

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

4 (12) NOTICE REQUIRED. (a) A vegetable contractor who files security under s.  
5 <sup>6</sup>12~~7~~.61 shall immediately notify the department if, at any time, the vegetable  
6 contractor's unpaid contract obligations exceed the amount last reported under sub.  
7 (9) (b).

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

11 <sup>6</sup>12~~7~~.57 Vegetable contractors; insurance. (1) FIRE AND EXTENDED COVERAGE  
12 INSURANCE. (a) Except as provided in par. (b), a vegetable contractor who is required  
13 to be licensed under s. <sup>6</sup>12~~7~~.56 (1) shall maintain fire and extended coverage  
14 insurance, issued by an insurance company authorized to do business in this state,  
15 that covers all vegetables in the custody of the vegetable contractor, whether owned  
16 by the vegetable contractor or held for others, at the full local market value of the  
17 vegetables.

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

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

22 2. The vegetable contractor is a producer-owned cooperative, <sup>or organization</sup> that procures  
23 processing vegetables only from its producer owners.

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

4           (3) INSURANCE COVERAGE; MISREPRESENTATION. No vegetable contractor may  
5 misrepresent any of the following to the department or to any vegetable producer or  
6 producer agent:

7           (a) That the vegetable contractor is insured.

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

10           ~~127~~<sup>6</sup>.58 **Vegetable contractors; financial statements.** (1) REQUIRED  
11 ANNUAL FINANCIAL STATEMENT. (a) Except as provided in par. (c), a vegetable  
12 contractor shall file an annual financial statement with the department, before the  
13 department first licenses the vegetable contractor under s. ~~127~~<sup>6</sup>.56 (1), if the  
14 vegetable contractor reports more than \$500,000 in contract obligations under s.  
15 ~~127~~<sup>6</sup>.56 (9) (a).

16           (b) Except as provided in par. (c), a vegetable contractor licensed under s.  
17 ~~127~~<sup>6</sup>.56 (1) shall file an annual financial statement with the department during each  
18 license year if the vegetable contractor's license application for that year reports  
19 more than \$500,000 in contract obligations under s. ~~127~~<sup>6</sup>.56 (9) (a). The vegetable  
20 contractor shall file the annual financial statement by the 15th day of the 4th month  
21 following the close of the vegetable contractor's fiscal year, except that the  
22 department may extend the filing deadline for up to 30 days if the vegetable  
23 contractor, or the accountant reviewing or auditing the financial statement, files a  
24 written extension request at least 10 days before the filing deadline.

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

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

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

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

10 (a) To qualify for a lower fund assessment under s. 12<sup>6</sup>~~7~~.60.

11 (b) To avoid filing security under s. 12<sup>6</sup>~~7~~.61 (1) (b).

12 (3) REVIEWED OR AUDITED FINANCIAL STATEMENT. (a) A vegetable contractor filing  
13 an annual financial statement under sub. (1) or (2) shall file an audited financial  
14 statement if the vegetable contractor's latest annual license application reported  
15 more than \$4,000,000 in annual contract obligations under s. 12<sup>6</sup>~~7~~.56 (9) (a).

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

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

23 (4m) INTERIM FINANCIAL STATEMENT. The department may, at any time, require  
24 a vegetable contractor licensed under s. 12<sup>6</sup>~~7~~.56 (1) to file an interim financial  
25 statement with the department. The vegetable contractor shall provide, with the

1 interim financial statement, the vegetable contractor's sworn and notarized  
2 statement that the financial statement is correct. An interim financial statement  
3 need not be a reviewed or audited financial statement.

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

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

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

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

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

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

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

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

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

10           (b) A note or account receivable from a parent organization, <sup>a</sup> subsidiary, or  
11 <sup>an</sup> affiliate, <sup>other than an employee</sup>

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

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

18           (10) DEPARTMENT REVIEW. The department may analyze a financial statement  
19 filed under this section and may reject a financial statement that fails to comply with  
20 this section.

21           ~~127~~<sup>6</sup> 59 **Contributing vegetable contractors; disqualification.** (1)

22           CONTRIBUTION REQUIRED. A vegetable contractor licensed under s. ~~127~~<sup>6</sup> 56 (1) shall pay  
23 fund assessments under s. ~~127~~<sup>6</sup> 60 unless one of the following applies:

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

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

3 (c) The vegetable contractor is a producer-owned cooperative that procures  
4 processing vegetables only from its producer owners.

5 (1m) VOLUNTARY CONTRIBUTION. A vegetable contractor who is exempt under  
6 sub. (1) (b) or (c) may volunteer to pay fund assessments under s. 127.60.

7 (2) DISQUALIFIED CONTRACTOR. (a) A vegetable contractor who is required to file  
8 security under s. 127.61 (1) (a) is disqualified from the fund until the department  
9 releases that security ~~under~~ s. 127.61 (7) (a). *1. or 2. is satisfied*

10 (b) A vegetable contractor is disqualified from the fund if the department  
11 denies, suspends, or revokes the vegetable contractor's license.

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

16 1. Failure to pay fund assessments under s. 127.60 when due.

17 2. Failure to file a financial statement under s. 127.58 when due.

18 3. Failure to reimburse the department, within 60 days after the department  
19 issues a reimbursement demand under s. 127.73 (1), for the full amount that the  
20 department pays to claimants under s. 127.72 (1) because of that vegetable  
21 contractor's default.

22 4. Failure to reimburse a bond surety, within 60 days after the bond surety  
23 issues a reimbursement demand under s. 127.73 (2), for the full amount that the  
24 surety pays to the department under s. 127.72 (2) or (3) for the benefit of claimants  
25 affected by that vegetable contractor's default.

*determines that one of the conditions in*

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

4           (b) A disqualified vegetable contractor remains liable for any unpaid fund  
5 installment under s. 12<sup>6</sup>.60 that became due while the vegetable contractor was a  
6 contributing vegetable contractor. A disqualified vegetable contractor is not liable  
7 for any fund installment that becomes due after the vegetable contractor is  
8 disqualified under sub. (2).

9           ~~127~~<sup>6</sup>.60 **Contributing vegetable contractors; fund assessments.** (1)

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

13          (a) The vegetable contractor's current ratio assessment. The current ratio  
14 assessment for a license year equals the vegetable contractor's current ratio  
15 assessment rate under sub. (2) multiplied by the amount reported under s. 12<sup>6</sup>.56  
16 (9) (a) in the vegetable contractor's license application for that license year.

17          (b) The vegetable contractor's debt to equity ratio assessment. The debt to  
18 equity ratio assessment for a license year equals the vegetable contractor's debt to  
19 equity ratio assessment rate under sub. (4) multiplied by the amount reported under  
20 s. 12<sup>6</sup>.56 (9) (a) in the vegetable contractor's license application for that license year.

21          (c) The vegetable contractor's deferred contract assessment. The deferred  
22 contract assessment for a license year equals the amount, if any, reported under s.  
23 12<sup>6</sup>.56 (9) (e) in the vegetable contractor's license application for that license year,  
24 multiplied by a deferred vegetable contract assessment rate of 0.0025.

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

3 (a) If the vegetable contractor has filed an annual financial statement under  
4 s. 12<sup>6</sup>~~7~~.58 and that financial statement shows a current ratio of at least 1.25 to 1.0,  
5 the vegetable contractor's current ratio assessment rate equals the greater of zero  
6 or the current ratio assessment factor in sub. (3) (a) multiplied by the following  
7 amount:

Insert 108-8  
9 \*Insert Graphic Here\*

10 (b) If the vegetable contractor has filed an annual financial statement under  
11 s. 12<sup>6</sup>~~7~~.58 and that financial statement shows a current ratio of less than 1.25 to 1.0,  
12 but greater than 1.1 to 1.0, the vegetable contractor's current ratio assessment rate  
13 equals the current ratio assessment factor in sub. (3) (b) multiplied by the following  
14 amount:

Insert 108-14  
14 \*Insert Graphic Here\*

15 (c) If the vegetable contractor has filed an annual financial statement under  
16 s. 12<sup>6</sup>~~7~~.58 and that financial statement shows a current ratio of less than or equal to  
17 1.1 to 1.0, the vegetable contractor's current ratio assessment rate equals the current  
18 ratio assessment factor in sub. (3) (b) multiplied by 7.512617.

19 (d) If the vegetable contractor has not filed an annual financial statement  
20 under s. 12<sup>6</sup>~~7~~.58, the vegetable contractor's current ratio assessment rate equals the  
21 current ratio assessment factor in sub. (3) (b) multiplied by 3.84961.

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



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

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

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

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

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

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

18           (a) If the vegetable contractor has filed an annual financial statement under  
19 s. 12<sup>6</sup>.58 and that financial statement shows a debt to equity ratio of not more than  
20 4.0 to 1.0, the vegetable contractor's debt to equity ratio assessment rate equals the  
21 greater of zero or the debt to equity ratio assessment factor in sub. (5) (a) multiplied  
22 by the following amount:

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109-2324

**\*Insert Graphic Here\***

23           (b) If the vegetable contractor has filed an annual financial statement under  
24 s. 12<sup>6</sup>.58 and that financial statement shows a debt to equity ratio of greater than  
25

1 4.0 to 1.0 but less than 6.0 to 1.0, the vegetable contractor's debt to equity ratio  
2 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)  
3 multiplied by the following amount:

↓  
Insert 110-4  
4 ~~\*Insert Graphic Here\*~~

5 (c) If the vegetable contractor has filed an annual financial statement under  
6 s. 12<sup>6</sup>.58 and that financial statement shows a debt to equity ratio of at least 6.0 to  
7 1.0, the vegetable contractor's debt to equity ratio assessment rate equals the debt  
8 to equity ratio assessment factor in sub. (5) (b) multiplied by 35.859145.

9 (d) If the vegetable contractor has not filed an annual financial statement  
10 under s. 12<sup>6</sup>.58, the vegetable contractor's debt to equity ratio assessment rate  
11 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by 1.34793.

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

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

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

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

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

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

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

- 7           1. The first installment is due on March 1 of the license year.
- 8           2. The 2nd installment is due on June 1 of the license year.
- 9           3. The 3rd installment is due on September 1 of the license year.
- 10          4. The 4th installment is due on December 1 of the license year.

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

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

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

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

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

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

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

7 **127.61 Vegetable contractors; security. (1) SECURITY REQUIRED.** (a) Except  
8 as provided in par. (c), a vegetable contractor shall file security with the department,  
9 and maintain that security until the department releases it under sub. (7), if all of  
10 the following apply when the department first licenses the vegetable contractor  
11 under s. <sup>6</sup>127.56 (1):

12 1. The vegetable contractor reports more than \$1,000,000 in annual contract  
13 obligations under s. <sup>6</sup>127.56 (9) (a).

14 2. The vegetable contractor files a financial statement under s. <sup>6</sup>127.58 (1) and  
15 that financial statement shows negative equity.

16 (b) Except as provided in par. (c), a vegetable contractor shall file security with  
17 the department to cover the full amount of the unpaid deferred contract obligations  
18 last reported under s. <sup>6</sup>127.56 (9) (e) or (12) (b), and maintain that security until it is  
19 released under sub. (7), unless the vegetable contractor files an annual financial  
20 statement under s. <sup>6</sup>127.58 and that financial statement shows <sup>positive equity,</sup> a current ratio of at  
21 least 1.25 to 1.0 <sup>3</sup> and a debt to equity ratio of not more than 4.0 to 1.0.

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

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

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

3           (2) SECURITY CONTINUED. A vegetable contractor who filed security under s.  
4 100.03, 1999 stats., before February 1, 2002, shall maintain that security until the  
5 department releases it under sub. (7).

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

9           (a) Seventy-five percent of the amount last reported under s. 12<sup>6</sup>1.56 (9) (b) or  
10 (12) (a).

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

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

15           (a) Currency.

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

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

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

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

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

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

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

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

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

9 4. The certificate renews automatically without any action by the 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) An irrevocable bank letter of credit if all of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 1. Issue a summary order under s. ~~127~~<sup>6</sup>.85 (2) that prohibits the vegetable  
7 contractor from procuring processing vegetables from vegetable producers or  
8 producer agents, or requires the vegetable contractor to pay cash on delivery under  
9 all vegetable procurement contracts.

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

11 (7) **RELEASING SECURITY.** (a) The department may release security filed under  
12 sub. (1) (a), unless the vegetable contractor is required to file security under sub. (1)  
13 (b), if any of the following applies:

14 1. The vegetable contractor reports less than \$1,000,000 in annual contract  
15 obligations under s. ~~127~~<sup>6</sup>.56 (9) (a) for at least 2 consecutive years and the vegetable  
16 contractor pays the quarterly fund assessment that would have been required of the  
17 vegetable contractor if the vegetable contractor had been a contributing vegetable  
18 contractor on the most recent quarterly installment date under s. ~~127~~<sup>6</sup>.60 (6).

19 2. The vegetable contractor's annual financial statement under s. ~~127~~<sup>6</sup>.58 shows  
20 positive equity for at least 2 consecutive years and the vegetable contractor pays the  
21 quarterly fund assessment that would have been required of the vegetable contractor  
22 if the vegetable contractor had been a contributing vegetable contractor on the most  
23 recent quarterly installment date under s. ~~127~~<sup>6</sup>.60 (6).



1 (b) The department may release security filed under sub. (1) (b), unless the  
2 vegetable contractor is required to file security under sub. (1) (a), if any of the  
3 following applies:

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

6 2. The vegetable contractor files 2 consecutive annual financial statements  
7 under s. ~~127~~<sup>6</sup>.58 that show a current ratio of at least 1.25 to 1.0 and a debt to equity  
8 ratio of not more than 4.0 to 1.0.

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

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

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

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

17 ~~127~~<sup>6</sup>.62 **Vegetable contractors; records.** (1) RECORDS REQUIRED. A vegetable  
18 contractor shall keep all of the following:

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

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

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

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

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

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

6           <sup>6</sup>  
**127.63 Vegetable contractors; business practices. (1) VEGETABLE GRADING**  
7 **AND TARE.** (a) A vegetable contractor shall grade vegetables according to the following  
8 standards if the vegetable grade may affect the amount received by the vegetable  
9 producer:

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

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

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

16           (c) The department shall establish grade standards for vegetables that conform  
17 to grade standards adopted by the federal department of agriculture under 7 USC  
18 1621 to 1632.

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

23           **(3) TIMELY PAYMENT.** A vegetable contractor shall pay a vegetable producer or  
24 producer agent according to the vegetable procurement contract. The vegetable

1 contractor shall make the following payments by the following dates, unless the  
2 contract specifies a different payment date in writing:

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

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

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

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

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

21 (5) DEFERRED PAYMENT CONTRACT. (a) Before a vegetable contractor offers a  
22 deferred payment contract to any vegetable producer, the vegetable contractor shall  
23 put the deferred payment contract to a vote of vegetable producers, as provided in  
24 par. (b), obtain the approval of a majority of the voting vegetable producers, and  
25 comply with par. (c).

1 (b) To put a deferred payment contract to a vote of vegetable producers, the  
2 vegetable contractor shall give written notice to all vegetable producers in this state  
3 from whom the vegetable contractor procured the same type of processing vegetables  
4 during the preceding license year. In the notice, the vegetable contractor shall  
5 include a copy of the proposed contract, shall announce a meeting at which the  
6 vegetable producers will be asked to vote on the proposed contract, and shall include  
7 a mail ballot by which a vegetable producer may vote without attending the meeting.  
8 The vegetable contractor shall conduct the voting by secret ballot.

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

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

13 2. Any additional security required under s. ~~127~~<sup>6</sup>.61 (3).

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

16 (a) The vegetable contractor stated, in the vegetable contractor's last annual  
17 statement under s. ~~127~~<sup>6</sup>.56 (9) (g), that the vegetable contractor would pay cash on  
18 delivery.

19 (b) The department disqualifies the vegetable contractor, under s. ~~127~~<sup>6</sup>.59 (2)  
20 (c), or requires the vegetable contractor to pay cash on delivery under s. ~~127~~<sup>6</sup>.61 (6)  
21 (e).

22 ~~127~~<sup>6</sup>.61 **Vegetable contractors; prohibited practices.** No vegetable  
23 contractor may do any of the following:

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

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

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

4 (4) If the vegetable contractor is licensed under s. 12~~7~~<sup>6</sup>.56, engage in any activity  
5 that is inconsistent with representations made in the vegetable contractor's annual  
6 license application.

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

9 (6) Fail to file the full amount of security required under s. 12~~7~~<sup>6</sup>.61 (6) by the  
10 date that the department specifies.

## 11 SUBCHAPTER VII

### 12 RECOVERY PROCEEDINGS

13 ~~12~~<sup>6</sup>.68 **Definitions.** In this subchapter:

14 (1) "Contributing contractor" means any of the following:

15 (a) A contributing grain dealer, as defined in s. 12~~7~~<sup>6</sup>.10 (3).

16 (b) A contributing grain warehouse keeper, as defined in s. 12~~7~~<sup>6</sup>.25 (2).

17 (c) A contributing milk contractor, as defined in s. 12~~7~~<sup>6</sup>.40 (1).

18 (d) A contributing vegetable contractor, as defined in s. 12~~7~~<sup>6</sup>.55 (4).

19 (2) "Depositor" has the meaning given in s. 12~~7~~<sup>6</sup>.25 (5).

20 (3) "Grain dealer" has the meaning given in s. 12~~7~~<sup>6</sup>.10 (9).

21 (4) "Grain producer" has the meaning given in s. 12~~7~~<sup>6</sup>.10 (10).

22 (5) "Grain warehouse keeper" has the meaning given in s. 12~~7~~<sup>6</sup>.25 (9).

23 (6) "Milk contractor" has the meaning given in s. 12~~7~~<sup>6</sup>.40 (8).

24 (7) "Milk producer" has the meaning given in s. 12~~7~~<sup>6</sup>.40 (10).

25 (8) "Producer grain" has the meaning given in s. 12~~7~~<sup>6</sup>.10 (14).

- ① (9) “Producer milk” has the meaning given s. 12~~7~~<sup>6</sup>.40 (14).
- ② (10) “Vegetable contractor” has the meaning given in s. 12~~7~~<sup>6</sup>.55 (14).
- ③ (11) “Vegetable procurement contract” has the meaning given in s. 12~~7~~<sup>6</sup>.55 (15).
- ④ (12) “Vegetable producer” has the meaning given in s. 12~~7~~<sup>6</sup>.55 (16).
- ⑤ **12~~7~~<sup>6</sup>.70 Recovery proceedings.** (1) **DEFAULT CLAIMS.** Any of the following
- 6 persons may file a default claim with the department against a contractor who is
- 7 licensed, or required to be licensed, under this chapter:
- ⑧ (a) A grain producer or producer agent, as defined in s. 12~~7~~<sup>6</sup>.10 (13), who claims
- 9 that a grain dealer has failed to pay, when due, for producer grain that the grain
- 10 dealer procured in this state.
- 11 (b) A depositor who is either a grain producer or a producer agent, as defined
- ⑫ in s. 12~~7~~<sup>6</sup>.10 (13), and who claims that a grain warehouse keeper has failed to return
- 13 stored grain or its equivalent upon demand.
- ⑭ (c) A milk producer or producer agent, as defined in s. 12~~7~~<sup>6</sup>.40 (13), who claims
- 15 that a milk contractor has failed to pay, when due, for producer milk procured in this
- 16 state.
- ⑰ (d) A vegetable producer or producer agent, as defined in s. 12~~7~~<sup>6</sup>.55 (12), who
- 18 claims that a vegetable contractor has failed to make payment when due under a
- 19 vegetable procurement contract.
- 20 (2) **FILING DEFAULT CLAIMS.** A claimant shall file a default claim under sub. (1)
- 21 within 30 days after the claimant first learns of the default, subject to sub. (3). The
- 22 claimant shall specify the nature and amount of the default. The department may
- 23 investigate the alleged default and may require the claimant to provide supporting
- 24 documentation.

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

6           (b) If the department has reason to believe that other persons may have default  
7 claims under sub. (1) against the same contractor, the department may invite those  
8 persons to file their claims in the recovery proceeding. The department may publish  
9 the invitation in any of the following ways:

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

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

12           3. By mailing or delivering it to prospective claimants known to the  
13 department.

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

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

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

21           **(4) AUDITING CLAIMS.** The department shall audit each claim included in a  
22 recovery proceeding. The department shall disallow a claim if the department finds  
23 any of the following:

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

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

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

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

9 (e) That the person filing the claim is not an authorized claimant under sub.  
10 (1).

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

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

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

23 (6) PROPOSED DECISION. After the department completes its audit under sub.  
24 (4), the department shall issue a proposed decision. The department shall mail or



1 deliver a copy of the proposed decision to the contractor and each claimant. The  
2 department shall do all of the following in the proposed decision:

3 (a) Specify proposed findings of fact, proposed conclusions of law, and a  
4 proposed order.

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

7 (c) Specify, for each allowed claim, the amount that the department is  
8 authorized to pay under s. 12~~7~~<sup>6</sup>.71.

9 (d) Specify the method, under s. 12~~7~~<sup>6</sup>.71, by which the department will pay the  
10 authorized amounts under par. (c).

11 (e) Explain a claimant's right under s. 12~~7~~<sup>6</sup>.87 (4) to seek court recovery of that  
12 portion of an allowed claim that is not paid by the department.

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

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

20 (8) OBJECTIONS TO PROPOSED DECISION; NOTICE, HEARING, AND FINAL DECISION. (a)  
21 If a contractor or claimant files a timely written objection to the proposed decision  
22 under sub. (6), the department shall hold a public hearing on the objection. The  
23 department shall follow applicable contested case procedures under ch. 227. The  
24 department may hear all objections in a single proceeding. At the conclusion of the

1 contested case proceeding, the department shall issue a final decision affirming or  
2 modifying the proposed decision under sub. (6).

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

6 <sup>6</sup>~~127~~.71 **Paying default claims.** (1) CLAIMS AGAINST CONTRIBUTING  
7 CONTRACTOR. Except as provided in sub. (2) or (3), the department shall pay from the  
8 appropriate sources under s. <sup>6</sup>~~127~~.72 the following default claim amounts:

9 (a) For each default claim allowed under s. <sup>6</sup>~~127~~.70 against a grain dealer or milk  
10 contractor who was a contributing contractor when the default occurred:

- 11 1. Ninety percent of the first \$20,000 allowed.
- 12 2. Eighty-five percent of the next \$20,000 allowed.
- 13 3. Eighty percent of the next \$20,000 allowed.
- 14 4. Seventy-five percent of any amount allowed in excess of \$60,000.

15 (b) For each default claim allowed under s. <sup>6</sup>~~127~~.70 against a grain warehouse  
16 keeper who was a contributing contractor when the default occurred, 100% of the  
17 first \$100,000 allowed.

18 (c) For each default claim allowed under s. <sup>6</sup>~~127~~.70 against a vegetable  
19 contractor who was a contributing contractor when the default occurred:

- 20 1. Ninety percent of the first \$40,000 allowed.
- 21 2. Eighty-five percent of the next \$40,000 allowed.
- 22 3. Eighty percent of the next \$40,000 allowed.
- 23 4. Seventy-five percent of any amount allowed in excess of \$120,000.

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

1           (2) CLAIMS AGAINST CONTRACTOR WHO HAS FILED SECURITY. If the department  
2 allows default claims under s. 12<sup>6</sup>.70 against a contractor who has security on file  
3 with the department, the department shall convert that security and use the  
4 proceeds as follows:

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

10           (b) If the contractor was a contributing contractor when the default occurred,  
11 the department shall use the security proceeds to reimburse the sources under s.  
12 12<sup>6</sup>.72 from which the department makes any claim payment under sub. (1). If the  
13 security amount exceeds the amount payable under sub. (1) from the sources under  
14 s. 12<sup>6</sup>.72, the department shall use the remaining security proceeds to pay the  
15 balance of the allowed claims. If the security amount is not adequate to pay the full  
16 remaining balance, the department shall pay claimants on a prorated basis in  
17 proportion to their allowed claims. The department may, at its discretion, pay claims  
18 directly from security proceeds rather than from a fund source under s. 12<sup>6</sup>.72.

19           (3) PAYMENT RESTRICTIONS. (a) The department may not pay any portion of the  
20 following from any source identified in s. 12<sup>6</sup>.72:

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

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

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

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

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

7 → (c) If the total amount of default claims exceeds the amount available under s. 26.2  
8 (4) EFFECT OF PAYMENT. A claimant who accepts payment under sub. (1) or (2)

9 releases his or her claim against the contractor to the extent of the payment. A  
10 payment under sub. (1) or (2) does not prevent a claimant from recovering the  
11 balance of an allowed claim directly from the contractor.

12 **12<sup>6</sup>.72 Claims against contributing contractor; payment sources. (1)**

13 PRODUCER SECURITY FUND. From the appropriation under s. 20.115 (1) (w), the  
14 department shall make payments authorized under s. 12<sup>6</sup>.71 (1), up to the deductible  
15 amount in sub. (4).

16 (2) INDUSTRY BOND PROCEEDS. The department shall make a demand against  
17 the appropriate industry bond under s. 12<sup>6</sup>.06 and shall use the proceeds of that bond  
18 to make payments authorized under s. 12<sup>6</sup>.71 (1), to the extent that those payments  
19 exceed the deductible amount in sub. (4).

20 (3) BLANKET BOND PROCEEDS. The department shall make a demand against the  
21 blanket bond under s. 12<sup>6</sup>.07 and shall use the bond proceeds to pay any remaining  
22 amounts authorized under s. 12<sup>6</sup>.71 (1) after the department makes payments under  
23 subs. (1) and (2).

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

→ the department shall prorate the available amount among the eligible claimants in proportion to the amount of their allowed claims.

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

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

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

7 3. If the department allows the claims on or after September 1, 2006,  
8 \$1,000,000.

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

11 1. If the department allows the claims on or after May 1, 2002, but before May  
12 1, 2004, \$1,000,000.

13 2. If the department allows the claims on or after May 1, 2004, but before May  
14 1, 2006, \$1,500,000.

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

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

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

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

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

23 <sup>6</sup>~~127~~.73 Reimbursing payments. (1) PAYMENTS FROM THE FUND. The  
24 department may demand and collect, from a contractor, any claim amounts that the  
25 department pays under s. <sup>6</sup>~~127~~.72 (1) because of the contractor's default.

1 (2) BOND PAYMENTS. A bond surety may demand and collect, from a contractor,  
 2 any claim amounts that the bond surety pays to the department under s. 127.72 (2)  
 3 or (3) because of the contractor's default. The bond surety shall provide the  
 4 department with a copy of each demand under this subsection.

## 5 SUBCHAPTER VIII

### 6 ADMINISTRATION AND ENFORCEMENT

7 <sup>6</sup>127.78 **Definitions.** In this subchapter:

8 (1) "Contributing contractor" has the meaning given in s. 127.68 (1).

9 (2) "Depositor" has the meaning given in s. 127.25 (5).

10 (3) "Grain dealer" has the meaning given in s. 127.10 (9).

11 (4) "Grain warehouse keeper" has the meaning given in s. 127.25 (9).

12 (5) "Milk contractor" has the meaning given in s. 127.40 (8).

13 (6) "Producer agent" means a person who is a producer agent, as defined in s.  
 14 127.10 (13), 127.40 (13), or 127.55 (12).

15 (7) "Vegetable contractor" has the meaning given in s. 127.55 (14).

16 (8) "Vegetable producer" has the meaning given in s. 127.55 (16).

17 <sup>6</sup>127.80 **Department authority; general.** The department shall administer  
 18 this chapter.

19 <sup>6</sup>127.81 **Rule making.** The department may promulgate rules to do any of the  
 20 following:

21 (1) Interpret and implement this chapter.

22 (2) Modify the license fees and surcharges provided in s. 127.11 (4), 127.26 (3),  
 23 127.41 (3), 127.42, or 127.56 (4).

24 (3) Modify the fund assessments provided under s. 127.15, 127.30, 127.46, or  
 25 127.60, as provided in s. 127.88.

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

3 <sup>6</sup>~~127.82~~ **Investigations.** The department may conduct investigations that it  
4 considers necessary for the administration of this chapter, including investigations  
5 to determine any of the following:

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

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

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

9 (4) Whether a grain warehouse keeper has sufficient grain on hand to meet the  
10 grain warehouse keeper's obligations to depositors.

11 (5) The nature and amount of a contractor's storage obligations or other  
12 contract obligations.

13 <sup>6</sup>~~127.83~~ **Information.** The department may require a contractor to provide  
14 information that is relevant to the administration and enforcement of this chapter.

15 <sup>6</sup>~~127.84~~ **Records; confidentiality.** (1) PUBLIC RECORDS EXEMPTION. The  
16 following records obtained by the department under this chapter are not open to  
17 public inspection under s. 19.35:

18 (a) Contractor financial statements.

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

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

24 <sup>6</sup>~~127.85~~ **Remedial orders.** (1) GENERAL. The department may, by special  
25 order, require a contractor to remedy a violation of this chapter or a rule promulgated

1 under this chapter. The department may order the contractor to take specific  
2 remedial actions, including actions to remedy deficiencies or to prevent losses to  
3 persons protected under this chapter. Except as provided in sub. (2), the department  
4 shall give the contractor notice and an opportunity for hearing before the department  
5 issues an order.

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

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

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

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

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

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

20 (f) A grain warehouse keeper fails to return grain to depositors upon demand,  
21 as required under s. ~~127~~<sup>6</sup>.34 (4).

22 (g) A grain warehouse keeper fails to maintain adequate grain inventory as  
23 required under s. ~~127~~<sup>6</sup>.34 (3), and at least one of the following applies:

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



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

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

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

12           <sup>6</sup>  
**127.86 License actions.** (1) GENERAL. The department may for cause deny,  
13 suspend, revoke, or impose conditions on a contractor's license, as provided in s.  
14 93.06 (7) and (8). Cause may include any of the following:

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

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

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

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

24           (e) The contractor fails to honor contract obligations to persons who are  
authorized to file default claims under s. <sup>6</sup>~~127~~.70 (1).

J (25)  
Insert "bg"  
from p. 55

1           (2) HEARING ON LICENSE ACTION; GENERAL. Except as provided in sub. (3), the  
2 department shall give a contractor notice and an opportunity for hearing before the  
3 department suspends, revokes, or imposes conditions on a license held by the  
4 contractor.

5           (3) SUMMARY ACTION. (a) The department may, without prior notice or hearing,  
6 summarily suspend, revoke, or impose conditions on a license held by a contractor  
7 if the department finds that summary action is necessary to prevent a clear and  
8 imminent threat of harm to persons protected under this chapter. Conditions  
9 indicating a clear and imminent threat of harm include those identified in s. ~~127~~<sup>6</sup>.85  
10 (2).

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

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

20           ~~127~~<sup>6</sup>.87 **Court actions.** (1) INJUNCTION. The department may petition the  
21 circuit court for an ex parte temporary restraining order, a temporary injunction, or  
22 a permanent injunction to prevent, restrain, or enjoin any person from violating this  
23 chapter, any rule promulgated under this chapter, or any order issued under this  
24 chapter. The department may seek this remedy in addition to any other penalty or  
25 remedy provided under this chapter.

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

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

7           (4) PRIVATE REMEDY. (a) A person whose claim is allowed under s. 12~~7~~<sup>6</sup>.70 may  
8 bring an action against the contractor to recover the amount of the allowed claim, less  
9 any recovery amount that the department pays to the claimant under s. 12~~7~~<sup>6</sup>.71. In  
10 any court action under this subsection, the claimant may recover costs including all  
11 reasonable attorney fees, notwithstanding s. 814.04 (1). This subsection does not  
12 limit any other legal cause of action that the claimant may have against the  
13 contractor.

14           (b) A claim allowed under s. 12~~7~~<sup>6</sup>.70 has the same priority in an insolvency  
15 proceeding or creditor's action as a claim for wages, except as otherwise provided by  
16 federal law.

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

20           12~~7~~<sup>6</sup>.88 **Modifying fund assessments.** The department may by rule modify  
21 the fund assessments provided under s. 12~~7~~<sup>6</sup>.15, 12~~7~~<sup>6</sup>.30, 12~~7~~<sup>6</sup>.46, or 12~~7~~<sup>6</sup>.60. The  
22 department shall modify fund assessments as necessary to do all of the following:

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

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

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

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

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

✓  
Inset  
136-89 →

126.90  
127.89 **Agricultural producer security council.** The agricultural producer  
10 security council shall advise the department on the administration and enforcement  
11 of this chapter. The council shall meet as often as the department considers  
12 necessary, but at least once annually. The department shall inform the council of  
13 fund balances and payments, and shall consult with the council before modifying any  
14 license fee, license surcharge, or fund assessment under this chapter.

→

Section #. RP, chapter 127 ✓

15 **SECTION 29.** 165.25 (4) (ar) of the statutes is amended to read:

16 165.25 (4) (ar) The department of justice shall furnish all legal services  
17 required by the department of agriculture, trade and consumer protection relating  
18 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,  
19 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.50 and 100.51 and  
20 chs. ~~127~~<sup>6</sup>, 136, 344, 704, 707 and 779, together with any other services as are  
21 necessarily connected to the legal services.

22 **SECTION 30.** 221.0320 (2) (a) (intro.) of the statutes is amended to read:

23 221.0320 (2) (a) (intro.) A liability secured by warehouse receipts issued by  
24 warehouse keepers licensed and bonded in this state under ss. 99.02 and 99.03 or

1 under the federal bonded warehouse act or holding a ~~registration certificate~~ license  
2 under ~~ch. 127 s. 127.26~~ <sup>6</sup>, if all of the following requirements are met:

3 SECTION 31. 348.27 (10) of the statutes is amended to read:

4 348.27 (10) TRANSPORTATION OF GRAIN OR COAL OR IRON. The department may  
5 issue annual or consecutive month permits for the transportation of loads of grain,  
6 as defined in s. ~~127.01 (18)~~ <sup>126.01</sup> (13), coal, iron ore concentrates or alloyed iron on a vehicle  
7 or a combination of 2 or more vehicles that exceeds statutory weight or length  
8 limitations and for the return of the empty vehicle or combination of vehicles over  
9 any class of highway for a distance not to exceed 5 miles from the Wisconsin state  
10 line. If the roads desired to be used by the applicant involve streets or highways other  
11 than those within the state trunk highway system, the application shall be  
12 accompanied by a written statement of route approval by the officer in charge of  
13 maintenance of the other highway. This subsection does not apply to highways  
14 designated as part of the national system of interstate and defense highways.

15 **SECTION 9204. Appropriation changes; agriculture, trade and**  
16 **consumer protection.**

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

20 (2) DAIRY AND VEGETABLE PRODUCER SECURITY. From the unencumbered balance  
21 in the appropriation account under section 20.115 (1) (gm), 1999 stats., the secretary  
22 of administration shall transfer to the agricultural producer security fund the  
23 amount that the secretary determines is derived from moneys received under section  
24 100.03 (3) (a) 2., 1999 stats., section 100.03 (3) (a) 3., 1999 stats., and section 100.06  
25 (9), 1999 stats.

✓ Insert →  
137-14

~~Insert~~  
137-25 note found

1 SECTION 9404. Effective dates; agriculture, trade and consumer  
2 protection. *auto ref. "1A"*

3 (1) AGRICULTURAL PRODUCER SECURITY. The treatment of sections 15.137 (1),

4 20.115 (1) (g), (gf), (gm), (jm), (q), (v), (w), and (wb), 25.17 (1) (ag), 25.463, ~~98.135 (1)~~

5 ~~(ym), (s), and (sm), 93.50 (1) (g), 97.20 (2) (d) 2. and (3m), 97.22 (1), 97.29 (4), 100.63,~~

6 ~~100.66, 100.235 (1) (b) and (em), (2), (3), and (4), 100.26 (5), 165.25 (4) (ar), 221.0320~~

7 (2) (a) (intro.), and 348.27 (10) and chapter <sup>126</sup>127 of the statutes and SECTION 9204 (1)

8 and (2) of this act take effect on January 1, 2002.

(END)

Insert  
9  
138-8 ✓

§ 9104 (1) and  
auto ref. "KM".

DNite

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0392/P3ins  
RCT.....

*Inserts*

✓ **Insert 27-17**

1. Subtract one from the current ratio.
2. Divide the amount determined under subd. 1. by 3.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.75 from the current ratio.
6. Divide 0.65 by the amount determined under subd. 5.
7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 2 to the amount determined under subd. 8.

✓ **Insert 27-23**

1. Subtract one from the current ratio.
2. Divide the amount determined under subd. 1. by 3.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.75 from the current ratio.
6. Divide 0.65 by the amount determined under subd. 5.
7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 2 to the amount determined under subd. 8.

✓ **Insert 29-1**

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

✓ **Insert 29-7**

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

✓ **Insert 56-12**

1. Subtract one from the current ratio.



2. Divide the amount determined under subd. 1. by 3.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.75 from the current ratio.
6. Divide 0.65 by the amount determined under subd. 5.
7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 2 to the amount determined under subd. 8.

✓ **Insert 56-19**

1. Subtract one from the current ratio.
2. Divide the amount determined under subd. 1. by 3.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.75 from the current ratio.
6. Divide 0.65 by the amount determined under subd. 5.
7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 2 to the amount determined under subd. 8.

✓ **Insert 57-20**

1. Subtract 4 from the debt to equity ratio.
2. Divide the amount determined under subd. 1. by 3.

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

✓ **Insert 58-3**

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

✓ **Insert 83-7**

1. Subtract 3 from the current ratio.
2. Divide the amount determined under subd. 1. by 6.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Divide 0.55 by the current ratio.

6. Raise the amount determined under subd. 5. to the 7th power.
7. Add the amount determined under subd. 4. to the amount determined under subd. 6.
8. Add 0.075 to the amount determined under subd. 7.

✓ **Insert 83-12**

1. Subtract 3 from the current ratio.
2. Divide the amount determined under subd. 1. by 6.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Divide 0.55 by the current ratio.
6. Raise the amount determined under subd. 5. to the 7th power.
7. Add the amount determined under subd. 4. to the amount determined under subd. 6.
8. Add 0.075 to the amount determined under subd. 7.

✓ **Insert 84-21**

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

✓ **Insert 85-3**

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

✓ **Insert 87-25**

(b) For a milk contractor who procures milk in this state solely as a producer agent, at least the following amounts:

1. For the license year beginning on May 1, 2002, 15% of the amount last reported under s. 126.41 (6) (b) or (9).
2. For the license year beginning on May 1, 2003, 30% of the amount last reported under s. 126.41 (6) (b) or (9).
3. For the license year beginning on May 1, 2004, 45% of the amount last reported under s. 126.41 (6) (b) or (9).
4. For the license year beginning on May 1, 2005, 60% of the amount last reported under s. 126.41 (6) (b) or (9).
5. For a license year beginning after May 1, 2005, 75% of the amount last reported under s. 126.41 (6) (b) or (9).

✓ **Insert 108-8**

1. Subtract 4 from the current ratio.
2. Divide the amount determined under subd. 1. by 2.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.65 from the current ratio.
6. Divide 0.60 by the amount determined under subd. 5.
7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 0.25 to the amount determined under subd. 8.

✓ **Insert 108-14**

1. Subtract 4 from the current ratio.
2. Divide the amount determined under subd. 1. by 2.
3. Multiply the amount determined under subd. 2. by negative one.
4. Raise the amount determined under subd. 3. to the 3rd power.
5. Subtract 0.65 from the current ratio.
6. Divide 0.60 by the amount determined under subd. 5.
7. Raise the amount determined under subd. 6. to the 5th power.
8. Add the amount determined under subd. 4. to the amount determined under subd. 7.
9. Add 0.25 to the amount determined under subd. 8.

✓ **Insert 109-23**

1. Subtract 4 from the debt to equity ratio.
2. Divide the amount determined under subd. 1. by 4.
3. Raise the amount determined under subd. 2. to the 3rd power.
4. Subtract 1.85 from the debt to equity ratio.
5. Divide the amount determined under subd. 4. by 2.5.
6. Raise the amount determined under subd. 5. to the 7th power.
7. Add the amount determined under subd. 3. to the amount determined under subd. 6.
8. Add one to the amount determined under subd. 7.

✓ **Insert 110-4**

1. Subtract 4 from the debt to equity ratio.
2. Divide the amount determined under subd. 1. by 4.
3. Raise the amount determined under subd. 2. to the 3rd power.
4. Subtract 1.85 from the debt to equity ratio.
5. Divide the amount determined under subd. 4. by 2.5.
6. Raise the amount determined under subd. 5. to the 7th power.
7. Add the amount determined under subd. 3. to the amount determined under subd. 6.
8. Add one to the amount determined under subd. 7.

✓ **Insert 136-8**

**126.89 Calculations.** If a number used in or resulting from a calculation made to determine the amount of an assessment under s. 126.15, 126.30, 126.46, or 126.60,

other than a number that appears in one of those sections, extends more than 6 decimal places to the right of the decimal point, a person making the calculation shall round the number to the nearest whole digit in the 6th decimal place to the right of the decimal point. The amount of an assessment may be rounded to the nearest whole dollar.

✓ **Insert 137-14**

**SECTION 9104. Nonstatutory provisions; agriculture, trade and consumer protection.** *auto ref. "KM"*

(1) AGRICULTURAL PRODUCER SECURITY COUNCIL. Notwithstanding the length of terms specified for the members of the agricultural producer security council under section 15.137 (1) (a) of the statutes, as created by this act, the initial members shall be appointed for terms expiring on July 1, 2005.

#  
(2) AGRICULTURAL PRODUCER SECURITY TRANSITION.

#  
(a) *Vegetable contractors.* Notwithstanding SECTION 9404 of this act, Chapter 126 of the statutes, as created by this act, does not apply with respect to vegetable contractors until February 1, 2002, except as follows:

# 1. All registration fees and surcharges paid under section 100.03 (3), 1999 stats., after December 31, 2001, shall be deposited in the agricultural producer security fund.

# 2. A vegetable contractor applying for a license for the license year that begins on February 1, 2002, shall submit an application that complies with section 126.56 of the statutes, as created by this act.

*p. 138, line 3*  
*auto ref the first effective date subsection - "1A". - See 02-0788-R*

auto ref the first effective date subsection - "1A"

<sup>#</sup>(b) *Milk contractors.* Notwithstanding SECTION 9404 of this act, Chapter 126 of the statutes, as created by this act, does not apply with respect to milk contractors until May 1, 2002, except as follows:

<sup>#</sup>1. All milk producer security fees paid under section 100.06 (9), 1999 stats., after December 31, 2001, shall be deposited in the agricultural producer security fund.

<sup>#</sup>2. A milk contractor applying for a license for the license year that begins on May 1, 2002, shall submit an application that complies with section 126.41 of the statutes, as created by this act.

<sup>#</sup>(c) *Grain dealers and warehouse keepers.* Notwithstanding SECTION 9404 of this act, Chapter 126 of the statutes, as created by this act, does not apply with respect to grain dealers and grain warehouse keepers until September 1, 2002, except as follows:

<sup>#</sup>1. All license fees and surcharges paid under chapter 127, 1999 stats., after December 31, 2001, shall be deposited in the agricultural producer security fund.

<sup>#</sup>2. A grain dealer applying for a license for the license year that begins on September 1, 2002, shall submit an application that complies with section 126.11 of the statutes, as created by this act.

<sup>#</sup>3. A grain warehouse keeper applying for a license for the license year that begins on September 1, 2002. shall submit an application that complies with section 126.26 of the statutes, as created by this act.

**Insert 138-8**

~~(S)~~ <sup>#</sup>VEGETABLE CONTRACTORS. The treatment of sections 93.135 (1) (rm), 93.50 (1) (g), 97.29 (4), 100.03, and 100.235 (1) (b) and (em), (2), (3), and (4) of the statutes takes effect on February 1, 2002.



Ⓢ MILK CONTRACTORS. The treatment of sections 97.20 (2) (d) 2. and (3m), 97.22 (10), 100.06, and 100.26 (5) of the statutes takes effect on May 1, 2002. 93.06(e)

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

Insert A <sup>v</sup> (p. 4, line 15)

-0392/P3

Section #. 93.06 (8) of the statutes is amended to read:

93.06 (8) PRESCRIBE CONDITIONS OF LICENSES. Except as provided in s. 93.135, issue any permit, certificate, registration or license on a temporary or conditional basis, contingent upon pertinent circumstances or acts. If the temporary or conditional permit, certificate, registration or license is conditioned upon compliance with chs. 93 to 100, ch. <sup>126</sup>~~127~~, a rule promulgated by the department or a regulation adopted under s. 97.41 (7) within a specified period of time and the condition is not met within the specified period, the permit, certificate, registration or license shall be void. ✓

\*

History: 1973 c. 206; 1975 c. 39; 1975 c. 94 s. 3; 1975 c. 414 s. 28; 1977 c. 181; 1979 c. 32 s. 92 (6), (12); 1979 c. 209; 1983 a. 203; 1985 a. 30 s. 42; 1989 a. 31, 174, 282; 1991 a. 39; 1993 a. 16; 1995 a. 400; 1997 a. 27, 191, 253; 1999 a. 9, 186.

~~9/1/2002~~

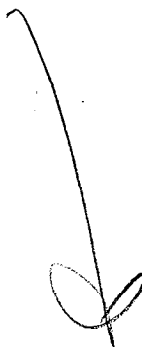
Insert B, p. 1 ✓

Section #. 93.20 (1) of the statutes is amended to read:

93.20 (1) DEFINITION. In this section, "action" means an action that is commenced in court by, or on behalf of, the department of agriculture, trade and consumer protection to enforce chs. 88, 91 to 100 or ~~127~~. <sup>126</sup>

History: 1991 a. 39; 1993 a. 213; 1995 a. 216.

~~9/1/2002~~



Inset B, p. 2

Section #. 93.21 (5) (a) of the statutes is amended to read:

93.21 (5) (a) In this subsection, "license" means a permit, certificate, registration or license issued by the department under chs. 91 to 100 or ch. ~~127~~ 126 ✓

History: 1989 a. 282; 1993 a. 16; 1997 a. 253.

9/1/2002

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0392/P3dn

RCT

*King*



1. This is a second preliminary version of the agricultural producer security draft. I have produced a draft without an analysis in hopes of providing some time for review, although that time is likely to be very limited, depending on when the budget must be ready for introduction.
2. I have added the formulas to this draft <sup>in</sup> words. The computer people have not been able to overcome the technical difficulties with showing the formula using mathematical symbols.
3. To facilitate the transition over the course of 2002, this redraft creates a new chapter 126, rather than recreating ch. 127.
4. The provision concerning rounding appears as s. 126.89. ✓
5. At the instruction of Bill Walker, I have not changed proposed s. 20.115 (1) (wb). DATCP will not be required to make a s. 13.10 request to be able to expend any or all of the funds credited to that account. See s. 20.001 (3) (c). ✓
6. On the issue of defining "major stockholder," my only comment is that <sup>while I can understand DATCP's desire to make the determination on a case-by-case basis,</sup> the law does not require only DATCP to make that determination. The law imposes requirements on contractors based on whether a person is a major stockholder, but the law does not contain information to enable them to tell whether DATCP will decide that a person is a major stockholder.
7. With the approval of Bill Walker, this redraft does not restore the second sentence of s. 126.11 (9) (c). Besides being redundant, the language does not follow properly from the introduction to s. 126.11 (9). ✓ DATCP may disclose anything <sup>that</sup> it determines is appropriate in the license application without statutory language.
8. I made a change in s. 126.14 (2) (a) ✓ because I do not believe that the previous draft did what DATCP intended. Section 126.16 (8) (a) prohibits DATCP from releasing security filed under s. 126.16 (1) (a) if the grain dealer is required to file security under s. 126.16 (1) (b). Please note that a dealer to whom s. 126.16 (1) (a) and (b) both apply is not required to file any greater amount of security than a dealer who is only required to file security under s. 126.16 (1) (b). There is no extra security to release, even if s.

126.18 (8) (a) did not contain the prohibition on releasing the sub. (1) (a) security if security is required under sub. (1) (b). I made a similar change in s. 126.59 (2) (a). ✓

9. The changes that DATCP requested in s. 126.44 (1) (a) and (c) included providing that s. 126.44 (1) (a) does not apply to a contributing milk contractor who reports no more than \$1,500,000 in annual milk payroll obligations. Because a milk contractor who is making an initial application for licensure cannot be a contributing contractor, this draft omits the word "contributing." Please let me know if this is not consistent with your intent.

10. It is not possible for a disqualified milk contractor to violate s. 126.45 (1) because s. 146.45 (1) does not apply to a disqualified milk contractor. Contrary to the statement in item 37 of DATCP's response to my first drafter's note, the draft does not provide for a milk contractor to file security upon disqualification, only upon first licensure. If the milk contractor failed to file required security upon application for first licensure, DATCP would not issue the license or would suspend the license and the milk contractor could not conduct business. Please see the revised version of s. 126.45 (4) (a) in this draft and let me know if you want any additional changes. ✓

11. The draft provides different methods of determining the amount of payment to claimants under s. 126.71 (1) and s. 126.71 (2) (a). I believe that those different methods would result in different amounts of payment to the same claimant depending on whether the payment was being made under s. 126.71 (1) or under s. 126.71 (2) (a). The question that I was trying to ask in item 40 of my last drafter's note had to do with the **amount** of payment, or rather how the amount of payment would be determined, if DATCP used the authority in s. 126.71 (2) (b). Which method would be used to determine the amount of payment? If I have not made this question clear, please let me know.

*under*

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0392/P3dn  
RCT:kmg:kjf

January 3, 2001

1. This is a second preliminary version of the agricultural producer security draft. I have produced a draft without an analysis in hopes of providing some time for review, although that time is likely to be very limited, depending on when the budget must be ready for introduction.
2. I have added the formulas to this draft, in words. The computer people have not been able to overcome the technical difficulties with showing the formula using mathematical symbols.
3. To facilitate the transition over the course of 2002, this redraft creates a new chapter 126, rather than recreating ch. 127.
4. The provision concerning rounding appears as s. 126.89.
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6. On the issue of defining "major stockholder," my only comment is that, while I can understand DATCP's desire to make the determination on a case-by-case basis, the law does not require only DATCP to make that determination. The law imposes requirements on contractors based on whether a person is a major stockholder, but the law does not contain information to enable them to tell whether DATCP will decide that a person is a major stockholder.
7. With the approval of Bill Walker, this redraft does not restore the second sentence of s. 126.11 (9) (c). Besides being redundant, the language does not follow properly from the introduction to s. 126.11 (9). DATCP may disclose anything that it determines is appropriate in the license application without statutory language.
8. I made a change in s. 126.14 (2) (a) because I do not believe that the previous draft did what DATCP intended. Section 126.16 (8) (a) prohibits DATCP from releasing security filed under s. 126.16 (1) (a) if the grain dealer is required to file security under s. 126.16 (1) (b). Please note that a dealer to whom s. 126.16 (1) (a) and (b) both apply is not required to file any greater amount of security than a dealer who is only required to file security under s. 126.16 (1) (b). There is no extra security to release, even if s. 126.18 (8) (a) did not contain the prohibition on releasing the sub. (1) (a) security if security is required under sub. (1) (b). I made a similar change in s. 126.59 (2) (a).

9. The changes that DATCP requested in s. 126.44 (1) (a) and (c) included providing that s. 126.44 (1) (a) does not apply to a contributing milk contractor who reports no more than \$1,500,000 in annual milk payroll obligations. Because a milk contractor who is making an initial application for licensure cannot be a contributing contractor, this draft omits the word "contributing." Please let me know if this is not consistent with your intent.

10. It is not possible for a disqualified milk contractor to violate s. 126.45 (1) because s. 146.45 (1) does not apply to a disqualified milk contractor. Contrary to the statement in item 37 of DATCP's response to my first drafter's note, the draft does not provide for a milk contractor to file security upon disqualification, only upon first licensure. If the milk contractor failed to file required security upon application for first licensure, DATCP would not issue the license or would suspend the license and the milk contractor could not conduct business. Please see the revised version of s. 126.45 (4) (a) in this draft and let me know if you want any additional changes.

11. The draft provides different methods of determining the amount of payment to claimants under s. 126.71 (1) and under s. 126.71 (2) (a). I believe that those different methods would result in different amounts of payment to the same claimant depending on whether the payment was being made under s. 126.71 (1) or under s. 126.71 (2) (a). The question that I was trying to ask in item 40 of my last drafter's note had to do with the **amount** of payment, or rather how the amount of payment would be determined, if DATCP used the authority in s. 126.71 (2) (b). Which method would be used to determine the amount of payment? If I have not made this question clear, please let me know.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us