



~~Legislature~~

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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

By Jan. 4 Noon
- or earlier, if possible.

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1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 15.137 (1) of the statutes is created to read:

3 15.137 (1) AGRICULTURAL PRODUCER SECURITY COUNCIL. (a) There is created in
4 the department of agriculture, trade and consumer protection an agricultural
5 producer security council consisting of the following members appointed by the
6 secretary of agriculture for 3-year terms:

7 1. One person representing the Farmers' Educational and Cooperative Union
8 of America, Wisconsin Division.

9 2. One person representing the Midwest Food Processors Association, Inc.

- 1 3. One person representing the National Farmers' Organization, Inc.
- 2 4. One person representing the Wisconsin Agri-Service Association, Inc.
- 3 5. One person representing the Wisconsin Cheese Makers Association.
- 4 6. One person representing both the Wisconsin Corn Growers Association, Inc.,
- 5 and the Wisconsin Soybean Association, Inc.
- 6 7. One person representing the Wisconsin Dairy Products Association, Inc.
- 7 8. One person representing the Wisconsin Farm Bureau Federation.
- 8 9. One person representing the Wisconsin Federation of Cooperatives.
- 9 10. One person representing the Wisconsin Potato and Vegetable Growers
- 10 Association, Inc.

11 (b) Each organization identified in par. (a) shall nominate 2 persons to
12 represent that organization on the agricultural producer security council. The
13 secretary of agriculture, trade and consumer protection shall appoint members from
14 among the nominees.

15 **SECTION 2.** 20.115 (1) (g) of the statutes is amended to read:

16 20.115 (1) (g) *Related services.* The amounts in the schedule for the conduct of
17 services related to food and trade regulation, including special and overtime meat
18 inspection services under s. 97.42 (3), and investigative and audit services under ss.
19 93.06 (6) (b), ~~100.06 (1g) (e)~~ and 100.07 (1), but excluding services financed under
20 pars. (gf) and (h). Except as provided in pars. (gf) and (h), all moneys received from
21 authorized service fees related to food and trade regulation shall be credited to this
22 appropriation.

23 **SECTION 3.** 20.115 (1) (gf) of the statutes is amended to read:

1 20.115 (1) (gf) *Fruit and vegetable inspection*. All moneys received for the
2 inspection of fruits and vegetables under ss. 93.06 (1m), and 93.09 (10) and 100.03
3 ~~(3)(a) 1.~~ to carry out the purposes for which those moneys are received.

4 **SECTION 4.** 20.115 (1) (gm) of the statutes is amended to read:

5 20.115 (1) (gm) ~~*Dairy and vegetable security and trade practices regulation*~~.
6 The amounts in the schedule for the regulation of ~~vegetable procurement under s.~~
7 ~~100.03,~~ of dairy plant financial condition under s. 100.06 ~~and of dairy trade practices~~
8 under s. 100.201. All moneys received under ~~ss. 100.03 (3) (a) 2. and 3., 100.06 (9)~~
9 ~~and s. 100.201 (6)~~ shall be credited to this appropriation.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

10 **SECTION 5.** 20.115 (1) (jm) of the statutes is repealed.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11 **SECTION 6.** 20.115 (1) (q) of the statutes is created to read:

12 20.115 (1) (q) *Dairy, grain, and vegetable security*. From the agricultural
13 producer security fund, the amounts in the schedule to administer dairy, grain, and
14 vegetable producer security programs under ch. ~~127.~~¹²⁶ ✓

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

15 **SECTION 7.** 20.115 (1) (v) of the statutes is created to read:

16 20.115 (1) (v) *Agricultural producer security; bonds*. From the agricultural
17 producer security fund, a sum sufficient to acquire the surety bonds required under
18 ss. ~~127.~~⁶06 and ~~127.~~⁶07.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

19 **SECTION 8.** 20.115 (1) (w) of the statutes is created to read:

1 20.115 (1) (w) *Agricultural producer security; payments.* From the agricultural
2 producer security fund, a sum sufficient to make default claim payments authorized
3 under s. 127⁶.72 (1).

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 **SECTION 9.** 20.115 (1) (wb) of the statutes is created to read:

5 20.115 (1) (wb) *Agricultural producer security; bond proceeds.* From the
6 agricultural producer security fund, all moneys received under s. 127⁶.72 (2) and (3)
7 to be used to make default claim payments under s. 127⁶.71 (1).

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 10.** 25.17 (1) (ag) of the statutes is created to read:

9 25.17 (1) (ag) Agricultural producer security fund (s. 25.463);

10 **SECTION 11.** 25.463 of the statutes is created to read:

11 **25.463 Agricultural producer security fund.** There is established a
12 separate nonlapsible trust fund designated as the agricultural producer security
13 fund, to consist of all fees, surcharges, assessments, reimbursements, and proceeds
14 of surety bonds received by the department of agriculture, trade and consumer
protection under ch. 127⁶.

✓
Insert A

15 **SECTION 12.** 93.135 (1) (rm) of the statutes is amended to read:

16 93.135 (1) (rm) A ~~registration certificate~~ license under s. 100.03 (2) 127⁶.56.

17 **SECTION 13.** 93.135 (1) (s) of the statutes is amended to read:

18 93.135 (1) (s) A license under s. ~~127.02 (1)~~ 127⁶.26.

19 **SECTION 14.** 93.135 (1) (sm) of the statutes is amended to read:

20 93.135 (1) (sm) A license under s. ~~127.03 (1)~~ 127⁶.11.

✓
Insert B

21 **SECTION 15.** 93.50 (1) (g) of the statutes is amended to read:

1 93.50 (1) (g) "Procurement contract" has the meaning given for "vegetable
2 procurement contract" in s. 100.03 (1) (vm) ~~127.55~~⁶ (15).

3 SECTION 16. 97.20 (2) (d) 2. of the statutes is amended to read:

4 97.20 (2) (d) 2. The license applicant has filed all financial information required
5 under s. ~~127.44~~⁶ and any security required under s. ~~100.06~~ ~~127.47~~⁶. If an applicant has
6 not filed all financial information under s. ~~127.44~~⁶ and any security required under
7 s. ~~100.06~~ ~~127.47~~⁶, the department may issue a conditional dairy plant license under
8 s. 93.06 (8) which prohibits the licensed operator from purchasing milk or fluid milk
9 products from milk producers or their agents, but allows the operator to purchase
10 milk or fluid milk products from other sources.

11 SECTION 17. 97.20 (3m) of the statutes is amended to read:

12 97.20 (3m) CONFIDENTIALITY. Any information kept by the department under
13 this section or s. 97.24 that identifies individual milk producers who deliver milk to
14 a dairy plant licensed under this section and that is a composite list for that dairy
15 plant is not subject to inspection under s. 19.35 unless inspection is required under
16 s. ~~100.06 (4)~~ ~~127.70~~⁶ or unless the department determines that inspection is necessary
17 to protect the public health, safety or welfare.

18 SECTION 18. 97.22 (10) of the statutes is amended to read:

19 97.22 (10) CONFIDENTIALITY. Any information obtained and kept by the
20 department under this section, under s. 97.24 or 97.52, or under rules promulgated
21 under those sections, that pertains to individual milk producer production, milk fat
22 and other component tests and quality records is not subject to inspection under s.
23 19.35 except as required under s. ~~100.06 (4)~~ ~~127.70~~⁶ or except as the department
24 determines is necessary to protect the public health, safety or welfare.

25 SECTION 19. 97.29 (4) of the statutes is amended to read:

1 97.29 (4) FOOD PROCESSING PLANTS BUYING VEGETABLES FROM PRODUCERS. The
2 department may not issue or renew a license to operate a food processing plant to any
3 applicant who is a vegetable contractor, as defined in s. 100.03 (1) (f) ~~127.55~~⁶ (14),
4 unless the applicant has filed all financial information required under s. 127.58 and
5 any security that is required under s. 100.03 ~~127.61~~⁶. If an applicant has not filed all
6 financial information required under s. 127.58 and any security that is required
7 under s. 100.03 ~~127.61~~⁶, the department may issue a conditional license under s. 93.06
8 (8) that prohibits the licensed operator from procuring vegetables from a producer
9 or a producer's agent, but allows the operator to procure vegetables from other
10 sources.

11 **SECTION 20.** 100.03 of the statutes is repealed.

12 **SECTION 21.** 100.06 of the statutes is repealed.

13 **SECTION 22.** 100.235 (1) (b) of the statutes is amended to read:

14 100.235 (1) (b) "Contractor" has the meaning given for "vegetable contractor"
15 under s. 100.03 (1) (f) ~~127.55~~⁶ (14).

16 **SECTION 23.** 100.235 (1) (em) of the statutes is renumbered 100.235 (1) (dm)
17 and amended to read:

18 100.235 (1) (dm) "Registration License year" has the meaning given under s.
19 ~~100.03 (1) (y)~~ ~~127.55~~⁶ (10m).

20 **SECTION 24.** 100.235 (2) of the statutes is amended to read:

21 100.235 (2) CONTRACTOR MAY NOT PAY PRODUCER LESS THAN CONTRACTOR'S COST TO
22 CROW. If a contractor and the contractor's affiliates and subsidiaries collectively grow
23 more than 10% of the acreage of any vegetable species grown and procured by the
24 contractor in any registration license year, the contractor shall pay a producer, for
25 vegetables of that species tendered or delivered under a vegetable procurement

1 contract, a price not less than the contractor's cost to grow that vegetable species in
2 the same growing region. For vegetables contracted on a tonnage basis and for
3 open-market tonnage purchased, acreage under this subsection shall be determined
4 using the state average yield per acre during the preceding registration license year.

5 **SECTION 25.** ^{RPJ} 100.235 (3) [✓] of the statutes is amended to read:

6 ~~100.235 (3) ACREAGE GROWN; ANNUAL CERTIFICATION BY CONTRACTOR. A contractor~~
7 ~~who applies under s. 100.03 (2) for an annual registration certificate, as defined~~
8 ~~under s. 100.03 (1) (x), for a license under s. 127.56 shall submit with the application~~
9 ~~a sworn and notarized statement, signed by the contractor or an officer of the~~
10 ~~contractor, indicating whether the contractor and the contractor's affiliates and~~
11 ~~subsidiaries intend to collectively grow more than 10% of the acreage of any~~
12 ~~vegetable species grown and procured by the contractor during the registration~~
13 ~~license year for which application is made. A contractor shall immediately file an~~
14 ~~amended statement if, at any time during the registration license year, the~~
15 ~~contractor has reason to believe that the contractor's original statement is~~
16 ~~inaccurate.~~

***NOTE: Or should this be repealed in light of proposed s. 127.56 (9) (f)?

17 **SECTION 26.** 100.235 (4) of the statutes is amended to read:

18 100.235 (4) COST TO GROW; REPORT TO DEPARTMENT UPON REQUEST. If the
19 department determines that a contractor and the contractor's affiliates and
20 subsidiaries will collectively grow more than 10% of the acreage of any vegetable
21 species grown and procured by the contractor during a registration license year, the
22 department may require the contractor to file a statement of the contractor's cost to
23 grow that vegetable species. The contractor shall file the report with the department
24 within 30 days after the department makes its request, unless the department

Fix
Component 5

1 grants an extension of time. The department may permit the contractor to report
 2 different costs to grow for different growing regions if the contractor can define the
 3 growing regions to the department's satisfaction, and can show to the department's
 4 satisfaction that the contractor's costs to grow are substantially different between
 5 the growing regions.

6 SECTION 27. 100.26 (5) of the statutes is amended to read:

7 100.26 (5) Any person violating s. ~~100.06 or any order or regulation of the~~
 8 ~~department thereunder, or s. 100.18 (9)~~, shall be fined not less than \$100 nor more
 9 than \$1,000 or imprisoned for not more than 2 years or both. Each day of violation
 10 constitutes a separate offense.

11 ~~SECTION 28. Chapter 127 of the statutes is repealed and recreated to read:~~

change components CR Chapter 126

12

CHAPTER 127⁶

AGRICULTURAL PRODUCER SECURITY

SUBCHAPTER I

GENERAL

16

⁶
 127.01 **General definitions.** In this chapter:

- 17 (1) "Affiliate" means any of the following persons:
 - 18 (a) An owner, major stockholder, partner, officer, director, member, employee,
 - 19 or agent of a contractor.
 - 20 (b) A person owned, controlled, or operated by a person under par. (a).
- 21 (2) "Asset" means anything of value owned by a person.
- 22 (3) "Audited financial statement" means a financial statement on which an
- 23 independent certified public accountant, or an independent public accountant
- 24 holding a certificate of authority under ch. 442, has done all of the following:

1 (a) Stated that the financial statement presents fairly, in all material respects,
2 the financial position of a contractor as of a specific date or for a specific period,
3 according to one of the following:

4 1. Generally accepted accounting principles.

5 2. The historical cost basis method of accounting, if the financial statement is
6 a sole proprietor's personal financial statement and the financial statement is
7 prepared on a historical cost basis.

8 (b) Conducted an audit according to generally accepted auditing standards.

9 (4) "Balance sheet" means a statement of assets, liabilities, and equity on a
10 specific date.

11 (5) "Contractor," unless otherwise qualified, means any of the following:

12 (a) A grain dealer, as defined in s. 127.10⁶ (9).

13 (b) A grain warehouse keeper, as defined in s. 127.25⁶ (9).

14 (c) A milk contractor, as defined in s. 127.40⁶ (8).

15 (d) A vegetable contractor, as defined in s. 127.55⁶ (14).

16 (6) "Current assets" means cash and other assets, including trade or
17 investment items, that may be readily converted into cash in the ordinary course of
18 business within one year after the date as of which the value of those assets is
19 determined.

20 (7) "Current liabilities" means those liabilities that are due within one year
21 after the date as of which the value of those liabilities is determined.

22 (8) "Department" means the department of agriculture, trade and consumer
23 protection.

24 (9) "Equity" means the value of assets less the value of liabilities.

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

3 (11) “Fund” means the agricultural producer security fund established under
4 s. 25.463.

5 (12) “Generally accepted accounting principles” means the accounting
6 standards adopted by the Financial Accounting Standards Board, except that for a
7 business entity organized and operating outside the United States “generally
8 accepted accounting principles” includes generally accepted foreign accounting
9 standards that are substantially equivalent to standards adopted by the Financial
10 Accounting Standards Board.

11 (13) “Grain” means corn, wheat, soybeans, oats, barley, rye, buckwheat,
12 sorghum, flax seed, milo, sunflower seed, and mixed grain, as defined in 7 CFR
13 810.801, except that “grain” does not include any of the following:

14 (a) Sweet corn or other canning crops for processing.

15 (b) Seed corn, wheat, soybeans, oats, barley, rye, buckwheat, sorghum, flax
16 seed, milo, sunflower seed, or mixed grain used or intended for use solely for planting
17 purposes.

18 (c) Corn, wheat, soybeans, oats, barley, rye, buckwheat, sorghum, flax seed,
19 milo, sunflower seed, or mixed grain that has been rolled, cracked, roasted, or
20 otherwise processed.

21 (14) “Income statement” means a report of the financial results of business
22 operations for a specific period.

23 (15) “Individual” means a natural person.

24 (16) “Interim financial statement” means a statement of financial condition
25 prepared for a period shorter than a fiscal year.

state agency, as defined in s. 20.00(1), local governmental unit, as defined in s. 66.013(1)(a)

1 (17) "Milk" has the meaning given in s. 97.22 (1) (e).

2 (18) "Person," notwithstanding s. 990.01 (26), means an individual,
3 corporation, cooperative, partnership, limited liability company, trust, or other legal
4 entity.

5 (19) "Producer," unless otherwise qualified, means a grain producer, as defined
6 in s. 127.10 (10), milk producer, as defined in s. 127.40 (10), or vegetable producer,
7 as defined in s. 127.55 (16).

8 (20) "Reviewed financial statement" means a contractor's financial statement,
9 other than an audited financial statement, if all of the following apply:

10 (a) The contractor attests in writing, under oath, that the financial statement
11 is complete and accurate.

12 (b) The financial statement is reviewed by an independent certified public
13 accountant or by an independent public accountant who holds a certificate of
14 authority under ch. 442.

15 (21) "Security" means security filed or maintained under s. 127.16, 127.31,
16 127.47, or 127.61.

17 (22) "Sole proprietor" means a contractor who is an individual.

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

22 (24) "Vegetable" means any vegetable that is grown or sold for use in food
23 processing, whether or not the vegetable is actually processed as food. "Vegetable"
24 includes green beans, kidney beans, lima beans, romano beans, wax beans, beets,

1 cabbage, carrots, celery, cucumbers, onions, peas, potatoes, spinach, squash, and
2 sweet corn, but does not include grain.

3 SUBCHAPTER II

4 AGRICULTURAL PRODUCER

5 SECURITY FUND

6 ⁶~~127~~.05 **Deposits into the fund.** The department shall deposit into the fund
7 all fees, surcharges, assessments, reimbursements, and proceeds of surety bonds
8 that the department collects under this chapter. The department shall keep a record
9 by contractor and industry, of all deposits.

10 ⁶~~127~~.06 **Industry bonds.** (1) DEPARTMENT TO ACQUIRE BONDS. Using moneys
11 appropriated under s. 20.115 (1) (v), the department shall acquire and maintain all
12 of the following surety bonds:

13 (a) A surety bond that takes effect on May 1, 2002, to secure payment under
14 s. ⁶~~127~~.72 (2) of claims against contributing milk contractors, as defined in s. ⁶~~127~~.40
15 (1).

16 (b) A surety bond that takes effect on September 1, 2002, to secure payment
17 under s. ⁶~~127~~.72 (2) of claims against contributing grain dealers, as defined in s.
18 ⁶~~127~~.10 (3), and contributing grain warehouse keepers, as defined in s. ⁶~~127~~.25 (2).

19 (c) A surety bond that takes effect on February 1, 2002, to secure payment
20 under s. ⁶~~127~~.72 (2) of claims against contributing vegetable contractors, as defined
21 in s. ⁶~~127~~.55 (4).

22 (2) BOND TERMS. The department shall ensure all of the following:

23 (a) That the amount of each bond under sub. (1) is at least \$5,000,000 but not
24 more than \$20,000,000.

25 (b) That the amount of each bond under sub. (1) renews annually.

1 (c) That each bond under sub. (1) is payable to the department for the benefit
2 of the appropriate claimants under sub. (1).

3 (d) That each bond under sub. (1) is issued by a person who is authorized to
4 operate a surety business in this state.

5 (dm) That no surety issues more than one of the 3 bonds under sub. (1).

6 (e) That no bond issued under sub. (1) may be canceled or modified unless one
7 of the following applies:

8 1. The department agrees to the cancellation or modification.

9 2. The department receives written notice from the issuer in person or by
10 certified mail at least one year before the proposed cancellation or modification.

11 (f) That the issuer of each bond under sub. (1) issues the bond in a form, and
12 subject to any terms and conditions, that the department considers appropriate.

13 (3) BOND PROCUREMENT. The department shall procure the surety bonds under
14 sub. (1) according to the procedures provided in subch. IV of ch. 16.

15 ⁶~~12~~.07 **Blanket bond.** (1) DEPARTMENT TO ACQUIRE BOND. Using moneys
16 appropriated under s. 20.115 (1) (v), the department shall acquire and maintain a

17 surety bond, that takes effect on February 1, 2002, to secure payment under s. ⁶~~12~~.72
18 (3) of claims against contributing contractors, as defined in s. ⁶~~12~~.68 (1).

19 (2) BOND TERMS. The department shall ensure all of the following:

20 (a) That the amount of the bond under sub. (1) is at least \$20,000,000 but not
21 more than \$40,000,000.

22 (b) That the amount of the bond under sub. (1) renews annually.

23 (c) That the bond under sub. (1) is payable to the department for the benefit of
24 claimants described in sub. (1).

1 (d) That the bond under sub. (1) is jointly issued by at least 3 persons acting
2 as cosureties on the bond and that each of the persons is authorized to operate a
3 surety business in this state.

4 (e) That no issuer of the bond under sub. (1) may cancel or modify the bond, or
5 withdraw as a cosurety, unless one of the following applies:

- 6 1. The department agrees to the cancellation, modification, or withdrawal.
- 7 2. The department receives written notice from the issuer that is delivered in
8 person or by certified mail and is received at least one year before the proposed
9 cancellation, modification, or withdrawal.

10 (f) That the issuers of the bond under sub. (1) issue the bond in a form, and
11 subject to any terms and conditions, that the department considers appropriate.

12 (3) BOND PROCUREMENT. The department shall procure the surety bond under
13 sub. (1) according to the procedures provided in subch. IV of ch. 16.

14 ⁶~~127~~.08 **Start-up loan to fund; repayment.** On January 1, 2002, \$2,000,000
15 is transferred as a loan from the agrichemical management fund, to the agricultural
16 producer security fund. The department shall repay this loan principal, plus interest
17 compounded at 5% annually, from the agricultural producer security fund by July 1,
18 2006. The department shall transfer at least \$250,000 from the agricultural
19 producer security fund to the agrichemical management fund on July 1 of each year,
20 beginning on July 1, 2003. The department may accelerate the loan repayment, at
21 its discretion.

22 SUBCHAPTER III

23 GRAIN DEALERS

24 ⁶~~127~~.10 **Definitions.** In this subchapter:

1 (1) “Cash on delivery” means full cash payment for grain when the grain dealer
2 takes custody or control of the grain.

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

4 (a) Currency.

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

6 (c) A wire transfer.

7 (d) Simultaneous barter.

8 (3) “Contributing grain dealer” means a grain dealer who is licensed under s.
9 ~~127~~⁶.11, who either has paid one or more quarterly installments under s. ~~127~~⁶.15 (7)
10 or is required to contribute to the fund, but the first quarterly installment under s.
11 ~~127~~⁶.15 (7) is not yet due, and who is not disqualified from the fund under s. ~~127~~⁶.14
12 (2).

13 (4) “Current ratio” means the ratio of the value of current assets to the value
14 of current liabilities, calculated according to s. ~~127~~⁶.13 (6) (c) 1.

15 (5) “Debt to equity ratio” means the ratio of the value of liabilities to equity,
16 calculated according to s. ~~127~~⁶.13 (6) (c) 2.

17 (6) “Deferred payment contract” means a contract for the procurement of grain
18 under which a grain dealer takes custody or control of producer grain more than 7
19 days before paying for the grain in full. “Deferred payment contract” includes a
20 deferred price contract.

21 (7) “Deferred price contract” means a contract for the procurement of grain
22 under which a grain dealer takes custody or control of producer grain more than 7
23 days before the price of that grain must be determined under the contract.

24 (8) “Disqualified grain dealer” means a grain dealer who is disqualified from
25 the fund under s. ~~127~~⁶.14 (2).

1 **(9)** “Grain dealer” means a person who buys producer grain or who markets
2 producer grain as a producer agent. “Grain dealer” does not include any of the
3 following:

4 (a) A person who merely brokers a contract between a grain producer and a
5 grain dealer without becoming a party to the contract, taking control of grain, or
6 accepting payment on behalf of the grain producer.

7 (b) A person who merely buys or sells grain on a board of trade or commodity
8 exchange.

9 **(10)** “Grain producer” means a person who grows grain.

10 **(10m)** “License year” means the period beginning on September 1 and ending
11 on the following August 31.

12 **(11)** “Procure grain” means to buy grain or acquire the right to market grain.

13 **(12)** “Procure producer grain in this state” means any of the following:

14 (a) To buy producer grain for receipt in this state.

15 (b) To acquire the right to market producer grain grown in this state.

16 **(13)** “Producer agent” means a person who acts on behalf of a grain producer
17 to market or accept payment for the grain producer’s grain without taking title to
18 that grain, including a person who uses a producer trust fund to market or accept
19 payment for producer grain. “Producer agent” does not include any of the following:

20 (a) A person who merely brokers a contract between a grain producer and a
21 grain dealer, without becoming a party to the contract, taking control of grain, or
22 accepting payment on behalf of the grain producer.

23 (b) A person who merely holds or transports grain for a grain producer without
24 marketing the grain or accepting payment on behalf of the grain producer.

1 (14) "Producer grain" means grain that is owned by or held in trust for one or
2 more grain producers. "Producer grain" includes grain that a producer agent
3 markets for a grain producer, without taking title to the grain.

4 ~~(15) "Scale ticket" means a receipt, issued by a grain dealer, that states the~~
5 ~~weight of grain received by the grain dealer.~~

6
7 **127.11 Grain dealers; licensing.** (1) LICENSE REQUIRED. Except as provided
8 in sub. (2), no grain dealer may procure producer grain in this state without a current
9 annual license from the department.

10 (2) EXEMPT GRAIN DEALERS. The following grain dealers are not required to hold
11 a license under this section, but may volunteer to be licensed:

12 (a) A grain dealer who pays cash on delivery for all producer grain.

13 (b) A grain dealer who buys producer grain solely for the grain dealer's own use
14 as feed or seed and who spends less than \$400,000 per license year for that grain.

15 (2m) LICENSE TERMS. A license under this section expires on the August 31
16 following its issuance. No person may transfer or assign a license issued under this
17 section.

18 (3) LICENSE APPLICATION. A grain dealer shall apply for an annual license under
19 this section in writing, on a form provided by the department. An applicant shall
20 provide all of the following:

21 (a) The applicant's legal name and any trade name under which the applicant
22 proposes to operate as a grain dealer.

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

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

3 (c) The ^{mailing} 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 ^{street} address of each business location from which the applicant operates in
6 this state as a grain dealer and the name of a responsible individual who may be
7 contacted at each location that is staffed.

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

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

10 (g) A financial statement if required under s. 12⁶.13 (1) and not yet filed.

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

12 (4) LICENSE FEES AND SURCHARGES. A grain dealer applying for an annual license
13 under this section shall pay the following fees and surcharges, unless the
14 department specifies a different fee or surcharge amount by rule:

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

16 (b) The following license fees based on the grain dealer's reported grain
17 payments under sub. (9) (a), less any credit provided under sub. (6):

18 1. A fee of \$500, plus \$225 per business location in excess of one business
19 location, if the amount under sub. (9) (a) is at least \$500,000.

20 2. A fee of \$200 if the amount under sub. (9) (a) is at least \$50,000 but less than
21 \$500,000.

22 3. A fee of \$50 if the amount under sub. (9) (a) is less than \$50,000.

23 (c) A license fee of \$45 for each truck, in excess of one truck, that the grain dealer
24 uses to haul grain in this state.

1 (d) A license surcharge of \$425 if the grain dealer files a financial statement
2 under s. 12⁶~~7~~.13 (1) that is not an audited financial statement.

3 (e) A license surcharge of \$500 if the department determines that, within 365
4 days before submitting the license application, the applicant operated as a grain
5 dealer without a license in violation of sub. (1). The applicant shall also pay any
6 license fees, license surcharges, and fund assessments that are still due for any
7 license year in which the applicant violated sub. (1).

8 (f) A license surcharge of \$100 if during the preceding 12 months the applicant
9 failed to file an annual financial statement required under s. 12⁶~~7~~.13 (1) (b) by the
10 deadline specified in s. 12⁶~~7~~.13 (1) (c).

11 (g) A license surcharge of \$100 if a renewal applicant fails to renew a license
12 by the license expiration date of August 31. This paragraph does not apply to a grain
13 dealer who is exempt under sub. (2) and is voluntarily licensed.

14 **(4m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (4) (e) does not
15 relieve the applicant of any other civil or criminal liability that results from the
16 violation of sub. (1), but does not constitute evidence of any law violation.

17 **(5) LICENSE FOR PART OF YEAR; FEES.** A person who applies for an annual grain
18 dealer license after the beginning of a license year shall pay the full annual fee
19 amounts required under sub. (4).

20 **(6) FEE CREDITS.** If the balance in the fund contributed by grain dealers exceeds
21 \$2,000,000 on June 30 of any license year, the department shall credit 50% of the
22 excess amount against fees charged under sub. (4) (b) to contributing grain dealers
23 who file timely license renewal applications for the next license year. The
24 department shall credit each contributing grain dealer on a prorated basis, in

1 proportion to the total fees that the grain dealer paid under sub. (4) (b) for the 4
2 preceding license years.

3 (7) FEE STATEMENT. The department shall provide, with each license application
4 form, a written statement of all license fees and surcharges required under sub. (4)
5 or the formula for determining them. The department shall specify any fee credit for
6 which the applicant may qualify under sub. (6).

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

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

15 (a) The total amount that the applicant paid, during the applicant's last
16 completed fiscal year, for producer grain procured in this state. If the applicant has
17 not yet operated as a grain dealer in this state, the applicant shall estimate the
18 amount that the applicant will pay during the applicant's first complete fiscal year
19 for producer grain procured in this state.

20 (b) The amount of the payments under par. (a) made under deferred payment
21 contracts.

22 (c) Whether the applicant has had any obligations under deferred payment
23 contracts, for grain procured in this state, at any time since the beginning of the
24 applicant's last completed fiscal year.

1 (10) ACTION GRANTING OR DENYING APPLICATION. The department shall grant or
2 deny an application under sub. (3) within 30 days after the department receives a
3 complete application. If the department denies a license application, the department
4 shall give the applicant a written notice stating the reason for the denial.

5 (11) LICENSE DISPLAYED. A grain dealer licensed under sub. (1) shall
6 prominently display a copy of that license at the following locations:

7 (a) On each truck that the grain dealer uses to haul grain in this state.

8 (b) At each business location from which the grain dealer operates in this state.

9 ~~127~~⁶.12 Grain dealers; insurance. (1) FIRE AND EXTENDED COVERAGE
10 INSURANCE. A grain dealer licensed ^{or required to be licensed} under s. ~~(27)~~^{26.11} shall maintain fire and extended
11 coverage insurance, issued by an insurance company authorized to do business in
12 this state, that covers all grain in the custody of the grain dealer, whether owned by
13 the grain dealer or held for others, at the full local market value of the grain.

14 (2) INSURANCE CANCELLATION; REPLACEMENT. Whenever an insurance policy
15 under sub. (1) is canceled, the grain dealer shall replace the policy so that there is
16 no lapse in coverage.

17 (3) INSURANCE COVERAGE; MISREPRESENTATION. No grain dealer may
18 misrepresent any of the following to the department or to any grain producer or
19 producer agent:

20 (a) That the grain dealer is insured.

21 (b) The nature, coverage, or material terms of the grain dealer's insurance
22 policy.

23 ~~127~~⁶.13 Grain dealers; financial statements. (1) REQUIRED ANNUAL
24 FINANCIAL STATEMENT. (a) A grain dealer shall file an annual financial statement with

1 the department, before the department first licenses the grain dealer under s. 12⁶.11,
2 if the grain dealer's license application reports any of the following:

3 1. More than \$500,000 in grain payments under s. 12⁶.11 (9) (a) *unless the*
4 *grain dealer procures producer grain in this state solely as a producer agent.*

5 2. Any deferred payment contract obligations under s. 12⁶.11 (9) (c).

6 (b) A grain dealer licensed under s. 12⁶.11 shall file an annual financial
7 statement with the department during each license year if the grain dealer's license
8 application for that year reports any of the following: *unless the grain dealer is a*

9 1. More than \$500,000 in grain payments under s. 12⁶.11 (9) (a) *contributing*

10 2. Any deferred payment contract obligations under s. 12⁶.11 (9) (c) *grain dealer*
who

11 (c) A grain dealer shall file an annual financial statement under par. (b) by the
12 15th day of the 4th month following the close of the grain dealer's fiscal year, except
13 that the department may extend the filing deadline for up to 30 days if the grain
14 dealer, or the accountant reviewing or auditing the financial statement, files a
15 written extension request at least 10 days before the filing deadline.

16 (d) A grain dealer licensed under s. 12⁶.11 may not incur any obligations under
17 deferred payment contracts for grain procured in this state unless the contractor first
18 notifies the department and files an annual financial statement with the
19 department.

20 (2) VOLUNTARY ANNUAL FINANCIAL STATEMENT. A contributing grain dealer who
21 is not required to file a financial statement under sub. (1) may file an annual
22 financial statement with the department to qualify for a lower fund assessment
23 under s. 12⁶.15.

1 **(3) REVIEWED OR AUDITED FINANCIAL STATEMENT.** (a) A grain dealer filing an
2 annual financial statement under sub. (1) or (2) shall file an audited financial
3 statement if any of the following applies:

4 1. The grain dealer's license application reports more than \$3,000,000 in
5 payments under s. ~~127~~⁶.11 (9) (a).

6 2. The grain dealer's last 2 license applications report more than \$2,000,000
7 in payments under s. ~~127~~⁶.11 (9) (a).

8 (b) If par. (a) does not apply, a grain dealer filing an annual financial statement
9 under sub. (1) or (2) shall file either a reviewed financial statement or an audited
10 financial statement.

11 **(4) ACCOUNTING PERIOD.** A grain dealer filing an annual financial statement
12 under sub. (1) or (2) shall file a financial statement that covers the grain dealer's last
13 completed fiscal year unless the grain dealer has been in business for less than one
14 year.

15 **(4m) INTERIM FINANCIAL STATEMENT.** The department may, at any time, require
16 a grain dealer licensed under s. ~~127~~⁶.11 to file an interim financial statement with the
17 department. The grain dealer shall provide, with the interim financial statement,
18 the grain dealer's sworn and notarized statement that the financial statement is
19 correct. An interim financial statement need not be a reviewed financial statement
20 or an audited financial statement.

21 **(5) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.** (a) Except as provided in par.
22 (b), a grain dealer filing an annual financial statement under this section shall file
23 a financial statement that is prepared according to generally accepted accounting
24 principles.

1 (b) If a grain dealer is a sole proprietor and the grain dealer's financial
2 statement is not audited, the grain dealer shall file a financial statement that is
3 prepared on a historical cost basis.

4 **(6) FINANCIAL STATEMENT CONTENTS.** (a) Except as provided in par. (b), a grain
5 dealer filing a financial statement under this section shall file a financial statement
6 that consists of a balance sheet, income statement, equity statement, statement of
7 cash flows, notes to those statements, and any other information required by the
8 department. If the grain dealer is a sole proprietor, the grain dealer shall file his or
9 her business and personal financial statements. A grain dealer shall disclose on the
10 grain dealer's financial statement, separately and clearly, the grain dealer's unpaid
11 obligations to grain producers and producer agents.

12 (b) If a grain dealer has been in business for less than one year, the grain dealer
13 may file an annual financial statement under sub. (1) or (2) consisting of a balance
14 sheet and notes.

15 (c) A grain dealer filing a financial statement under this section shall include
16 in the financial statement, or in an attachment to the financial statement,
17 calculations of all of the following:

18 1. The grain dealer's current ratio, excluding any assets required to be excluded
19 under sub. (7).

20 2. The grain dealer's debt to equity ratio, excluding any assets required to be
21 excluded under sub. (7).

22 **(7) ASSETS EXCLUDED.** A grain dealer may not include any of the following assets
23 in the calculations under sub. (6) (c) unless the department specifically approves
24 their inclusion:

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

5 (b) A note or account receivable from a parent organization,^a subsidiary, or

6 ^{an} affiliate other than an employee

7 (c) A note or account that has been receivable for more than one year, unless
8 the grain dealer has established an offsetting reserve for uncollectible notes and
9 accounts receivable.

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

13 (10) DEPARTMENT REVIEW. The department may analyze a financial statement
14 submitted under this section and may reject a financial statement that fails to
15 comply with this section.

16 ⁶127.14 **Contributing grain dealers; disqualification.** (1) CONTRIBUTION

17 REQUIRED. A grain dealer who is required to be licensed under s. ⁶127.11 (1) shall pay
18 fund assessments under s. ⁶127.15 unless the grain dealer is disqualified under sub.

19 (2). A grain dealer who is voluntarily licensed under s. ⁶127.11 may pay voluntary
20 assessments under s. ⁶127.15.) unless the grain dealer is disqualified under
sub. (2)

21 (2) DISQUALIFIED GRAIN DEALER. (a) A grain dealer who is required to file
22 security under s. ⁶127.16 (1) (a) is disqualified from the fund until the department
23 releases that security under s. ⁶127.16 (8) (a) determines that the conditions in one of

24 (b) A grain dealer is disqualified from the fund, and required to pay cash on
25 delivery for producer grain, if any of the following occurs:

1. and 2. ^{is} satisfied

- 1 1. The department denies, suspends, or revokes the grain dealer's license.
- 2 2. The department issues a written notice disqualifying the grain dealer for
- 3 cause, including failure to pay fund assessments under s. ~~127~~⁶.15 when due or failure
- 4 to file a financial statement under s. ~~127~~⁶.13 when due.
- 5 3. The grain dealer fails to reimburse the department, within 60 days after the
- 6 department issues a reimbursement demand under s. ~~127~~⁶.73 (1), for the full amount
- 7 that the department pays to claimants under s. ~~127~~⁶.72 (1) because of that grain
- 8 dealer's default.
- 9 4. The grain dealer fails to reimburse a bond surety, within 60 days after the
- 10 bond surety issues a reimbursement demand under s. ~~127~~⁶.73 (2), for the full amount
- 11 that the surety pays to the department under s. ~~127~~⁶.72 (2) or (3) for the benefit of
- 12 claimants affected by that grain dealer's default.

13 **(3) PAYMENTS BY DISQUALIFIED GRAIN DEALER.** (a) The department may not

14 return to a disqualified grain dealer any fund assessments that the grain dealer paid

15 as a contributing grain dealer.

16 (b) A disqualified grain dealer remains liable for any unpaid fund installment

17 under s. ~~127~~⁶.15 that became due while the grain dealer was a contributing grain

18 dealer. A disqualified grain dealer is not liable for any fund installment that becomes

19 due after the grain dealer is disqualified under sub. (2).

20 ~~127~~⁶.15 **Contributing grain dealers; fund assessments.** (1) **GENERAL.** A

21 contributing grain dealer shall pay an annual fund assessment for each license year.

22 The assessment equals \$20 or the sum of the following, whichever is greater, unless

23 the department by rule specifies a different assessment:

24 (a) The grain dealer's current ratio assessment. The current ratio assessment

25 for a license year equals the grain dealer's current ratio assessment rate under sub.

1 (2) multiplied by the amount reported under s. 12⁶.11 (9) (a) in the grain dealer's
2 license application for that license year.

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

7 (c) The grain dealer's deferred payment assessment. The deferred payment
8 assessment for a license year equals the grain dealer's deferred payment assessment
9 rate under sub. (6) multiplied by the payment amount, if any, that the grain dealer
10 reports under s. 12⁶.11 (9) (b) in the grain dealer's license application for that license
11 year.

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

14 (a) If the grain dealer has filed an annual financial statement under s. 12⁶.13
15 and that financial statement shows a current ratio of at least 1.25 to 1.0, the grain
16 dealer's current ratio assessment rate equals the greater of zero or the current ratio
17 assessment factor in sub. (3) (a) multiplied by the following amount:

Insert
27-17

~~*Insert Graphic Here*~~

19 (b) If the grain dealer has filed an annual financial statement under s. 12⁶.13
20 and that financial statement shows a current ratio of less than 1.25 to 1.0, but greater
21 than 1.0 to 1.0, the grain dealer's current ratio assessment rate equals the current
22 ratio assessment factor in sub. (3) (b) multiplied by the following amount:

Insert
27-23

~~*Insert Graphic Here*~~

23 (c) If the grain dealer has filed an annual financial statement under s. 12⁶.13
24 and that financial statement shows a current ratio of less than or equal to 1.0 to 1.0,
25

1 the grain dealer's current ratio assessment rate equals the current ratio assessment
2 factor in sub. (3) (b) multiplied by 120.81376.

3 (d) Except as provided in par. (e), if the grain dealer has not filed an annual
4 financial statement under s. ~~127~~⁶.13, the grain dealer's current ratio assessment rate
5 equals the current ratio assessment factor in sub. (3) (b) multiplied by 5.71235.

6 (e) If the grain dealer has not filed an annual financial statement under s.
7 ~~127~~⁶.13 and the grain dealer procures grain in this state solely as a producer agent,
8 the grain dealer's current ratio assessment rate is 0.⁰0025, except that, for the grain
9 dealer's 5th or higher consecutive full license year of participation in the fund, the
10 grain dealer's current ratio assessment rate is 0.⁰00175.

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

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

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

21 (a) If the grain dealer has filed an annual financial statement under s. ~~127~~⁶.13
22 and that financial statement shows a debt to equity ratio of not more than 4.0 to 1.0,
23 the grain dealer's debt to equity ratio assessment rate equals the greater of zero or
24 the debt to equity ratio assessment factor in sub. (5) (a) multiplied by the following
25 amount:

Insert ✓
1 →
29-1 (2)

~~*Insert Graphic Here*~~

3 (b) If the grain dealer has filed an annual financial statement under s. 127⁶.13
4 and that financial statement shows a debt to equity ratio of greater than 4.0 to 1.0,
5 but less than 5.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals
6 the debt to equity ratio assessment factor in sub. (5) (b) multiplied by the following
amount:

Insert ✓
7 →
29-7 (8)

~~*Insert Graphic Here*~~

9 (c) If the grain dealer has filed an annual financial statement under s. 127⁶.13
10 and that financial statement shows a debt to equity ratio of at least 5.0 to 1.0, the
11 grain dealer's debt to equity ratio assessment rate equals the debt to equity ratio
assessment factor in sub. (5) (b) multiplied by 86.8244.

12 (d) Except as provided in par. (e), if the grain dealer has not filed an annual
13 financial statement under s. 127⁶.13, the grain dealer's debt to equity ratio
14 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)
15 multiplied by 8.77374.

16 (e) If the grain dealer has not filed an annual financial statement under s.
17 127⁶.13 and the grain dealer procures grain in this state solely as a producer agent,
18 the grain dealer's debt to equity ratio assessment rate is 0.0025, except that it is
19 0.00175 for the grain dealer's 5th or higher consecutive full license year of
20 participation in the fund.

21 (5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR. (a) A grain dealer's debt to equity
22 ratio assessment factor under sub. (4) (a) is 0.0000125, except that it is zero for the
23 grain dealer's 5th or higher consecutive full license year as a contributing grain
24 dealer.

1 (b) A grain dealer's debt to equity ratio assessment factor under sub. (4) (b) to
2 (d) is 0.00001875, except that it is 0.000015 for the grain dealer's 5th or higher
3 consecutive full license year as a contributing grain dealer.

4 (6) DEFERRED PAYMENT ASSESSMENT RATE. A grain dealer's deferred payment
5 assessment rate is 0.0035, except that it is 0.002 for the grain dealer's 5th or higher
6 consecutive full license year as a contributing grain dealer.

7 (7) QUARTERLY INSTALLMENTS. (a) A contributing grain dealer shall pay the
8 grain dealer's annual fund assessment in equal quarterly installments that are due
9 as follows:

10 1. The first installment is due on October 1 of the license year.

11 2. The 2nd installment is due on January 1 of the license year.

12 3. The 3rd installment is due on April 1 of the license year.

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

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

16 (c) A contributing grain dealer who applies for an annual license after the
17 beginning of a license year shall pay the full annual fund assessment required under
18 this section. The grain dealer shall pay, with the first quarterly installment that
19 becomes due after the day on which the department issues the license, all of that
20 year's quarterly installments that became due before that day.

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

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

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

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

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

10 ⁶~~127~~.16 Grain dealers; security. (1) SECURITY REQUIRED. (a) A grain dealer
11 shall file security with the department, and maintain that security until the
12 department releases it under sub. (8) (a), if all of the following apply when the
13 department first licenses the grain dealer under s. ⁶~~127~~.11:

14 1. The grain dealer reports more than \$500,000 in grain payments under s.

15 ⁶~~127~~.11 (9) (a).

16 2. The grain dealer files an annual financial statement under s. ⁶~~127~~.13 (1) (a)
17 and that financial statement shows negative equity.

18 (b) A grain dealer who reports any deferred payment contract obligations under

19 s. ⁶~~127~~.11 (9) (c) or ⁶~~127~~.13 (1) (d) shall file security with the department, and maintain

20 that security until the department releases it under sub. (8) (b), unless ^{the grain dealer has positive equity} one of the ^{and}

21 following applies:

22 1. The grain dealer's annual financial statement under s. ⁶~~127~~.13 covers a fiscal

23 year ending on or before January 1, 2006, and shows a debt to equity ratio of not more

24 than 5.0 to 1.0.

1 2. The grain dealer's annual financial statement under s. 127⁶.13 covers a fiscal
2 year ending after January 1, 2006, and shows a debt to equity ratio of not more than
3 4.0 to 1.0.

4 (2) SECURITY CONTINUED. A grain dealer who filed security under ch. 127, 1999
5 stats., before September 1, 2002, shall maintain that security until the department
6 releases it under sub. (8) (c).

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

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

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

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

20 (a) Currency.

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

22 1. The surety bond is made payable to the department for the benefit of grain
23 producers and producer agents.

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

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

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

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

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

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

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

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

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

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

18 1. The letter of credit is payable to the department for the benefit of grain
19 producers and producer agents.

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

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

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

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

3 (e) Security filed under ch. 127, 1999 stats., before September 1, 2002, except
4 that on January 1, 2003, the department shall withdraw its approval of any security
5 that is not approvable under pars. (a) to (d).

6 **(5) DEPARTMENT CUSTODY OF SECURITY.** The department shall hold, in its custody,
7 all security filed and maintained under this section. The department shall hold the
8 security for the benefit of grain producers and producer agents who deliver grain to
9 a grain dealer.

10 **(6) MONTHLY REPORTS.** A grain dealer who is required to file or maintain
11 security under this section shall file monthly reports with the department. The grain
12 dealer shall file a report on or before the 10th day of each month, in a form specified
13 by the department. In a monthly report, a grain dealer shall provide information
14 reasonably required by the department, including all of the following:

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

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

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

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

5 2. The grain dealer fails to provide required information that is relevant to a
6 determination of security requirements.

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

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

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

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

1 1. Issue a summary order under s. 12~~7~~⁶.85 (2) that prohibits the grain dealer
2 from procuring producer grain or requires the grain dealer to pay cash on delivery
3 for all producer grain.

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

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

8 1. The grain dealer reports, for at least 2 consecutive years, no more than
9 \$500,000 in annual grain payments under s. 12~~7~~⁶.11 (9) (a) and the grain dealer pays
10 the quarterly fund assessment that would have been required of the grain dealer if
11 the grain dealer had been a contributing grain dealer on the most recent quarterly
12 installment date under s. 12~~7~~⁶.15 (7).

13 2. The grain dealer's annual financial statement under s. 12~~7~~⁶.13 shows positive
14 equity for at least 2 consecutive years and the grain dealer pays the quarterly fund
15 assessment that would have been required of the grain dealer if the grain dealer had
16 been a contributing grain dealer on the most recent quarterly installment date under
17 s. 12~~7~~⁶.15 (7).

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

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

23 2. The grain dealer files 2 consecutive annual financial statements under s.
24 12~~7~~⁶.13 showing that the grain dealer meets the applicable debt to equity ratio under
25 sub. (1) (b).

1 (c) On December 1, 2002, the department may release security maintained
2 under sub. (2), unless the grain dealer is required to file security under sub. (1).

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

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

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

9 **127.17 Grain dealers; records.** (1) RECORDS AND ACCOUNTS; GENERAL. A grain
10 dealer shall keep records and accounts of all grain procured and all grain sold or
11 marketed by the grain dealer. A grain dealer shall keep records that are complete,
12 accurate, current, well-organized, and accessible, so that the grain dealer and the
13 department can readily determine all of the following:

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

16 (b) The kinds and amounts of grain sold or marketed, the sale or marketing
17 dates, the sale or marketing terms, and the persons to whom the grain dealer sold
18 or marketed the grain.

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

21 (d) The kinds and amounts of grain, received from others, that the grain dealer
22 has on hand, including the kinds and amounts of grain owned by the grain dealer,
23 and the kinds and amounts of grain held for others.

24 (e) The nature and amount of the grain dealer's obligations to grain producers
25 and producer agents, including obligations deferred payment contracts. The grain

1 dealer shall keep a daily record of obligations under priced contracts and a separate
2 daily record of obligations under deferred price contracts that have not yet been
3 priced.

4 (f) The nature and amount of the grain dealer's obligations to depositors, as
5 defined in s. 127⁶.25 (5), under agreements for the storage of grain, if any.

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

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

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

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

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

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

16 (e) Whether the grain dealer purchased the grain, holds it under an agreement
17 for storage, or is marketing the grain as a producer agent.

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

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

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

23 1. Records required under this section and s. 127⁶.18 (2).

24 2. Records that the grain dealer was required to keep, under ch. 127, 1999
25 stats., and department rules, before September 1, 2002.

1 (b) A grain dealer shall make records required under this section available to
2 the department for inspection and copying upon request.

3 ⁶
4 **127.18 Grain dealers; receipts for grain. (1) REQUIREMENT.** Whenever a
5 grain dealer receives grain from any person, the grain dealer shall immediately give
6 that person a ~~scale ticket or other~~ written receipt for the grain that includes all of the
7 following:

8 (a) The name of the grain dealer and a statement indicating whether the grain
9 dealer is a corporation.

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

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

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

14 (e) The kind of grain received.

15 (f) The net weight of grain received, ~~including dockage if determined,~~ or, if the
16 grain dealer receives the grain at the grain producer's farm, the approximate net
17 weight of the grain.

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

19 (h) A statement identifying the receipt as a purchase receipt, storage receipt,
20 or receipt for grain marketed by the grain dealer as a producer agent.

21 (i) The grain dealer's promise to pay the total amount due for grain, less any
22 discounts that may apply, within 7 calendar days after the date of receipt of the grain.

23 This requirement does not apply if any of the following applies:

24 1. The grain dealer pays cash on delivery.

25 2. The grain dealer receives the grain under a deferred payment contract that
complies with s. ~~127.19.~~⁶

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

2 **(1m) EFFECT OF FAILURE TO IDENTIFY RECEIPT.** A receipt not clearly identified
3 under sub. (1) (h) is considered a purchase receipt except that, if the grain dealer also
4 operates as a grain warehouse keeper, as defined in s. 12⁶.25 (9), under the same
5 name, a receipt not clearly identified is considered a storage receipt.

6 **(2) GRAIN DEALER'S COPIES.** A grain dealer shall keep copies of all ~~scale tickets~~
7 ~~and other~~ receipts issued under sub. (1).

8 **12⁶.19 Grain dealers; deferred payment contracts.** (1) **CONTRACT IN**
9 **WRITING.** A grain dealer may not procure grain from any grain producer or producer
10 agent under a deferred payment contract before the contract is reduced to writing
11 and signed by the parties. The grain dealer shall provide a copy of the signed contract
12 to the other party.

13 **(2) CONTENTS OF CONTRACT.** A grain dealer may not enter into a deferred
14 payment contract unless the deferred payment contract includes all of the following:

15 (a) A unique contract identification number.

16 (b) The type, weight, grade, and quality of grain procured and a statement that
17 price adjustments may apply if delivered grain varies in grade or quality from that
18 identified in the contract.

19 (c) The price for the grain or, in a deferred price contract, the method and
20 deadline by which the price will be determined.

21 (d) The date by which the grain dealer agrees to make full payment for the
22 grain, which may not be more than 180 days after the date on which the contract price
23 is established or more than 180 days after the date on which the grain dealer takes
24 custody or control of the grain, whichever is later.

1 (dm) If the contract is a deferred price contract, a pricing deadline that is not
2 more than one year after the date on which the grain dealer takes custody or control
3 of the grain.

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

5 (f) Other information required under this section.

6 **(3) PAYMENT AND PRICING DEADLINES.** (a) A grain dealer shall make full payment
7 under a deferred payment contract by the deadline date specified in the contract.

8 (b) The parties may not extend a payment or pricing deadline under sub. (2)
9 (d) or (dm), except that they may sign a new contract that extends either deadline
10 or both deadlines for up to 180 days if the new contract refers to the contract number
11 of the original contract.

12 **(4) REQUIRED NOTICE.** A grain dealer may not enter into a deferred payment
13 contract unless the deferred payment contract clearly discloses that it is not a storage
14 contract. Whenever a grain dealer buys grain from a grain producer under a deferred
15 payment contract, the grain dealer shall include the following statement in
16 capitalized, boldface print immediately above the contract signature line: "This is
17 not a storage contract. The grain dealer (buyer) becomes the owner of any grain that
18 the producer (seller) delivers to the grain dealer under this contract. The producer
19 relinquishes ownership and control of the grain, and becomes an unsecured creditor
20 pending payment."

21 **(5) DEFERRED PAYMENT CONTRACT ASSESSMENT.** From the amount that a grain
22 dealer pays to a grain producer or producer agent under a deferred payment contract,
23 the grain dealer shall deduct a deferred payment contract assessment. The
24 assessment shall equal the total amount owed under the contract before the
25 assessment is deducted, multiplied by the deferred payment assessment rate that

1 applies under s. 12⁶.15 (6) when the contract is made. The grain dealer shall disclose
2 the assessment amount or, if the contract is a deferred price contract, the method by
3 which the assessment amount will be determined, in the written contract under sub.
4 (1).

5 **12⁶.20 Grain dealers; business practices. (1) GRAIN WEIGHT, GRADE, AND**
6 **QUALITY.** A grain dealer shall do all of the following when determining the weight,
7 grade, or quality of grain:

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

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

11 **(2) TIMELY PAYMENT TO PRODUCERS.** A grain dealer shall pay for grain when
12 payment is due. A grain dealer may not make payment by nonnegotiable check or
13 note or by check drawn on an account containing insufficient funds.

14 **(3) PERMANENT BUSINESS LOCATION.** A grain dealer licensed under s. 12⁶.11 shall
15 do all of the following:

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

18 (b) On each day that the Chicago Board of Trade is open for trading, keep
19 business hours that start no later than 9 a.m. and end no earlier than 2:30 p.m.

20 (c) Prominently post the grain dealer's business hours at each of the grain
21 dealer's business locations in this state.

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

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

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

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

4 (d) If the grain dealer is licensed under s. ~~127~~⁶.11, engage in any activity that
5 is inconsistent with a representation made in the grain dealer's annual license
6 application.

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

9 (f) Fail to file the full amount of security required under s. ~~127~~⁶.16 (7) by the date
10 that the department specifies.

11 ~~127~~⁶.21 **Grain producer obligations.** (1) DELIVERY PER CONTRACT. No grain
12 producer or producer agent who contracts to sell and deliver grain to a grain dealer
13 at an agreed price may wrongfully refuse to deliver that grain according to the
14 contract.

15 (2) DISCLOSURE OF LIENS AND SECURITY INTERESTS. A grain dealer procuring grain
16 from a grain producer or producer agent may require the grain producer or producer
17 agent to disclose any liens or security interests that apply to the grain. The grain
18 dealer may require the disclosure in writing. The grain dealer may require the grain
19 producer or producer agent to specify the nature and amount of each lien or security
20 interest and the identity of the person holding that lien or security interest. No grain
21 producer may falsify or fraudulently withhold information required under this
22 subsection in order to sell grain.

23 SUBCHAPTER IV

24 GRAIN WAREHOUSE KEEPERS

25 ~~127~~⁶.25 **Definitions.** In this subchapter:

1 (1) "Capacity" means the maximum amount of grain, measured in bushels,
2 that can be stored in a grain warehouse. The capacity of a grain warehouse is
3 determined by dividing the cubic volume of all bins, ^{expressed in cubic feet,} by 1.244 cubic feet, ^{per bushel} and applying
4 a pack factor that the department specifies by rule.

5 (2) "Contributing grain warehouse keeper" means a grain warehouse keeper
6 who is licensed under s. 127.26, who either has paid one or more quarterly
7 installments under s. 127.30 (6) or is required to contribute to the fund, but the first
8 quarterly installment under s. 127.30 (6) is not yet due, and who is not disqualified
9 under s. 127.29 (2).

10 (3) "Current ratio" means the ratio of the value of current assets to the value
11 of current liabilities, calculated according to s. 127.28 (6) (c) 1.

12 (4) "Debt to equity ratio" means the ratio of the value of liabilities to equity,
13 calculated according to s. 127.28 (6) (c) 2.

14 (5) "Depositor" means any of the following:

15 (a) A person who delivers grain to a grain warehouse keeper for storage,
16 conditioning, shipping, or handling, without transferring ownership to the
17 warehouse keeper.

18 (b) A person who owns or legally holds a ~~scale ticket~~, warehouse receipt, or
19 other document that is issued by a grain warehouse keeper and that entitles the
20 person to receive stored grain.

21 (6) "Disqualified grain warehouse keeper" means a grain warehouse keeper
22 who is disqualified from the fund under s. 127.29 (2).

23 (8) "Grain warehouse" means a facility in this state that is used to receive,
24 store, ^{or} condition, ~~or ship~~ grain for others, ^{or that is used in the shipment of grain for others} except that "grain warehouse" does not
25 ^{stat} include a transport vehicle.

1 (9) “Grain warehouse keeper” means a person who operates one or more grain
2 warehouses in this state to receive, store, condition, or ship grain for others, except
3 that “grain warehouse keeper” does not include a person licensed under the United
4 States Warehouse Act, 7 USC 241 to 271.

5 (9m) “License year” means the period beginning on September 1 and ending
6 on the following August 31.

7 ~~(10) “Scale ticket” means a receipt, issued by a grain warehouse keeper, that~~
8 ~~states the weight of grain delivered to the grain warehouse keeper.~~

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

11 ⁶
12 ~~11~~.26 **Grain warehouse keepers; licensing.** (1) LICENSE REQUIRED. (a)
13 No grain warehouse keeper may hold at any time more than 50,000 bushels of grain
14 for others without a current annual license from the department. A grain warehouse
15 keeper who has grain warehouses with a combined capacity of more than 50,000
16 bushels shall obtain a license unless the grain warehouse keeper proves to the
17 department that the grain warehouse keeper holds no more than 50,000 bushels of
18 grain for others at any time.

19 (b) A license under par. (a) expires on the August 31 following its issuance. No
20 person may transfer or assign a license issued under par. (a).

21 (2) LICENSE APPLICATION. A person shall apply for a grain warehouse keeper
22 license in writing, on a form provided by the department. The applicant shall provide
23 all of the following:

24 (a) The applicant’s legal name and any trade name under which the applicant
 proposes to operate as a grain warehouse keeper.

1 (b) A statement of whether the applicant is an individual, corporation,
2 partnership, cooperative, limited liability company, trust, or other legal entity. If the
3 applicant is a corporation or cooperative, the applicant shall identify each officer of
4 the corporation or cooperative. If the applicant is a partnership, the applicant shall
5 identify each partner.

6 (c) The ^{mailing} address of the applicant's primary business location and the name of
7 a responsible individual who may be contacted at that location.

8 (d) The ^{street address} location and capacity of every grain warehouse that the applicant
9 operates or proposes to operate in this state and the name of a responsible individual
10 who may be contacted at each warehouse.

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

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

13 (g) Proof that the applicant is insured as required under s. ~~127~~⁶.27, unless the
14 applicant has previously filed proof that remains current. The proof may consist of
15 a certification provided by an insurance company licensed to do business in this
16 state.

17 (h) A financial statement if required under s. ~~127~~⁶.28 (1) and not yet filed.

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

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

22 (a) A nonrefundable license processing fee of \$25 plus \$25 for each grain
23 warehouse identified under sub. (2) (d). If a grain warehouse keeper operates 2 or
24 more grain warehouses located within 0.5 mile of each other, the grain warehouse

1 keeper may treat those grain warehouses as a single grain warehouse for purposes
2 of this paragraph and par. (c).

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

4 1. A fee of \$500 if the combined capacity of the applicant's grain warehouses
5 is less than 150,000 bushels.

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

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

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

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

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

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

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

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

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

24 (d) A license surcharge of \$500 if the department determines that, within 365
25 days before submitting the license application, the applicant operated as a grain

1 warehouse keeper without a license in violation of sub. (1). The applicant shall also
2 pay any license fees, license surcharges, and fund assessments that are still due for
3 the license year in which the applicant violated sub. (1).

4 (e) A license surcharge of \$100 if during the preceding 12 months the applicant
5 failed to file an annual financial statement required under s. 12⁶.28 (1) (b) by the
6 applicable deadline.

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

9 **(3m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (3) (d) does not
10 relieve the applicant of any other civil or criminal liability that results from the
11 violation of sub. (1), but does not constitute evidence of any law violation.

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

15 **(5) FEE CREDIT.** If the fund balance contributed by grain warehouse keepers
16 exceeds \$300,000 on June 30 of any license year, the department shall credit 12.5%
17 of the excess amount against fees charged under sub. (3) (b) to contributing grain
18 warehouse keepers who file timely license renewal applications for the next license
19 year. The department shall credit each contributing grain warehouse keeper on a
20 prorated basis, in proportion to the total fees that the warehouse keeper has paid
21 under sub. (3) (b) for the 4 preceding license years.

22 **(6) FEE STATEMENT.** The department shall provide, with each license application
23 form, a written statement of all license fees and surcharges required under sub. (3)
24 or the formula for determining them. The department shall specify any fee credit for
25 which the applicant may qualify under sub. (5).

1 (7) NO LICENSE WITHOUT FULL PAYMENT. The department may not grant a license
2 under sub. (1) until the applicant pays all license fees and surcharges identified in
3 the department's statement under sub. (6). The department shall refund a fee or
4 surcharge paid under protest if upon review the department determines that the fee
5 or surcharge is not applicable.

6 (8) 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 a written notice stating the reasons for the
10 denial.

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

14 (10) NOTIFICATION. A licensed warehouse keeper shall notify the department,
15 in writing, before the warehouse keeper adds a grain warehouse or changes the
16 location or capacity of any grain warehouse. In the notice, the grain warehouse
17 keeper shall specify any change in the combined capacity of grain warehouses
18 operated by the grain warehouse keeper resulting from the proposed addition or
19 change.

20 ⁶~~12~~.27 Grain warehouse keepers; insurance. (1) FIRE AND EXTENDED
21 COVERAGE INSURANCE. A grain warehouse keeper licensed under s. ⁶~~12~~.26 (1) shall
22 maintain fire and extended coverage insurance, issued by an insurance company
23 authorized to do business in this state, that covers all grain in the custody of the grain
24 warehouse keeper, whether owned by the grain warehouse keeper or held for others,
25 at the full local market value of the grain.

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

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

12 **(3) INSURANCE DEDUCTIBLES.** An insurance policy does not comply with sub. (1)
13 if it contains any deductible clause that limits the insurer's obligation to pay to each
14 depositor the full value of the depositor's covered losses under the policy. The grain
15 warehouse keeper may agree to indemnify the insurer for a portion of each depositor
16 claim that the insurer pays under the policy if the agreement does not limit the
17 insurer's obligation to pay each depositor the full amount of the depositor's covered
18 losses.

19 **(4) INSURANCE DISCLOSURES.** A grain warehouse keeper licensed under s. 12⁶.26
20 (1) shall disclose all of the following to a depositor if the depositor requests that
21 information:

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