

1 (b) The nature, coverage, or material terms of the milk contractor's insurance
2 policy.

3 **126.44 Milk contractors; financial statements. (1) REQUIRED ANNUAL**
4 **FINANCIAL STATEMENT.** (a) A milk contractor shall file an annual financial statement
5 with the department before the department first licenses the milk contractor under
6 s. 126.41 (1), unless the milk contractor reports no more than \$1,500,000 in annual
7 milk payroll obligations under s. 126.41 (6) (a).

8 (b) Except as provided in par. (c), a milk contractor licensed under s. 126.41 (1)
9 shall file an annual financial statement with the department during each license
10 year. The milk contractor shall file the annual financial statement by the 15th day
11 of the 4th month following the close of the milk contractor's fiscal year. The
12 department may extend the filing deadline for up to 30 days if the milk contractor,
13 or the accountant preparing the financial statement, files a written extension
14 request at least 10 days before the filing deadline.

15 (c) Paragraph (b) does not apply to any of the following:

16 1. A contributing milk contractor who reports no more than \$1,500,000 in
17 annual milk payroll obligations under s. 126.41 (6) (a).

18 2. A contributing milk contractor who procures producer milk in this state
19 solely as a producer agent.

20 **(2) VOLUNTARY ANNUAL FINANCIAL STATEMENT.** A milk contractor licensed under
21 s. 126.41 (1) who is not required to file a financial statement under sub. (1) may file
22 an annual financial statement with the department for any of the following reasons:

23 (a) To avoid being required to contribute to the fund under s. 126.45 (1) (a).

24 (b) To qualify for a lower fund assessment under s. 126.46.

1 **(3) QUARTERLY FINANCIAL STATEMENTS.** A milk contractor licensed under s.
2 126.41 (1) who is not a contributing milk contractor shall file quarterly financial
3 statements with the department for the first 3 quarters in each of the milk
4 contractor's fiscal years. The milk contractor shall file each quarterly financial
5 statement no later than 60 days after the end of the fiscal quarter to which the
6 financial statement pertains. With each quarterly financial statement, the milk
7 contractor shall include the milk contractor's sworn and notarized statement that
8 the financial statement is correct.

9 **(5) REVIEWED OR AUDITED FINANCIAL STATEMENT.** (a) A milk contractor filing an
10 annual financial statement under sub. (1) or (2) shall file an audited financial
11 statement if the milk contractor reports more than \$6,000,000 in annual milk payroll
12 obligations under s. 126.41 (6) (a).

13 (b) If par. (a) does not apply, a milk contractor filing an annual financial
14 statement under sub. (1) or (2) shall file either a reviewed financial statement or an
15 audited financial statement.

16 **(6) ACCOUNTING PERIOD.** A milk contractor filing an annual financial statement
17 under sub. (1) or (2) shall file a financial statement that covers the milk contractor's
18 last completed fiscal year unless the milk contractor has been in business for less
19 than one year.

20 **(6m) INTERIM FINANCIAL STATEMENT.** The department may, at any time, require
21 a milk contractor licensed under s. 126.41 (1) to file an interim financial statement
22 with the department. With the interim financial statement, the milk contractor shall
23 provide the milk contractor's sworn and notarized statement that the financial
24 statement is correct. An interim financial statement need not be a reviewed financial
25 statement or an audited financial statement.

1 (7) **GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.** (a) Except as provided in par.
2 (b), a milk contractor filing an annual financial statement under this section shall
3 file a financial statement that is prepared according to generally accepted accounting
4 principles.

5 (b) If a milk contractor is a sole proprietor and the milk contractor's financial
6 statement is not audited, the milk contractor shall file a financial statement that is
7 prepared on a historical cost basis.

8 (8) **FINANCIAL STATEMENT CONTENTS.** (a) Except as provided in par. (b), a milk
9 contractor filing a financial statement under this section shall file a financial
10 statement that consists of a balance sheet, income statement, equity statement,
11 statement of cash flows, notes to those statements, and any other information
12 required by the department. If the milk contractor is a sole proprietor, the milk
13 contractor shall file his or her business and personal financial statements.

14 (b) If a milk contractor has been in business for less than one year, the milk
15 contractor may file an annual financial statement under sub. (1) or (2) consisting of
16 a balance sheet and notes. A milk contractor may file a quarterly financial statement
17 under sub. (3) consisting of a balance sheet and income statement.

18 (c) A milk contractor filing a financial statement under this section shall
19 include in the financial statement, or in an attachment to the financial statement,
20 calculations of all of the following:

21 1. The milk contractor's current ratio, excluding any assets required to be
22 excluded under sub. (9).

23 2. The milk contractor's debt to equity ratio, excluding any assets required to
24 be excluded under sub. (9).

1 (9) ASSETS EXCLUDED. A milk contractor may not include any of the following
2 assets in the calculations under sub. (8) (c), unless the department specifically
3 approves their inclusion:

4 (a) A nontrade note or account receivable from an officer, director, employee,
5 partner, or stockholder, or from a member of the family of any of those individuals,
6 unless the note or account receivable is secured by a first priority security interest
7 in real or personal property.

8 (b) A note or account receivable from a parent organization, a subsidiary, or an
9 affiliate other than an employee.

10 (c) A note or account that has been receivable for more than one year, unless
11 the milk contractor has established an equal offsetting reserve for uncollectible notes
12 and accounts receivable.

13 (10) ENTITY COVERED. A person filing a financial statement under this section
14 may not file, in lieu of that person's financial statement, the financial statement of
15 the person's parent organization, subsidiary, predecessor, or successor.

16 (11) DEPARTMENT REVIEW. The department may analyze a financial statement
17 submitted under this section and may reject a financial statement that fails to
18 comply with this section.

19 **126.45 Contributing milk contractors; disqualification.** (1) REQUIRED
20 CONTRIBUTORS. (a) Except as provided in sub. (3), a licensed milk contractor shall pay
21 fund assessments under s. 126.46 if the milk contractor does not file annual and
22 quarterly financial statements under s. 126.44.

23 (b) Except as provided in sub. (3), a licensed milk contractor shall pay fund
24 assessments under s. 126.46 if the milk contractor files an annual, quarterly, or
25 interim financial statement under s. 126.44 that shows a current ratio of less than

1 1.25 to 1.0, a debt to equity ratio of more than 2.0 to 1.0, or negative equity. The milk
2 contractor shall continue to pay fund assessments until the milk contractor files 2
3 consecutive annual financial statements under s. 126.44 that show a current ratio
4 of at least 1.25 to 1.0, positive equity, and a debt to equity ratio of not more than 2.0
5 to 1.0.

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

9 (3) DISQUALIFIED CONTRACTORS. (a) A milk contractor who is required to file
10 security under s. 126.47 (1) is disqualified from the fund until the department
11 releases that security under s. 126.47 (7) (a). This paragraph does not apply, during
12 the period beginning on May 1, 2002, and ending on April 30, 2007, to a qualified
13 producer agent who files security under s. 126.47 (3) (c).

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

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

- 18 1. Failure to pay fund assessments under s. 126.46 when due.
- 19 2. Failure to file a financial statement under s. 126.44 when due.
- 20 3. Failure to reimburse the department, within 60 days after the department
21 issues a reimbursement demand under s. 126.73 (1), for the full amount that the
22 department pays to claimants under s. 126.72 (1) because of that milk contractor's
23 default.
- 24 4. Failure to reimburse a bond surety, within 60 days after the bond surety
25 issues a reimbursement demand under s. 126.73 (2), for the full amount that the

1 surety pays to the department under s. 126.72 (2) or (3) for the benefit of claimants
2 affected by that milk contractor's default.

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

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

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

14 **126.46 Contributing milk contractors; fund assessments. (1) GENERAL.**

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

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

22 (b) The milk contractor's debt to equity ratio assessment. The debt to equity
23 ratio assessment for a license year equals the milk contractor's debt to equity ratio
24 assessment rate under sub. (4) multiplied by the annual milk payroll obligations

1 reported under s. 126.41 (6) (a) in the milk contractor's license application for that
2 license year.

3 (2) CURRENT RATIO ASSESSMENT RATE. A milk contractor's current ratio
4 assessment rate is calculated, at the beginning of the license year, as follows:

5 (a) If the milk contractor has filed an annual financial statement under s.
6 126.44 and that financial statement shows a current ratio of at least 1.25 to 1.0, the
7 milk contractor's current ratio assessment rate equals the greater of zero or the
8 current ratio assessment factor in sub. (3) (a) multiplied by the following amount:

- 9 1. Subtract 3 from the current ratio.
- 10 2. Divide the amount determined under subd. 1. by 6.
- 11 3. Multiply the amount determined under subd. 2. by negative one.
- 12 4. Raise the amount determined under subd. 3. to the 3rd power.
- 13 5. Divide 0.55 by the current ratio.
- 14 6. Raise the amount determined under subd. 5. to the 7th power.
- 15 7. Add the amount determined under subd. 4. to the amount determined under
16 subd. 6.
- 17 8. Add 0.075 to the amount determined under subd. 7.

18 (b) If the milk contractor has filed an annual financial statement under s.
19 126.44 and that financial statement shows a current ratio of less than 1.25 to 1.0, but
20 greater than 1.05 to 1.0, the milk contractor's current ratio assessment rate equals
21 the current ratio assessment factor in sub. (3) (b) multiplied by the following amount:

- 22 1. Subtract 3 from the current ratio.
- 23 2. Divide the amount determined under subd. 1. by 6.
- 24 3. Multiply the amount determined under subd. 2. by negative one.
- 25 4. Raise the amount determined under subd. 3. to the 3rd power.

1 5. Divide 0.55 by the current ratio.

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

3 7. Add the amount determined under subd. 4. to the amount determined under
4 subd. 6.

5 8. Add 0.075 to the amount determined under subd. 7.

6 (c) If the milk contractor has filed an annual financial statement under s.
7 126.44 and that financial statement shows a current ratio of less than or equal to 1.05
8 to 1.0, the milk contractor's current ratio assessment rate equals the current ratio
9 assessment factor in sub. (3) (b) multiplied by 0.1201478.

10 (d) Except as provided in par. (e), if the milk contractor has not filed an annual
11 financial statement under s. 126.44, the milk contractor's current ratio assessment
12 rate equals the current ratio assessment factor in sub. (3) (b) multiplied by 0.103005.

13 (e) If the milk contractor has not filed an annual financial statement under s.
14 126.44 and the milk contractor procures producer milk in this state solely as a
15 producer agent, the milk contractor's current ratio assessment rate is 0.00025,
16 except that, for the milk contractor's 5th or higher consecutive full license year of
17 participation in the fund, the milk contractor's current ratio assessment rate is
18 0.000175.

19 **(3) CURRENT RATIO ASSESSMENT FACTOR.** (a) A milk contractor's current ratio
20 assessment factor under sub. (2) (a) is 0.001, except as follows:

21 1. For the milk contractor's 3rd consecutive full license year as a contributing
22 milk contractor, the milk contractor's current ratio assessment factor is 0.0007.

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

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

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

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

10 (a) If the milk contractor has filed an annual financial statement under s.
11 126.44 and that financial statement shows positive equity and a debt to equity ratio
12 of not more than 2.0 to 1.0, the milk contractor's debt to equity ratio assessment rate
13 equals the greater of zero or the debt to equity ratio assessment factor in sub. (5) (a)
14 multiplied by the following amount:

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

23 (b) If the milk contractor files an annual financial statement under s. 126.44
24 and that financial statement shows a debt to equity ratio of greater than 2.0 to 1.0
25 but less than 3.1 to 1.0, the milk contractor's debt to equity ratio assessment rate

1 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by the
2 following amount:

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

11 (c) If the milk contractor has filed an annual financial statement under s.
12 126.44 and that financial statement shows negative equity or a debt to equity ratio
13 of at least 3.1 to 1.0, the milk contractor's debt to equity ratio assessment rate equals
14 the debt to equity ratio assessment factor in sub. (5) (b) multiplied by 0.8146917.

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

19 (e) If the milk contractor has not filed an annual financial statement under s.
20 126.44 and the milk contractor procures producer milk in this state solely as a
21 producer agent, the milk contractor's debt to equity ratio assessment rate is 0.00025,
22 except that, for the milk contractor's 5th or higher consecutive full license year of
23 participation in the fund, the milk contractor's debt to equity ratio assessment rate
24 is 0.000175.

1 (5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR. (a) A milk contractor's debt to
2 equity ratio assessment factor under sub. (4) (a) is 0.0015, except as follows:

3 1. For the milk contractor's 3rd consecutive full license year as a contributing
4 milk contractor, the milk contractor's current ratio assessment factor is 0.001.

5 2. For the milk contractor's 4th consecutive full license year as a contributing
6 milk contractor, the milk contractor's current ratio assessment factor is 0.0005.

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

10 (b) A milk contractor's debt to equity ratio assessment factor under sub. (4) (b)
11 to (d) is 0.00225, except that, for the milk contractor's 5th or higher consecutive full
12 license year as a contributing milk contractor, the milk contractor's debt to equity
13 ratio assessment factor is 0.001.

14 (6) QUARTERLY INSTALLMENTS. (a) A contributing milk contractor shall pay the
15 milk contractor's annual fund assessment in equal quarterly installments that are
16 due as follows:

17 1. The first installment is due on June 1 of the license year.

18 2. The 2nd installment is due on September 1 of the license year.

19 3. The 3rd installment is due on December 1 of the license year.

20 4. The 4th installment is due on March 1 of the license year.

21 (b) A contributing milk contractor may prepay any of the quarterly
22 installments under par. (a).

23 (c) A contributing milk contractor who applies for an annual license after the
24 beginning of a license year shall pay the full annual fund assessment required under
25 this section. The milk contractor shall pay, with the first quarterly installment that

1 becomes due after the day on which the department issues the license, all of the
2 quarterly installments for that license year that were due before that day.

3 (d) If s. 126.45 (1) (b) requires a licensed milk contractor to become a
4 contributing milk contractor during the license year, the milk contractor shall pay
5 only those quarterly installments that become due after the requirement takes
6 effect.

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

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

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

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

18 (c) The penalty that applies under sub. (6) (e) if the milk contractor fails to pay
19 any quarterly installment when due.

20 **126.47 Milk contractors; security.** (1) SECURITY REQUIRED. A milk
21 contractor shall file security with the department, and maintain that security until
22 the department releases it under sub. (7), if all of the following apply when the
23 department first licenses the milk contractor under s. 126.41 (1):

24 (a) The milk contractor reports more than \$1,500,000 in annual milk payroll
25 obligations under s. 126.41 (6) (a).

1 (b) The milk contractor files an annual financial statement under s. 126.44 (1)
2 and that financial statement shows negative equity.

3 (2) SECURITY CONTINUED. A milk contractor who filed security under s. 100.06,
4 1999 stats., before May 1, 2002, shall maintain that security until the department
5 releases it under sub. (7).

6 (3) AMOUNT OF SECURITY. A milk contractor who is required to file or maintain
7 security under this section shall at all times maintain the following amount of
8 security:

9 (a) Except as provided in par. (b) or (c), security equal to at least 75% of the
10 amount last reported under s. 126.41 (6) (b) or (9).

11 (b) Except as provided in par. (c), for a milk contractor who procures milk in this
12 state solely as a qualified producer agent, security equal to at least the following
13 amounts:

14 1. For the license year beginning on May 1, 2002, 15% of the amount last
15 reported under s. 126.41 (6) (b) or (9).

16 2. For the license year beginning on May 1, 2003, 30% of the amount last
17 reported under s. 126.41 (6) (b) or (9).

18 3. For the license year beginning on May 1, 2004, 45% of the amount last
19 reported under s. 126.41 (6) (b) or (9).

20 4. For the license year beginning on May 1, 2005, 60% of the amount last
21 reported under s. 126.41 (6) (b) or (9).

22 5. For a license year beginning after May 1, 2005, 75% of the amount last
23 reported under s. 126.41 (6) (b) or (9).

24 (c) For a contributing milk contractor who procures milk in this state solely as
25 a qualified producer agent, for the period beginning on May 1, 2002, and ending on

1 April 30, 2007, security equal to at least 7.5% of the amount last reported under s.
2 126.41 (6) (b) or (9), but not more than \$500,000.

3 (4) FORM OF SECURITY. The department shall review, and determine whether
4 to approve, security filed under this section. The department may approve only the
5 following types of security:

6 (a) Currency.

7 (b) A commercial surety bond if all of the following apply:

8 1. The surety bond is made payable to the department for the benefit of milk
9 producers and producer agents.

10 2. The surety bond is issued by a person authorized to operate a surety business
11 in this state.

12 3. The surety bond is issued as a continuous term bond that may be canceled
13 only with the department's written agreement or upon 90 days' prior written notice
14 served on the department in person or by certified mail.

15 4. The surety bond is issued in a form, and subject to any terms and conditions,
16 that the department considers appropriate.

17 (c) A certificate of deposit or money market certificate, if all of the following
18 apply:

19 1. The certificate is issued or endorsed to the department for the benefit of milk
20 producers and producer agents.

21 2. The certificate may not be canceled or redeemed without the department's
22 written permission.

23 3. No person may transfer or withdraw funds represented by the certificate
24 without the department's written permission.

25 4. The certificate renews automatically without any action by the department.

1 5. The certificate is issued in a form, and subject to any terms and conditions,
2 that the department considers appropriate.

3 (d) An irrevocable bank letter of credit if all of the following apply:

4 1. The letter of credit is payable to the department for the benefit of milk
5 producers or producer agents.

6 2. The letter of credit is issued on bank letterhead.

7 3. The letter of credit is issued for an initial period of at least one year.

8 4. The letter of credit renews automatically unless, at least 90 days before the
9 scheduled renewal date, the issuing bank gives the department written notice, in
10 person or by certified mail, that the letter of credit will not be renewed.

11 5. The letter of credit is issued in a form, and subject to any terms and
12 conditions, that the department considers appropriate.

13 (e) Security filed with the department under s. 100.06, 1999 stats., before May
14 1, 2002, except that on January 1, 2003, the department shall withdraw its approval
15 of any security that is not approvable under pars. (a) to (d).

16 (f) A dairy plant trusteeship created before May 1, 2002, under s. 100.06, 1999
17 stats. This paragraph does not apply after January 1, 2003.

18 **(5) DEPARTMENT CUSTODY OF SECURITY.** The department shall hold, in its custody,
19 all security filed and maintained under this section. The department shall hold the
20 security for the benefit of milk producers and producer agents.

21 **(6) ADDITIONAL SECURITY.** (a) The department may, at any time, demand
22 additional security from a milk contractor if any of the following applies:

23 1. The milk contractor's existing security falls below the amount required
24 under sub. (3) for any reason, including depreciation in the value of the security,

1 increased obligations to milk producers or producer agents, or the cancellation of any
2 security filed with the department.

3 2. The milk contractor fails to provide required information that is relevant to
4 a determination of security requirements.

5 (b) The department shall issue a demand under par. (a) in writing. The
6 department shall indicate why additional security is required, the amount of
7 security required, and the deadline date for filing security. The department may not
8 specify a deadline for filing security that is more than 30 days after the date on which
9 the department issues its demand for security.

10 (c) A milk contractor may request a hearing, under ch. 227, on a demand for
11 security under par. (b). A request for hearing does not automatically stay a security
12 demand.

13 (d) If a milk contractor fails to comply with the department's demand for
14 security under this subsection, the milk contractor shall give written notice of that
15 fact to all milk producers and producer agents from whom the contractor procures
16 producer milk in this state. If the milk contractor fails to give accurate notice under
17 this paragraph within 5 days after the deadline for filing security under par. (b) has
18 passed, the department shall promptly notify milk producers and producer agents
19 by publishing a class 3 notice under ch. 985. The department may also give
20 individual notice to those milk producers or producer agents of whom the department
21 is aware.

22 (e) If a milk contractor fails to comply with the department's demand for
23 security under this subsection, the department may do any of the following:

24 1. Issue a summary order under s. 126.85 (2).

25 2. Suspend or revoke the milk contractor's license.

1 (7) RELEASING SECURITY. (a) The department may release security filed under
2 sub. (1) if any of the following applies:

3 1. The milk contractor reports not more than \$1,500,000 in milk payroll
4 obligations under s. 126.41 (6) (a) for at least 2 consecutive years and the milk
5 contractor pays the quarterly fund assessment that would have been required of the
6 milk contractor if the milk contractor had been a contributing milk contractor on the
7 most recent quarterly installment date under s. 126.46 (6).

8 2. The milk contractor's annual financial statement under s. 126.44 shows
9 positive equity for at least 2 consecutive years and the milk contractor pays the
10 quarterly fund assessment that would have been required of the milk contractor if
11 the milk contractor had been a contributing milk contractor on the most recent
12 quarterly installment date under s. 126.46 (6).

13 (b) On August 1, 2002, the department may release security maintained under
14 sub. (2), unless the milk contractor is required to file security under sub. (1).

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

17 (d) The department may release security if the milk contractor files alternative
18 security, of equivalent value, that the department approves.

19 (e) The department shall release security if the milk contractor has gone out
20 of business and paid all milk payroll obligations in full.

21 **126.48 Milk contractors; payments to producers.** (1) FIRST MONTHLY
22 PAYMENT. By the 4th day of each month, a milk contractor shall pay for producer milk
23 received during the first 15 days of the preceding month. The milk contractor shall
24 base the payment on an estimated price that is at least 80% of the class III price
25 published by the regional federal milk market administrator for the month

1 preceding the month in which the milk is received, or 80% of the contract price,
2 whichever is greater. This subsection does not apply to a qualified producer agent
3 who complies with sub. (4).

4 (2) SECOND MONTHLY PAYMENT. By the 19th day of each month, a milk contractor
5 shall pay the balance due for producer milk received during the preceding month.
6 This subsection does not apply to a qualified producer agent who complies with sub.
7 (4).

8 (3) PAYMENT EXPLANATION. The department may, by rule, require a milk
9 contractor to provide a milk producer or producer agent with a written explanation
10 of each payment under this section. The department may specify the content of the
11 explanation, including information related to any of the following:

- 12 (a) Milk contractor identification.
- 13 (b) Milk producer or producer agent identification.
- 14 (c) Pay period.
- 15 (d) Volume of milk received.
- 16 (e) Grade of milk.
- 17 (f) Milk test results.
- 18 (g) Milk price and adjustments.
- 19 (h) Gross amount due.
- 20 (i) Average gross pay per hundredweight less hauling charges.
- 21 (j) Net amount due.
- 22 (k) Deductions and assignments.

23 (4) QUALIFIED PRODUCER AGENTS. (a) By the last day of each month, a qualified
24 producer agent shall pay for producer milk received during the first 10 days of that
25 month. The qualified producer agent shall base the payment on an estimated price

1 that is at least 80% of the class III price published by the regional federal milk market
2 administrator for the month preceding the month in which the milk is received, or
3 80% of the contract price, whichever is greater.

4 (b) By the 10th day of each month, a qualified producer agent shall pay for
5 producer milk received from the 11th day to the 20th day of the preceding month.
6 The qualified producer agent shall base the payment on an estimated price that is
7 at least 80% of the class III price published by the regional federal milk market
8 administrator for the month preceding the month in which the milk is received, or
9 80% of the contract price, whichever is greater.

10 (c) By the 20th day of each month, a qualified producer agent shall pay the
11 balance due for producer milk received during the preceding month.

12 **126.49 Milk contractors; records and reports.** (1) REQUIRED RECORDS. A
13 milk contractor shall keep accurate records and accounts of milk receipts, payments
14 for milk received, and amounts owed to milk producers. The department may, by
15 rule, specify records that a milk contractor must keep.

16 (2) REQUIRED REPORTS. The department may, by rule, require a milk contractor
17 to file with the department periodic reports of information needed for the
18 administration of this chapter.

19 (3) RECORDS RETENTION; INSPECTION. A milk contractor shall retain records
20 required under sub. (1) for at least 6 years after the records are created. A milk
21 contractor shall make the records available to the department for inspection and
22 copying upon request.

23 **126.50 Milk contractors; prohibited practices.** No milk contractor may
24 do any of the following:

1 (1) “Cash on delivery” means cash payment of the full agreed price for
2 processing vegetables at the time of delivery or, if the vegetables are graded, within
3 72 hours after the time of delivery.

4 (2) “Cash payment” means payment in any of the following forms:

5 (a) Currency.

6 (b) A cashier’s check, or a check that a bank issues and certifies.

7 (c) A wire transfer.

8 (d) Simultaneous barter.

9 (3) “Contract obligation” means the net amount, whether paid or unpaid, that
10 a vegetable contractor owes a vegetable producer or producer agent under a
11 vegetable procurement contract. “Contract obligation” includes a net amount owed
12 for unharvested acreage.

13 (4) “Contributing vegetable contractor” means a vegetable contractor who is
14 licensed under s. 126.56 (1), who either has paid one or more quarterly installments
15 under s. 126.60 (6) or is required to contribute to the fund, but the first quarterly
16 installment under s. 126.60 (6) is not yet due, and who is not disqualified under s.
17 126.59 (2).

18 (6) “Current ratio” means the ratio of the value of current assets to the value
19 of current liabilities, calculated according to s. 126.58 (6) (c) 1.

20 (7) “Debt to equity ratio” means the ratio of the value of liabilities to equity,
21 calculated according to s. 126.58 (6) (c) 2.

22 (8) “Deferred payment contract” means a vegetable procurement contract in
23 which the vegetable producer or a producer agent agrees to accept payment after
24 January 31 for processing vegetables harvested during the previous calendar year.

1 **(9)** “Disqualified vegetable contractor” means a vegetable contractor who is
2 disqualified from the fund under s. 126.59 (2).

3 **(10)** “Food processing” has the meaning given in s. 97.29 (1) (g).

4 **(10m)** “License year” means the period beginning on February 1 and ending
5 on the following January 31.

6 **(11)** “Processing vegetables” means vegetables grown or sold for use in food
7 processing, regardless of whether those vegetables are actually harvested or
8 processed as food. “Processing vegetables” includes sweet corn grown or sold for use
9 in food processing, but does not include grain.

10 **(12)** “Producer agent” means a person who, without taking title to vegetables,
11 acts on behalf of a vegetable producer to market or accept payment for processing
12 vegetables that the vegetable producer grows in this state. “Producer agent” does not
13 include any of the following:

14 (a) A person who merely brokers a contract between a vegetable producer and
15 a vegetable contractor, without becoming a party to the contract or accepting
16 payment on behalf of the vegetable producer.

17 (b) A person who merely holds or transports processing vegetables for a
18 vegetable producer, without marketing the vegetables or accepting payment on
19 behalf of the vegetable producer.

20 **(13)** “Time of delivery” under a vegetable procurement contract means the time
21 at which one of the following occurs:

22 (a) The vegetable contractor harvests the vegetables.

23 (b) The vegetable producer delivers harvested vegetables to the custody or
24 control of the vegetable contractor.

1 (c) The vegetable contractor notifies the vegetable producer of the vegetable
2 contractor's refusal to harvest or accept delivery of vegetables.

3 (14) "Vegetable contractor" means a person who does any of the following:

4 (a) Contracts with a vegetable producer or a producer agent to procure
5 processing vegetables that a vegetable producer grows in this state.

6 (b) Contracts with a vegetable producer to market, as a producer agent,
7 processing vegetables that the vegetable producer grows in this state.

8 (15) "Vegetable procurement contract" means an oral or written agreement
9 under which a vegetable contractor does any of the following:

10 (a) Contracts with a vegetable producer or a producer agent to procure
11 processing vegetables that a vegetable producer grows in this state.

12 (b) Contracts with a vegetable producer to market, as a producer agent,
13 processing vegetables that the vegetable producer grows in this state.

14 (16) "Vegetable producer" means a person who grows processing vegetables in
15 this state.

16 (17) "Unharvested acreage" means land on which vegetables are grown, under
17 a vegetable procurement contract, that a vegetable contractor leaves unharvested for
18 any reason. "Unharvested acreage" includes all of the following:

19 (a) Land on which the vegetables are suitable for processing, but are not
20 harvested.

21 (b) Land on which the vegetables are abandoned as being unsuitable for
22 processing.

23 **126.56 Vegetable contractors; licensing.** (1) LICENSE REQUIRED. (a) Except
24 as provided in sub. (2), no person may operate as a vegetable contractor without a
25 current annual license from the department.

1 (b) A license under par. (a) expires on the January 31 following its issuance.
2 No person may transfer or assign a license issued under par. (a).

3 (2) EXEMPT CONTRACTORS. The following vegetable contractors are exempt from
4 licensing under sub. (1):

5 (a) A vegetable contractor who procures vegetables primarily for unprocessed,
6 fresh market use and is licensed under the federal Perishable Agricultural
7 Commodities Act, 7 USC 499a to 499t.

8 (b) A restaurant or retail food establishment that procures processing
9 vegetables solely for retail sale at the restaurant or retail food establishment.

10 (3) LICENSE APPLICATION. A vegetable contractor shall apply for a license under
11 sub. (1) in writing, on a form provided by the department. The applicant shall
12 provide all of the following:

13 (a) The applicant's legal name and any trade name under which the applicant
14 proposes to operate as a vegetable contractor.

15 (b) A statement of whether the applicant is an individual, corporation,
16 partnership, cooperative, limited liability company, trust, or other legal entity. If the
17 applicant is a corporation or cooperative, the application shall identify each officer
18 of the corporation or cooperative. If the applicant is a partnership, the application
19 shall identify each partner.

20 (c) The mailing address of the applicant's principal business location and the
21 name of a responsible individual who may be contacted at that address.

22 (d) The street address of each business location from which the applicant
23 operates as a vegetable contractor in this state and the name of a responsible
24 individual who may be contacted at each location that is staffed.

25 (e) All license fees and surcharges required under sub. (4).

1 (f) The sworn and notarized statement required under sub. (9).

2 (g) A financial statement if required under s. 126.58 (1) and not yet filed.

3 (h) Other relevant information required by the department.

4 (4) LICENSE FEES AND SURCHARGES. A vegetable contractor applying for a license
5 under sub. (1) shall pay the following fees and surcharges, unless the department
6 specifies a different fee or surcharge amount by rule:

7 (a) A nonrefundable license processing fee of \$25.

8 (b) A fee of \$25 plus 5.75 cents for each \$100 in contract obligations reported
9 under sub. (9) (a), less any credit provided under sub. (6).

10 (c) A license surcharge of \$500 if the department determines that, within 365
11 days before submitting the license application, the applicant operated as a vegetable
12 contractor without a license in violation of sub. (1). The applicant shall also pay any
13 license fees, license surcharges, and fund assessments that are still due for the
14 license year in which the applicant violated sub. (1).

15 (d) A license surcharge of \$100 if during the preceding 12 months the applicant
16 failed to file an annual financial statement required under s. 126.58 (1) (b) by the
17 applicable deadline.

18 (e) A license surcharge of \$100 if a renewal applicant fails to renew a license
19 by the license expiration date of January 31.

20 (4m) EFFECT OF PAYMENT OF SURCHARGE. Payment under sub. (3) (c) does not
21 relieve the applicant of any other civil or criminal liability that results from the
22 violation of sub. (1), but does not constitute evidence of any law violation.

23 (5) LICENSE FOR PART OF YEAR; FEES. A person who applies for an annual
24 vegetable contractor license after the beginning of a license year shall pay the full
25 annual fee amounts required under sub. (4).

1 **(6) FEE CREDITS.** (a) If the balance in the fund contributed by vegetable
2 contractors exceeds \$1,000,000 on November 30 of any license year, the department
3 shall credit 50% of the excess amount against fees charged under sub. (4) (b) to
4 contributing vegetable contractors who file timely license renewal applications for
5 the next license year. The department shall credit each contributing vegetable
6 contractor on a prorated basis, in proportion to the total fees that the vegetable
7 contractor has paid under sub. (4) (b) for the 4 preceding license years.

8 (b) The fee under sub. (4) (b) is reduced by one cent for each \$100 in contract
9 obligations reported under sub. (9) (a) if the department, under a contract with the
10 applicant, grades all of the graded vegetables that the applicant procures from
11 vegetable producers or producer agents.

12 **(7) FEE STATEMENT.** The department shall provide, with each license application
13 form, a written statement of all license fees and surcharges required under sub. (4).
14 The department shall specify any fee credits for which the applicant may qualify
15 under sub. (6).

16 **(8) NO LICENSE WITHOUT FULL PAYMENT.** The department may not issue a license
17 under sub. (1) until the applicant pays all license fees and surcharges identified in
18 the department's statement under sub. (7). The department shall refund a fee or
19 surcharge paid under protest if upon review the department determines that the fee
20 or surcharge is not applicable.

21 **(9) SWORN AND NOTARIZED STATEMENT.** As part of a license application under sub.
22 (3), an applicant shall provide a sworn and notarized statement, signed by the
23 applicant or an officer of the applicant, that reports all of the following:

24 (a) The total amount of contract obligations that the applicant incurred during
25 the applicant's last completed fiscal year. If the applicant has not yet operated as a

1 vegetable contractor, the applicant shall estimate the amount of contract obligations
2 that the applicant will incur during the applicant's first complete fiscal year.

3 (b) The largest amount of unpaid contract obligations that the vegetable
4 contractor had at any time during the vegetable contractor's last completed fiscal
5 year.

6 (c) The amount of unpaid contract obligations that the vegetable contractor has
7 at the time of application.

8 (d) The amount of unpaid contract obligations under par. (c) that are due for
9 payment before the license year for which the applicant is applying.

10 (e) The amount of unpaid obligations under par. (c) that the contractor has
11 under deferred payment contracts.

12 (f) Whether the applicant and the applicant's affiliates and subsidiaries will
13 collectively grow more than 10% of the total acreage of any vegetable species grown
14 or procured by the applicant during the license year for which the applicant is
15 applying.

16 (g) Whether the applicant will pay cash on delivery under all vegetable
17 procurement contracts during the license year for which the applicant is applying.

18 (h) Whether the applicant is a producer-owned cooperative or organization
19 that procures vegetables solely from its producer owners on the basis of a cooperative
20 marketing method under which the producer-owned cooperative or organization
21 pays its producer owners a prorated share of sales proceeds for the marketing year
22 after a final accounting and the deduction of marketing expenses.

23 **(10) ACTION GRANTING OR DENYING APPLICATION.** (a) The department shall grant
24 or deny a license application under sub. (3) within 30 days after the department
25 receives a complete application. If the department denies a license application, the

1 department shall give the applicant a written notice stating the reasons for the
2 denial.

3 (b) A license becomes invalid after February 5 of the license year for which it
4 is issued unless the license holder has by February 5 paid all producer obligations
5 that were due and payable during the preceding license year.

6 (11) LICENSE DISPLAYED. A vegetable contractor licensed under sub. (1) shall
7 prominently display a copy of that license at each business location from which the
8 vegetable contractor operates in this state.

9 (12) NOTICE REQUIRED. (a) A vegetable contractor who files security under s.
10 126.61 shall immediately notify the department if, at any time, the vegetable
11 contractor's unpaid contract obligations exceed the amount last reported under sub.
12 (9) (b).

13 (b) A vegetable contractor shall immediately notify the department if the
14 amount of unpaid obligations under deferred payment contracts exceeds the amount
15 last reported under sub. (9) (e).

16 **126.57 Vegetable contractors; insurance. (1) FIRE AND EXTENDED COVERAGE**
17 **INSURANCE.** (a) Except as provided in par. (b), a vegetable contractor who is required
18 to be licensed under s. 126.56 (1) shall maintain fire and extended coverage
19 insurance, issued by an insurance company authorized to do business in this state,
20 that covers all vegetables in the custody of the vegetable contractor, whether owned
21 by the vegetable contractor or held for others, at the full local market value of the
22 vegetables.

23 (b) Paragraph (a) does not apply to a vegetable contractor if any of the following
24 applies:

1 1. The vegetable contractor pays cash on delivery under all vegetable
2 procurement contracts.

3 2. The vegetable contractor is a producer-owned cooperative or organization
4 that procures processing vegetables only from its producer owners.

5 **(2) INSURANCE CANCELLATION; REPLACEMENT.** Whenever an insurance policy
6 under sub. (1) is canceled, the vegetable contractor shall replace the policy so that
7 there is no lapse in coverage.

8 **(3) INSURANCE COVERAGE; MISREPRESENTATION.** No vegetable contractor may
9 misrepresent any of the following to the department or to any vegetable producer or
10 producer agent:

11 (a) That the vegetable contractor is insured.

12 (b) The nature, coverage, or material terms of the vegetable contractor's
13 insurance policy.

14 **126.58 Vegetable contractors; financial statements. (1) REQUIRED**
15 **ANNUAL FINANCIAL STATEMENT.** (a) Except as provided in par. (c), a vegetable
16 contractor shall file an annual financial statement with the department, before the
17 department first licenses the vegetable contractor under s. 126.56 (1), if the
18 vegetable contractor reports more than \$500,000 in contract obligations under s.
19 126.56 (9) (a).

20 (b) Except as provided in par. (c), a vegetable contractor licensed under s.
21 126.56 (1) shall file an annual financial statement with the department during each
22 license year if the vegetable contractor's license application for that year reports
23 more than \$500,000 in contract obligations under s. 126.56 (9) (a). The vegetable
24 contractor shall file the annual financial statement by the 15th day of the 4th month
25 following the close of the vegetable contractor's fiscal year, except that the

1 department may extend the filing deadline for up to 30 days if the vegetable
2 contractor, or the accountant reviewing or auditing the financial statement, files a
3 written extension request at least 10 days before the filing deadline.

4 (c) A vegetable contractor is not required to file a financial statement under par.
5 (a) or (b) if any of the following applies:

6 1. The vegetable contractor pays cash on delivery under all vegetable
7 procurement contracts.

8 2. The vegetable contractor is a producer-owned cooperative that procures
9 processing vegetables only from its producer owners.

10 (2) VOLUNTARY FINANCIAL STATEMENT. A contributing vegetable contractor who
11 is not required to file a financial statement under sub. (1) may file an annual
12 financial statement with the department for any of the following reasons:

13 (a) To qualify for a lower fund assessment under s. 126.60.

14 (b) To avoid filing security under s. 126.61 (1) (b).

15 (3) REVIEWED OR AUDITED FINANCIAL STATEMENT. (a) A vegetable contractor filing
16 an annual financial statement under sub. (1) or (2) shall file an audited financial
17 statement if the vegetable contractor's latest annual license application reported
18 more than \$4,000,000 in annual contract obligations under s. 126.56 (9) (a).

19 (b) If par. (a) does not apply, a vegetable contractor filing an annual financial
20 statement under sub. (1) or (2) shall file either a reviewed financial statement or an
21 audited financial statement.

22 (4) ACCOUNTING PERIOD. A vegetable contractor filing an annual financial
23 statement under sub. (1) or (2) shall file a financial statement that covers the
24 vegetable contractor's last completed fiscal year unless the vegetable contractor has
25 been in business for less than one year.

1 **(4m) INTERIM FINANCIAL STATEMENT.** The department may, at any time, require
2 a vegetable contractor licensed under s. 126.56 (1) to file an interim financial
3 statement with the department. The vegetable contractor shall provide, with the
4 interim financial statement, the vegetable contractor's sworn and notarized
5 statement that the financial statement is correct. An interim financial statement
6 need not be a reviewed or audited financial statement.

7 **(5) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.** (a) Except as provided in par.
8 (b), a vegetable contractor filing a financial statement under this section shall file a
9 financial statement that is prepared according to generally accepted accounting
10 principles.

11 (b) If a vegetable contractor is a sole proprietor and the vegetable contractor's
12 financial statement is not audited, the vegetable contractor shall file a financial
13 statement that is prepared on a historical cost basis.

14 **(6) FINANCIAL STATEMENT CONTENTS.** (a) Except as provided in par. (b), a
15 vegetable contractor filing a financial statement under this section shall file a
16 financial statement that consists of a balance sheet, income statement, equity
17 statement, statement of cash flows, notes to those statements, and any other
18 information required by the department. If the vegetable contractor is a sole
19 proprietor, the vegetable contractor shall file his or her business and personal
20 financial statements.

21 (b) If a vegetable contractor has been in business for less than one year, the
22 vegetable contractor may file an annual financial statement under sub. (1) or (2)
23 consisting of a balance sheet and notes.

1 (c) A vegetable contractor filing a financial statement under this section shall
2 include in the financial statement, or in an attachment to the financial statement,
3 calculations of all of the following:

4 1. The vegetable contractor's current ratio, excluding any assets required to be
5 excluded under sub. (7).

6 2. The vegetable contractor's debt to equity ratio, excluding any assets
7 required to be excluded under sub. (7).

8 **(7) ASSETS EXCLUDED.** A vegetable contractor may not include any of the
9 following assets in the calculations under sub. (6) (c), unless the department
10 specifically approves their inclusion:

11 (a) A nontrade note or account receivable from an officer, director, employee,
12 partner, or stockholder, or from a member of the family of any of those individuals,
13 unless the note or account receivable is secured by a first priority security interest
14 in real or personal property.

15 (b) A note or account receivable from a parent organization, a subsidiary, or an
16 affiliate other than an employee.

17 (c) A note or account that has been receivable for more than one year, unless
18 the vegetable contractor has established an equal offsetting reserve for uncollectible
19 notes and accounts receivable.

20 **(9) ENTITY COVERED.** A person filing a financial statement under this section
21 may not file, in lieu of that person's financial statement, the financial statement of
22 the person's parent organization, subsidiary, predecessor, or successor.

23 **(10) DEPARTMENT REVIEW.** The department may analyze a financial statement
24 filed under this section and may reject a financial statement that fails to comply with
25 this section.

1 **126.59 Contributing vegetable contractors; disqualification. (1)**

2 CONTRIBUTION REQUIRED. A vegetable contractor licensed under s. 126.56 (1) shall pay
3 fund assessments under s. 126.60 unless one of the following applies:

4 (a) The vegetable contractor is disqualified under sub. (2).

5 (b) The vegetable contractor pays cash on delivery under all vegetable
6 procurement contracts.

7 (c) The vegetable contractor is a producer–owned cooperative that procures
8 processing vegetables only from its producer owners.

9 **(1m) VOLUNTARY CONTRIBUTION.** A vegetable contractor who is exempt under
10 sub. (1) (b) or (c) may volunteer to pay fund assessments under s. 126.60.

11 **(2) DISQUALIFIED CONTRACTOR.** (a) A vegetable contractor who is required to file
12 security under s. 126.61 (1) (a) is disqualified from the fund until the department
13 determines that one of the conditions in s. 126.61 (7) (a) 1. or 2. is satisfied.

14 (b) A vegetable contractor is disqualified from the fund if the department
15 denies, suspends, or revokes the vegetable contractor’s license.

16 (c) A vegetable contractor is disqualified from the fund, and required to pay
17 cash on delivery under vegetable procurement contracts, if the department issues a
18 written notice disqualifying the vegetable contractor for cause. Cause may include
19 any of the following:

20 1. Failure to pay fund assessments under s. 126.60 when due.

21 2. Failure to file a financial statement under s. 126.58 when due.

22 3. Failure to reimburse the department, within 60 days after the department
23 issues a reimbursement demand under s. 126.73 (1), for the full amount that the
24 department pays to claimants under s. 126.72 (1) because of that vegetable
25 contractor’s default.

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 (c) The vegetable contractor's deferred contract assessment. The deferred
2 contract assessment for a license year equals the amount, if any, reported under s.
3 126.56 (9) (e) in the vegetable contractor's license application for that license year,
4 multiplied by a deferred vegetable contract assessment rate of 0.0025.

5 (2) CURRENT RATIO ASSESSMENT RATE. A vegetable contractor's current ratio
6 assessment rate is calculated, at the beginning of the license year, as follows:

7 (a) If the vegetable contractor has filed an annual financial statement under
8 s. 126.58 and that financial statement shows a current ratio of at least 1.25 to 1.0,
9 the vegetable contractor's current ratio assessment rate equals the greater of zero
10 or the current ratio assessment factor in sub. (3) (a) multiplied by the following
11 amount:

- 12 1. Subtract 4 from the current ratio.
- 13 2. Divide the amount determined under subd. 1. by 2.
- 14 3. Multiply the amount determined under subd. 2. by negative one.
- 15 4. Raise the amount determined under subd. 3. to the 3rd power.
- 16 5. Subtract 0.65 from the current ratio.
- 17 6. Divide 0.60 by the amount determined under subd. 5.
- 18 7. Raise the amount determined under subd. 6. to the 5th power.
- 19 8. Add the amount determined under subd. 4. to the amount determined under
20 subd. 7.
- 21 9. Add 0.25 to the amount determined under subd. 8.

22 (b) If the vegetable contractor has filed an annual financial statement under
23 s. 126.58 and that financial statement shows a current ratio of less than 1.25 to 1.0,
24 but greater than 1.1 to 1.0, the vegetable contractor's current ratio assessment rate

1 equals the current ratio assessment factor in sub. (3) (b) multiplied by the following
2 amount:

3 1. Subtract 4 from the current ratio.

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

5 3. Multiply the amount determined under subd. 2. by negative one.

6 4. Raise the amount determined under subd. 3. to the 3rd power.

7 5. Subtract 0.65 from the current ratio.

8 6. Divide 0.60 by the amount determined under subd. 5.

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

10 8. Add the amount determined under subd. 4. to the amount determined under
11 subd. 7.

12 9. Add 0.25 to the amount determined under subd. 8.

13 (c) If the vegetable contractor has filed an annual financial statement under
14 s. 126.58 and that financial statement shows a current ratio of less than or equal to
15 1.1 to 1.0, the vegetable contractor's current ratio assessment rate equals the current
16 ratio assessment factor in sub. (3) (b) multiplied by 7.512617.

17 (d) If the vegetable contractor has not filed an annual financial statement
18 under s. 126.58, the vegetable contractor's current ratio assessment rate equals the
19 current ratio assessment factor in sub. (3) (b) multiplied by 3.84961.

20 **(3) CURRENT RATIO ASSESSMENT FACTOR.** (a) A vegetable contractor's current
21 ratio assessment factor under sub. (2) (a) is 0.00048, except as follows:

22 1. For the vegetable contractor's 4th and 5th consecutive full license years as
23 a contributing vegetable contractor, the vegetable contractor's current ratio
24 assessment factor is 0.00029.

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
17 ratio of not more than 4.0 to 1.0, the vegetable contractor's debt to equity ratio
18 assessment rate equals the greater of zero or the debt to equity ratio assessment
19 factor in sub. (5) (a) multiplied 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
20 of at least 6.0 to 1.0, the vegetable contractor's debt to equity ratio assessment rate
21 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by
22 35.859145.

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

1 **(5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR.** (a) A vegetable contractor's debt
2 to equity ratio assessment factor under sub. (4) (a) is 0.000135, except as follows:

3 1. For the vegetable contractor's 4th and 5th consecutive full license years as
4 a contributing vegetable contractor, the vegetable contractor's debt to equity ratio
5 assessment factor is 0.00008.

6 2. For the vegetable contractor's 6th or higher consecutive full license year as
7 a contributing vegetable contractor, the vegetable contractor's debt to equity ratio
8 assessment factor is zero.

9 (b) A vegetable contractor's debt to equity ratio assessment factor under sub.
10 (4) (b) to (d) is 0.000203, except as follows:

11 1. For the vegetable contractor's 4th and 5th consecutive full license years as
12 a contributing vegetable contractor, the vegetable contractor's debt to equity ratio
13 assessment factor is 0.00016.

14 2. For the vegetable contractor's 6th or higher consecutive full license year as
15 a contributing vegetable contractor, the vegetable contractor's debt to equity ratio
16 assessment factor is 0.0001.

17 **(6) QUARTERLY INSTALLMENTS.** (a) A contributing vegetable contractor shall pay
18 the vegetable contractor's annual fund assessment in equal quarterly installments
19 that are due as follows:

20 1. The first installment is due on March 1 of the license year.

21 2. The 2nd installment is due on June 1 of the license year.

22 3. The 3rd installment is due on September 1 of the license year.

23 4. The 4th installment is due on December 1 of the license year.

24 (b) A contributing vegetable contractor may prepay any of the quarterly
25 installments under par. (a).

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 2. The vegetable contractor files a financial statement under s. 126.58 (1) and
2 that financial statement shows negative equity.

3 (b) Except as provided in par. (c), a vegetable contractor shall file security with
4 the department to cover the full amount of the unpaid deferred contract obligations
5 last reported under s. 126.56 (9) (e) or (12) (b), and maintain that security until it is
6 released under sub. (7), unless the vegetable contractor files an annual financial
7 statement under s. 126.58 and that financial statement shows positive equity, a
8 current ratio of at least 1.25 to 1.0, and a debt to equity ratio of not more than 4.0 to
9 1.0.

10 (c) A vegetable contractor is not required to file security under par. (a) or (b) if
11 any of the following applies:

12 1. The vegetable contractor pays cash on delivery under all vegetable
13 procurement contracts.

14 2. The vegetable contractor is a producer-owned cooperative that procures
15 processing vegetables only from its producer members.

16 **(2) SECURITY CONTINUED.** A vegetable contractor who filed security under s.
17 100.03, 1999 stats., before February 1, 2002, shall maintain that security until the
18 department releases it under sub. (7).

19 **(3) AMOUNT OF SECURITY.** A vegetable contractor who is required to file or
20 maintain security under this section shall, at all times, maintain security that is at
21 least equal to the sum of the following:

22 (a) Seventy-five percent of the amount last reported under s. 126.56 (9) (b) or
23 (12) (a), except that this amount is not required of a contributing vegetable contractor
24 after May 1, 2002.

25 (b) The amount required under sub. (1) (b), if any.

1 (4) FORM OF SECURITY. The department shall review, and determine whether
2 to approve, security filed under this section. The department may approve only the
3 following types of security:

4 (a) Currency.

5 (b) A commercial surety bond if all of the following apply:

6 1. The surety bond is made payable to the department for the benefit of
7 vegetable producers and producer agents.

8 2. The surety bond is issued by a person authorized to operate a surety business
9 in this state.

10 3. The surety bond is issued as a continuous term bond that may be canceled
11 only with the department's written agreement, or upon 90 days' prior written notice
12 served on the department in person or by certified mail.

13 4. The surety bond is issued in a form, and subject to any terms and conditions,
14 that the department considers appropriate.

15 (c) A certificate of deposit or money market certificate, if all of the following
16 apply:

17 1. The certificate is issued or endorsed to the department for the benefit of
18 vegetable producers and producer agents.

19 2. The certificate may not be canceled or redeemed without the department's
20 written permission.

21 3. No person may transfer or withdraw funds represented by the certificate
22 without the department's written permission.

23 4. The certificate renews automatically without any action by the department.

24 5. The certificate is issued in a form, and subject to any terms and conditions,
25 that the department considers appropriate.

1 (d) An irrevocable bank letter of credit if all of the following apply:

2 1. The letter of credit is payable to the department for the benefit of vegetable
3 producers and producer agents.

4 2. The letter of credit is issued on bank letterhead.

5 3. The letter of credit is issued for an initial period of at least one year.

6 4. The letter of credit renews automatically unless, at least 90 days before the
7 scheduled renewal date, the issuing bank gives the department written notice, in
8 person or by certified mail, that the letter of credit will not be renewed.

9 5. The letter of credit is issued in a form, and subject to any terms and
10 conditions, that the department considers appropriate.

11 (e) Security filed with the department under s. 100.03, 1999 stats., before
12 February 1, 2002, except that on January 1, 2003, the department shall withdraw
13 its approval of any security that is not approvable under pars. (a) to (d).

14 (5) DEPARTMENT CUSTODY OF SECURITY. The department shall hold, in its custody,
15 all security filed and maintained under this section. The department shall hold the
16 security for the benefit of vegetable producers and producer agents.

17 (6) ADDITIONAL SECURITY. (a) The department may, at any time, demand
18 additional security from a vegetable contractor if any of the following applies:

19 1. The vegetable contractor's existing security falls below the amount required
20 under sub. (3) for any reason, including a depreciation in the value of the security
21 filed with the department, increased obligations to vegetable producers or producer
22 agents, or the cancellation of any security filed with the department.

23 2. The vegetable contractor fails to provide required information that is
24 relevant to a determination of security requirements.

1 (b) The department shall issue a demand under par. (a) in writing. The
2 department shall indicate why additional security is required, the amount of
3 security required, and the deadline date for filing security. The department may not
4 specify a deadline for filing security that is more than 30 days after the date on which
5 the department issues its demand for security.

6 (c) A vegetable contractor may request a hearing, under ch. 227, on a security
7 demand under par. (b). A request for hearing does not automatically stay a security
8 demand.

9 (d) If a vegetable contractor fails to comply with the department's security
10 demand under this subsection, the vegetable contractor shall give written notice of
11 that fact to all vegetable producers and producer agents from whom the vegetable
12 contractor procures processing vegetables. If the vegetable contractor fails to give
13 accurate notice under this paragraph within 5 days after the security filing deadline
14 under par. (b) has passed, the department shall promptly notify vegetable producers
15 and producer agents by publishing a class 3 notice under ch. 985. The department
16 may also give individual notice to vegetable producers or producer agents of whom
17 the department is aware.

18 (e) If a vegetable contractor fails to comply with the department's demand for
19 security under this subsection, the department may do any of the following:

20 1. Issue a summary order under s. 126.85 (2) that prohibits the vegetable
21 contractor from procuring processing vegetables from vegetable producers or
22 producer agents, or requires the vegetable contractor to pay cash on delivery under
23 all vegetable procurement contracts.

24 2. Suspend or revoke the vegetable contractor's license.

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
22 a debt to equity 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 (d) The department may release security to the extent that the security exceeds
2 the amount required under sub. (3).

3 (e) The department may release security if the vegetable contractor files
4 alternative security, of equivalent value, that the department approves.

5 (f) The department shall release security if the vegetable contractor has gone
6 out of business and paid all contract obligations in full.

7 **126.62 Vegetable contractors; records.** (1) RECORDS REQUIRED. A vegetable
8 contractor shall keep all of the following:

9 (a) Copies of all written vegetable procurement contracts.

10 (b) A current record of all vegetable contract obligations, payments, and unpaid
11 balances.

12 (2) RECORDS RETENTION. A vegetable contractor shall keep all of the following
13 records for at least 6 years from the date of their creation:

14 1. Records required under sub. (1).

15 2. Records that the vegetable contractor was required to keep, under s. 100.03,
16 1999 stats., and department rules, before February 1, 2002.

17 (3) RECORDS INSPECTION. A vegetable contractor shall make records required
18 under this section available to the department for inspection and copying upon
19 request.

20 **126.63 Vegetable contractors; business practices.** (1) VEGETABLE GRADING
21 AND TARE. (a) A vegetable contractor shall grade vegetables according to the following
22 standards if the vegetable grade may affect the amount received by the vegetable
23 producer:

24 1. Standard grading procedures that the department establishes by rule.

1 2. Uniform grade standards that the department establishes by rule, unless the
2 vegetable procurement contract clearly specifies alternative grade standards.

3 (b) If a vegetable contractor makes any deduction for tare, the vegetable
4 contractor shall determine tare according to procedures that the department
5 establishes by rule.

6 (c) The department shall establish grade standards for vegetables that conform
7 to grade standards adopted by the federal department of agriculture under 7 USC
8 1621 to 1632.

9 **(2) PROHIBITED DEDUCTIONS.** No vegetable purchaser may deduct, from the
10 amount payable under a vegetable procurement contract, an amount designated for
11 the payment of any vegetable contractor license fee, surcharge, or fund assessment
12 under this subchapter.

13 **(3) TIMELY PAYMENT.** A vegetable contractor shall pay a vegetable producer or
14 producer agent according to the vegetable procurement contract. The vegetable
15 contractor shall make the following payments by the following dates, unless the
16 contract specifies a different payment date in writing:

17 (a) The 15th day of the month immediately following the month in which the
18 vegetable contractor harvests or accepts delivery of processing vegetables, the full
19 amount owed under the contract for those vegetables.

20 (b) The 15th day of the month immediately following the month in which the
21 vegetable contractor rejects or fails to harvest processing vegetables tendered under
22 the vegetable procurement contract, the full amount owed under the contract for
23 those vegetables.

1 (4) ANNUAL PAYMENT DEADLINE. (a) Except as provided in par. (b) or (c), a
2 vegetable contractor shall pay all outstanding obligations to vegetable producers by
3 January 31 of each license year.

4 (b) For processing vegetables tendered or delivered in January of any license
5 year, a vegetable contractor shall pay the full amount owed under the vegetable
6 procurement contract by February 15 or by the 30th day after the date of delivery,
7 whichever date is later.

8 (c) A vegetable contractor may pay outstanding producer obligations in
9 accordance with a deferred payment contract that complies with sub. (5) and
10 specifies a payment date after January 31 for processing vegetables delivered on or
11 before December 31.

12 (5) DEFERRED PAYMENT CONTRACT. (a) Before a vegetable contractor offers a
13 deferred payment contract to any vegetable producer, the vegetable contractor shall
14 put the deferred payment contract to a vote of vegetable producers, as provided in
15 par. (b), obtain the approval of a majority of the voting vegetable producers, and
16 comply with par. (c).

17 (b) To put a deferred payment contract to a vote of vegetable producers, the
18 vegetable contractor shall give written notice to all vegetable producers in this state
19 from whom the vegetable contractor procured the same type of processing vegetables
20 during the preceding license year. In the notice, the vegetable contractor shall
21 include a copy of the proposed contract, shall announce a meeting at which the
22 vegetable producers will be asked to vote on the proposed contract, and shall include
23 a mail ballot by which a vegetable producer may vote without attending the meeting.
24 The vegetable contractor shall conduct the voting by secret ballot.

1 (c) To comply with this paragraph, a vegetable contractor shall file all of the
2 following with the department:

3 1. A sworn statement certifying that the contract was approved in a vote of
4 vegetable producers under this subsection.

5 2. Any additional security required under s. 126.61 (3).

6 (6) CASH ON DELIVERY. A vegetable contractor shall pay cash on delivery under
7 all vegetable procurement contracts if any of the following applies:

8 (a) The vegetable contractor stated, in the vegetable contractor's last annual
9 statement under s. 126.56 (9) (g), that the vegetable contractor would pay cash on
10 delivery.

11 (b) The department disqualifies the vegetable contractor, under s. 126.59 (2)
12 (c), or requires the vegetable contractor to pay cash on delivery under s. 126.61 (6)
13 (e).

14 **126.64 Vegetable contractors; prohibited practices.** No vegetable
15 contractor may do any of the following:

16 (1) Misrepresent the weight, grade, or quality of processing vegetables under
17 a vegetable procurement contract.

18 (2) Falsify any record or account, or conspire with any other person to falsify
19 a record or account.

20 (3) Make any false or misleading representation to the department.

21 (4) If the vegetable contractor is licensed under s. 126.56, engage in any activity
22 that is inconsistent with representations made in the vegetable contractor's annual
23 license application.

24 (5) Make any false or misleading representation to a vegetable producer or
25 producer agent related to matters regulated under this chapter.

1 (a) A grain producer or producer agent, as defined in s. 126.10 (13), who claims
2 that a grain dealer has failed to pay, when due, for producer grain that the grain
3 dealer procured in this state.

4 (b) A depositor who is either a grain producer or a producer agent, as defined
5 in s. 126.10 (13), and who claims that a grain warehouse keeper has failed to return
6 stored grain or its equivalent upon demand.

7 (c) A milk producer or producer agent, as defined in s. 126.40 (13), who claims
8 that a milk contractor has failed to pay, when due, for producer milk procured in this
9 state.

10 (d) A vegetable producer or producer agent, as defined in s. 126.55 (12), who
11 claims that a vegetable contractor has failed to make payment when due under a
12 vegetable procurement contract.

13 **(2) FILING DEFAULT CLAIMS.** A claimant shall file a default claim under sub. (1)
14 within 30 days after the claimant first learns of the default, subject to sub. (3). The
15 claimant shall specify the nature and amount of the default. The department may
16 investigate the alleged default and may require the claimant to provide supporting
17 documentation.

18 **(3) INITIATING A RECOVERY PROCEEDING.** (a) The department may initiate a
19 recovery proceeding in response to one or more default claims under sub. (1). The
20 department shall issue a written notice announcing the recovery proceeding. The
21 department shall mail or deliver a copy of the notice to the contractor and each
22 claimant in the proceeding.

23 (b) If the department has reason to believe that other persons may have default
24 claims under sub. (1) against the same contractor, the department may invite those

1 persons to file their claims in the recovery proceeding. The department may publish
2 the invitation in any of the following ways:

3 1. By posting it at the contractor's place of business.

4 2. By publishing it as a class 3 notice under ch. 985.

5 **3. By** mailing or delivering it to prospective claimants known to the
6 department.

7 4. By other means that the department considers appropriate.

8 (c) In its invitation under par. (b), the department may specify a deadline date
9 and a procedure for filing default claims. An invitation may indicate the amount of
10 a prospective claimant's apparent claim and may ask the prospective claimant to
11 verify or correct that amount.

12 (d) The department may initiate separate recovery proceedings for default
13 claims that comply with sub. (2) but are filed after the deadline date under par. (c).

14 (4) AUDITING CLAIMS. The department shall audit each claim included in a
15 recovery proceeding. The department shall disallow a claim if the department finds
16 any of the following:

17 (a) That the claim is false or not adequately documented.

18 (b) That the claimant filed the claim more than 30 days after the claimant first
19 learned of the contractor's default, unless the department specifies a later
20 claim-filing deadline under sub. (3) (c).

21 (c) That the claimant, without any contractual obligation to do so, continued
22 to deliver grain, milk, or vegetables to the defaulting contractor more than 10 days
23 after the claimant first learned of the contractor's default.

24 (d) That the claimant failed to comply with claim-filing deadlines or
25 procedures specified under sub. (3) (c).

1 (e) That the person filing the claim is not an authorized claimant under sub.
2 (1).

3 **(5) ALLOWED CLAIM AMOUNTS.** (a) The department shall determine the amount
4 of an allowed claim based on the contract between the parties. If the contract terms
5 are unclear, the department may determine the allowed claim amount based on local
6 market prices, applicable milk marketing order prices, customs in the trade, or other
7 evidence that the department considers appropriate.

8 (b) Notwithstanding par. (a), if the default involves a grain warehouse keeper's
9 failure to return stored grain to a depositor upon demand, the department shall
10 calculate the value of the grain based on local market prices on the day on which the
11 depositor made the demand.

12 (c) The department shall subtract from the allowed claim amount any
13 offsetting payments made by the contractor and any obligations for which the
14 claimant is liable to the contractor.

15 **(6) PROPOSED DECISION.** After the department completes its audit under sub. (4),
16 the department shall issue a proposed decision. The department shall mail or deliver
17 a copy of the proposed decision to the contractor and each claimant. The department
18 shall do all of the following in the proposed decision:

19 (a) Specify proposed findings of fact, proposed conclusions of law, and a
20 proposed order.

21 (b) Allow or disallow each default claim and specify the amount of each allowed
22 claim. The department may disallow part of a claim.

23 (c) Specify, for each allowed claim, the amount that the department is
24 authorized to pay under s. 126.71.

1 (d) Specify the method, under s. 126.71, by which the department will pay the
2 authorized amounts under par. (c).

3 (e) Explain a claimant's right under s. 126.87 (4) to seek court recovery of that
4 portion of an allowed claim that is not paid by the department.

5 (f) Specify a date by which the contractor or claimant may file written
6 objections to the proposed decision.

7 (7) FINAL DECISION IF NO OBJECTIONS. If no contractor or claimant files a timely
8 written objection to the proposed decision under sub. (6), the department may issue
9 the proposed decision as the department's final decision in the recovery proceeding,
10 without further notice or hearing. The department shall mail or deliver a copy of the
11 final decision to the contractor and each claimant.

12 (8) OBJECTIONS TO PROPOSED DECISION; NOTICE, HEARING, AND FINAL DECISION. (a)
13 If a contractor or claimant files a timely written objection to the proposed decision
14 under sub. (6), the department shall hold a public hearing on the objection. The
15 department shall follow applicable contested case procedures under ch. 227. The
16 department may hear all objections in a single proceeding. At the conclusion of the
17 contested case proceeding, the department shall issue a final decision affirming or
18 modifying the proposed decision under sub. (6).

19 (b) The department may issue a final decision under sub. (7) related to default
20 claims that are not affected by objections under par. (a), regardless of whether the
21 department has completed the contested case proceeding under par. (a).

22 **126.71 Paying default claims. (1) CLAIMS AGAINST CONTRIBUTING**
23 **CONTRACTOR.** Except as provided in sub. (2) or (3), the department shall pay from the
24 appropriate sources under s. 126.72 the following default claim amounts:

1 (a) Except as provided in par. (d) or (e), for each default claim allowed under
2 s. 126.70 against a grain dealer or milk contractor who was a contributing contractor
3 when the default occurred:

- 4 1. Eighty percent of the first \$60,000 allowed.
- 5 2. Seventy-five percent of any amount allowed in excess of \$60,000.

6 (b) For each default claim allowed under s. 126.70 against a grain warehouse
7 keeper who was a contributing contractor when the default occurred, 100% of the
8 first \$100,000 allowed.

9 (c) For each default claim allowed under s. 126.70 against a vegetable
10 contractor who was a contributing contractor when the default occurred:

- 11 1. Ninety percent of the first \$40,000 allowed.
- 12 2. Eighty-five percent of the next \$40,000 allowed.
- 13 3. Eighty percent of the next \$40,000 allowed.
- 14 4. Seventy-five percent of any amount allowed in excess of \$120,000.

15 (d) For each default claim allowed under s. 126.70 against a qualified producer
16 agent who, at the time of the default, was a contributing contractor and maintained
17 security under s. 126.47 (3) (c), if the default occurs after April 30, 2002, and before
18 May 1, 2004, 15% of the amount allowed.

19 (e) For each default claim allowed under s. 126.70 against a qualified producer
20 agent who, at the time of the default, was a contributing contractor and maintained
21 security under s. 126.47 (3) (c), if the default occurs after April 30, 2004, and before
22 May 1, 2007, 20% of the amount allowed.

23 **(1m) WHEN DEFAULT OCCURS.** For the purposes of this chapter, a default occurs
24 on the date on which payment or delivery becomes overdue.

1 (2) CLAIMS AGAINST CONTRACTOR WHO HAS FILED SECURITY. If the department
2 allows default claims under s. 126.70 against a contractor who has security on file
3 with the department, the department shall convert that security and use the
4 proceeds as follows:

5 (a) If the contractor was not a contributing contractor when the default
6 occurred, the department shall use the security proceeds to pay the full amount of
7 the allowed claims, except that, if the security is not adequate to pay the full amount
8 of the allowed claims, the department shall pay claimants on a prorated basis in
9 proportion to their allowed claims.

10 (b) If the contractor was a contributing contractor when the default occurred,
11 the department shall use the security proceeds to reimburse the sources under s.
12 126.72 from which the department makes any claim payment under sub. (1). If the
13 security amount exceeds the amount payable under sub. (1) from the sources under
14 s. 126.72, the department shall use the remaining security proceeds to pay the
15 balance of the allowed claims. If the security amount is not adequate to pay the full
16 remaining balance, the department shall pay claimants on a prorated basis in
17 proportion to their allowed claims.

18 (c) Notwithstanding par. (b), if the contractor was a contributing contractor
19 when the default occurred, the department may, at its discretion, pay claims directly
20 from security proceeds rather than from a fund source under s. 126.72. If the
21 department acts under this paragraph, the department shall first pay claims in the
22 amounts provided in sub. (1). If the security amount exceeds the amount payable
23 under sub. (1) from the sources under s. 126.72, the department shall use the
24 remaining security proceeds to pay the balance of the allowed claims. If the security

1 amount is not adequate to pay the full remaining balance, the department shall pay
2 claimants on a prorated basis in proportion to their allowed claims.

3 (3) PAYMENT RESTRICTIONS. (a) The department may not pay any portion of the
4 following from any source identified in s. 126.72:

5 1. A default claim related to a default by a grain dealer or grain warehouse
6 keeper that occurs before September 1, 2002.

7 2. A default claim related to a default by a milk contractor that occurs before
8 May 1, 2002.

9 3. A default claim related to a default by a vegetable contractor that occurs
10 before February 1, 2002.

11 4. A default claim allowed against a contractor who was not a contributing
12 contractor when the default occurred.

13 (b) The department may not pay any default claim under this chapter, except
14 as provided in sub. (1) or (2).

15 (c) If the total amount of default claims exceeds the amount available under s.
16 126.72, the department shall prorate the available amount among the eligible
17 claimants in proportion to the amount of their allowed claims.

18 (4) EFFECT OF PAYMENT. A claimant who accepts payment under sub. (1) or (2)
19 releases his or her claim against the contractor to the extent of the payment. A
20 payment under sub. (1) or (2) does not prevent a claimant from recovering the
21 balance of an allowed claim directly from the contractor.

22 **126.72 Claims against contributing contractor; payment sources. (1)**
23 PRODUCER SECURITY FUND. From the appropriation under s. 20.115 (1) (w), the
24 department shall make payments authorized under s. 126.71 (1), up to the deductible
25 amount in sub. (4).

1 **(2) INDUSTRY BOND PROCEEDS.** The department shall make a demand against the
2 appropriate industry bond under s. 126.06 and shall use the proceeds of that bond
3 to make payments authorized under s. 126.71 (1), to the extent that those payments
4 exceed the deductible amount in sub. (4).

5 **(3) BLANKET BOND PROCEEDS.** The department shall make a demand against the
6 blanket bond under s. 126.07 and shall use the bond proceeds to pay any remaining
7 amounts authorized under s. 126.71 (1) after the department makes payments under
8 subs. (1) and (2).

9 **(4) DEDUCTIBLE AMOUNT.** The deductible amount, for purposes of subs. (1) and
10 (2), is as follows:

11 (a) For default claims against a grain dealer or grain warehouse keeper who
12 was a contributing contractor when the default occurred:

13 1. If the department allows the claims on or after September 1, 2002, but before
14 September 1, 2004, \$500,000.

15 2. If the department allows the claims on or after September 1, 2004, but before
16 September 1, 2006, \$750,000.

17 3. If the department allows the claims on or after September 1, 2006,
18 \$1,000,000.

19 (b) For default claims against a milk contractor who was a contributing
20 contractor when the default occurred:

21 1. If the department allows the claims on or after May 1, 2002, but before May
22 1, 2004, \$1,000,000.

23 2. If the department allows the claims on or after May 1, 2004, but before May
24 1, 2006, \$1,500,000.

25 3. If the department allows the claims on or after May 1, 2006, \$2,000,000.

1 (c) For claims against a vegetable contractor who was a contributing contractor
2 when the default occurred:

3 1. If the department allows the claims on or after February 1, 2002, but before
4 February 1, 2004, \$500,000.

5 2. If the department allows the claims on or after February 1, 2004, but before
6 February 1, 2006, \$750,000.

7 3. If the department allows the claims on or after February 1, 2006, \$1,000,000.

8 **126.73 Reimbursing payments.** (1) PAYMENTS FROM THE FUND. The
9 department may demand and collect, from a contractor, any claim amounts that the
10 department pays under s. 126.72 (1) because of the contractor's default.

11 (2) BOND PAYMENTS. A bond surety may demand and collect, from a contractor,
12 any claim amounts that the bond surety pays to the department under s. 126.72 (2)
13 or (3) because of the contractor's default. The bond surety shall provide the
14 department with a copy of each demand under this subsection.

15 SUBCHAPTER VIII

16 ADMINISTRATION AND ENFORCEMENT

17 **126.78 Definitions.** In this subchapter:

18 (1) "Contributing contractor" has the meaning given in s. 126.68 (1).

19 (2) "Depositor" has the meaning given in s. 126.25 (5).

20 (3) "Grain dealer" has the meaning given in s. 126.10 (9).

21 (4) "Grain warehouse keeper" has the meaning given in s. 126.25 (9).

22 (5) "Milk contractor" has the meaning given in s. 126.40 (8).

23 (6) "Producer agent" means a person who is a producer agent, as defined in s.
24 126.10 (13), 126.40 (13), or 126.55 (12).

25 (7) "Vegetable contractor" has the meaning given in s. 126.55 (14).

1 (8) “Vegetable producer” has the meaning given in s. 126.55 (16).

2 **126.80 Department authority; general.** The department shall administer
3 this chapter.

4 **126.81 Rule-making.** The department may promulgate rules to do any of the
5 following:

6 (1) Interpret and implement this chapter.

7 (2) Modify the license fees and surcharges provided in s. 126.11 (4), 126.26 (3),
8 126.41 (3), 126.42, or 126.56 (4).

9 (3) Modify the fund assessments provided under s. 126.15, 126.30, 126.46, or
10 126.60, as provided in s. 126.88.

11 (4) Require a contractor to notify producers and producer agents of the
12 contractor’s license, security, or fund contribution status under this chapter.

13 **126.82 Investigations.** The department may conduct investigations that it
14 considers necessary for the administration of this chapter, including investigations
15 to determine any of the following:

16 (1) Whether a contractor complies with this chapter.

17 (2) Whether a contractor is able to honor contract obligations when due.

18 (3) Whether a contractor has failed to honor contract obligations when due.

19 (4) Whether a grain warehouse keeper has sufficient grain on hand to meet the
20 grain warehouse keeper’s obligations to depositors.

21 (5) The nature and amount of a contractor’s storage obligations or other
22 contract obligations.

23 **126.83 Information.** The department may require a contractor to provide
24 information that is relevant to the administration and enforcement of this chapter.

1 **126.84 Records; confidentiality.** (1) PUBLIC RECORDS EXEMPTION. The
2 following records obtained by the department under this chapter are not open to
3 public inspection under s. 19.35:

4 (a) Contractor financial statements.

5 (b) A contractor's purchase, storage, or procurement records.

6 (2) USE OF RECORDS IN COURT OR ADMINISTRATIVE PROCEEDINGS. Notwithstanding
7 sub. (1), the department may introduce any information obtained under this chapter
8 in a court proceeding or administrative contested case, subject to any protective
9 order that the court or administrative tribunal determines to be appropriate.

10 **126.85 Remedial orders.** (1) GENERAL. The department may, by special
11 order, require a contractor to remedy a violation of this chapter or a rule promulgated
12 under this chapter. The department may order the contractor to take specific
13 remedial actions, including actions to remedy deficiencies or to prevent losses to
14 persons protected under this chapter. Except as provided in sub. (2), the department
15 shall give the contractor notice and an opportunity for hearing before the department
16 issues an order.

17 (2) SUMMARY ORDER. The department may issue an order under sub. (1) without
18 prior notice or hearing if the department finds that the order is necessary to prevent
19 a clear and imminent threat of harm to persons protected under this chapter.
20 Conditions indicating a clear and imminent threat of harm include the following:

21 (a) A contractor fails to pay producers according to this chapter or according
22 to the contractor's contracts with producers.

23 (b) A contractor fails to file replacement insurance within the time required
24 under this chapter.

1 (c) A contractor fails to file security according to this chapter, or in response to
2 the department's demand under this chapter.

3 (d) A contractor fails to pay a fund assessment when due.

4 (e) A vegetable contractor fails to pay vegetable producers by January 31 for
5 vegetables delivered by December 31 of the previous year, except as authorized in a
6 deferred payment contract.

7 (f) A grain warehouse keeper fails to return grain to depositors upon demand,
8 as required under s. 126.34 (4).

9 (g) A grain warehouse keeper fails to maintain adequate grain inventory as
10 required under s. 126.34 (3), and at least one of the following applies:

11 1. The amount of the deficiency exceeds 10,000 bushels or 10% of the grain
12 warehouse keeper's obligations to depositors, whichever amount is less.

13 2. The grain warehouse keeper fails to correct the deficiency within 15 days
14 after receiving the department's written notice that a deficiency exists.

15 **(3) HEARING ON SUMMARY ORDER.** (a) A contractor named in a summary order
16 under sub. (2) may, within 10 days after receiving the order, request a hearing on the
17 order. The department shall hold an informal hearing as soon as possible after
18 receiving a hearing request, but not later than 10 days after receiving the hearing
19 request, unless the contractor waives the informal hearing or agrees to hold it at a
20 later date. If the matter is not resolved at the informal hearing, the department shall
21 hold a contested case hearing under ch. 227 as soon as reasonably possible.

22 (b) A hearing request under par. (a) does not automatically stay a summary
23 order. The department may stay a summary order pending hearing.

1 **126.86 License actions. (1) GENERAL.** The department may for cause deny,
2 suspend, revoke, or impose conditions on a contractor's license, as provided in s.
3 93.06 (7) and (8). Cause may include any of the following:

4 (a) The contractor fails to comply with this chapter or a rule promulgated under
5 this chapter.

6 (b) The contractor fails to comply with an order that the department issues
7 under this chapter.

8 (c) The contractor fails to provide relevant information that the department
9 requests under this chapter or falsifies information provided to the department.

10 (d) The contractor fails to file a financial statement, security, fees, or
11 assessments required under this chapter, or fails to meet other requirements for
12 licensing.

13 (e) The contractor fails to honor contract obligations to persons who are
14 authorized to file default claims under s. 126.70 (1).

15 (f) The contractor fails to reimburse the department, within 60 days after the
16 department issues a reimbursement demand under s. 126.73 (1), for the full amount
17 that the department pays to claimants under s. 126.72 (1) because of the contractor's
18 default.

19 (g) The contractor fails to reimburse a bond surety, within 60 days after the
20 bond surety issues a reimbursement demand under s. 126.73 (2), for the full amount
21 that the surety pays to the department under s. 126.72 (2) or (3) for the benefit of
22 claimants affected by the contractor's default.

23 **(2) HEARING ON LICENSE ACTION; GENERAL.** Except as provided in sub. (3), the
24 department shall give a contractor notice and an opportunity for hearing before the

1 department suspends, revokes, or imposes conditions on a license held by the
2 contractor.

3 (3) SUMMARY ACTION. (a) The department may, without prior notice or hearing,
4 summarily suspend, revoke, or impose conditions on a license held by a contractor
5 if the department finds that summary action is necessary to prevent a clear and
6 imminent threat of harm to persons protected under this chapter. Conditions
7 indicating a clear and imminent threat of harm include those identified in s. 126.85
8 (2).

9 (b) A contractor who is the subject of a summary action under par. (a) may,
10 within 10 days after receiving notice of that action, request a hearing on the action.
11 The department shall hold an informal hearing as soon as possible after receiving a
12 hearing request, but not later than 10 days after receiving the hearing request,
13 unless the contractor waives the informal hearing or agrees to hold it at a later date.
14 If the matter is not resolved at the informal hearing, the department shall hold a
15 contested case hearing under ch. 227 as soon as reasonably possible.

16 (c) A request for hearing under par. (b) does not automatically stay a summary
17 action under par. (a). The department may stay a summary action pending hearing.

18 **126.87 Court actions. (1) INJUNCTION.** The department may petition the
19 circuit court for an ex parte temporary restraining order, a temporary injunction, or
20 a permanent injunction to prevent, restrain, or enjoin any person from violating this
21 chapter, any rule promulgated under this chapter, or any order issued under this
22 chapter. The department may seek this remedy in addition to any other penalty or
23 remedy provided under this chapter.

1 (2) PENALTIES. (a) A person who violates this chapter, a rule promulgated under
2 this chapter, or an order issued under this chapter is subject to a forfeiture of not less
3 than \$250 nor more than \$5,000 for each violation.

4 (b) A person who intentionally violates this chapter, a rule promulgated under
5 this chapter, or an order issued under this chapter may be fined not more than
6 \$10,000 or imprisoned for not more than one year in the county jail or both.

7 (4) PRIVATE REMEDY. (a) A person whose claim is allowed under s. 126.70 may
8 bring an action against the contractor to recover the amount of the allowed claim, less
9 any recovery amount that the department pays to the claimant under s. 126.71. In
10 any court action under this subsection, the claimant may recover costs including all
11 reasonable attorney fees, notwithstanding s. 814.04 (1). This subsection does not
12 limit any other legal cause of action that the claimant may have against the
13 contractor.

14 (b) A claim allowed under s. 126.70 has the same priority in an insolvency
15 proceeding or creditor's action as a claim for wages, except as otherwise provided by
16 federal law.

17 (5) COLLECTIONS. The department may bring an action in court to recover any
18 unpaid amount that a contractor owes the department under this chapter, including
19 any unpaid fund assessment or reimbursement.

20 **126.88 Modifying fund assessments.** The department may by rule modify
21 the fund assessments provided under s. 126.15, 126.30, 126.46, or 126.60. The
22 department shall modify fund assessments as necessary to do all of the following:

23 (1) Maintain an overall fund balance of at least \$5,000,000 after January 1,
24 2006, but not more than \$22,000,000 at any time.

1 (2) Maintain a fund balance attributable to grain dealers of at least \$1,000,000
2 after January 1, 2006, but not more than \$6,000,000 at any time.

3 (3) Maintain a fund balance attributable to grain warehouse keepers of at least
4 \$200,000 after January 1, 2006, but not more than \$1,000,000 at any time.

5 (4) Maintain a fund balance attributable to milk contractors of at least
6 \$3,000,000 after January 1, 2006, but not more than \$12,000,000 at any time.

7 (5) Maintain a fund balance attributable to vegetable contractors of at least
8 \$800,000 after January 1, 2006, but not more than \$3,000,000 at any time.

9 **126.89 Calculations.** If a number used in or resulting from a calculation made
10 to determine the amount of an assessment under s. 126.15, 126.30, 126.46, or 126.60,
11 other than a number that appears in one of those sections, extends more than 6
12 decimal places to the right of the decimal point, a person making the calculation shall
13 round the number to the nearest whole digit in the 6th decimal place to the right of
14 the decimal point. The amount of an assessment may be rounded to the nearest
15 whole dollar.

16 **126.90 Agricultural producer security council.** The agricultural producer
17 security council shall advise the department on the administration and enforcement
18 of this chapter. The council shall meet as often as the department considers
19 necessary, but at least once annually. The department shall inform the council of
20 fund balances and payments, and shall consult with the council before modifying any
21 license fee, license surcharge, or fund assessment under this chapter. ✓

22 **SECTION 2814.** Chapter 127 of the statutes, as affected by 2001 Wisconsin Act
23 (this act), is repealed.

24 **SECTION 2814dd.** 127.01 (1r) of the statutes is amended to read:

1 127.01 (1r) “Audited financial statement” means a financial statement on
2 which an independent certified public accountant, ~~or an independent public~~
3 ~~accountant holding a certificate of authority~~ licensed or certified under ch. 442, has
4 expressed an opinion according to generally accepted accounting principles and has
5 conducted an audit according to generally accepted auditing standards.

6 **SECTION 2814dh.** 127.01 (25m) (b) of the statutes is amended to read:

7 127.01 (25m) (b) The financial statement is reviewed according to generally
8 accepted accounting principles by an independent certified public accountant ~~or an~~
9 ~~independent public accountant who holds a certificate of authority~~ licensed or
10 certified under ch. 442.

11 **SECTION 2814dp.** 127.06 (1) (e) of the statutes is amended to read:

12 127.06 (1) (e) The department may extend the filing deadline under par. (a) 2.
13 by up to 30 days in response to a written request from a warehouse keeper or an
14 independent certified public accountant, ~~or an independent public accountant~~
15 ~~holding a certificate of authority~~ licensed or certified under ch. 442, that is auditing
16 or reviewing the financial statement for a warehouse keeper if the department
17 receives the request on or before the 5th day of the 4th month beginning after the
18 close of the warehouse keeper’s fiscal year and if the request states the reason for the
19 extension.

20 **SECTION 2814dt.** 127.06 (1m) (e) of the statutes is amended to read:

21 127.06 (1m) (e) The department may extend the filing deadline under par. (b)
22 2. by up to 30 days in response to a written request from a grain dealer or an
23 independent certified public accountant, ~~or an independent public accountant who~~
24 ~~holds a certificate of authority~~ licensed or certified under ch. 442, that is auditing or
25 reviewing the financial statement for a grain dealer, if the department receives the

1 written request on or before the 5th day of the 4th month beginning after the close
2 of the grain dealer's fiscal year and if the request states the reason for the extension.

3 **SECTION 2812t.** 125.52 (8) of the statutes is created to read:

4 125.52 (8) SALES TO INDIVIDUALS IN OTHER STATES. A permittee under this section
5 that ships wine from this state to individuals in another state under authorization
6 of a reciprocal agreement specified in s. 139.035 shall submit a report to the
7 department, by January 31 of each year, on forms furnished by the department. The
8 report shall include the identity, quantity, and price of all products shipped during
9 the previous calendar year from this state to individuals in another state under
10 authorization of a reciprocal agreement specified in s. 139.035. The report shall also
11 include the name, address, and birthdate of each person who purchased these
12 products and each person to whom these products were shipped. The department
13 shall keep confidential, in the same manner required for tax returns under s. 71.78
14 (1), (4), and (5) to (8), reports submitted under this subsection.

15 **SECTION 2812u.** 125.53 (3) of the statutes is created to read:

16 125.53 (3) A permittee under this section that ships wine from this state to
17 individuals in another state under authorization of a reciprocal agreement specified
18 in s. 139.035 shall submit a report to the department, by January 31 of each year, on
19 forms furnished by the department. The report shall include the identity, quantity,
20 and price of all products shipped during the previous calendar year from this state
21 to individuals in another state under authorization of a reciprocal agreement
22 specified in s. 139.035. The report shall also include the name, address, and
23 birthdate of each person who purchased these products and each person to whom
24 these products were shipped. The department shall keep confidential, in the same

1 manner required for tax returns under s. 71.78 (1), (4), and (5) to (8), reports
2 submitted under this subsection.

3 **SECTION 2812v.** 125.58 (4) of the statutes is renumbered 125.48 (4) (intro.) and
4 amended to read: ^(a)
← plain

5 125.58 (4) (a) (intro.) A winery located outside of this state may ship wine into
6 this state as provided under s. 125.68 (10) (bm) if ~~the~~ all of the following apply:

7 1. The winery is located in a state ~~which~~ that has a reciprocal agreement with
8 this state under s. 139.035.

9 (b) An out-of-state shipper's permit is not required for shipments into this
10 state under this subsection.

11 **SECTION 2812w.** 125.58 (4) (a) 2. of the statutes is created to read:

12 125.58 (4) (a) 2. The winery holds a valid business tax registration certificate
13 issued under s. 73.03 (50). Notwithstanding s. 73.03 (50), the department shall
14 charge an annual fee of \$10 for this registration.

15 **SECTION 2812wg.** 125.58 (4) (a) 3. of the statutes is created to read:

16 125.58 (4) (a) 3. The winery submits to the department, with any initial
17 application or renewal for a certificate under s. 73.03 (50), a copy of any current
18 license, permit, or authorization issued to the winery by any state from which the
19 winery will ship wine into this state.

20 **SECTION 2812wm.** 125.58 (4) (a) 4. of the statutes is created to read:

21 125.58 (4) (a) 4. The winery submits a report to the department, by January
22 31 of each year, on forms furnished by the department, providing the identity,
23 quantity, and price of all products shipped into this state during the previous
24 calendar year, along with the name, address, and birthdate of each person who
25 purchased these products and each person to whom these products were shipped.

1 The department shall keep confidential, in the same manner required for tax returns
2 under s. 71.78 (1), (4), and (5) to (8), reports submitted under this subdivision.

3 **SECTION 2812x.** 125.68 (10) (bm) of the statutes is amended to read:

4 125.68 (10) (bm) A winery in compliance with the requirements of s. 125.58 (4)
5 may ship wine into this state under s. 125.58 (4) from a state ~~which that~~ has a
6 reciprocal agreement with this state under s. 139.035 to an individual who is of the
7 legal drinking age and who acknowledges in writing receipt of the wine shipped if the
8 shipping container is clearly labeled to indicate that the package may not be
9 delivered to an underage person or to an intoxicated person. A person who receives
10 wine under this paragraph may not sell it or use it for a commercial purpose. A
11 signature on the delivery form of the common carrier by a person of legal drinking
12 age acknowledges delivery in writing.

13 **SECTION 2813m.** 134.60 of the statutes is amended to read:

14 **134.60 Cutting or transportation of evergreens.** No person may cut for
15 sale in its natural condition and untrimmed, with or without roots, any evergreen or
16 coniferous tree, branch, bough, bush, sapling or shrub, from the lands of another
17 without the written consent of the owner, whether such land is publicly or privately
18 owned. The written consent shall contain the legal description of the land where the
19 tree, branch, bough, bush, sapling or shrub was cut, as well as the name of the legal
20 owner. The written consent or a certified copy of the consent shall be carried by every
21 person in charge of the cutting or removing of the trees, branches, boughs, bushes,
22 saplings or shrubs, and shall be exhibited to any officer of the law, state forest ranger,
23 forest patrol officer, conservation warden, or other officer of the department of
24 natural resources or the department of forestry at the officer's request at any time.
25 The officer may inspect the trees, branches, boughs, bushes, saplings or shrubs when

1 being transported in any vehicle or other means of conveyance and may investigate
2 to determine whether or not this section has been complied with. The officer may
3 stop any vehicle or means of conveyance found carrying any trees, branches, boughs,
4 bushes, saplings or shrubs upon any public highway of this state for the purpose of
5 making such inspection and investigation, and may seize and hold, subject to the
6 order of the court, any such trees, bushes, saplings or shrubs found being cut,
7 removed or transported in violation of this section. No person may ship or transport
8 any such trees, bushes, saplings or shrubs outside the county where they were cut
9 unless the person attaches to the outside of each package, box, bale, truckload or
10 carload shipped a tag or label on which appears the person's name and address. No
11 common carrier or truck hauler may receive for shipment or transportation any such
12 trees, bushes, saplings or shrubs unless the tag or label is attached. Any person who
13 violates this section shall be fined not less than \$10 nor more than \$100. Any person
14 who signs any such written consent or certified copy under this section who is not
15 authorized to do so, and any person who lends or transfers or offers to lend or transfer
16 any such written consent or certified copy to another person who is not entitled to use
17 it, and any person not entitled to use any such written consent or certified copy, or
18 who borrows, receives or solicits from another any such written consent or certified
19 copy thereof shall be fined not less than \$100 nor more than \$500. ✓

20 **SECTION 2818.** 134.72 (title) of the statutes is amended to read:

21 **134.72 (title) Prohibition of certain unsolicited messages by telephone**
22 **or facsimile machine.**

23 **SECTION 2819b.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (i) and
24 amended to read:

1 100.52 (1) (i) "Telephone solicitation" means the unsolicited initiation of a
2 telephone conversation for the purpose of encouraging ~~a person~~ the recipient of the
3 telephone call to purchase property, goods or services or to make a contribution,
4 donation, grant, or pledge of money, credit, property, or other thing of any kind or
5 value.

6 **SECTION 2820d.** 134.72 (2) (a) (title) of the statutes is repealed.

7 *Blank line out*

8 **SECTION 2821b.** 134.72 (2) (a) of the statutes is renumbered 100.52 (4) (a)
9 (intro.) and amended to read:

10 100.52 (4) (a) (intro.) ~~No person may use~~ A telephone solicitor or an employee
11 or contractor of a telephone solicitor may not do any of the following:

12 1. Use an electronically prerecorded message in telephone solicitation without
13 the consent of the ~~person called~~ recipient of the telephone call.

14 **SECTION 2822.** 134.72 (2) (b) (title) of the statutes is repealed.

15 **SECTION 2822m.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and
16 134.72 (2) (b), as renumbered, is amended to read:

17 134.72 (2) (b) Notwithstanding ~~subd. 1.~~ par. (a), a person may not make a
18 facsimile solicitation to a person who has notified the facsimile solicitor in writing
19 or by facsimile transmission that the person does not want to receive facsimile
20 solicitation.

21 **SECTION 2824.** 134.72 (3) (a) of the statutes is amended to read:

22 134.72 (3) (a) *Intrastate.* This section applies to any ~~intrastate telephone~~
23 ~~solicitation or~~ intrastate facsimile solicitation.

24 **SECTION 2825.** 134.72 (3) (b) of the statutes is amended to read:

1 134.72 (3) (b) *Interstate*. This section applies to any ~~interstate telephone~~
2 ~~solicitation, or interstate facsimile solicitation,~~ received by a person in this state.

3 **SECTION 2826.** 134.72 (4) of the statutes is amended to read:

4 134.72 (4) PENALTY. A person who violates this section may be required to
5 forfeit up to not more than \$500.

6 **SECTION 2826m.** 134.73 of the statutes is created to read:

7 **134.73 Identification of prisoner making telephone solicitation. (1)**

8 DEFINITIONS. In this section:

9 (a) “Contribution” has the meaning given in s. 440.41 (5).

10 (b) “Prisoner” means a prisoner of any public or private correctional or
11 detention facility that is located within or outside this state.

12 (c) “Solicit” has the meaning given in s. 440.41 (8).

13 (d) “Telephone solicitation” means the unsolicited initiation of a telephone
14 conversation for any of the following purposes:

15 1. To encourage a person to purchase property, goods, or services.

16 2. To solicit a contribution from a person.

17 3. To conduct an opinion poll or survey.

18 (2) REQUIREMENTS. A prisoner who makes a telephone solicitation shall do all
19 of the following immediately after the person called answers the telephone:

20 (a) Identify himself or herself by name.

21 (b) State that he or she is a prisoner.

22 (c) Inform the person called of the name of the correctional or detention facility
23 in which he or she is a prisoner and the city and state in which the facility is located.

24 (3) TERRITORIAL APPLICATION. (a) *Intrastate*. This section applies to any
25 intrastate telephone solicitation.

1 (b) *Interstate*. This section applies to any interstate telephone solicitation
2 received by a person in this state.

3 (4) PENALTIES. (a) A prisoner who violates this section may be required to forfeit
4 not more than \$500.

5 (b) If a person who employs a prisoner to engage in telephone solicitation is
6 concerned in the commission of a violation of this section as provided under s. 134.99,
7 the person may be required to forfeit not more than \$10,000.

8 **SECTION 2826p.** 134.95 (2) of the statutes is amended to read:

9 134.95 (2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a
10 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.71,
11 134.72, 134.73, or 134.87 or ch. 136 or a rule promulgated under these sections or that
12 chapter, the person shall be subject to a supplemental forfeiture not to exceed
13 \$10,000 for that violation if the conduct by the defendant, for which the fine or
14 forfeiture was imposed, was perpetrated against an elderly person or disabled person
15 and if any of the factors under s. 100.264 (2) (a), (b), or (c) is present.

16 **SECTION 2830g.** 137.01 (1) (a) of the statutes is amended to read:

17 137.01 (1) (a) The governor shall appoint notaries public who shall be
18 Wisconsin United States residents and at least 18 years of age. Applicants who are
19 not attorneys shall file an application with the secretary of state and pay a \$20 fee.

20 **SECTION 2830j.** 137.01 (1) (d) of the statutes is amended to read:

21 137.01 (1) (d) Qualified applicants shall be notified by the secretary of state to
22 take and file the official oath and execute and file an official bond in the sum of \$500,
23 with a surety to be approved by the clerk of the circuit court for his or her county, or,
24 if executed by a surety company, and approved by the secretary of state.

25 **SECTION 2830m.** 137.01 (2) (a) of the statutes is amended to read:

1 137.01 (2) (a) ~~Any Wisconsin~~ Except as provided in par. (am), any United States
2 resident who is licensed to practice law in this state is entitled to a permanent
3 commission as a notary public upon application to the secretary of state and payment
4 of a \$50 fee. The application shall include a certificate of good standing from the
5 supreme court, the signature and post-office address of the applicant and an
6 impression of the applicant's official seal, or imprint of the applicant's official rubber
7 stamp.

8 **SECTION 2830p.** 137.01 (2) (am) of the statutes is created to read:

9 137.01 (2) (am) If a United States resident has his or her license to practice law
10 in this state suspended or revoked, upon reinstatement of his or her license to
11 practice law in this state, the person may be entitled to receive a certificate of
12 appointment as a notary public for a term of 4 years. An eligible notary appointed
13 under this paragraph is entitled to reappointment for 4-year increments. At least
14 30 days before the expiration of a commission under this paragraph the secretary of
15 state shall mail notice of the expiration date to the holder of the commission.

16 **SECTION 2830r.** 137.01 (2) (b) of the statutes is amended to read:

17 137.01 (2) (b) The secretary of state shall issue a certificate of appointment as
18 a notary public to persons who qualify under the requirements of this subsection.
19 ~~Such~~ The certificate shall state that the notary commission is permanent or is for 4
20 years.

21 **SECTION 2833g.** 137.01 (6) (b) of the statutes is repealed.

22 **SECTION 2833j.** 137.01 (6m) of the statutes is amended to read:

23 137.01 (6m) CHANGE OF RESIDENCE. A notary public shall does not vacate his
24 or her office by reason of his or her change of residence within the ~~state~~ United States.

1 Written notice of any change of address shall be given to the secretary of state within
2 ~~5~~ 10 days of ~~such~~ the change.

3 SECTION 2833m. 137.01 (7) of the statutes is amended to read:

4 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold
5 office the notary public, or in case of the notary public's death the notary public's
6 executor or administrator, shall deposit the notary public's official records and
7 papers in the office of the ~~clerk of the circuit court of the county of the notary public's~~
8 ~~residence~~ secretary of state. If any such notary or any executor or administrator,
9 after such records and papers come to his or her hands, neglects for 3 months to
10 deposit them, he or she shall forfeit not less than \$50 nor more than \$500. If any
11 person knowingly destroys, defaces or conceals any records or papers of any notary
12 public, the person shall forfeit not less than \$50 nor more than \$500, and shall be
13 liable to the party injured for all damages thereby sustained. The ~~clerks of the circuit~~
14 ~~courts~~ secretary of state shall receive and safely keep all such papers and records in
15 their office.

(F)
(G)

16 SECTION 2841m. 139.03 (5) (b) 2. of the statutes is amended to read:

17 139.03 (5) (b) 2. A person who is a member of the national guard, the U. S.
18 armed forces or a reserve component of the U. S. armed forces; who is a state resident;
19 and who leaves a foreign country, after spending at least 48 hours in that foreign
20 country on duty or for training, with the purpose of entering into this state may bring
21 into the state, in sealed original containers and in the person's immediate possession,
22 intoxicating liquor and wine in an aggregate amount not exceeding ~~6~~ 16 liters
23 without paying the tax imposed under this subchapter on that amount.

24 SECTION 2842. 139.30 (7) of the statutes is amended to read: