



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0392/3
RCT:kmg:kjf

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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

AGRICULTURE

AGRICULTURAL PRODUCER SECURITY

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

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

Milk contractors

Under current law, persons who operate dairy plants generally must be licensed by DATCP. There is no separate licensing requirement for milk contractors. Under current law, DATCP may not issue a license for a dairy plant unless the applicant satisfies DATCP that the applicant's financial condition is such as to reasonably ensure prompt payment to milk producers. Dairy plant operators are required to submit quarterly financial statements to DATCP. If a dairy plant operator does not meet minimum financial standards, the operator must file a bond or other security with DATCP or must provide for a trustee who receives payment for all dairy products produced by the dairy plant and pays producers.

Under this bill, DATCP issues licenses to milk contractors. A milk contractor must obtain a license if the contractor receives milk in this state that is owned by producers, collects milk from a dairy farm in another state for direct shipment to a dairy plant that the contractor operates in this state, or acquires the right to market milk owned by producers that is produced in this state. A milk contractor may volunteer to be licensed if the milk contractor receives, outside of this state, direct shipments of milk from dairy farms in this state. As under current law, a milk contractor that operates a dairy plant must obtain a dairy plant license.

Under this bill, a milk contractor must file an annual financial statement with DATCP before the milk contractor is first licensed, unless the milk contractor procured less than \$1,500,000 in milk from producers in its most recent fiscal year. A licensed milk contractor must file annual financial statements during each license year, unless the milk contractor contributes to the fund and either buys less than \$1,500,000 in milk from producers each year or does not buy milk from producers but only markets milk. A licensed milk contractor that does not contribute to the fund must file quarterly financial statements.

A licensed milk contractor that files financial statements which show that the milk contractor does not meet minimum financial standards, or that does not file annual and quarterly financial statements, must contribute to the fund, unless the contractor is disqualified from the fund. If a milk contractor that contributes to the fund defaults on payments to producers, DATCP may pay default claims from the fund.

A milk contractor that is required to file security when first licensed (as explained below) is disqualified from the fund until DATCP releases the security. A milk contractor is disqualified from the fund if DATCP denies, suspends, or revokes the contractor's license. DATCP may also disqualify a milk contractor from the fund for failing to pay required fund assessments, failing to file required financial statements, or failing to provide reimbursement for payments made by DATCP to claimants because of the contractor's default. If DATCP disqualifies a milk contractor from the fund and the milk contractor files a financial statement that shows that the contractor does not meet minimum financial standards, the milk contractor may not act as a milk contractor in this state.

The bill establishes the formula for determining the amount of the assessments which must be paid by a milk contractor that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on

the ratio of the value of current assets to the value of current liabilities, the amount spent to procure milk from producers, the ratio of debt to equity, and the number of consecutive years that the contractor has contributed to the fund.

A milk contractor must file security with DATCP if, when DATCP first licenses the contractor, the contractor's financial statement shows negative equity and the contractor procured more than \$1,500,000 in milk from producers in its most recent fiscal year. The bill specifies the kinds of security that DATCP may accept. A dairy plant trusteeship may not be used to provide security after January 1, 2003. DATCP may release security filed by a milk contractor if the contractor procures no more than \$1,500,000 in milk from producers in two consecutive years or files annual financial statements that show positive equity for two consecutive years.

This bill requires a milk contractor to maintain insurance that covers all milk and milk products in the possession of the milk contractor.

As under current law, the bill requires a milk contractor to pay a monthly fee to DATCP, based on the amount of milk that the milk contractor procures. Under the bill, if the balance in the fund contributed by milk contractors exceeds \$4,000,000 on any February 28, DATCP must credit 50% of the excess against these monthly fees, in proportion to the total amount of fees that each milk contractor has paid during the preceding four license years.

Grain dealers

Under current law, most grain dealers are required to be licensed, and most grain dealers that are required to be licensed must file financial statements. If the financial statements show that a grain dealer does not meet minimum financial standards, the grain dealer is required to file security with DATCP.

Under this bill, a grain dealer must obtain a license from DATCP unless the dealer pays cash on delivery for all producer-owned grain that the dealer procures or the dealer buys grain solely for the dealer's own use as feed or seed and spends less than \$400,000 per license year for that grain. The license fees vary based on the amount that the grain dealer pays for grain during a license year and the number of trucks used to haul grain. Under the bill, if the balance in the fund contributed by grain dealers exceeds \$2,000,000 on any June 30, DATCP must credit 50% of the excess against license fees, in proportion to the total amount of fees that each grain dealer has paid during the preceding four license years.

The bill requires a grain dealer to file an annual financial statement with DATCP before the dealer is first licensed under this bill if the grain dealer's license application shows more than \$500,000 in grain payments during the dealer's most recent fiscal year or shows any obligations under deferred payment contracts. A deferred payment contract is a contract under which a grain dealer takes custody of grain more than seven days before paying for the grain in full. A licensed grain dealer must file an annual financial statement during each license year if the grain dealer makes more than \$500,000 in grain payments during the dealer's most recent fiscal year, unless the dealer contributes to the fund and does not buy grain from producers but only markets grain, or if the dealer incurs any obligations under deferred payment contracts.

A grain dealer that is required to be licensed must contribute to the fund, unless the dealer is disqualified. If a grain dealer that contributes to the fund defaults on payments to producers, DATCP may pay default claims from the fund.

A grain dealer that is required to file security (as explained below) with DATCP when the grain dealer is first licensed under this bill because the dealer has negative equity is disqualified from the fund until DATCP releases the security. A grain dealer is disqualified from the fund, and required to pay cash on delivery for grain, if DATCP denies, suspends, or revokes the dealer's license, if DATCP disqualifies the dealer for cause, or if the dealer fails to provide reimbursement for payments made by DATCP to claimants because of the dealer's default.

The bill establishes the formula for determining the amount of the assessments which must be paid by a grain dealer that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on the ratio of the value of current assets to the value of current liabilities, the amount spent to procure grain from producers, the ratio of debt to equity, the amount incurred under deferred payment contracts, and the number of consecutive years that the dealer has contributed to the fund.

A grain dealer must file security with DATCP if, when DATCP first licenses the dealer under this bill, the grain dealer reports more than \$500,000 in grain payments during its most recent fiscal year and the dealer's annual financial statement shows negative equity. A grain dealer that incurs obligations under deferred payment contracts must also file security with DATCP, unless the dealer has a debt to equity ratio that satisfies requirements in the bill. The bill specifies the kinds of security that DATCP may accept. DATCP may release security required because the grain dealer had negative equity when first licensed if the dealer makes no more than \$500,000 in grain payments in two consecutive years or files annual financial statements that show positive equity for two consecutive years. DATCP may release security required because a grain dealer uses deferred payment contracts if the dealer stops using deferred payment contracts or satisfies debt to equity ratio requirements for two consecutive years.

This bill requires a grain dealer to maintain insurance to cover all grain in the custody of the grain dealer.

Grain warehouse keepers

Current law requires a grain warehouse keeper that holds 50,000 or more bushels of grain for others at any time to obtain a license from DATCP. A warehouse keeper that is required to be licensed must annually file a financial statement with DATCP. Under current law, a grain warehouse keeper that does not satisfy minimum financial standards must file security with DATCP.

Under this bill, as under current law, a grain warehouse keeper that holds 50,000 or more bushels of grain for others at any time must obtain a license from DATCP. A warehouse keeper that has grain warehouses with a combined capacity of more than 50,000 bushels must obtain a license, unless the warehouse keeper proves to DATCP that the warehouse keeper holds no more than 50,000 bushels of grain for others at any time. The bill specifies annual grain warehouse keeper fees that are based on combined warehouse capacity. Under the bill, if the balance in the

fund contributed by grain warehouse keepers exceeds \$300,000 on any June 30, DATCP must credit 12.5% of the excess against license fees, in proportion to the total amount of fees that each warehouse keeper has paid during the preceding four license years.

The bill requires a grain warehouse keeper that operates warehouses with a combined capacity of more than 300,000 bushels to file a financial statement before the warehouse keeper is first licensed under this bill and during each license year.

A licensed grain warehouse keeper is required to contribute to the fund, unless the warehouse keeper is disqualified. If a grain warehouse keeper that contributes to the fund fails to deliver grain to depositors upon demand, DATCP may pay default claims from the fund.

A grain warehouse keeper that is required to file security (as explained below) with DATCP when the warehouse keeper is first licensed under this bill is disqualified from the fund until DATCP releases the security. A grain warehouse keeper is also disqualified from the fund if DATCP denies, suspends, or revokes the warehouse keeper's license.

The bill establishes the formula for determining the amount of the assessments which must be paid by a grain warehouse keeper that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on the ratio of the value of current assets to the value of current liabilities, the capacity of the warehouses, the ratio of debt to equity, and the number of consecutive years that the warehouse keeper has contributed to the fund.

A grain warehouse keeper must file security with DATCP if, when DATCP first licenses the warehouse keeper under this bill, the warehouse keeper operates grain warehouses with a combined capacity of more than 300,000 bushels and the warehouse keeper's annual financial statement shows negative equity. The bill specifies the kinds of security that DATCP may accept. DATCP may release security filed by a grain warehouse keeper if the warehouse keeper has a warehouse capacity of less than 300,000 bushels for at least two consecutive years or files annual financial statements that show positive equity for two consecutive years.

Vegetable contractors

Current law requires a vegetable contractor to obtain a registration certificate from DATCP. A vegetable contractor that does not meet minimum financial standards must file security with DATCP unless the contractor makes payment on delivery for all vegetables obtained from producers or the contractor is a producer-owned cooperative doing business solely on a pooling basis with its producer-owners.

This bill requires a vegetable contractor to obtain a license from DATCP. The license fees are based on the amount that a vegetable contractor owed to vegetable producers over the course of the contractor's most recent fiscal year. Under the bill, if the balance in the fund contributed by vegetable contractors exceeds \$1,000,000 on any November 30, DATCP must credit 50% of the excess against license fees, in proportion to the total amount of fees that each vegetable contractor has paid during the preceding four license years.

The bill requires a vegetable contractor that annually incurs more than \$500,000 in obligations under contracts for the procurement of processing vegetables to file a financial statement before the contractor is first licensed under this bill and during each license year, unless the contractor makes payment on delivery for all vegetables obtained from producers or the contractor is a producer-owned cooperative that procures vegetables only from its producer owners.

A licensed vegetable contractor must contribute to the fund unless the contractor makes payment on delivery for all vegetables obtained from producers, the contractor is a producer-owned cooperative that procures vegetables only from its producer owners, or the contractor is disqualified. If a vegetable contractor that contributes to the fund defaults on payments to producers, DATCP may pay default claims from the fund.

A vegetable contractor that is required to file security (as explained below) with DATCP when the vegetable contractor is first licensed under this bill because the contractor has negative equity is disqualified from the fund until DATCP releases the security. A vegetable contractor is disqualified from the fund if DATCP denies, suspends, or revokes the contractor's license. A vegetable contractor is disqualified from the fund, and required to pay cash on delivery for all vegetables received from producers, if DATCP issues a written notice disqualifying the contractor for cause, including failure to pay fund assessments when due.

The bill establishes the formula for determining the amount of the assessments which must be paid by a vegetable contractor that contributes to the fund, except that DATCP may, by rule, provide for a different formula. The assessments are based on the ratio of the value of current assets to the value of current liabilities, the amount spent to procure vegetables from producers, the ratio of debt to equity, the amount incurred under deferred payment contracts, and the number of consecutive years that the contractor has contributed to the fund.

A vegetable contractor must file security with DATCP if, when DATCP first licenses the contractor under this bill, the contractor reports more than \$1,000,000 in obligations under contracts for the procurement of processing vegetables during its most recent fiscal year and the contractor's annual financial statement shows negative equity. A vegetable contractor that incurs obligations under deferred payment contracts must also file security with DATCP, unless the contractor satisfies financial requirements in the bill, makes payment on delivery for all vegetables obtained from producers, or is a producer-owned cooperative that procures vegetables only from its producer owner. The bill specifies the kinds of security that DATCP may accept. DATCP may release security required because the vegetable contractor had negative equity when first licensed if the contractor makes no more than \$1,000,000 in vegetable procurement obligations in two consecutive years or files annual financial statements that show positive equity for two consecutive years. DATCP may release security required because a vegetable contractor uses deferred payment contracts if the contractor stops using deferred payment contracts or satisfies financial requirements for two consecutive years.

This bill requires a vegetable contractor to maintain insurance to cover all vegetables in the custody of the contractor, unless the vegetable contractor pays cash

on delivery for all vegetables or the contractor is a producer-owned cooperative that procures vegetables only from its producer owners.

Recovery proceedings and administration

Under this bill, when contractors who are licensed, or required to be licensed, fail to make payments when due or when grain warehouse keepers fail to return stored grain upon demand, producers or their agents may file default claims with DATCP. DATCP may conduct a recovery proceeding in response to default claims filed against a contractor and may invite others who may have default claims against the same contractor to file claims. After DATCP audits the claims and determines the amount of each claim to allow, DATCP issues a proposed decision. If a contractor or claimant objects to the proposed decision, DATCP must hold a public hearing and then issue a final decision affirming or modifying the proposed decision.

The bill specifies payment amounts for each claim against a contractor that was contributing to the fund when the default occurred. For a claim against a milk contractor or grain dealer, the payment amount is 90% of the first \$20,000 allowed, 85% of the next \$20,000 allowed, 80% of the next \$20,000 allowed, and 75% of any amount allowed in excess of \$60,000. For a claim against a grain warehouse keeper, the payment amount is 100% of the first \$100,000 allowed. For a claim against a vegetable contractor, the payment amount is 90% of the first \$40,000 allowed, 85% of the next \$40,000 allowed, 80% of the next \$40,000 allowed, and 75% of any amount allowed in excess of \$120,000. If a contractor was not a contributing contractor when the default occurred but had posted security with DATCP, DATCP uses the security proceeds to pay the full amount of the allowed claims, except that, as under current law, if the security is not adequate to pay the full amount of the allowed claims, DATCP pays the claimants on a prorated basis. A claimant that does not receive full payment may sue the contractor for the balance of the allowed claim.

The bill requires DATCP to obtain three surety bonds, called industry bonds, one to secure payments of claims against contributing milk contractors, one to secure payments of claims against contributing grain dealers and warehouse keepers, and one to secure payment of claims against contributing vegetable contractors. In addition the bill requires DATCP to obtain a blanket surety bond. The bill requires DATCP to make a demand against the appropriate industry bond if payments of claims against contributing contractors in that industry exceed a threshold specified in the bill. The bill requires DATCP to make a demand against the blanket bond if claims against contributing contractors in an industry exceed the amount available under the industry bond.

The bill authorizes DATCP to demand that a defaulting contractor reimburse DATCP for any claim amounts that were paid from the fund because of the contractor's default. The bill also authorizes a person who issues an industry bond or the blanket bond to require a defaulting contractor to reimburse the amounts that the person paid out because of the contractor's default.

Under this bill, \$2,000,000 is transferred from the agrichemical management fund to the agricultural producer security fund on January 1, 2002, as a start-up loan. The bill requires DATCP to repay the loan, plus interest, and to complete the repayment no later than July 1, 2006.

The bill authorizes DATCP to promulgate rules that modify license fees and fund assessments after consulting with the agricultural producer security council, which is created in this bill. The bill requires DATCP to modify assessments to keep the balance in the fund within a specified range. The bill authorizes DATCP to issue orders to require a contractor to remedy a violation of the producer security laws and authorizes DATCP to deny, suspend, revoke, or impose conditions on a contractor's license for cause.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 **15.137 (1) AGRICULTURAL PRODUCER SECURITY COUNCIL.** (a) There is created in
3 the department of agriculture, trade and consumer protection an agricultural
4 producer security council consisting of the following members appointed by the
5 secretary of agriculture for 3-year terms:

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

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

9 3. One person representing the National Farmers' Organization, Inc.

10 4. One person representing the Wisconsin Agri-Service Association, Inc.

11 5. One person representing the Wisconsin Cheese Makers Association.

12 6. One person representing both the Wisconsin Corn Growers Association, Inc.,
13 and the Wisconsin Soybean Association, Inc.

14 7. One person representing the Wisconsin Dairy Products Association, Inc.

15 8. One person representing the Wisconsin Farm Bureau Federation.

16 9. One person representing the Wisconsin Federation of Cooperatives.

1 10. One person representing the Wisconsin Potato and Vegetable Growers
2 Association, Inc.

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

7 **SECTION 2.** 20.115 (1) (g) of the statutes, as affected by 2001 Wisconsin Act ...
8 (this act), is amended to read:

9 20.115 (1) (g) *Related services.* Except as provided in pars. (gf) and (h), all
10 moneys received from authorized service fees related to food and trade regulation,
11 for the conduct of services related to food and trade regulation, including special and
12 overtime meat inspection services under s. 97.42 (3), and investigative and audit
13 services under ss. 93.06 (6) (b), ~~100.06 (1g) (e)~~ and 100.07 (1), but excluding services
14 financed under pars. (gf) and (h).

 ***NOTE: This is reconciled s. 20.115 (1) (g). This SECTION has been affected by
drafts with the following LRB numbers: -0392 and -0402.

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

16 20.115 (1) (gf) *Fruit and vegetable inspection.* All moneys received for the
17 inspection of fruits and vegetables under ss. 93.06 (1m), and 93.09 (10) and ~~100.03~~
18 ~~(3) (a) 1.~~ to carry out the purposes for which those moneys are received.

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

20 20.115 (1) (gm) *Dairy ~~and vegetable security and trade practices~~ regulation.*
21 The amounts in the schedule for the regulation of ~~vegetable procurement under s.~~
22 ~~100.03, of dairy plant financial condition under s. 100.06 and of dairy trade practices~~

1 under s. 100.201. All moneys received under ~~ss. 100.03 (3) (a) 2. and 3., 100.06 (9)~~
2 ~~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.

3 **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.

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

5 20.115 (1) (q) *Dairy, grain, and vegetable security.* From the agricultural
6 producer security fund, the amounts in the schedule to administer dairy, grain, and
7 vegetable producer security programs under ch. 126.

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

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

9 20.115 (1) (v) *Agricultural producer security; bonds.* From the agricultural
10 producer security fund, a sum sufficient to acquire the surety bonds required under
11 ss. 126.06 and 126.07.

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

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

13 20.115 (1) (w) *Agricultural producer security; payments.* From the agricultural
14 producer security fund, a sum sufficient to make default claim payments authorized
15 under s. 126.72 (1).

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

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

17 20.115 (1) (wb) *Agricultural producer security; bond proceeds.* From the
18 agricultural producer security fund, all moneys received under s. 126.72 (2) and (3)
19 to be used to make default claim payments under s. 126.71 (1).

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

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

2 25.17 (1) (ag) Agricultural producer security fund (s. 25.463);

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

4 **25.463 Agricultural producer security fund.** There is established a
5 separate nonlapsible trust fund designated as the agricultural producer security
6 fund, to consist of all fees, surcharges, assessments, reimbursements, and proceeds
7 of surety bonds received by the department of agriculture, trade and consumer
8 protection under ch. 126.

9 **SECTION 12.** 93.06 (8) of the statutes is amended to read:

10 93.06 (8) PRESCRIBE CONDITIONS OF LICENSES. Except as provided in s. 93.135,
11 issue any permit, certificate, registration or license on a temporary or conditional
12 basis, contingent upon pertinent circumstances or acts. If the temporary or
13 conditional permit, certificate, registration or license is conditioned upon compliance
14 with chs. 93 to 100, ch. ~~127~~ 126, a rule promulgated by the department or a regulation
15 adopted under s. 97.41 (7) within a specified period of time and the condition is not
16 met within the specified period, the permit, certificate, registration or license shall
17 be void.

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

19 93.135 (1) (rm) A ~~registration certificate~~ license under s. ~~100.03 (2)~~ 126.56.

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

21 93.135 (1) (s) A license under s. ~~127.02 (1)~~ 126.26.

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

23 93.135 (1) (sm) A license under s. ~~127.03 (1)~~ 126.11.

1 **SECTION 16.** 93.20 (1) of the statutes is amended to read:

2 **93.20 (1) DEFINITION.** In this section, “action” means an action that is
3 commenced in court by, or on behalf of, the department of agriculture, trade and
4 consumer protection to enforce chs. 88, 91 to 100 or ~~127~~ 126.

5 **SECTION 17.** 93.21 (5) (a) of the statutes is amended to read:

6 **93.21 (5) (a)** In this subsection, “license” means a permit, certificate,
7 registration or license issued by the department under chs. 91 to 100 or ch. ~~127~~ 126.

8 **SECTION 18.** 93.50 (1) (g) of the statutes is amended to read:

9 **93.50 (1) (g)** “Procurement contract” has the meaning given for “vegetable
10 procurement contract” in s. ~~100.03 (1) (vm)~~ 126.55 (15).

11 **SECTION 19.** 97.20 (2) (d) 2. of the statutes is amended to read:

12 **97.20 (2) (d) 2.** The license applicant has filed all financial information required
13 under s. 126.44 and any security required under s. ~~100.06~~ 126.47. If an applicant has
14 not filed all financial information under s. 126.44 and any security required under
15 s. ~~100.06~~ 126.47, the department may issue a conditional dairy plant license under
16 s. 93.06 (8) which prohibits the licensed operator from purchasing milk or fluid milk
17 products from milk producers or their agents, but allows the operator to purchase
18 milk or fluid milk products from other sources.

19 **SECTION 20.** 97.20 (3m) of the statutes is amended to read:

20 **97.20 (3m) CONFIDENTIALITY.** Any information kept by the department under
21 this section or s. 97.24 that identifies individual milk producers who deliver milk to
22 a dairy plant licensed under this section and that is a composite list for that dairy
23 plant is not subject to inspection under s. 19.35 unless inspection is required under
24 s. ~~100.06 (4)~~ 126.70 or unless the department determines that inspection is necessary
25 to protect the public health, safety or welfare.

1 **SECTION 21.** 97.22 (10) of the statutes is amended to read:

2 **97.22 (10) CONFIDENTIALITY.** Any information obtained and kept by the
3 department under this section, under s. 97.24 or 97.52, or under rules promulgated
4 under those sections, that pertains to individual milk producer production, milk fat
5 and other component tests and quality records is not subject to inspection under s.
6 19.35 except as required under s. ~~100.06 (4)~~ 126.70 or except as the department
7 determines is necessary to protect the public health, safety or welfare.

8 **SECTION 22.** 97.29 (4) of the statutes is amended to read:

9 **97.29 (4) FOOD PROCESSING PLANTS BUYING VEGETABLES FROM PRODUCERS.** The
10 department may not issue or renew a license to operate a food processing plant to any
11 applicant who is a vegetable contractor, as defined in s. ~~100.03 (1) (f)~~ 126.55 (14),
12 unless the applicant has filed all financial information required under s. 126.58 and
13 any security that is required under s. ~~100.03~~ 126.61. If an applicant has not filed all
14 financial information required under s. 126.58 and any security that is required
15 under s. ~~100.03~~ 126.61, the department may issue a conditional license under s. 93.06
16 (8) that prohibits the licensed operator from procuring vegetables from a producer
17 or a producer's agent, but allows the operator to procure vegetables from other
18 sources.

19 **SECTION 23.** 100.03 of the statutes is repealed.

20 **SECTION 24.** 100.06 of the statutes is repealed.

21 **SECTION 25.** 100.235 (1) (b) of the statutes is amended to read: .

22 100.235 (1) (b) "Contractor" has the meaning given for "vegetable contractor"
23 under s. ~~100.03 (1) (f)~~ 126.55 (14).

24 **SECTION 26.** 100.235 (1) (em) of the statutes is renumbered 100.235 (1) (dm)
25 and amended to read:

1 100.235 (1) (dm) “Registration License year” has the meaning given under s.
2 ~~100.03 (1) (y)~~ 126.55 (10m).

3 **SECTION 27.** 100.235 (2) of the statutes is amended to read:

4 100.235 (2) CONTRACTOR MAY NOT PAY PRODUCER LESS THAN CONTRACTOR'S COST TO
5 GROW. If a contractor and the contractor's affiliates and subsidiaries collectively grow
6 more than 10% of the acreage of any vegetable species grown and procured by the
7 contractor in any registration license year, the contractor shall pay a producer, for
8 vegetables of that species tendered or delivered under a vegetable procurement
9 contract, a price not less than the contractor's cost to grow that vegetable species in
10 the same growing region. For vegetables contracted on a tonnage basis and for
11 open-market tonnage purchased, acreage under this subsection shall be determined
12 using the state average yield per acre during the preceding registration license year.

13 **SECTION 28.** 100.235 (3) of the statutes is repealed.

14 **SECTION 29.** 100.235 (4) of the statutes is amended to read:

15 100.235 (4) COST TO GROW; REPORT TO DEPARTMENT UPON REQUEST. If the
16 department determines that a contractor and the contractor's affiliates and
17 subsidiaries will collectively grow more than 10% of the acreage of any vegetable
18 species grown and procured by the contractor during a registration license year, the
19 department may require the contractor to file a statement of the contractor's cost to
20 grow that vegetable species. The contractor shall file the report with the department
21 within 30 days after the department makes its request, unless the department
22 grants an extension of time. The department may permit the contractor to report
23 different costs to grow for different growing regions if the contractor can define the
24 growing regions to the department's satisfaction, and can show to the department's

1 satisfaction that the contractor's costs to grow are substantially different between
2 the growing regions.

3 **SECTION 30.** 100.26 (5) of the statutes is amended to read:

4 100.26 (5) Any person violating ~~s. 100.06 or any order or regulation of the~~
5 ~~department thereunder, or s. 100.18 (9)~~, shall be fined not less than \$100 nor more
6 than \$1,000 or imprisoned for not more than 2 years or both. Each day of violation
7 constitutes a separate offense.

8 **SECTION 31.** Chapter 126 of the statutes is created to read:

9 **CHAPTER 126**

10 **AGRICULTURAL PRODUCER SECURITY**

11 **SUBCHAPTER I**

12 **GENERAL**

13 **126.01 General definitions.** In this chapter:

14 (1) "Affiliate" means any of the following persons:

15 (a) An owner, major stockholder, partner, officer, director, member, employee,
16 or agent of a contractor.

17 (b) A person owned, controlled, or operated by a person under par. (a).

18 (2) "Asset" means anything of value owned by a person.

19 (3) "Audited financial statement" means a financial statement on which an
20 independent certified public accountant, or an independent public accountant
21 holding a certificate of authority under ch. 442, has done all of the following:

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

25 1. Generally accepted accounting principles.

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

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

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

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

8 (a) A grain dealer, as defined in s. 126.10 (9).

9 (b) A grain warehouse keeper, as defined in s. 126.25 (9).

10 (c) A milk contractor, as defined in s. 126.40 (8).

11 (d) A vegetable contractor, as defined in s. 126.55 (14).

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

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

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

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

21 (10) "Equity statement" means a report of the change in equity from the
22 beginning to the end of the accounting period covered by the report.

23 (11) "Fund" means the agricultural producer security fund established under
24 s. 25.463.

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

7 (13) “Grain” means corn, wheat, soybeans, oats, barley, rye, buckwheat,
8 sorghum, flax seed, milo, sunflower seed, and mixed grain, as defined in 7 CFR
9 810.801, except that “grain” does not include any of the following:

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

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

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

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

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

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

22 (17) “Milk” has the meaning given in s. 97.22 (1) (e).

23 (18) “Person,” notwithstanding s. 990.01 (26), means an individual,
24 corporation, cooperative, partnership, limited liability company, trust, state agency,

1 as defined in s. 20.001 (1), local governmental unit, as defined in s. 66.0131 (1) (a),
2 or other legal entity.

3 (19) “Producer,” unless otherwise qualified, means a grain producer, as defined
4 in s. 126.10 (10), milk producer, as defined in s. 126.40 (10), or vegetable producer,
5 as defined in s. 126.55 (16).

6 (20) “Reviewed financial statement” means a contractor’s financial statement,
7 other than an audited financial statement, if all of the following apply:

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

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

13 (21) “Security” means security filed or maintained under s. 126.16, 126.31,
14 126.47, or 126.61.

15 (22) “Sole proprietor” means a contractor who is an individual.

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

20 (24) “Vegetable” means any vegetable that is grown or sold for use in food
21 processing, whether or not the vegetable is actually processed as food. “Vegetable”
22 includes green beans, kidney beans, lima beans, romano beans, wax beans, beets,
23 cabbage, carrots, celery, cucumbers, onions, peas, potatoes, spinach, squash, and
24 sweet corn, but does not include grain.

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SUBCHAPTER II

AGRICULTURAL PRODUCER

SECURITY FUND

126.05 Deposits into the fund. The department shall deposit into the fund all fees, surcharges, assessments, reimbursements, and proceeds of surety bonds that the department collects under this chapter. The department shall keep a record by contractor and industry, of all deposits.

126.06 Industry bonds. (1) DEPARTMENT TO ACQUIRE BONDS. Using moneys appropriated under s. 20.115 (1) (v), the department shall acquire and maintain all of the following surety bonds:

(a) A surety bond that takes effect on May 1, 2002, to secure payment under s. 126.72 (2) of claims against contributing milk contractors, as defined in s. 126.40 (1).

(b) A surety bond that takes effect on September 1, 2002, to secure payment under s. 126.72 (2) of claims against contributing grain dealers, as defined in s. 126.10 (3), and contributing grain warehouse keepers, as defined in s. 126.25 (2).

(c) A surety bond that takes effect on February 1, 2002, to secure payment under s. 126.72 (2) of claims against contributing vegetable contractors, as defined in s. 126.55 (4).

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

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

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

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

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

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

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

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

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

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

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

13 **126.07 Blanket bond. (1) DEPARTMENT TO ACQUIRE BOND.** Using moneys
14 appropriated under s. 20.115 (1) (v), the department shall acquire and maintain a
15 surety bond, that takes effect on February 1, 2002, to secure payment under s. 126.72
16 (3) of claims against contributing contractors, as defined in s. 126.68 (1).

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

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

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

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

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

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

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

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

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

11 **126.08 Start-up loan to fund; repayment.** On January 1, 2002, \$2,000,000
12 is transferred as a loan from the agrichemical management fund, to the agricultural
13 producer security fund. The department shall repay this loan principal, plus interest
14 compounded at 5% annually, from the agricultural producer security fund by July 1,
15 2006. The department shall transfer at least \$250,000 from the agricultural
16 producer security fund to the agrichemical management fund on July 1 of each year,
17 beginning on July 1, 2003. The department may accelerate the loan repayment, at
18 its discretion.

19 SUBCHAPTER III

20 GRAIN DEALERS

21 **126.10 Definitions.** In this subchapter:

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

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

25 (a) Currency.

1 (b) A cashier's check or a check that a bank issues and certifies.

2 (c) A wire transfer.

3 (d) Simultaneous barter.

4 (3) "Contributing grain dealer" means a grain dealer who is licensed under s.
5 126.11, who either has paid one or more quarterly installments under s. 126.15 (7)
6 or is required to contribute to the fund, but the first quarterly installment under s.
7 126.15 (7) is not yet due, and who is not disqualified from the fund under s. 126.14
8 (2).

9 (4) "Current ratio" means the ratio of the value of current assets to the value
10 of current liabilities, calculated according to s. 126.13 (6) (c) 1.

11 (5) "Debt to equity ratio" means the ratio of the value of liabilities to equity,
12 calculated according to s. 126.13 (6) (c) 2.

13 (6) "Deferred payment contract" means a contract for the procurement of grain
14 under which a grain dealer takes custody or control of producer grain more than 7
15 days before paying for the grain in full. "Deferred payment contract" includes a
16 deferred price contract.

17 (7) "Deferred price 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 the price of that grain must be determined under the contract.

20 (8) "Disqualified grain dealer" means a grain dealer who is disqualified from
21 the fund under s. 126.14 (2).

22 (9) "Grain dealer" means a person who buys producer grain or who markets
23 producer grain as a producer agent. "Grain dealer" does not include any of the
24 following:

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

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

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

7 **(10m)** “License year” means the period beginning on September 1 and ending
8 on the following August 31.

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

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

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

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

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

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

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

22 **(14)** “Producer grain” means grain that is owned by or held in trust for one or
23 more grain producers. “Producer grain” includes grain that a producer agent
24 markets for a grain producer, without taking title to the grain.

1 **126.11 Grain dealers; licensing.** (1) LICENSE REQUIRED. Except as provided
2 in sub. (2), no grain dealer may procure producer grain in this state without a current
3 annual license from the department.

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

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

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

9 (2m) LICENSE TERMS. A license under this section expires on the August 31
10 following its issuance. No person may transfer or assign a license issued under this
11 section.

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

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

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

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

1 (d) The street address of each business location from which the applicant
2 operates in this state as a grain dealer and the name of a responsible individual who
3 may be contacted at each location that is staffed.

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

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

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

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

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

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

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

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

16 2. A fee of \$200 if the amount under sub. (9) (a) is at least \$50,000 but less than
17 \$500,000.

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

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

21 (d) A license surcharge of \$425 if the grain dealer files a financial statement
22 under s. 126.13 (1) that is not an audited financial statement.

23 (e) A license surcharge of \$500 if the department determines that, within 365
24 days before submitting the license application, the applicant operated as a grain
25 dealer without a license in violation of sub. (1). The applicant shall also pay any

1 license fees, license surcharges, and fund assessments that are still due for any
2 license year in which the applicant violated sub. (1).

3 (f) A license surcharge of \$100 if during the preceding 12 months the applicant
4 failed to file an annual financial statement required under s. 126.13 (1) (b) by the
5 deadline specified in s. 126.13 (1) (c).

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

9 **(4m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (4) (e) 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 **(5) LICENSE FOR PART OF YEAR; FEES.** A person who applies for an annual grain
13 dealer license after the beginning of a license year shall pay the full annual fee
14 amounts required under sub. (4).

15 **(6) FEE CREDITS.** If the balance in the fund contributed by grain dealers exceeds
16 \$2,000,000 on June 30 of any license year, the department shall credit 50% of the
17 excess amount against fees charged under sub. (4) (b) to contributing grain dealers
18 who file timely license renewal applications for the next license year. The
19 department shall credit each contributing grain dealer on a prorated basis, in
20 proportion to the total fees that the grain dealer paid under sub. (4) (b) for the 4
21 preceding license years.

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

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

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

9 (a) The total amount that the applicant paid, during the applicant's last
10 completed fiscal year, for producer grain procured in this state. If the applicant has
11 not yet operated as a grain dealer in this state, the applicant shall estimate the
12 amount that the applicant will pay during the applicant's first complete fiscal year
13 for producer grain procured in this state.

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

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

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

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

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

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

2 **126.12 Grain dealers; insurance. (1) FIRE AND EXTENDED COVERAGE**
3 **INSURANCE.** A grain dealer licensed, or required to be licensed, under s. 126.11 shall
4 maintain fire and extended coverage insurance, issued by an insurance company
5 authorized to do business in this state, that covers all grain in the custody of the grain
6 dealer, whether owned by the grain dealer or held for others, at the full local market
7 value of the grain.

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

11 **(3) INSURANCE COVERAGE; MISREPRESENTATION.** No grain dealer may
12 misrepresent any of the following to the department or to any grain producer or
13 producer agent:

14 (a) That the grain dealer is insured.

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

17 **126.13 Grain dealers; financial statements. (1) REQUIRED ANNUAL**
18 **FINANCIAL STATEMENT.** (a) A grain dealer shall file an annual financial statement with
19 the department, before the department first licenses the grain dealer under s. 126.11,
20 if the grain dealer's license application reports any of the following:

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

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

23 (b) A grain dealer licensed under s. 126.11 shall file an annual financial
24 statement with the department during each license year if the grain dealer's license
25 application for that year reports any of the following:

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

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

5 (c) A grain dealer shall file an annual financial statement under par. (b) by the
6 15th day of the 4th month following the close of the grain dealer's fiscal year, except
7 that the department may extend the filing deadline for up to 30 days if the grain
8 dealer, or the accountant reviewing or auditing the financial statement, files a
9 written extension request at least 10 days before the filing deadline.

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

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

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

21 1. The grain dealer's license application reports more than \$3,000,000 in
22 payments under s. 126.11 (9) (a).

23 2. The grain dealer's last 2 license applications report more than \$2,000,000
24 in payments under s. 126.11 (9) (a).

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

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

8 (4m) INTERIM FINANCIAL STATEMENT. The department may, at any time, require
9 a grain dealer licensed under s. 126.11 to file an interim financial statement with the
10 department. The grain dealer shall provide, with the interim financial statement,
11 the grain dealer's sworn and notarized statement that the financial statement is
12 correct. An interim financial statement need not be a reviewed financial statement
13 or an audited financial statement.

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

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

21 (6) FINANCIAL STATEMENT CONTENTS. (a) Except as provided in par. (b), a grain
22 dealer filing a financial statement under this section shall file a financial statement
23 that consists of a balance sheet, income statement, equity statement, statement of
24 cash flows, notes to those statements, and any other information required by the
25 department. If the grain dealer is a sole proprietor, the grain dealer shall file his or

1 her business and personal financial statements. A grain dealer shall disclose on the
2 grain dealer's financial statement, separately and clearly, the grain dealer's unpaid
3 obligations to grain producers and producer agents.

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

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

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

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

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

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

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

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

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

4 **(10) DEPARTMENT REVIEW.** The department may analyze a financial statement
5 submitted under this section and may reject a financial statement that fails to
6 comply with this section.

7 **126.14 Contributing grain dealers; disqualification. (1) CONTRIBUTION**
8 **REQUIRED.** A grain dealer who is required to be licensed under s. 126.11 (1) shall pay
9 fund assessments under s. 126.15 unless the grain dealer is disqualified under sub.
10 (2). A grain dealer who is voluntarily licensed under s. 126.11 may pay voluntary
11 assessments under s. 126.15, unless the grain dealer is disqualified under sub. (2).

12 **(2) DISQUALIFIED GRAIN DEALER. (a)** A grain dealer who is required to file
13 security under s. 126.16 (1) (a) is disqualified from the fund until the department
14 determines that one of the conditions in s. 126.16 (8) (a) 1. and 2. is satisfied.

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

17 1. The department denies, suspends, or revokes the grain dealer's license.

18 2. The department issues a written notice disqualifying the grain dealer for
19 cause, including failure to pay fund assessments under s. 126.15 when due or failure
20 to file a financial statement under s. 126.13 when due.

21 3. The grain dealer fails to reimburse the department, within 60 days after the
22 department issues a reimbursement demand under s. 126.73 (1), for the full amount
23 that the department pays to claimants under s. 126.72 (1) because of that grain
24 dealer's default.

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

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

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

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

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

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

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

1 rate under sub. (6) multiplied by the payment amount, if any, that the grain dealer
2 reports under s. 126.11 (9) (b) in the grain dealer's license application for that license
3 year.

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

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

- 10 1. Subtract one from the current ratio.
- 11 2. Divide the amount determined under subd. 1. by 3.
- 12 3. Multiply the amount determined under subd. 2. by negative one.
- 13 4. Raise the amount determined under subd. 3. to the 3rd power.
- 14 5. Subtract 0.75 from the current ratio.
- 15 6. Divide 0.65 by the amount determined under subd. 5.
- 16 7. Raise the amount determined under subd. 6. to the 5th power.
- 17 8. Add the amount determined under subd. 4. to the amount determined under
18 subd. 7.
- 19 9. Add 2 to the amount determined under subd. 8.

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

- 24 1. Subtract one from the current ratio.
- 25 2. Divide the amount determined under subd. 1. by 3.

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

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

9 (c) If the grain dealer has filed an annual financial statement under s. 126.13
10 and that financial statement shows a current ratio of less than or equal to 1.0 to 1.0,
11 the grain dealer's current ratio assessment rate equals the current ratio assessment
12 factor in sub. (3) (b) multiplied by 120.81376.

13 (d) Except as provided in par. (e), if the grain dealer has not filed an annual
14 financial statement under s. 126.13, the grain dealer's current ratio assessment rate
15 equals the current ratio assessment factor in sub. (3) (b) multiplied by 5.71235.

16 (e) If the grain dealer has not filed an annual financial statement under s.
17 126.13 and the grain dealer procures grain in this state solely as a producer agent,
18 the grain dealer's current ratio assessment rate is 0.00025, except that, for the grain
19 dealer's 5th or higher consecutive full license year of participation in the fund, the
20 grain dealer's current ratio assessment rate is 0.000175.

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

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

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

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

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

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

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

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

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

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

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

1 grain dealer's 5th or higher consecutive full license year as a contributing grain
2 dealer.

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

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

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

- 12 1. The first installment is due on October 1 of the license year.
- 13 2. The 2nd installment is due on January 1 of the license year.
- 14 3. The 3rd installment is due on April 1 of the license year.
- 15 4. The 4th installment is due on July 1 of the license year.

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

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

23 (d) A contributing grain dealer who fails to pay the full amount of any quarterly
24 installment when due shall pay, in addition to that installment, a late payment
25 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 **126.16 Grain dealers; security. (1) SECURITY REQUIRED.** (a) A grain dealer
11 shall file security with the department, and maintain that security until the
12 department releases it under sub. (8) (a), if all of the following apply when the
13 department first licenses the grain dealer under s. 126.11:

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

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

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

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

1 2. The grain dealer's annual financial statement under s. 126.13 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. 127.85 (2) that prohibits the grain dealer
2 from procuring producer grain or requires the grain dealer to pay cash on delivery
3 for all producer grain.

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

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

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

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

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

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

23 2. The grain dealer files 2 consecutive annual financial statements under s.
24 126.13 showing that the grain dealer meets the applicable equity requirement and
25 debt to equity ratio under 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 **126.17 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. 126.25 (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. 126.18 (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 **126.18 Grain dealers; receipts for grain. (1) REQUIREMENT.** Whenever a
4 grain dealer receives grain from any person, the grain dealer shall immediately give
5 that person a written receipt for the grain that includes all of the following:

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

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

10 (c) A statement identifying the document as a receipt for grain.

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

12 (e) The kind of grain received.

13 (f) The net weight of grain received or, if the grain dealer receives the grain at
14 the grain producer's farm, the approximate net weight of the grain.

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

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

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

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

21 1. The grain dealer pays cash on delivery.

22 2. The grain dealer receives the grain under a deferred payment contract that
23 complies with s. 126.19.

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

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

5 **(2) GRAIN DEALER'S COPIES.** A grain dealer shall keep copies of all receipts issued
6 under sub. (1).

7 **126.19 Grain dealers; deferred payment contracts. (1) CONTRACT IN**
8 **WRITING.** A grain dealer may not procure grain from any grain producer or producer
9 agent under a deferred payment contract before the contract is reduced to writing
10 and signed by the parties. The grain dealer shall provide a copy of the signed contract
11 to the other party.

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

14 (a) A unique contract identification number.

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

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

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