all grain received into and withdrawn from each grain
13 warehouse, including records required under subs. (2) and (3).

14 **(2) DAILY POSITION RECORDS.** A grain warehouse keeper shall keep daily position
15 records for each type of grain, so that the grain warehouse keeper and the
16 department can easily determine all of the following on a daily basis:

17 (a) The total amount of grain held by the warehouse keeper, including grain
18 under pars. (b) and (c).

19 (b) The total amount of grain that the warehouse keeper holds for others.

20 (c) The total amount of grain held by the warehouse keeper of which the
21 warehouse keeper claims ownership.

22 (d) The warehouse keeper's total grain obligations to depositors.

23 **(3) DEPOSITOR RECORDS.** A grain warehouse keeper shall keep for each
24 depositor, in a form that the grain warehouse keeper and the department can easily
25 retrieve, records of all of the following:

1 (b) If a grain warehouse keeper keeps records under subs. (2) and (3) in
2 computerized form, the grain warehouse keeper shall generate a hard copy printout
3 for each business day unless the grain warehouse keeper retains the ability to
4 retrieve and print that day's computerized record for at least 6 years.

5 (c) A grain warehouse keeper shall make records required under this section
6 available to the department for inspection and copying upon request.

7 **(6) REVIEWING RECORDS.** (a) The department shall review the records that a
8 grain warehouse keeper is required to keep under this section. The department shall
9 review a grain warehouse keeper's records at least annually, except as provided in
10 par. (b).

11 (b) The department shall review a grain warehouse keeper's records at least
12 once every 2 years if the grain warehouse keeper files an annual financial statement
13 under s. 126.28 and that annual financial statement shows a current ratio of at least
14 2.0 to 1.0 ^{and positive equity} and a debt to equity ratio of not more than 2.0 to 1.0.

15 **126.33 Receipts for grain.** (1) **REQUIREMENT.** Immediately after a grain
16 warehouse keeper receives grain from a depositor, the grain warehouse keeper shall
17 give the depositor a warehouse receipt or other storage receipt that includes all of the
18 following:

19 (a) The name and permanent address of the grain warehouse keeper, the
20 location of the grain warehouse, and a statement indicating whether the grain
21 warehouse keeper is a corporation.

22 (b) A statement identifying the document as a warehouse receipt or other
23 storage receipt.

24 (c) The date on which the grain warehouse keeper received the grain.

25 (d) The kind of grain received.

1 **126.45 Contributing milk contractors; disqualification.** (1) REQUIRED
2 CONTRIBUTORS. (a) Except as provided in sub. (3), a licensed milk contractor shall pay
3 fund assessments under s. 126.46 if the milk contractor does not file annual and
4 quarterly financial statements under s. 126.44.

5 (b) Except as provided in sub. (3), a licensed milk contractor shall pay fund
6 assessments under s. 126.46 if the milk contractor files an annual, quarterly, or
7 interim financial statement under s. 126.44 that shows a current ratio of less than
8 1.25 to 1.0, a debt to equity ratio of more than 2.0 to 1.0, or negative equity. The milk
9 contractor shall continue to pay fund assessments until the milk contractor files 2
10 consecutive annual financial statements under s. 126.44 that show a current ratio
11 of at least 1.25 to 1.0 ^{and positive equity} and a debt to equity ratio of not more than 2.0 to 1.0.

12 (2) VOLUNTARY CONTRIBUTORS. Except as provided in sub. (3), a licensed milk
13 contractor who is not required to pay fund assessments under s. 126.46 may elect to
14 do so.

15 (3) DISQUALIFIED CONTRACTORS. (a) A milk contractor who is required to file
16 security under s. 126.47 (1) is disqualified from the fund until the department
17 releases that security under s. 126.47 (7) (a).

18 (b) A milk contractor is disqualified from the fund if the department denies,
19 suspends, or revokes the milk contractor's license.

20 (c) The department may, by written notice, disqualify a milk contractor for any
21 of the following reasons:

- 22 1. Failure to pay fund assessments under s. 126.46 when due.
- 23 2. Failure to file a financial statement under s. 126.44 when due.
- 24 3. Failure to reimburse the department, within 60 days after the department
25 issues a reimbursement demand under s. 126.73 (1), for the full amount that the

1 department pays to claimants under s. 126.72 (1) because of that milk contractor's
2 default.

3 4. Failure to reimburse a bond surety, within 60 days after the bond surety
4 issues a reimbursement demand under s. 126.73 (2), for the full amount that the
5 surety pays to the department under s. 126.72 (2) or (3) for the benefit of claimants
6 affected by that milk contractor's default.

7 (4) EFFECT OF DISQUALIFICATION. (a) A milk contractor disqualified under sub.
8 (3) (c) may not engage in any activities for which a license is required under s. 126.41
9 (1) (a) if the milk contractor files an annual, quarterly, or interim financial statement
10 under s. 126.44 that shows a current ratio of less than 1.25 to 1.0, a debt to equity
11 ratio of more than 2.0 to 1.0, or negative equity.

12 (b) The department may not return, to a disqualified milk contractor, any fund
13 assessments that the milk contractor paid as a contributing milk contractor.

14 (c) A disqualified milk contractor remains liable for any unpaid fund
15 installment under s. 126.46 that became due while the milk contractor was a
16 contributing milk contractor. A disqualified milk contractor is not liable for any fund
17 installment that becomes due after the milk contractor is disqualified under sub. (3).

18 **126.46 Contributing milk contractors; fund assessments. (1) GENERAL.**
19 A contributing milk contractor shall pay an annual fund assessment for each license
20 year. The assessment equals \$20 or the sum of the following, whichever is greater,
21 unless the department by rule specifies a different assessment:

22 (a) The milk contractor's current ratio assessment. The current ratio
23 assessment for a license year equals the milk contractor's current ratio assessment
24 rate under sub. (2) multiplied by the annual milk payroll obligations reported under
25 s. 126.41 (6) (a) in the milk contractor's license application for that license year.

1 2. For the milk contractor's 4th consecutive full license year as a contributing
2 milk contractor, the milk contractor's current ratio assessment factor is 0.0003.

3 3. For the milk contractor's 5th or higher consecutive full license year as a
4 contributing milk contractor, the milk contractor's current ratio assessment factor
5 is zero.

6 (b) A milk contractor's current ratio assessment factor under sub. (2) (b) to (d)
7 is 0.0015, except that, for the milk contractor's 5th or higher consecutive full license
8 year of participation in the fund, the milk contractor's current ratio assessment
9 factor is 0.000675.

10 (4) DEBT TO EQUITY RATIO ASSESSMENT RATE. A milk contractor's debt to equity
11 ratio assessment rate is calculated, at the beginning of the license year, as follows:

12 (a) If the milk contractor has filed an annual financial statement under s.
13 126.44 and that financial statement shows ^{positive equity and} a debt to equity ratio of not more than 2.0
14 to 1.0, the milk contractor's debt to equity ratio assessment rate equals the greater
15 of zero or the debt to equity ratio assessment factor in sub. (5) (a) multiplied by the
16 following amount:

- 17 1. Subtract 2 from the debt to equity ratio.
- 18 2. Divide the amount determined under subd. 1. by 3.
- 19 3. Raise the amount determined under subd. 2. to the 9th power.
- 20 4. Divide the debt to equity ratio by 3.25.
- 21 5. Raise the amount determined under subd. 4. to the 5th power.
- 22 6. Add the amount determined under subd. 3. to the amount determined under
23 subd. 5.
- 24 7. Add 0.025 to the amount determined under subd. 6.

1 (b) If the milk contractor files an annual financial statement under s. 126.44
2 and that financial statement shows a debt to equity ratio of greater than 2.0 to 1.0
3 but less than 3.1 to 1.0, the milk contractor's debt to equity ratio assessment rate
4 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by the
5 following amount:

- 6 1. Subtract 2 from the debt to equity ratio.
- 7 2. Divide the amount determined under subd. 1. by 3.
- 8 3. Raise the amount determined under subd. 2. to the 9th power.
- 9 4. Divide the debt to equity ratio by 3.25.
- 10 5. Raise the amount determined under subd. 4. to the 5th power.
- 11 6. Add the amount determined under subd. 3. to the amount determined under
12 subd. 5.
- 13 7. Add 0.025 to the amount determined under subd. 6.

14 (c) If the milk contractor has filed an annual financial statement under s.
15 126.44 and that financial statement shows ^{negative equity or} a debt to equity ratio of at least 3.1 to 1.0,
16 the milk contractor's debt to equity ratio assessment rate equals the debt to equity
17 ratio assessment factor in sub. (5) (b) multiplied by 0.8146917.

18 (d) Except as provided in par. (e), if the milk contractor has not filed an annual
19 financial statement under s. 126.44, the milk contractor's debt to equity ratio
20 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)
21 multiplied by 0.11325375.

22 (e) If the milk contractor has not filed an annual financial statement under s.
23 126.44 and the milk contractor procures producer milk in this state solely as a
24 producer agent, the milk contractor's debt to equity ratio assessment rate is 0.00025,
25 except that, for the milk contractor's 5th or higher consecutive full license year of

1 4. Failure to reimburse a bond surety, within 60 days after the bond surety
2 issues a reimbursement demand under s. 126.73 (2), for the full amount that the
3 surety pays to the department under s. 126.72 (2) or (3) for the benefit of claimants
4 affected by that vegetable contractor's default.

5 **(3) PAYMENTS BY DISQUALIFIED VEGETABLE CONTRACTOR.** (a) The department may
6 not return, to a disqualified vegetable contractor, any fund assessments that the
7 vegetable contractor paid as a contributing vegetable contractor.

8 (b) A disqualified vegetable contractor remains liable for any unpaid fund
9 installment under s. 126.60 that became due while the vegetable contractor was a
10 contributing vegetable contractor. A disqualified vegetable contractor is not liable
11 for any fund installment that becomes due after the vegetable contractor is
12 disqualified under sub. (2).

13 **126.60 Contributing vegetable contractors; fund assessments. (1)**

14 GENERAL. A contributing vegetable contractor shall pay an annual fund assessment
15 for each license year. The assessment equals \$20 or the sum of the following,
16 whichever is greater, unless the department by rule specifies a different assessment:

17 (a) The vegetable contractor's current ratio assessment. The current ratio
18 assessment for a license year equals the vegetable contractor's current ratio
19 assessment rate under sub. (2) multiplied by the amount reported under s. 126.56
20 (9) (a) in the vegetable contractor's license application for that license year.

21 (b) The vegetable contractor's debt to equity ratio assessment. The debt to
22 equity ratio assessment for a license year equals the vegetable contractor's debt to
23 equity ratio assessment rate under sub. (4) multiplied by the amount reported under
24 s. 126.56 (9) (a) in the vegetable contractor's license application for that license year.

1 2. For the vegetable contractor's 6th or higher consecutive full license year as
2 a contributing vegetable contractor, the vegetable contractor's current ratio
3 assessment factor is zero.

4 (b) A vegetable contractor's current ratio assessment factor under sub. (2) (b)
5 to (d) is 0.00072, except as follows:

6 1. For the vegetable contractor's 4th and 5th consecutive full license years as
7 a contributing vegetable contractor, the vegetable contractor's current ratio
8 assessment factor is 0.00058.

9 2. For the vegetable contractor's 6th or higher consecutive full license year as
10 a contributing vegetable contractor, the vegetable contractor's current ratio
11 assessment factor is 0.00035.

12 (4) DEBT TO EQUITY RATIO ASSESSMENT RATE. A vegetable contractor's debt to
13 equity ratio assessment rate for a license year is calculated, at the beginning of the
14 license year, as follows:

15 (a) If the vegetable contractor has filed an annual financial statement under
16 s. 126.58 and that financial statement shows ^{positive equity and} a debt to equity ratio of not more than
17 4.0 to 1.0, the vegetable contractor's debt to equity ratio assessment rate equals the
18 greater of zero or the debt to equity ratio assessment factor in sub. (5) (a) multiplied
19 by the following amount:

- 20 1. Subtract 4 from the debt to equity ratio.
- 21 2. Divide the amount determined under subd. 1. by 4.
- 22 3. Raise the amount determined under subd. 2. to the 3rd power.
- 23 4. Subtract 1.85 from the debt to equity ratio.
- 24 5. Divide the amount determined under subd. 4. by 2.5.
- 25 6. Raise the amount determined under subd. 5. to the 7th power.

1 7. Add the amount determined under subd. 3. to the amount determined under
2 subd. 6.

3 8. Add one to the amount determined under subd. 7.

4 (b) If the vegetable contractor has filed an annual financial statement under
5 s. 126.58 and that financial statement shows a debt to equity ratio of greater than
6 4.0 to 1.0 but less than 6.0 to 1.0, the vegetable contractor's debt to equity ratio
7 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)
8 multiplied by the following amount:

9 1. Subtract 4 from the debt to equity ratio.

10 2. Divide the amount determined under subd. 1. by 4.

11 3. Raise the amount determined under subd. 2. to the 3rd power.

12 4. Subtract 1.85 from the debt to equity ratio.

13 5. Divide the amount determined under subd. 4. by 2.5.

14 6. Raise the amount determined under subd. 5. to the 7th power.

15 7. Add the amount determined under subd. 3. to the amount determined under
16 subd. 6.

17 8. Add one to the amount determined under subd. 7.

18 (c) If the vegetable contractor has filed an annual financial statement under
19 s. 126.58 and that financial statement shows ^{negative equity or} a debt to equity ratio of at least 6.0 to
20 1.0, the vegetable contractor's debt to equity ratio assessment rate equals the debt
21 to equity ratio assessment factor in sub. (5) (b) multiplied by 35.859145.

22 (d) If the vegetable contractor has not filed an annual financial statement
23 under s. 126.58, the vegetable contractor's debt to equity ratio assessment rate
24 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by 1.34793.

1 (c) A contributing vegetable contractor who applies for an annual license after
2 the beginning of a license year shall pay the full annual fund assessment required
3 under this section. The vegetable contractor shall pay, with the first quarterly
4 installment that becomes due after the day on which the department issues the
5 license, all of that year's quarterly installments that were due before that day.

6 (d) A contributing vegetable contractor who fails to pay the full amount of any
7 quarterly installment when due shall pay, in addition to that installment, a late
8 payment penalty of \$50 or 10% of the overdue installment amount, whichever is
9 greater.

10 (7) NOTICE OF ANNUAL ASSESSMENT AND QUARTERLY INSTALLMENTS. When the
11 department issues an annual license to a contributing vegetable contractor, the
12 department shall notify the vegetable contractor of all of the following:

13 (a) The amount of the vegetable contractor's annual fund assessment under
14 this section.

15 (b) The amount of each required quarterly installment under sub. (6) and the
16 date by which the vegetable contractor must pay each installment.

17 (c) The penalty that applies under sub. (6) (d) if the vegetable contractor fails
18 to pay any quarterly installment when due.

19 **126.61 Vegetable contractors; security. (1) SECURITY REQUIRED.** (a) Except
20 as provided in par. (c), a vegetable contractor shall file security with the department,
21 and maintain that security until the department releases it under sub. (7), if all of
22 the following apply when the department first licenses the vegetable contractor
23 under s. 126.56 (1):

24 1. The vegetable contractor reports more than \$1,000,000 in annual contract
25 obligations under s. 126.56 (9) (a).

1 (7) RELEASING SECURITY. (a) The department may release security filed under
2 sub. (1) (a), except for any amount of security that the vegetable contractor is
3 required to file because sub. (1) (b) applies to the vegetable contractor, if any of the
4 following applies:

5 1. The vegetable contractor reports less than \$1,000,000 in annual contract
6 obligations under s. 126.56 (9) (a) for at least 2 consecutive years and the vegetable
7 contractor pays the quarterly fund assessment that would have been required of the
8 vegetable contractor if the vegetable contractor had been a contributing vegetable
9 contractor on the most recent quarterly installment date under s. 126.60 (6).

10 2. The vegetable contractor's annual financial statement under s. 126.58 shows
11 positive equity for at least 2 consecutive years and the vegetable contractor pays the
12 quarterly fund assessment that would have been required of the vegetable contractor
13 if the vegetable contractor had been a contributing vegetable contractor on the most
14 recent quarterly installment date under s. 126.60 (6).

15 (b) The department may release security filed under sub. (1) (b), except for any
16 amount of security that the vegetable contractor is required to file because sub. (1)
17 (a) applies to the vegetable contractor, if any of the following applies:

18 1. The vegetable contractor has no unpaid obligations under deferred payment
19 contracts, and will not use deferred payment contracts in the current license year.

20 2. The vegetable contractor files 2 consecutive annual financial statements
21 under s. 126.58 that show a current ratio of at least 1.25 to 1.0 ^{positive equity} and a debt to equity
22 ratio of not more than 4.0 to 1.0.

23 (c) On May 1, 2002, the department may release security maintained under
24 sub. (2), unless the vegetable contractor is required to file security under sub. (1).

1 (1) WAREHOUSE KEEPER AND GRAIN DEALER FEES. The unencumbered balance in
2 the appropriation account under section 20.115 (1) (jm), 1999 stats., is transferred
3 to the agricultural producer security fund.

4 (2) DAIRY AND VEGETABLE PRODUCER SECURITY. From the unencumbered balance
5 in the appropriation account under section 20.115 (1) (gm), 1999 stats., the secretary
6 of administration shall transfer to the agricultural producer security fund the
7 amount that the secretary determines is derived from moneys received under section
8 100.03 (3) (a) 2., 1999 stats., section 100.03 (3) (a) 3., 1999 stats., and section 100.06
9 (9), 1999 stats.

10 **SECTION 9404. Effective dates; agriculture, trade and consumer**
11 **protection.**

12 (1) AGRICULTURAL PRODUCER SECURITY. The treatment of sections 15.137 (1),
13 20.115 (1) (g), (gf), (gm), (jm), (q), (v), (w), and (wb), 25.17 (1) (ag), 25.463, 165.25 (4)
14 (ar), 221.0320 (2) (a) (intro.), and 348.27 (10) and chapter 126 of the statutes and
15 SECTIONS 9104 (1) and 9204 (1) and (2) of this act take effect on January 1, 2002.

16 (2) VEGETABLE CONTRACTORS. The treatment of sections 93.135 (1) (rm), 93.50
17 (1) (g), 97.29 (4), 100.03, and 100.235 (1) (b) and (em), (2), (3), and (4) of the statutes
18 takes effect on February 1, 2002.

19 (3) MILK CONTRACTORS. The treatment of sections 97.20 (2) (d) 2. and (3m), 97.22
20 (10), 100.06, and 100.26 (5) of the statutes takes effect on May 1, 2002.

21 (4) GRAIN DEALERS AND WAREHOUSE KEEPERS. The treatment of sections 93.06 (8),
22 93.135 (1) (s) and (sm), 93.20 (1), 93.21 (5) (a), and 221.0320 (2) (a) (intro.) and
23 chapter 127 of the statutes takes effect on September 1, 2002.

24

(END)