

1 (a) If the grain dealer's annual financial statement under s. 127.13 shows a
2 current ratio of at least 1.25 to 1.0, the grain dealer's current ratio assessment rate
3 equals the greater of zero or the current ratio assessment factor in sub. (3)(a)
4 multiplied by the following amount:

5 ***Insert Graphic Here***

6 (b) If the grain dealer's annual financial statement under s. 127.13 shows a
7 current ratio less than 1.25 to 1.0, but greater than 1.0 to 1.0, the grain dealer's
8 current ratio assessment rate equals the current ratio assessment factor in sub.
9 (3)(b) multiplied by the following amount:

10 ***Insert Graphic Here***

11 (c) If the grain dealer's annual financial statement under s. 127.13 shows a
12 current ratio less than or equal to 1.0 to 1.0, the grain dealer's current ratio
13 assessment rate equals the current ratio assessment factor in sub. (3)(b) multiplied
14 by 120.81376.

15 (d) If the grain dealer has not filed an annual financial statement under s.
16 127.13, the grain dealer's current ratio assessment rate equals the current ratio
17 assessment factor in sub. (3)(b) multiplied by 5.71235 unless the grain dealer
18 procures grain in this state solely as a producer agent. If the grain dealer procures
19 grain in this state solely as a producer agent, the grain dealer's current ratio
20 assessment rate is 0.25%, except that for the grain dealer's fifth or higher consecutive
21 full license year of participation in the fund, the grain dealer's current ratio
22 assessment rate is 0.175%.

23 (3) CURRENT RATIO ASSESSMENT FACTOR. (a) A grain dealer's current ratio
24 assessment factor under sub. (2)(a) is 0.003% except that, for the grain dealer's fifth

1 and higher consecutive full license year as a contributing grain dealer, the grain
2 dealer's current ratio assessment factor is 0.0%.

3 (b) A grain dealer's current ratio assessment factor under sub. (2)(b) to (d) is
4 0.0045% except that, for the grain dealer's fifth and higher consecutive full license
5 year as a contributing grain dealer, the grain dealer's current ratio assessment factor
6 is 0.0036%.

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

9 (a) If the grain dealer's annual financial statement under s. 127.13 shows a
10 debt to equity ratio of not more than 4.0 to 1.0, the grain dealer's debt to equity ratio
11 assessment rate equals the greater of zero or the debt to equity ratio assessment
12 factor in sub. (5)(a) multiplied by the following amount:

13 ***Insert Graphic Here***

14 (b) If the grain dealer's annual financial statement under s. 127.13 shows a
15 debt to equity ratio greater than 4.0 to 1.0, but less than 5.00 to 1.0, the grain dealer's
16 debt to equity ratio assessment rate equals the debt to equity ratio assessment factor
17 in sub. (5)(b) multiplied by the following amount:

18 ***Insert Graphic Here***

19 (c) If the grain dealer's annual financial statement under s. 127.13 shows a debt
20 to equity ratio of at least 5.00 to 1.0, the grain dealer's debt to equity ratio assessment
21 equals the debt to equity ratio assessment factor in sub. (5)(b) multiplied by 86.8244.

22 (d) If the grain dealer has not filed an annual financial statement under s.
23 127.13, the grain dealer's debt to equity ratio assessment equals the debt to equity
24 ratio assessment factor in sub. (5)(b) multiplied by 8.77374 unless the grain dealer
25 procures grain in this state solely as a producer agent. If the grain dealer procures

1 grain in this state solely as a producer agent, the grain dealer's debt to equity ratio
2 assessment rate is 0.25% except that, for the grain dealer's fifth or higher consecutive
3 full license year of participation in the fund, the grain dealer's debt to equity ratio
4 assessment rate is 0.175%.

5 (5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR. (a) A grain dealer's debt to equity
6 ratio assessment factor under sub. (4)(a) is 0.00125%, except that it is 0.0% for the
7 grain dealer's fifth and higher consecutive full license year as a contributing grain
8 dealer.

9 (b) A grain dealer's debt to equity ratio assessment factor under sub. (4)(b) to
10 (d) is 0.001875%, except that it is 0.0015% for the grain dealer's fifth and higher
11 consecutive full license year as a contributing grain dealer.

12 (6) DEFERRED PAYMENT ASSESSMENT RATE. A grain dealer's deferred payment
13 assessment rate is 0.35%, except that it is 0.20% for the grain dealer's fifth and
14 higher consecutive full license year as a contributing grain dealer.

15 (7) QUARTERLY INSTALLMENTS. (a) A contributing grain dealer shall pay the
16 grain dealer's annual fund assessment in equal quarterly installments that are due
17 on the following dates:

- 18 1. The first installment is due on October 1 of the license year.
- 19 2. The second installment is due on January 1 of the license year.
- 20 3. The third installment is due on April 1 of the license year.
- 21 4. The fourth installment is due on July 1 of the license year.

22 (b) A contributing grain dealer may prepay any of the quarterly installments
23 under par. (a).

24 (c) A contributing grain dealer who applies for an annual license after the
25 beginning of a license year shall pay the full annual fund assessment required under

1 this section. The grain dealer shall pay, with the first quarterly installment that
2 becomes due after the department issues the license, all of that year's quarterly
3 installments that became due prior to the licensing date.

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

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

10 (a) The grain dealer's annual fund assessment under this section.

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

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

15 **127.16 Grain dealers; security. (1) SECURITY REQUIRED.** (a) A grain dealer
16 shall file security with the department if both the following apply when the
17 department first licenses the grain dealer under s. 127.11(1):

18 1. The grain dealer reports more than \$500,000 in grain payments under s.
19 127.11(9)(a).

20 2. The grain dealer's annual financial statement under s. 127.13(1)(a) shows
21 negative equity.

NOTE: A grain dealer who is required to file security under par. (a) is disqualified from the fund, as provided under s. 127.14(2)(a), until the department releases that security under s. 127.16(8)(a). If a grain dealer's first financial statement under s. 127.13(1) shows positive equity, the grain dealer is not required to file security under par. (a) even if subsequent annual financial statements show negative equity. The grain dealer is instead required to contribute to the fund.

1 (b) A grain dealer who reports any deferred payment contract obligations under
2 s. 127.11(9)(c) shall file security with the department unless one of the following
3 applies:

4 1. The grain dealer's annual financial statement under s. 127.13 pertains to a
5 fiscal year ending on or before January 1, 2006, and shows a debt to equity ratio of
6 not more than 5.0 to 1.0.

7 2. The grain dealer's annual financial statement under s. 127.13 pertains to a
8 fiscal year ending after January 1, 2006, and shows a debt to equity ratio of not more
9 than 4.0 to 1.0.

10 (2) SECURITY CONTINUED. A grain dealer who files security under sub. (1), or who
11 filed security under this chapter before September 1, 2002, shall maintain that
12 security until the department releases it under sub. (8).

13 (3) AMOUNT OF SECURITY. A grain dealer who is required to file or maintain
14 security under this section shall at all times maintain security that is at least equal
15 to the sum of the following:

16 (a) An amount equal to 35% of the grain dealer's average monthly payment for
17 the 3 months, during the preceding 12 months, in which the grain dealer made the
18 largest monthly payments for producer grain procured in this state. This amount is
19 not required of a contributing grain dealer after December 1, 2002.

20 (b) The grain dealer's highest total, at any time during the preceding 12
21 months, of unpaid obligations for producer grain procured in this state under
22 deferred payment contracts.

23 (4) FORM OF SECURITY. The department shall approve security filed under this
24 section. The department may approve only the following types of security:

25 (a) Currency.

1 (b) Commercial surety bonds that are all the following:

2 1. Made payable to the department for the benefit of grain producers and
3 producer agents.

4 2. Issued by a surety company authorized to operate a surety business in this
5 state.

6 3. Issued as a continuous term bond that may be cancelled only with the
7 department's written agreement, or upon 90 days prior written notice served on the
8 department. A cancellation notice shall be served on the department in person or by
9 certified mail.

10 4. Issued in a form, and subject to any terms and conditions, that the
11 department considers appropriate.

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

13 1. The certificate is issued or endorsed to the department, for the benefit of
14 producers and producer agents who deliver grain to the grain dealer.

15 2. The certificate may not be canceled or redeemed without the department's
16 written authorization.

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

19 4. The certificate is subject to automatic renewal without any action by the
20 department.

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

23 (d) Irrevocable bank letters of credit that are all the following;

24 1. Payable to the department, for the benefit of grain producers and producer
25 agents.

1 2. Issued on bank letterhead.

2 3. Issued for an initial period of at least one year.

3 4. Automatically renewed unless, at least 90 days before the scheduled renewal
4 date, the issuing bank gives the department written notice that the letter of credit
5 will not be renewed. Written notice shall be served on the department in person or
6 by certified mail.

7 5. Issued in a form, and subject to any terms and conditions, that the
8 department considers appropriate.

9 (e) Security filed under this chapter before September 1, 2002, except that on
10 January 1, 2003 the department shall withdraw its approval of any security that is
11 not in a form provided under pars. (a) to (d).

12 **(5) DEPARTMENT CUSTODY OF SECURITY.** The department shall hold, under its
13 custody, all security filed and maintained under this section. The department shall
14 hold the security for the benefit of producers and producer agents who deliver grain
15 to a grain dealer. The department may use the security under s. 127.71(2) to pay
16 default claims allowed against the grain dealer who filed the security.

17 **(6) MONTHLY REPORTS.** A grain dealer who is required to file or maintain
18 security under this section shall file a monthly report with the department. The
19 grain dealer shall file the report on or before the 10th day of each month, in a form
20 specified by the department. The report shall included information reasonably
21 required by the department, including all the following:

22 (a) The grain dealer's average monthly payment for the 3 months, during the
23 preceding 12 months, in which the grain dealer made the largest monthly payments
24 for producer grain procured in this state.

1 (b) The grain dealer's highest total unpaid obligations, at any time during the
2 preceding 12 months, for producer grain procured in this state under deferred
3 payment contracts. If the amount owed on deferred price contracts has not yet been
4 determined, the grain dealer shall estimate the amount based on contract terms and
5 prevailing market prices on the last day of the previous month.

6 (7) ADDITIONAL SECURITY. (a) The department may, at any time, demand
7 additional security from a grain dealer if any of the following apply:

8 1. The grain dealer's existing security falls below the amount required under
9 sub. (3) for any reason, including depreciation in the value of the security filed with
10 the department, an increase in grain payments or grain prices, or the cancellation
11 of any security filed with the department.

12 2. The grain dealer fails to provide required information that is relevant to a
13 determination of security needs.

14 (b) The department shall issue a demand under par. (a) in writing. The demand
15 shall indicate why the security is required, the amount of security required, and the
16 deadline date for filing security. The security filing deadline specified in the notice
17 shall be not more than 30 days after the date on which the department issues its
18 demand for security.

19 (c) A grain dealer may request a hearing, under ch. 227, on a security demand
20 under par. (b). A request for hearing does not automatically stay a security demand.

21 (d) If a grain dealer fails to comply with the department's security demand
22 under this subsection, the grain dealer shall give written notice of that fact to all
23 producers and producer agents from whom the grain dealer procures producer grain
24 in this state. If the grain dealer fails to give accurate notice under this paragraph
25 within 5 days after the security filing deadline under par. (b) has passed, the

1 department shall promptly notify those producers and producer agents by
2 publishing a class 3 public notice under ch. 985. The department may also give
3 individual notice to those producers or producer agents of whom the department is
4 aware.

5 (e) If a grain dealer fails to comply with the department's security demand
6 under this subsection, the department may do any of the following:

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

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

11 (8) RELEASING SECURITY. (a) The department may release security filed under
12 sub. (1)(a), except for any security that is still required under sub. (1)(b), if any of the
13 following apply:

14 1. The grain dealer reports, for at least 2 consecutive years, no more than
15 \$500,000 in annual grain payments under s. 127.11(9)(a). The department may
16 release security under this subdivision if the grain dealer first pays the quarterly
17 fund assessment that would have been required of the grain dealer, had the grain
18 dealer been a contributing grain dealer on the last quarterly installment date under
19 s. 127.15(7).

20 2. The grain dealer's annual financial statement under s. 127.13 shows positive
21 equity for at least 2 consecutive years. The department may release security under
22 this subdivision if the grain dealer first pays the quarterly fund assessment that
23 would have been required of the grain dealer, had the grain dealer been a
24 contributing grain dealer on the last quarterly installment date under s. 127.15(7).

1 (b) On December 1, 2002, the department may release security filed or
2 maintained under sub. (2), except for any security that is still required under sub.
3 (1).

4 (c) The department may release security filed under sub. (1)(b), except for any
5 security that is still required under sub. (1)(a), if any of the following apply:

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

8 2. The grain dealer files 2 consecutive annual financial statements under s.
9 127.13 showing that the grain dealer meets the debt to equity ratio under sub. (1)(b).

10 (d) The department may release security to the extent that the security exceeds
11 the amount required under sub. (3).

12 (e) The department may release security if the grain dealer files alternative
13 security, of equivalent value, that the department approves.

14 (f) The department shall release security if the grain dealer is no longer in
15 business and has paid all grain obligations in full.

16 **127.17 Grain dealers; records. (1) RECORDS AND ACCOUNTS; GENERAL.** A grain
17 dealer shall keep records and accounts of all grain procured and all grain sold or
18 marketed by the grain dealer. The records and accounts shall be complete, accurate,
19 current, well-organized and accessible, so the grain dealer and the department can
20 readily determine all of the following:

21 (a) The kinds and amounts of grain procured, the procurement dates, the
22 procurement terms, and the persons from whom the grain dealer procured the grain.

23 (b) The kinds and amounts of grain sold or marketed, the sale or marketing
24 dates, the sale or marketing terms, and the persons to whom the grain dealer sold
25 or marketed the grain.

1 (c) The kinds and amounts of grain, received from others, which the grain
2 dealer has used for feed, seed, milling, manufacturing, processing or other purposes.

3 (d) The kinds and amounts of grain, received from others, which the grain
4 dealer has currently on hand. The records shall indicate the kinds and amounts
5 owned by the grain dealer, and the kinds and amounts held for others.

6 (e) The nature and amount of the grain dealer's obligations to producers and
7 producer agents, including deferred payment contract obligations. The grain dealer
8 shall keep a daily record of obligations under priced contracts, and a separate daily
9 record of obligations under deferred price contracts that have not yet been priced.

10 (f) The nature and amount of the grain dealer's obligations to grain depositors
11 under storage agreements, if any.

12 (g) The grain dealer's accounts receivable from the sale or marketing of grain,
13 including the names of the account debtors, the amount receivable from each account
14 debtor, and the dates on which payment is due.

15 (2) RECORDS OF GRAIN PROCURED. A grain dealer shall keep all the following
16 records related to each shipment of grain procured by the grain dealer:

17 (a) The kind and weight of grain procured.

18 (b) The grade and quality of the grain if determined.

19 (c) The date on which the grain dealer procured the grain.

20 (d) The name and address of the person from whom the grain dealer procured
21 the grain.

22 (e) Whether the grain dealer purchased the grain, holds it in storage, or is
23 marketing the grain as a producer agent.

24 (f) The terms of purchase, storage or marketing.

1 (g) If the grain dealer procured the grain under a deferred payment contract,
2 the terms of that contract.

3 (3) RECORDS RETENTION; INSPECTION. (a) A grain dealer shall keep copies of all
4 the following records for at least 6 years after the records are created:

5 1. Records required under this section and s. 127.18(2).

6 2. Records that the grain dealer was required to keep, under ch. 127 and
7 department rules, prior to September 1, 2002.

8 (b) A grain dealer shall make available to the department, for inspection and
9 copying upon request, records that the grain dealer is required to make or retain
10 under this section.

11 **127.18 Grain dealers; receipts for grain. (1) REQUIREMENT.** Whenever a
12 grain dealer receives grain from any person, the grain dealer shall immediately give
13 that person a scale ticket or other written receipt for that grain. The receipt shall
14 include all the following:

15 (a) The name of the grain dealer, and a statement indicating whether the grain
16 dealer is a corporation.

17 (b) A permanent business address at which the holder of the receipt can readily
18 contact the grain dealer.

19 (c) A statement identifying the document as a scale ticket or receipt for grain.

20 (d) The date on which the grain dealer received the grain.

21 (e) The kind of grain received.

22 (f) The net weight of grain received, including dockage if determined. If a grain
23 dealer receives a producer's grain at the producer's farm, the purchase receipt may
24 specify the approximate net weight of the grain.

25 (g) The grade and quality of the grain, if determined.

1 (h) A statement identifying the receipt as a purchase receipt, storage receipt,
2 or receipt for grain marketed by the grain dealer as the producer's agent. A receipt
3 not clearly identified under this paragraph is considered a purchase receipt except
4 that, if the grain dealer also operates as a grain warehouse keeper under the same
5 name, it is considered a storage receipt.

6 (i) The grain dealer's promise to pay the total amount due for grain, less any
7 discounts that may apply, within 7 calendar days after the grain receipt date. This
8 paragraph does not apply if any of the following apply:

9 1. The grain dealer pays cash on delivery.

10 2. The grain dealer receives the grain under a deferred payment contract that
11 complies with s. 127.19.

12 3. The receipt is clearly identified as a storage receipt.

13 (2) **GRAIN DEALER'S COPIES.** A grain dealer shall keep copies of all scale tickets
14 and other receipts issued under sub. (1). The grain dealer shall retain copies of the
15 receipts for at least 6 years after the grain dealer issues the receipts, and shall make
16 copies available to the department for inspection and copying upon request.

17 **127.19 Grain dealers; deferred payment contracts.** (1) **CONTRACT IN**
18 **WRITING.** A grain dealer may not procure grain from any producer or producer agent
19 under a deferred payment contract unless the parties first make the contract in
20 writing and sign it. The grain dealer shall provide a copy of the signed contract to
21 the other party.

22 (2) **CONTENTS OF CONTRACT.** A deferred payment contract shall include all the
23 following:

24 (a) A unique contract identification number.

1 (b) The type, weight, grade and quality of grain procured. The contract shall
2 disclose that price adjustments may apply if delivered grain varies in grade or
3 quality from that identified in the contract.

4 (c) The price for the grain or, under a deferred price contract, the method and
5 deadline by which the price will be determined.

6 (d) The date by which the grain dealer agrees to make full payment for the
7 grain.

8 (e) The grain dealer's permanent business location.

9 (f) Other information required under this section.

10 **(3) PAYMENT AND PRICING DEADLINES.** (a) A grain dealer shall make full payment
11 under a deferred payment contract by the deadline date specified in the contract.
12 The deadline may not be more than 180 days after the date on which the contract
13 price is established, or more than 180 days after the date on which the grain dealer
14 takes custody or control of the grain, whichever is later.

15 (b) A deferred price contract shall specify a pricing deadline that is not more
16 than one year after the date on which the grain dealer takes custody or control of the
17 grain.

18 (c) The parties may not extend a payment or pricing deadline under par. (a) or
19 (b), except that they may sign a new contract that extends either deadline or both
20 deadlines for up to 180 days. The new contract, if any, shall refer to the contract
21 number of the contract being extended.

22 **(4) REQUIRED NOTICE.** A deferred payment contract shall clearly disclose that
23 it is not a storage contract. Whenever a grain dealer buys grain from a producer
24 under a deferred payment contract, the grain dealer shall include the following
25 statement in capitalized bold print immediately above the contract signature line:

1 **THIS IS NOT A STORAGE CONTRACT. THE GRAIN DEALER (BUYER) BECOMES THE**
2 **OWNER OF ANY GRAIN THAT THE PRODUCER (SELLER) DELIVERS TO THE GRAIN**
3 **DEALER UNDER THIS CONTRACT. THE PRODUCER RELINQUISHES OWNERSHIP**
4 **AND CONTROL OF THE GRAIN, AND BECOMES AN UNSECURED CREDITOR PENDING**
5 **PAYMENT.**

6 **(5) DEFERRED PAYMENT CONTRACT ASSESSMENT.** From the amount that a grain
7 dealer pays to a grain producer or producer agent under a deferred payment contract,
8 the grain dealer shall deduct a deferred payment contract assessment. The
9 assessment shall equal the total amount owed under the contract before the
10 assessment is deducted, multiplied by the deferred payment assessment rate that
11 applies under s. 127.15(6) when the contract is made. The grain dealer shall disclose
12 the assessment amount in the contract document under sub. (1).

13 **127.20 Grain dealers; business practices. (1) GRAIN WEIGHT, GRADE AND**
14 **QUALITY.** A grain dealer shall do all the following when determining the weight, grade
15 or quality of grain:

16 (a) Accurately determine the weight, grade or quality using accurate weighing,
17 testing or grading equipment.

18 (b) Accurately record the determined weight, grade or quality.

19 **(2) TIMELY PAYMENT TO PRODUCERS.** A grain dealer shall pay for grain when
20 payment is due. Payment may not consist of a nonnegotiable check or note, or a check
21 drawn on an account containing insufficient funds.

22 **(3) PERMANENT BUSINESS LOCATION.** A grain dealer licensed under s. 127.11(1)
23 shall do all the following:

24 (a) Maintain a permanent business address at which producers may readily
25 contact the grain dealer during business hours.

26 (b) On each day that the Chicago board of trade is open for trading, keep
27 business hours that start no later than 9:00 AM and end no earlier than 2:30 PM.

1 The grain dealer shall prominently post the grain dealer's business hours at each of
2 the grain dealer's business locations in this state.

3 (4) PROHIBITED PRACTICES. No grain dealer may do any of the following:

4 (a) Misrepresent the weight, grade or quality of grain received from or
5 delivered to any person.

6 (b) Falsify any record or account, or conspire with any other person to falsify
7 a record or account.

8 (c) Make any false or misleading representation to the department.

9 (d) Engage in any activity that is inconsistent with a representation made in
10 the grain dealer's annual license application.

11 (e) Make any false or misleading representation to a producer or producer
12 agent related to any matters regulated under this chapter.

13 (f) Fail to file the full amount of security required under s. 127.16(7) by the date
14 that the department specifies.

15 **127.21 Grain producer obligations.** (1) DELIVERY PER CONTRACT. No
16 producer or producer agent who contracts to sell and deliver grain to a grain dealer
17 at an agreed price may wrongfully refuse to deliver that grain according to the
18 contract.

19 (2) DISCLOSURE OF LIENS AND SECURITY INTERESTS. A grain dealer procuring grain
20 from a producer or producer agent may require the producer or producer agent to
21 disclose any liens or security interests that apply to the grain. The grain dealer may
22 require the disclosure in writing. The grain dealer may require the producer or
23 producer agent to specify the nature and amount of each lien or security interest, and
24 the identity of the person holding that lien or security interest. No producer may

1 falsify or fraudulently withhold information required under this subsection in order
2 to sell grain.

3 SUBCHAPTER IV

4 GRAIN WAREHOUSE KEEPERS

5 **127.25 Definitions.** In this subchapter:

6 (1) “Capacity” means the maximum amount of grain, measured in bushels,
7 which can be stored in a grain warehouse. The capacity of a grain warehouse is
8 determined by dividing the cubic volume of all bins by 1.244 cubic feet, and applying
9 a pack factor that the department specifies by rule.

10 (2) “Contributing grain warehouse keeper” means a grain warehouse keeper
11 who contributes to the fund according to ss. 127.29 and 127.30. “Contributing grain
12 warehouse keeper” includes an initial license holder who is required to contribute to
13 the fund, but whose first quarterly installment under s. 127.30(6) is not yet due.
14 “Contributing grain warehouse keeper” does not include a grain warehouse keeper
15 who is disqualified under s. 127.29(2). A grain warehouse keeper who pays one or
16 more quarterly installments under s. 127.30(6) continues to be a “contributing grain
17 warehouse keeper” until and unless the grain warehouse keeper is disqualified
18 under s. 127.29(2).

19 (3) “Current ratio” means the ratio of current assets to current liabilities,
20 calculated according to s. 127.28(6)(c)1.

21 (4) “Debt to equity ratio” means the ratio of total liabilities to equity, calculated
22 according to s. 127.28(6)(c)2.

23 (5) “Depositor” means any of the following:

1 (a) A person who delivers grain to a grain warehouse keeper for storage,
2 conditioning, shipping or handling, without transferring ownership to the
3 warehouse keeper.

4 (b) A person who owns or legally holds a scale ticket, warehouse receipt or other
5 document, issued by a grain warehouse keeper for grain, that entitles that person to
6 receive stored grain.

7 (6) “Disqualified grain warehouse keeper” means a grain warehouse keeper
8 who is disqualified from the fund under s. 127.29(2).

9 (7) “Federal act” means the federal grain warehouse act, 7 USC 241 to 271.

10 (8) “Grain warehouse” means a facility in this state that is used to receive,
11 store, condition or ship grain for others. If a grain warehouse keeper operates 2 or
12 more facilities located within ½ mile of each other, the grain warehouse keeper may
13 treat those facilities as a single “grain warehouse” under this subchapter. “Grain
14 warehouse” does not include any of the following:

15 (a) A facility used only to receive, store, condition or ship grain owned by the
16 facility operator.

17 (b) A transport vehicle.

18 (9) “Grain warehouse keeper” means a person who operates one or more grain
19 warehouses in this state to receive, store, condition or ship grain for others. “Grain
20 warehouse keeper” does not include a person licensed under the federal act.

21 (10) “Scale ticket” means a receipt, issued by a grain warehouse keeper, which
22 documents the weight of grain delivered to the warehouse keeper.

23 (11) “Warehouse receipt” means a receipt for grain, issued by a grain
24 warehouse keeper, that is also a document of title under s. 401.201(15).

1 **127.26 Grain warehouse keepers; licensing. (1) LICENSE REQUIRED. (a)**

2 No grain warehouse keeper may, without an annual license from the department,
3 hold at any time more than 50,000 bushels of grain for others. A grain warehouse
4 keeper who has grain warehouses with a combined capacity of more than 50,000
5 bushels shall obtain a license unless the warehouse keeper proves to the department
6 that the warehouse keeper holds no more than 50,000 bushels of grain for others at
7 any time.

8 (b) A license under par. (a) expires on August 31 each year, and may not be
9 transferred or assigned. A license holder shall comply with this subchapter.

10 **(2) LICENSE APPLICATION.** A person shall apply for a grain warehouse keeper
11 license in writing, on a form provided by the department. The application shall
12 include all the following:

13 (a) The applicant's correct legal name, and any trade name under which the
14 applicant proposes to operate as a grain warehouse keeper.

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

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

22 (d) The location and capacity of every grain warehouse that the applicant
23 operates or proposes to operate in this state, and the name of a responsible individual
24 who may be contacted at each warehouse. A licensed warehouse keeper shall notify

1 the department, in writing, before the warehouse keeper adds a grain warehouse or
2 changes the location or capacity of any grain warehouse.

3 (e) The combined capacity of all the grain warehouses identified under par. (d).

4 (f) All license fees and surcharges required under sub. (3).

5 (g) Proof that the applicant is insured as required under s. 127.27, unless the
6 applicant has previously filed proof that remains current. The department may
7 accept, as proof, a certification provided by an insurance company licensed to do
8 business in this state.

9 (h) A financial statement if required under s. 127.28(1) and not yet filed.

10 (i) Other relevant information required by the department.

11 **(3) LICENSE FEES AND SURCHARGES.** A person applying for a grain warehouse
12 keeper license shall pay the following fees and surcharges, unless the department
13 specifies a different fee or surcharge amount by rule.

14 (a) A license processing fee of \$25 plus \$25 for each grain warehouse identified
15 under sub. (2)(d). The department may not refund this fee if the department denies
16 the license application.

17 (b) The following inspection fee, less any credit provided under sub. (5):

18 1. \$500 if the combined capacity of the applicant's grain warehouses is less than
19 150,000 bushels.

20 2. \$550 if the combined capacity of the applicant's grain warehouses is at least
21 150,000 bushels but less than 250,000 bushels.

22 3. \$600 if the combined capacity of the applicant's grain warehouses is at least
23 250,000 bushels but less than 500,000 bushels.

24 4. \$650 if the combined capacity of the applicant's grain warehouses is at least
25 500,000 bushels but less than 750,000 bushels.

1 5. \$700 if the combined capacity of the applicant's grain warehouses is at least
2 750,000 bushels but less than 1,000,000 bushels.

3 6. \$800 if the combined capacity of the applicant's grain warehouses is at least
4 1,000,000 bushels but less than 2,000,000 bushels.

5 7. \$900 if the combined capacity of the applicant's grain warehouses is at least
6 2,000,000 bushels but less than 3,000,000 bushels.

7 8. \$1,000 if the combined capacity of the applicant's grain warehouses is at least
8 3,000,000 bushels but less than 4,000,000 bushels.

9 9. \$1,100 if the combined capacity of the applicant's grain warehouses is
10 4,000,000 bushels or more.

11 (c) A supplementary inspection fee of \$275 for each grain warehouse that the
12 applicant operates in excess of one grain warehouse.

13 (d) A license surcharge of \$500 if the department determines that, within 365
14 days prior to submitting the license application, the applicant operated as a grain
15 warehouse keeper without a license in violation of sub. (1). The applicant shall also
16 pay any license fees, license surcharges and fund assessments that are still due for
17 the license year in which the applicant violated sub. (1). Payment under this
18 paragraph does not relieve the applicant of any other civil or criminal liability that
19 results from the violation of sub. (1), but does not constitute evidence of any law
20 violation.

21 (e) A license surcharge of \$100 if, during the preceding 12 months, the applicant
22 failed to file an annual financial statement required under s. 127.28(1)(b) by the
23 applicable deadline.

24 (f) A license surcharge of \$100 if a renewal applicant fails to renew a license
25 by the license expiration date of August 31.

1 **(4) LICENSE FOR PART OF YEAR; FEES.** A person who applies for an annual grain
2 warehouse keeper license after the beginning of a license year shall pay the full
3 annual fee amounts required under sub. (3).

4 **(5) FEE CREDIT.** If the fund balance contributed by grain warehouse keepers
5 exceeds \$300,000 on June 30 of any license year, the department shall credit 12.5
6 percent of the excess amount against fees charged under sub. (3)(b) to contributing
7 grain warehouse keepers who file timely license renewal applications for the next
8 license year beginning September 1. The department shall credit each contributing
9 grain warehouse keeper on a pro rata basis, in proportion to the total fees that the
10 warehouse keeper has paid under sub. (3)(b) for the 4 preceding license years.

11 **(6) FEE STATEMENT.** The department shall provide, with each license application
12 form, a written statement of all license fees and surcharges required under sub. (3)
13 or the formula for determining them. The department shall include, in the
14 statement, any fee credit for which the applicant may qualify under sub. (5).

15 **(7) NO LICENSE WITHOUT FULL PAYMENT.** The department may not grant a license
16 application under sub. (2) unless the applicant first pays all license fees and
17 surcharges identified in the department's statement under sub. (6). The department
18 shall refund a fee or surcharge paid under protest if, upon review, the department
19 determines that the fee or surcharge is not due and payable.

20 **(8) ACTION GRANTING OR DENYING APPLICATION.** The department shall grant or
21 deny a license application under sub. (2) within 30 days after the department
22 receives a complete application. If the department denies a license application, the
23 department shall give the applicant a written notice stating the reasons for the
24 denial.

1 (9) LICENSE DISPLAYED. A grain warehouse keeper who is required to hold a
2 license under sub. (1) shall prominently display a true copy of that license at each
3 grain warehouse.

4 **127.27 Grain warehouse keepers; insurance.** (1) FIRE AND EXTENDED
5 COVERAGE INSURANCE. A grain warehouse keeper licensed under s. 127.26(1) shall
6 maintain fire and extended coverage insurance issued by an insurance company
7 authorized to do business in this state. The insurance policy shall cover all grain in
8 the custody of the grain warehouse keeper, whether owned by the grain warehouse
9 keeper or held for others, at the full local market value of the grain.

10 (2) INSURANCE CANCELLATION; REPLACEMENT. (a) No person may cancel an
11 insurance policy required under sub. (1) unless that person serves on the
12 department, at least 30 days before the cancellation takes effect, a written notice of
13 the intended cancellation.

14 (b) Whenever an insurance policy under sub. (1) is canceled, the grain
15 warehouse keeper shall replace the policy so there is no lapse in coverage. The
16 replacement policy shall comply with sub. (1). Within 20 days after a cancellation
17 notice under par. (a) is served on the department, and at least 10 days before the
18 cancellation takes effect, the grain warehouse keeper shall provide the department
19 with proof of the replacement policy. The department may accept, as proof, a
20 certification provided by an insurance company licensed to do business in this state.

21 (3) INSURANCE DEDUCTIBLES. An insurance policy under sub. (1) may not contain
22 any deductible clause that limits the insurer's liability to a depositor for the full value
23 of the depositor's covered losses under the policy. The grain warehouse keeper may
24 agree to indemnify the insurer for a portion of each depositor claim that the insurer

1 pays under the policy, provided that the agreement does not limit the insurer's
2 obligation to pay each depositor the full amount of the depositor's covered losses.

3 (4) INSURANCE DISCLOSURES. A grain warehouse keeper licensed under s.
4 127.26(1) shall disclose all the following to a depositor if the depositor requests that
5 information:

6 (a) The material terms of the grain warehouse keeper's fire and extended
7 coverage insurance policy under sub. (1).

8 (b) Whether the grain warehouse keeper has liability insurance covering the
9 grain warehouse keeper's grain operations, and the material terms of that liability
10 insurance policy.

11 (5) INSURANCE COVERAGE; MISREPRESENTATION. No grain warehouse keeper may
12 misrepresent any of the following to the department or a depositor:

13 (a) That the grain warehouse keeper is insured.

14 (b) The nature, coverage or material terms of the grain warehouse keeper's
15 insurance policy.

16 **127.28 Grain warehouse keepers; financial statements.** (1) REQUIRED
17 ANNUAL FINANCIAL STATEMENT. (a) A grain warehouse keeper shall file an annual
18 financial statement with the department, before the department licenses the
19 warehouse keeper under s. 127.26(1), if the warehouse keeper operates warehouses
20 with a combined capacity of more than 300,000 bushels.

21 (b) A grain warehouse keeper licensed under s. 127.26(1) shall file an annual
22 financial statement with the department during each license year if the warehouse
23 keeper operates warehouses with a combined capacity of more than 300,000 bushels.
24 The warehouse keeper shall file the annual financial statement by the 15th day of the
25 4th month following the close of the warehouse keeper's fiscal year. The department

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

4 (2) VOLUNTARY ANNUAL FINANCIAL STATEMENT. A contributing grain warehouse
5 keeper may file an annual financial statement with the department in order to
6 qualify for a lower fund assessment under s. 127.30, regardless of whether the
7 warehouse keeper is required to file an annual financial statement under sub. (1).

8 (3) REVIEWED OR AUDITED FINANCIAL STATEMENT. An annual financial statement
9 under sub. (1) or (2) shall be a reviewed or audited financial statement. The financial
10 statement shall be an audited financial statement if the warehouse keeper operates
11 grain warehouses with a combined capacity of more than 500,000 bushels.

12 (4) ACCOUNTING PERIOD. Except as provided in sub. (6)(b), an annual financial
13 statement under sub. (1) or (2) shall cover the grain warehouse keeper's last
14 completed fiscal year.

15 (5) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. A financial statement under
16 this section shall be prepared according to generally accepted accounting principles.
17 A sole proprietor's financial statement, if not audited, shall be prepared on a
18 historical cost basis.

19 (6) FINANCIAL STATEMENT CONTENTS. (a) Except as provided in par. (b), a
20 financial statement under this section shall include a balance sheet, income
21 statement, equity statement, statement of cash flows, notes to those statements, and
22 any other information required by the department. A sole proprietor's financial
23 statement shall include the sole proprietor's business and personal financial
24 statement.

1 (b) If a grain warehouse keeper has been in business for less than one year, the
2 warehouse keeper's annual financial statement under sub. (1) or (2) may consist of
3 a balance sheet and notes.

4 (c) A financial statement under this section shall, for purposes of this chapter,
5 calculate and report all the following:

6 1. The grain warehouse keeper's current ratio, excluding any assets identified
7 in sub. (7).

8 2. The grain warehouse keeper's debt to equity ratio, excluding any assets
9 identified in sub. (7).

NOTE: A grain warehouse keeper may append the ratios under par. (c) to the
warehouse keeper's normal financial statement if the warehouse keeper's normal
financial statement does not include them or calculates them in a different way. The
department will check the warehouse keeper's ratio calculations for compliance with par.
(c).

10 (7) ASSETS EXCLUDED. A financial statement may not include any of the
11 following assets in the calculations under sub. (6)(c), unless the department
12 specifically approves their inclusion:

13 (a) Non-trade notes and accounts receivable from officers, directors,
14 employees, partners, or stockholders, or from members of their families, unless the
15 notes and accounts receivable are secured by a first priority security interest in real
16 or personal property.

17 (b) Notes or accounts receivable from parent organizations, subsidiaries or
18 affiliates.

19 (c) Notes or accounts that have been receivable for more than one year, unless
20 the grain warehouse keeper has established an equal offsetting reserve for
21 uncollectible notes and accounts receivable.

1 (8) INTERIM FINANCIAL STATEMENT. The department may, at any time, require a
2 grain warehouse keeper licensed under s. 127.26(1) to file an interim financial
3 statement with the department. The department may require an interim financial
4 statement in addition to any financial statement required under sub. (1) or (2). The
5 grain warehouse keeper shall include, with the interim financial statement, the
6 warehouse keeper's sworn and notarized statement that the financial statement is
7 correct. An interim financial statement need not be a reviewed or audited financial
8 statement.

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

12 (10) DEPARTMENT REVIEW. The department may analyze a financial statement,
13 and may reject a financial statement that fails to comply with this section.

14 **127.29 Contributing grain warehouse keepers.** (1) CONTRIBUTION
15 REQUIRED. A grain warehouse keeper licensed under s. 127.26(1) shall pay fund
16 assessments under s. 127.30 unless the grain warehouse keeper is disqualified under
17 sub. (2).

18 (2) DISQUALIFIED WAREHOUSE KEEPER. (a) A grain warehouse keeper who is
19 required to file security under s. 127.31(1) is disqualified from the fund until the
20 department releases that security under s. 127.31(8)(a). A grain warehouse keeper
21 who files the security required under s. 127.31(1) may continue to operate as a
22 licensed warehouse keeper.

23 (b) A grain warehouse keeper is disqualified from the fund if the department
24 denies, suspends or revokes the warehouse keeper's license. The department may

1 suspend a warehouse keeper's license if the warehouse keeper does any of the
2 following:

3 1. Fails to pay fund assessments under s. 127.30 when due.

4 2. Fails to file a financial statement under s. 127.28 when due.

5 3. Fails to reimburse the department, within 60 days after the department
6 issues a reimbursement demand under s. 127.73(1), for the full amount that the
7 department pays to claimants under s. 127.72(1) because of the warehouse keeper's
8 default.

9 4. Fails to reimburse a bond surety, within 60 days after the bond surety issues
10 a reimbursement demand under s. 127.73(2), for the full amount that the surety pays
11 to the department under s. 127.72(2) or (3) for the benefit of claimants affected by the
12 warehouse keeper's default.

13 (3) EFFECT OF DISQUALIFICATION. (a) The department may not pay, under s.
14 127.71(1), any default claim against a grain warehouse keeper who was a
15 disqualified grain warehouse keeper when the default occurred.

16 (b) The department may pay default claims under s. 127.71(1) against a
17 disqualified grain warehouse keeper if the warehouse keeper was a contributing
18 grain warehouse keeper when the default occurred. The department and the bond
19 sureties retain their rights under s. 127.73 to demand and collect reimbursement
20 from the disqualified warehouse keeper.

21 (c) The department may not return, to a disqualified grain warehouse keeper,
22 any fund assessments that the warehouse keeper paid as a contributing grain
23 warehouse keeper.

24 (d) A disqualified grain warehouse keeper remains liable for any unpaid fund
25 installment under s. 127.30 that became due while the warehouse keeper was a

1 contributing grain warehouse keeper. A disqualified warehouse keeper is not liable
2 for any fund installment that becomes due after the warehouse keeper is disqualified
3 under sub. (2).

4 **127.30 Grain warehouse keepers; fund assessments.** (1) GENERAL. A
5 contributing grain warehouse keeper shall pay an annual fund assessment for each
6 license year. The assessment equals \$20 or the sum of the following, whichever is
7 greater, unless the department by rule specifies a different assessment:

8 (a) The warehouse keeper's current ratio assessment. The current ratio
9 assessment for each license year equals the warehouse keeper's current ratio
10 assessment rate under sub. (2) multiplied by the combined warehouse capacity that
11 the warehouse keeper reports under s. 127.26(2)(e).

12 (b) The warehouse keeper's debt to equity ratio assessment. The debt to equity
13 ratio assessment for each license year equals the grain warehouse keeper's debt to
14 equity ratio assessment rate under sub. (4) multiplied by the combined warehouse
15 capacity that the warehouse keeper reports under s. 127.26(2)(e).

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

18 (a) If the warehouse keeper's annual financial statement under s. 127.28 shows
19 a current ratio of at least 1.25 to 1.0, the warehouse keeper's current ratio
20 assessment rate equals the greater of zero or the current ratio assessment factor in
21 sub. (3)(a) multiplied by the following amount:

22 ***Insert Graphic Here***

23 (b) If the warehouse keeper's annual financial statement under s. 127.28 shows
24 a current ratio less than 1.25 to 1.0, but greater than 1.0 to 1.0, the warehouse

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

3 ***Insert Graphic Here***

4 (c) If the warehouse keeper's annual financial statement under s. 127.28 shows
5 a current ratio less than or equal to 1.0 to 1.0, the warehouse keeper's current ratio
6 assessment rate equals the current ratio assessment factor in sub. (3)(b) multiplied
7 by 120.81376.

8 (d) If the warehouse keeper has not filed an annual financial statement under
9 s. 127.28, the warehouse keeper's current ratio assessment rate equals the current
10 ratio assessment factor in sub. (3)(b) multiplied by 5.71235.

11 **(3) CURRENT RATIO ASSESSMENT FACTOR.** (a) A warehouse keeper's current ratio
12 assessment factor under sub. (2)(a) is 0.003% except that, for the warehouse keeper's
13 fifth and higher consecutive full license year as a contributing warehouse keeper, the
14 warehouse keeper's current ratio assessment factor is 0.0%.

15 (b) A warehouse keeper's current ratio assessment factor under sub. (2)(b) to
16 (d) is 0.0045% except that, for the warehouse keeper's fifth and higher consecutive
17 full license year as a contributing warehouse keeper, the warehouse keeper's current
18 ratio assessment factor is 0.0036%.

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

21 (a) If the warehouse keeper's annual financial statement under s. 127.28 shows
22 a debt to equity ratio of not more than 4.0 to 1.0, the warehouse keeper's debt to
23 equity ratio assessment rate equals the greater of zero or the debt to equity ratio
24 assessment factor in sub. (5)(a) multiplied by the following amount:

25 ***Insert Graphic Here***

1 (b) If the warehouse keeper's annual financial statement under s. 127.28 shows
2 a debt to equity ratio greater than 4.0 to 1.0 but less than 5.00 to 1.0, the warehouse
3 keeper's debt to equity ratio assessment rate equals the debt to equity ratio
4 assessment factor in sub. (5)(b) multiplied by the following amount:

5 ***Insert Graphic Here***

6 (c) If the warehouse keeper's annual financial statement under s. 127.28 shows
7 a debt to equity ratio of at least 5.00 to 1.0, the warehouse keeper's debt to equity ratio
8 assessment equals the debt to equity ratio assessment factor in sub. (5)(b) multiplied
9 by 86.8244.

10 (d) If the warehouse keeper has not filed an annual financial statement under
11 s. 127.28, the warehouse keeper's debt to equity ratio assessment equals the debt to
12 equity ratio assessment factor in sub. (5)(b) multiplied by 8.77374.

13 (5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR. (a) A warehouse keeper's debt
14 to equity ratio assessment factor under sub. (4)(a) is 0.00125%, except that it is 0.0%
15 for the warehouse keeper's fifth and higher consecutive full license year as a
16 contributing warehouse keeper.

17 (b) A warehouse keeper's debt to equity ratio assessment factor under sub.
18 (4)(b) to (d) is 0.001875%, except that it is 0.0015% for the warehouse keeper's fifth
19 and higher consecutive full license year as a contributing warehouse keeper.

20 (6) QUARTERLY INSTALLMENTS. (a) A contributing grain warehouse keeper shall
21 pay the warehouse keeper's annual fund assessment in equal quarterly installments
22 that are due on the following dates:

- 23 1. The first installment is due on October 1 of the license year.
- 24 2. The second installment is due on January 1 of the license year.
- 25 3. The third installment is due on April 1 of the license year.

1 4. The fourth installment is due on July 1 of the license year.

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

4 (c) A contributing grain warehouse keeper who applies for an annual license
5 after the beginning of a license year shall pay the full annual fund assessment
6 required under this section. The warehouse keeper shall pay, with the first quarterly
7 installment that becomes due after the department issues the license, all of the
8 quarterly installments that were due prior to the licensing date.

9 (d) A contributing grain warehouse keeper who fails to pay the full amount of
10 any quarterly installment when due shall pay, in addition to that installment, a late
11 payment penalty of \$50 or 10% of the overdue installment amount, whichever is
12 greater.

13 (7) NOTICE OF ANNUAL ASSESSMENT AND QUARTERLY INSTALLMENTS. When the
14 department issues an annual license to a contributing grain warehouse keeper, the
15 department shall notify the warehouse keeper of all the following:

16 (a) The warehouse keeper's annual fund assessment under this section.

17 (b) The amount of each required quarterly installment under sub. (6), and the
18 date by which the warehouse keeper must pay each installment.

19 (c) The penalty that applies under sub. (6)(d) if the warehouse keeper fails to
20 pay any quarterly installment when due.

21 **127.31 Grain warehouse keepers; security. (1) SECURITY REQUIRED.** A
22 grain warehouse keeper shall file security with the department if both the following
23 apply when the department first licenses the warehouse keeper under s. 127.26(1):

24 (a) The warehouse keeper operates grain warehouses with a combined capacity
25 of more than 300,000 bushels.

1 (b) The warehouse keeper's annual financial statement under s. 127.28(1)(a)
2 shows negative equity.

NOTE: A warehouse keeper who is required to file security under par. (a) is disqualified from the fund, as provided in s. 127.29(2)(a), until the department releases that security under s. 127.31(8)(a). If a warehouse keeper's first financial statement under s. 127.28(1) shows positive equity, the warehouse keeper is not required to file security under par. (a) even if subsequent financial statements show negative equity. The warehouse keeper is instead required to contribute to the fund.

3 (2) SECURITY CONTINUED. A grain warehouse keeper who files security under
4 sub. (1), or who filed security under this chapter before September 1, 2002, shall
5 maintain that security until the department releases it under sub. (8).

6 (3) AMOUNT OF SECURITY. A grain warehouse keeper who is required to file or
7 maintain security under this section shall at all times maintain security equal to at
8 least 20% of the current local market value of grain that the warehouse keeper holds
9 in this state for others.

10 (4) FORM OF SECURITY. The department shall approve security filed or
11 maintained under this section. The department may approve only the following
12 types of security:

13 (a) Currency.

14 (b) Commercial surety bonds that are all the following:

15 1. Made payable to the department for the benefit of depositors.

16 2. Issued by an insurer authorized to operate a surety business in this state.

17 3. Issued as a continuous term bond that may be cancelled only with the
18 department's written agreement, or upon 90 days prior written notice served on the
19 department. A cancellation notice shall be served on the department in person or by
20 certified mail.

21 4. Issued in a form, and subject to any terms and conditions, that the
22 department considers appropriate.

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

2 1. The certificate is issued or endorsed to the department, for the benefit of
3 depositors.

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

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

8 4. The certificate is subject to automatic renewal without any action by the
9 department.

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

12 (d) Irrevocable bank letters of credit that are all the following:

13 1. Payable to the department, for the benefit of depositors.

14 2. Issued on bank letterhead.

15 3. Issued for an initial period of at least one year.

16 4. Automatically renewed unless, at least 90 days before the scheduled renewal
17 date, the issuing bank gives the department written notice that the letter of credit
18 will not be renewed. Written notice shall be served on the department in person or
19 by certified mail.

20 5. Issued in a form, and subject to any terms and conditions, that the
21 department considers appropriate.

22 (e) Security filed with the department prior to September 1, 2002, except that
23 on January 1, 2003 the department shall withdraw its approval of any security that
24 is not in a form provided under pars. (a) to (d).

1 **(5) DEPARTMENT CUSTODY OF SECURITY.** The department shall hold, under its
2 custody, all security filed and maintained under this section. The department shall
3 hold the security for the benefit of depositors, and may use the security under s.
4 127.71(2) to pay default claims allowed against the grain warehouse keeper who filed
5 the security.

6 **(6) ADDITIONAL SECURITY.** (a) The department may, at any time during a license
7 year, demand additional security from a grain warehouse keeper if any of the
8 following apply:

9 1. The warehouse keeper's existing security falls below the amount required
10 under sub. (3) for any reason, including a depreciation in security value, increased
11 obligations to depositors, or the cancellation of any security.

12 2. The warehouse keeper fails to provide required information that is relevant
13 to a determination of security needs.

14 (b) The department shall issue a demand under par. (a) in writing. The demand
15 shall indicate why additional security is required, the amount of security required,
16 and the deadline date for filing security. The filing deadline shall be not more than
17 30 days after the date on which the department issues its demand for security.

18 (c) A warehouse keeper may request a hearing, under ch. 227, on a security
19 demand under par. (b). A request for hearing does not automatically stay a security
20 demand.

21 (d) If a warehouse keeper fails to comply with the department's security
22 demand under this subsection, the warehouse keeper shall give written notice of that
23 fact to all depositors. If the warehouse keeper fails to give accurate notice under this
24 paragraph within 5 days after the security filing deadline under par. (b) has passed,
25 the department shall promptly notify depositors by publishing a class 3 public notice

1 under ch. 985. The department may also give individual notice to depositors of whom
2 the department is aware.

3 (e) If a warehouse keeper fails to comply with the department's security
4 demand under this subsection, the department may do any of the following:

5 1. Issue an appropriate summary order under s. 127.85(2).

6 2. Suspend or revoke the warehouse keeper's license.

7 (7) MONTHLY REPORTS. A warehouse keeper who is required to file or maintain
8 security under this section shall file monthly reports with the department. The
9 warehouse keeper shall file each monthly report by the 10th of the month, in a form
10 specified by the department. The report shall include information reasonably
11 required by the department, including the amount of each type of grain stored in each
12 grain warehouse on the last day of the preceding month.

13 (8) RELEASING SECURITY. (a) The department may release security filed under
14 sub. (1) if any of the following apply:

15 1. The grain warehouse keeper reports warehouse capacity under s.
16 127.26(2)(e) of less than 300,000 bushels for at least 2 consecutive years. The
17 department may release security under this subdivision if the warehouse keeper
18 first pays the quarterly fund assessment that would have been required of the
19 warehouse keeper, had the warehouse keeper been a contributing warehouse keeper
20 on the last quarterly installment date under s. 127.30(6).

21 2. The grain warehouse keeper's annual financial statement under s. 127.28
22 shows positive equity for at least 2 consecutive years. The department may release
23 security under this subdivision if the warehouse keeper first pays the quarterly fund
24 assessment that would have been required of the warehouse keeper, had the

1 warehouse keeper been a contributing warehouse keeper on the last quarterly
2 installment date under s. 127.30(6).

3 (b) On December 1, 2002, the department may release security filed or
4 maintained under sub. (2), except for any security that is still required under sub.
5 (1).

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

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

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

12 **127.32 Grain warehouse keepers; records.** (1) RECORDS AND ACCOUNTS;
13 GENERAL. A grain warehouse keeper shall maintain current, complete and accurate
14 records and accounts of all grain received into or withdrawn from each grain
15 warehouse, including records required under sub. (2) and (3).

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

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

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

22 (c) The total amount of grain, held by the warehouse keeper, to which the
23 warehouse keeper claims ownership.

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

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

4 (a) The depositor's name and address.

5 (b) The kinds and amounts of grain that the warehouse keeper received from
6 the depositor, the receipt dates, and the terms under which the warehouse keeper
7 received the grain.

8 (c) The kinds and amounts of grain that the warehouse keeper has released to
9 the depositor, and the release dates.

10 (d) The kinds and amounts of grain that the warehouse keeper currently holds
11 for the depositor. The warehouse keeper shall update this record on a daily basis.

12 **(4) ADJUSTING RECORDS.** (a) Whenever a grain warehouse keeper alters a record
13 entry under sub. (2) or (3), the warehouse keeper shall clearly identify and explain
14 the alteration so it is clear to a person reviewing the records.

15 (b) Except as provided in par. (c), a grain warehouse keeper may not alter a
16 record entry under sub. (2) or (3) without the department's prior approval.

17 (c) A grain warehouse keeper may, without the department's prior approval,
18 correct a record entry under sub. (2) or (3) for any of the following reasons:

19 1. To account for handling losses, if the warehouse keeper corrects for handling
20 losses at least monthly.

21 2. To account for errors or omissions related to the receipt or withdrawal of
22 grain, if the warehouse keeper has documentation to support the correction.

23 **(5) RECORDS RETENTION; AVAILABILITY.** (a) A grain warehouse keeper shall retain,
24 for at least 6 years from the date of their creation, all the following records:

25 1. Records required under this section and s. 127.33(3).

1 2. Records that the warehouse keeper was required to keep, under this chapter
2 and department rules, prior to January 1, 2002.

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

7 (c) A warehouse keeper shall make available to the department, for inspection
8 and copying upon request, records that the warehouse keeper is required to make or
9 retain under this section.

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

13 (b) The department shall review a grain warehouse keeper's records at least
14 once every 2 years if the grain warehouse keeper's annual financial statement under
15 s. 127.28 shows a current ratio of at least 2.0 to 1, and a debt to equity ratio of not
16 more than 2.0 to 1.

17 **127.33 Receipts for grain. (1) REQUIREMENT.** A grain warehouse keeper
18 shall give a depositor a scale ticket, warehouse receipt or other storage receipt
19 immediately after the warehouse keeper receives grain from the depositor. The
20 document shall include all the following:

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

24 (b) A statement identifying the document as a scale ticket, warehouse receipt
25 or other storage receipt.

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

2 (d) The kind of grain received.

3 (e) The net weight of grain received, including dockage if determined.

4 (f) The grade and quality of grain received, if determined.

5 (g) The conspicuous word “NEGOTIABLE” or “NONNEGOTIABLE” if the document is
6 issued as a warehouse receipt. If a warehouse keeper transfers depositor-owned
7 grain to another warehouse keeper, the receipt issued by the receiving warehouse
8 keeper shall bear the conspicuous word “NONNEGOTIABLE.”

9 (h) A statement indicating that the depositor must remove the grain from
10 storage by a specified date that is not more than 3 years after the date of deposit. This
11 requirement does not apply to any of the following:

12 1. A warehouse receipt.

13 2. A receipt for grain owned by the federal commodity credit corporation.

14 3. A receipt for grain pledged as collateral for a loan from the United States
15 department of agriculture.

16 (2) GRAIN OWNERSHIP. If a person delivers grain to a recipient who is both a
17 grain warehouse keeper and a grain dealer, the delivery is considered a deposit for
18 storage unless it is clearly documented as a delivery of purchased grain. A scale
19 ticket or other receipt is considered a storage receipt unless it is clearly designated
20 as a receipt for the delivery of purchased grain.

21 (3) WAREHOUSE KEEPER'S COPY. A grain warehouse keeper shall keep a copy of
22 every scale ticket, grain warehouse receipt or other document that the grain
23 warehouse keeper issues under sub. (1). The warehouse keeper shall retain a copy
24 of each document for at least 6 years after the document is issued, and shall make
25 copies available to the department for inspection and copying upon request.

1 **127.34 Grain warehouse keepers; business practices.** (1) GRAIN WEIGHT,
2 GRADE AND QUALITY. A grain warehouse keeper shall do all the following when
3 determining the weight, grade or quality of grain:

4 (a) Accurately determine the weight, grade or quality using accurate weighing,
5 testing or grading equipment.

6 (b) Accurately record the determined weight, grade or quality.

7 (2) CARE OF GRAIN; FACILITIES. A grain warehouse keeper shall safeguard grain
8 held for others, and shall protect that grain from loss or abnormal deterioration. A
9 grain warehouse keeper shall have adequate facilities and equipment for that
10 purpose.

11 (3) SUFFICIENT INVENTORY. A grain warehouse keeper shall at all times
12 maintain grain inventories sufficient in quantity and quality to meet all outstanding
13 obligations to grain depositors.

14 (4) RETURNING GRAIN TO DEPOSITORS. (a) A grain warehouse keeper shall deliver
15 to a depositor, upon demand, the same grade and amount of grain deposited.

16 (b) If a grain warehouse keeper does not have enough grain of the appropriate
17 grade to satisfy a depositor's demand under par. (a), the warehouse keeper may
18 substitute any of the following if the depositor agrees:

19 1. A monetary payment sufficient to provide the depositor with equivalent
20 value, based on current local grain prices.

21 2. A sufficient amount of a higher grade of grain to provide the depositor with
22 equivalent value, based on current local grain prices.

23 (c) A grain warehouse keeper may not provide grain or payments under par.

24 (b) whose value exceeds the current value of the grain that was deposited.

1 (2) “Current ratio” means the ratio of current assets to current liabilities,
2 calculated according to 127.44(8)(c)1.

3 (3) “Dairy farm” has the meaning given in s. 97.22(1)(a).

4 (4) “Dairy plant” has the meaning given in s. 97.20(1)(a).

5 (5) “Dairy plant operator” means a person who holds or is required to hold a
6 dairy plant license under s. 97.20.

7 (6) “Debt to equity ratio” means the ratio of total liabilities to equity, calculated
8 according to s. 127.44(8)(c)2.

9 (7) “Disqualified milk contractor” means a milk contractor who is disqualified
10 from the fund under s. 127.45(3).

11 (8) “Milk contractor” means a person who buys producer milk, or who markets
12 producer milk as a producer agent. “Milk contractor” does not include any of the
13 following:

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

17 (b) A person who merely buys or sells milk on a board of trade or commodity
18 exchange.

NOTE: A producer agent must be licensed as a milk contractor. A milk producer
may file a claim under s. 127.70(1) against a defaulting producer agent. A producer agent
may file a claim under s. 127.70(1) against a defaulting milk contractor to whom the
producer agent markets a producer’s milk.

19 (9) “Milk payroll obligation” means a milk contractor’s gross obligation to a
20 producer or producer agent, whether paid or unpaid, for producer milk that the milk
21 contractor procures in this state.

22 (10) “Milk producer” or “producer” means a person who produces milk on a
23 dairy farm.

1 **(11)** “Procure milk” means to buy milk, or acquire the right to market milk.

2 **(12)** “Procure milk in this state” means any of the following:

3 (a) To buy milk for receipt in this state.

4 (b) To receive milk directly from a dairy farm in this state.

5 (c) To collect milk from a dairy farm in another state, for direct shipment to a
6 dairy plant that the milk contractor operates in this state.

7 (d) To acquire the right to market milk that is produced in this state.

8 **(13)** “Producer agent” means a person who, without taking title to producer
9 milk, acts on behalf of the producer to market or accept payment for that milk.

10 “Producer agent” includes a person who uses a producer trust fund to market or
11 accept payment for producer milk. “Producer agent” does not include any of the
12 following:

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

16 (b) A person who merely holds or transports milk for a milk producer, without
17 marketing or accepting payment for milk on behalf of the producer.

NOTE: A producer agent must be licensed as a milk contractor. A milk producer
may file a claim under s. 127.70(1) against a defaulting producer agent. A producer agent
may file a claim under s. 127.70(1) against a defaulting milk contractor to whom the
producer agent markets a producer’s milk.

18 **(14)** “Producer milk” means milk that is owned by or held in trust for one or
19 more producers. Milk owned by a milk contractor is not “producer milk.” Milk that
20 a producer agent markets for a producer, without taking title to the milk, is “producer
21 milk.”

1 **127.41 Milk contractors; licensing. (1) ANNUAL LICENSE.** (a) No milk
2 contractor may do any of the following without a current annual license from the
3 department:

- 4 1. Receive producer milk in this state.
- 5 2. Collect producer milk from a dairy farm in another state, for direct shipment
6 to a dairy plant that the milk contractor operates in this state.
- 7 3. Acquire the right to market, as a producer agent, producer milk produced in
8 this state.

9 (b) A milk contractor who is not engaged in any activities under par. (a) may
10 volunteer to be licensed if the milk contractor receives, outside this state, direct
11 shipments of producer milk from dairy farms in this state.

12 (c) The department may issue an annual milk contractor license under par. (a)
13 or (b). A license expires on April 30 of each year and may not be transferred or
14 assigned. A license holder shall comply with this subchapter.

15 **(2) LICENSE APPLICATION.** A milk contractor shall apply for a license under sub.
16 (1) in writing, on a form provided by the department. The application shall include
17 all the following:

18 (a) The applicant's correct legal name and any trade name under which the
19 applicant proposes to operate as a milk contractor. If the milk contractor is a dairy
20 plant operator licensed under s. 97.20, the milk contractor shall use the same legal
21 name in both license applications.

22 (b) Whether the applicant is an individual, corporation, partnership,
23 cooperative, limited liability company, trust or other legal entity. If the applicant is
24 a corporation or cooperative, the application shall identify each officer of the

1 corporation or cooperative. If the applicant is a partnership, the application shall
2 identify each partner.

3 (c) The address of the applicant's primary business location, and the name of
4 a responsible individual who may be contacted at that location.

5 (d) The address of each business location from which the applicant will operate
6 under the license, and the name of a responsible person who may be contacted at each
7 staffed location.

8 (e) All license fees and surcharges required under sub. (3).

9 (f) The sworn and notarized statement required under sub. (6).

10 (g) A financial statement if required under s. 127.44(1) and not yet filed.

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

12 **(3) ANNUAL LICENSE FEES AND SURCHARGES.** A milk contractor applying for a
13 license under sub. (1) shall include the following fees and surcharges with the license
14 application, unless the department specifies a different fee or surcharge amount by
15 rule:

16 (a) A license processing fee of \$25. The department may not refund this fee if
17 the department denies the license application.

18 (b) A license surcharge of \$500 if the department determines that, within 365
19 days prior to submitting the license application, the applicant operated without a
20 license in violation of sub. (1). The applicant shall also pay any license fees, license
21 surcharges and fund assessments that are still due for any license year in which the
22 applicant violated sub. (1). Payment under this paragraph does not relieve the
23 applicant of any other civil or criminal liability that results from the violation of sub.
24 (1), but does not constitute evidence of any law violation.

1 (c) A license surcharge of \$100 if, during the preceding 12 months, the applicant
2 failed to file an annual financial statement required under s. 127.44(1)(b) by the
3 applicable deadline.

4 (d) A license surcharge of \$100 if a renewal applicant fails to renew a license
5 by the license expiration date of April 30.

NOTE: In addition to the annual license fees and surcharges under this subsection, a licensed milk contractor must pay monthly license fees under s. 127.42. A contributing milk contractor must also pay quarterly fund assessments under s. 127.46.

6 (4) FEE STATEMENT. The department shall provide, with each license application
7 form, a written statement of all license fees and surcharges required under sub. (3).

8 (5) NO LICENSE WITHOUT FULL PAYMENT. The department may not issue a license
9 under sub. (1) unless the applicant first pays all license fees and surcharges
10 identified in the department's statement under sub. (4). The department shall
11 refund a fee or surcharge paid under protest if, upon review, the department
12 determines that the fee or surcharge is not due and payable.

13 (6) Sworn and notarized statement. An application under sub. (2) shall include
14 a sworn and notarized statement, signed by the applicant or an authorized officer of
15 the applicant. The statement shall include the following information:

16 (a) The total milk payroll obligations that the applicant incurred, during the
17 applicant's last completed fiscal year, for milk procured in this state. If the applicant
18 has not yet operated as a milk contractor, the applicant shall estimate the total milk
19 payroll obligations that the applicant will incur during the applicant's first complete
20 fiscal year.

21 (b) The largest amount of unpaid milk payroll obligations that the contractor
22 had, at any time during the contractor's last completed fiscal year, for milk procured
23 in this state. A milk contractor who files security under s. 127.47 shall immediately

1 notify the department if, at any time, the milk contractor's unpaid milk payroll
2 obligations exceed the amount last reported under this paragraph.

3 (c) The identity of any producer agents from whom the milk contractor procures
4 milk.

5 (d) Other relevant information required by the department.

6 (7) ACTION GRANTING OR DENYING APPLICATION. The department shall grant or
7 deny a license application under sub. (2) within 30 days after the department
8 receives a complete application. If the department denies a license application, the
9 department shall give the applicant written notice stating reasons for the denial.

10 (8) License displayed. A milk contractor licensed under sub. (1) shall
11 prominently display a true copy of that license at each business location from which
12 the milk contractor operates in this state.

13 **127.42 Milk contractors; monthly license fee. (1) MONTHLY FEE PAYMENT.**
14 Except as provided in sub. (5) or (6), a milk contractor licensed under s. 127.41(1)
15 shall pay to the department, by the 25th day of each month, a monthly license fee of
16 0.15 cent for each 100 pounds of producer milk that the milk contractor procured in
17 this state during the preceding month. The milk contractor shall submit, with the
18 fee payment, a report stating the number of pounds of producer milk that the milk
19 contractor procured in this state during the preceding month.

20 (2) LATE PAYMENT SURCHARGE. If a milk contractor fails to pay a monthly fee
21 under sub. (1) when due, the milk contractor shall pay in addition to that monthly
22 fee a surcharge equal to 20% of the monthly fee. The milk contractor shall pay the
23 surcharge by the 25th day of the following month.

24 (3) FEE CREDITS. If the fund balance contributed by milk contractors exceeds
25 \$4 million on February 28 of any license year, the department shall credit 50% of the

1 excess amount against fees charged under sub. (1) to contributing milk contractors
2 who file timely renewal applications for the next license year beginning May 1. The
3 department shall credit each contributing milk contractor on a pro rata basis, in
4 proportion to the total fees that the contractor has paid under sub. (1) for the 4
5 preceding license years.

6 (4) FEE STATEMENT. Whenever the department issues an annual license to a
7 milk contractor under s. 127.41(1), the department shall give the milk contractor
8 notice of the monthly fees required under this section. The notice shall include all
9 the following:

10 (a) The method for computing the monthly fee.

11 (b) The date by which the milk contractor must pay the fee each month.

12 (c) The late payment surcharge that may apply under sub. (2).

13 (d) The fee credit, if any, that applies under sub. (3).

14 (5) PRODUCER AGENTS; EXEMPTION. A producer agent is not required to pay the
15 monthly fee under sub. (1) for producer milk that the producer agent markets to a
16 milk contractor, licensed under s. 127.41(1), who pays a monthly fee on the same
17 milk.

18 (6) FEE CHANGES. The department may modify the license fees under sub. (1)
19 by rule, as provided under s. 127.81(2).

20 **127.43 Milk contractors; insurance.** (1) FIRE AND EXTENDED COVERAGE
21 INSURANCE. A milk contractor licensed under s. 127.41(1) shall maintain fire and
22 extended coverage insurance. The insurance policy shall cover at their full value all
23 milk or milk products in the possession, custody or control of the milk contractor. If
24 the milk contractor is required to be licensed under s. 127.41(1)(a), the insurance

1 policy shall be issued by an insurance company authorized to do business in this
2 state.

3 (2) INSURANCE CANCELLATION; REPLACEMENT. Whenever an insurance policy
4 under sub. (1) is canceled, the milk contractor shall replace the policy so there is no
5 lapse in coverage. The replacement policy shall comply with sub. (1).

6 (3) INSURANCE COVERAGE; MISREPRESENTATION. No milk contractor may
7 misrepresent any of the following to the department, or to any milk producer or
8 producer agent:

9 (a) That the milk contractor is insured.

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

12 **127.44 Milk contractors; financial statements.** (1) REQUIRED ANNUAL
13 FINANCIAL STATEMENT. (a) Except as provided in par. (c), a milk contractor shall file
14 an annual financial statement with the department before the department licenses
15 the milk contractor under s. 127.41(1).

16 (b) Except as provided in par. (c), a milk contractor licensed under s. 127.41(1)
17 shall file an annual financial statement with the department during each license
18 year. The milk contractor shall file the annual financial statement by the 15th day
19 of the 4th month following the close of the milk contractor's fiscal year. The
20 department may extend the filing deadline for up to 30 days if the milk contractor,
21 or the accountant preparing the financial statement, files a written extension
22 request at least 10 days before the filing deadline.

23 (c) Paragraphs (a) and (b) do not apply to any of the following:

24 1. A contributing milk contractor who reports no more than \$1.5 million in
25 annual milk payroll obligations under s. 127.41(6)(a).