

2003 SENATE BILL 173

May 21, 2003 – Introduced by Senators BROWN, SCHULTZ, LASSA and ROESSLER, cosponsored by Representatives OTT, GRONEMUS, GUNDERSON, PETTIS, LOEFFELHOLZ, MUSSER, FREESE, TOWNSEND and PETROWSKI. Referred to Committee on Agriculture, Financial Institutions and Insurance.

1 **AN ACT** *to repeal* 126.07 and 126.72 (4); *to renumber* 126.31 (1) and 126.47 (1);
2 *to renumber and amend* 126.16 (3), 126.31 (3), 126.47 (3) and 126.61 (3); *to*
3 *amend* 20.115 (1) (v), 20.115 (1) (wb), 25.463, 126.05 (2), 126.08, 126.14 (2) (b)
4 3. and 4., 126.15 (1) (intro.), 126.16 (8) (a) (intro.), 126.16 (8) (b) (intro.), 126.29
5 (2) (a), 126.30 (1) (intro.), 126.31 (8) (a) (intro.), 126.45 (3) (a), 126.45 (3) (c) 3.
6 and 4., 126.46 (1) (intro.), 126.46 (2) (c), 126.46 (2) (e), 126.46 (4) (c), 126.46 (4)
7 (e), 126.47 (7) (a) (intro.), 126.59 (2) (c) 3. and 4., 126.60 (1) (intro.), 126.61 (1)
8 (c) (intro.), 126.61 (7) (a) (intro.), 126.61 (7) (b) (intro.), 126.71 (1) (d), 126.71 (1)
9 (e), 126.72 (1), 126.73, 126.86 (1) (f) and (g) and 126.90; *to repeal and recreate*
10 126.06 and 126.72 (2) and (3); and *to create* 20.115 (1) (wc), 126.15 (6m), 126.16
11 (1) (c), 126.16 (3) (b), 126.16 (8) (bm), 126.30 (5m), 126.31 (1) (b), 126.31 (3) (b),
12 126.31 (8) (am), 126.46 (5m), 126.47 (1) (b), 126.47 (3) (b), 126.47 (7) (am),
13 126.60 (5m), 126.61 (1) (bm), 126.61 (3) (b) and 126.61 (7) (bm) of the statutes;

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1 **relating to:** the agricultural producer security program, granting
2 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill makes changes in the agricultural producer security program that is administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). The program is designed to reimburse milk, grain, and vegetable producers for a portion of the losses they incur when milk contractors, grain dealers, grain warehouse keepers, and vegetable contractors (collectively referred to as contractors) default on their financial obligations. 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 for the storage of grain that belongs to others. A vegetable contractor is a person who buys vegetables from vegetable producers for use in food processing or who markets vegetables for use in food processing on behalf of producers.

Contingent financial backing

Current law requires certain contractors to contribute to the agricultural producer security fund. Some contractors are disqualified from the fund because of their financial conditions. If a contributing contractor defaults on its financial obligations to producers, DATCP makes payments from the fund, up to a maximum deductible amount per default. The deductible varies by industry. The law requires DATCP to buy surety bonds to provide contingent financial backing, that is, to make payments to producers when the total amount of payments that are authorized to be made to producers because of a default exceeds the deductible. The law requires DATCP to buy three bonds, in the amount of \$5,000,000 to \$20,000,000 each, one for the benefit of milk producers, one for the benefit of grain producers, and one for the benefit of vegetable producers. DATCP is also required to buy a bond in the amount of \$20,000,000 to \$40,000,000 to be used if one of the industry-specific bonds is not large enough to make authorized payments in case of a large default.

This bill authorizes DATCP to acquire a contract to provide a cash loan to the fund whenever DATCP requests a loan rather than, or in addition to, a surety bond in order to provide contingent financial backing for the agricultural producer security fund. If DATCP obtains a loan, it would repay the principal and interest from the payments made to the fund by contractors. The bill changes the requirements about the amount of contingent financial backing that DATCP must obtain. Under the bill, DATCP is to acquire the amount of contingent financial backing that it determines is sufficient to meet reasonably foreseeable needs for payments to producers, except that DATCP may acquire a smaller amount if necessary to avoid excessive acquisition costs or repayment liabilities and except that DATCP may not acquire contingent financial backing in an amount that exceeds \$17,000,000 unless DATCP establishes a different maximum amount by rule.

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The bill also changes the deductible amounts (the amounts that are paid to producers from the agricultural producer security fund, above which payments are made from the contingent financial backing). The current deductibles range from \$500,000 to \$1,500,000. Under the bill, the deductible is 60% of the balance in the fund on the last day of the month before the month in which the default necessitating the payments occurs.

Security filed by contractors

Under current law, contractors who are disqualified from the agricultural producer security program because of their financial conditions are required to file security with DATCP to provide payment to producers in case the contractors default on their financial obligations to producers. The security may be in a form such as a surety bond or a certificate of deposit. Some grain dealers and vegetable contractors who contribute to the fund and who use deferred payment contracts are also required to file security.

This bill requires some additional contractors who contribute to the fund to file security with DATCP to provide an additional source of payment in case the contractors default. A contractor must file security if it does not satisfy financial criteria specified in the bill and it does more than a specified amount of business. The larger the contractor, the more security it must file. The financial criteria vary according to industry. The amount of the contribution to the fund that must be paid by a contractor who is required to file security under this bill is reduced by an amount that varies according to the amount of security that must be filed. The higher the amount of security, the more the contribution is reduced.

Repayment of start-up loan to fund

The legislation creating the agricultural producer security program transferred \$2,000,000 from the agrichemical management fund to the agricultural producer security fund. Under current law, DATCP must repay that amount, plus interest compounded at 5% annually, from the agricultural producer security fund by July 1, 2006. This bill changes the interest rate to 2%, beginning on July 1, 2003.

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.** 20.115 (1) (v) of the statutes is amended to read:
- 2 20.115 **(1)** (v) *Agricultural producer security; ~~bonds~~ contingent financial*
- 3 *backing*. From the agricultural producer security fund, a sum sufficient to acquire
- 4 the surety ~~bonds~~ contingent financial backing required under ss. s. 126.06 and
- 5 126.07.

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

2 20.115 (1) (wb) *Agricultural producer security; ~~bond~~ proceeds of contingent*
3 *financial backing*. From the agricultural producer security fund, all moneys received
4 under s. 126.72 (2) ~~and (3)~~ to be used to make default claim payments under s. 126.71
5 (1).

6 **SECTION 3.** 20.115 (1) (wc) of the statutes is created to read:

7 20.115 (1) (wc) *Agricultural producer security; repayment of contingent*
8 *financial backing*. From the agricultural producer security fund, a sum sufficient to
9 make payments under s. 126.06 (3).

10 **SECTION 4.** 25.463 of the statutes is amended to read:

11 **25.463 Agricultural producer security fund.** There is established a
12 separate nonlapsible trust fund designated as the agricultural producer security
13 fund, to consist of all fees, surcharges, assessments, reimbursements, and proceeds
14 of ~~surety bonds~~ contingent financial backing received by the department of
15 agriculture, trade and consumer protection under ch. 126.

16 **SECTION 5.** 126.05 (2) of the statutes is amended to read:

17 126.05 (2) The department shall deposit into the fund all fees, surcharges,
18 assessments, reimbursements, and proceeds of ~~surety bonds~~ contingent financial
19 backing that the department collects under this chapter. The department shall keep
20 a record by contractor and industry, of all deposits.

21 **SECTION 6.** 126.06 of the statutes is repealed and recreated to read:

22 **126.06 Contingent financial backing. (1) DEPARTMENT TO ACQUIRE.** Using
23 moneys appropriated under s. 20.115 (1) (v), the department shall acquire contingent
24 financial backing to secure payment under s. 126.72 (2) of claims against

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1 contributing contractors, as defined in s. 126.68 (1). The contingent financial
2 backing may be in one or more of the following forms:

3 (a) A surety bond.

4 (b) A contract to provide a cash loan to the fund whenever the department
5 requests a loan.

6 **(2) AMOUNT.** The department shall acquire contingent financial backing under
7 sub. (1) in the amount that, in the department's judgment, is sufficient to meet
8 reasonably foreseeable needs under s. 126.72 (2), except as follows:

9 (a) The department may acquire a smaller amount of contingent financial
10 backing if, in the department's judgment, that is necessary to avoid excessive
11 acquisition costs or repayment liabilities.

12 (b) The department may not acquire contingent financial backing in an amount
13 that exceeds \$17,000,000, unless the department establishes a different maximum
14 amount by rule.

15 **(3) REPAYMENT.** The department shall pay principal and interest costs of any
16 loan provided under sub. (1) (b) from the appropriation under s. 20.115 (1) (wc).

17 **SECTION 7.** 126.07 of the statutes is repealed.

18 **SECTION 8.** 126.08 of the statutes is amended to read:

19 **126.08 Start-up loan to fund; repayment.** On January 1, 2002, \$2,000,000
20 is transferred as a loan from the agrichemical management fund, to the agricultural
21 producer security fund. The department shall repay this loan principal, plus interest
22 ~~compounded at 5% annually,~~ from the agricultural producer security fund by July 1,
23 2006. Interest shall be compounded at 5% annually before July 1, 2003, and at 2%
24 annually beginning on July 1, 2003. The department shall transfer at least \$250,000
25 from the agricultural producer security fund to the agrichemical management fund

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1 on July 1 of each year, beginning on July 1, 2003. The department may accelerate
2 the loan repayment, at its discretion.

3 **SECTION 9.** 126.14 (2) (b) 3. and 4. of the statutes are amended to read:

4 126.14 (2) (b) 3. The grain dealer fails to reimburse the department, within 60
5 days after the department issues a reimbursement demand under s. 126.73 (1), for
6 the full amount that the department pays to claimants under s. 126.72 (1) or under
7 s. 126.72 (2) with the proceeds of a loan under s. 126.06 (1) (b) because of that grain
8 dealer's default.

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

13 **SECTION 10.** 126.15 (1) (intro.) of the statutes is amended to read:

14 126.15 (1) GENERAL. (intro.) A contributing grain dealer shall pay an annual
15 fund assessment for each license year. The Except as provided in sub. (6m), the
16 assessment equals \$20 or the sum of the following, whichever is greater, unless the
17 department by rule specifies a different assessment:

18 **SECTION 11.** 126.15 (6m) of the statutes is created to read:

19 126.15 (6m) REDUCED ASSESSMENT FOR CERTAIN GRAIN DEALERS FILING SECURITY.

20 If a grain dealer files security under s. 126.16 (1) (c), the grain dealer's assessment
21 is the amount determined under sub. (1) reduced by an amount determined as
22 follows:

23 (a) Divide the amount of security that the grain dealer is required to file as
24 determined under s. 126.16 (3) (b) by the amount of the grain dealer's estimated
25 default exposure, as defined in s. 126.16 (1) (c) 1.

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1 (b) Multiply the amount of the assessment determined under sub. (1) by the
2 amount determined under par. (a).

3 **SECTION 12.** 126.16 (1) (c) of the statutes is created to read:

4 126.16 (1) (c) 1. In this paragraph, “estimated default exposure” means the sum
5 of the following:

6 a. Thirty-five percent of the grain dealer’s average monthly payment for the
7 3 months, during the preceding 12 months, in which the grain dealer made the
8 largest monthly payments for producer grain procured in this state.

9 b. The grain dealer’s highest total, at any time during the preceding 12 months,
10 of unpaid obligations for producer grain procured in this state under deferred
11 payment contracts.

12 2. A grain dealer shall file security with the department, and maintain that
13 security until the department releases it under sub. (8) (bm), if the grain dealer files
14 an annual financial statement under s. 126.13 (1) that shows negative equity, a
15 current ratio of less than 1.25 to 1.0, or a debt to equity ratio of more than 4.0 to 1.0
16 and the grain dealer’s estimated default exposure is greater than the following
17 amount:

18 a. For the license year beginning on September 1, 2003, \$18,000,000.

19 b. For the license year beginning on September 1, 2004, \$19,000,000.

20 c. For a license year that begins on September 1, 2005, or later, \$20,000,000.

21 **SECTION 13.** 126.16 (3) of the statutes is renumbered 126.16 (3) (a), and 126.16
22 (3) (a) (intro.) and 1., as renumbered, are amended to read:

23 126.16 (3) (a) (intro.) ~~A~~ Except as provided in par. (b), a grain dealer who is
24 required to file or maintain security under this section shall at all times maintain
25 security that is at least equal to the sum of the following:

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1 1. ~~An amount equal to 35%~~ Thirty-five percent of the grain dealer's average
2 monthly payment for the 3 months, during the preceding 12 months, in which the
3 grain dealer made the largest monthly payments for producer grain procured in this
4 state, except that this amount is not required of a contributing grain dealer after
5 ~~December 1, 2002.~~

6 **SECTION 14.** 126.16 (3) (b) of the statutes is created to read:

7 126.16 (3) (b) A grain dealer who is only required to file or maintain security
8 under sub. (1) (c) shall at all times maintain security equal to the grain dealer's
9 estimated default exposure, as defined in sub. (1) (c) 1., less the following amount:

- 10 1. For the license year beginning on September 1, 2003, \$18,000,000.
- 11 2. For the license year beginning on September 1, 2004, \$19,000,000.
- 12 3. For a license year that begins on September 1, 2005, or later, \$20,000,000.

13 **SECTION 15.** 126.16 (8) (a) (intro.) of the statutes is amended to read:

14 126.16 (8) (a) (intro.) The department may release security filed under sub. (1)
15 (a), except for any amount of security that the grain dealer is required to file because
16 sub. (1) (b) or (c) applies to the grain dealer, if any of the following applies:

17 **SECTION 16.** 126.16 (8) (b) (intro.) of the statutes is amended to read:

18 126.16 (8) (b) (intro.) The department may release security filed under sub. (1)
19 (b), except for any amount of security that the grain dealer is required to file because
20 sub. (1) (a) or (c) applies to the grain dealer, if any of the following applies:

21 **SECTION 17.** 126.16 (8) (bm) of the statutes is created to read:

22 126.16 (8) (bm) The department may release security filed under sub. (1) (c),
23 except for any amount of security that the grain dealer is required to file because sub.
24 (1) (a) or (b) applies to the grain dealer, if the grain dealer files 2 consecutive annual
25 financial statements under s. 126.13 showing that the grain dealer no longer has

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1 negative equity, a current ratio of less than 1.25 to 1.0, or a debt to equity ratio of more
2 than 4.0 to 1.0.

3 **SECTION 18.** 126.29 (2) (a) of the statutes is amended to read:

4 126.29 (2) (a) A grain warehouse keeper who is required to file security under
5 s. 126.31 (1) (a) is disqualified from the fund until the department releases that
6 security under s. 126.31 (8) (a).

7 **SECTION 19.** 126.30 (1) (intro.) of the statutes is amended to read:

8 126.30 (1) GENERAL. (intro.) A contributing grain warehouse keeper shall pay
9 an annual fund assessment for each license year. The Except as provided in sub.
10 (5m), the assessment equals \$20 or the sum of the following, whichever is greater,
11 unless the department by rule specifies a different assessment:

12 **SECTION 20.** 126.30 (5m) of the statutes is created to read:

13 126.30 (5m) REDUCED ASSESSMENT FOR CERTAIN GRAIN WAREHOUSE KEEPERS FILING
14 SECURITY. If a grain warehouse keeper files security under s. 126.31 (1) (b), the grain
15 warehouse keeper's assessment is the amount determined under sub. (1) reduced by
16 an amount determined as follows:

17 (a) Divide the amount of security that the grain warehouse keeper is required
18 to file as determined under s. 126.31 (3) (b) by the amount of the grain warehouse
19 keeper's estimated default exposure, as defined in s. 126.31 (1) (b) 1.

20 (b) Multiply the amount of the assessment determined under sub. (1) by the
21 amount determined under par. (a).

22 **SECTION 21.** 126.31 (1) of the statutes is renumbered 126.31 (1) (a).

23 **SECTION 22.** 126.31 (1) (b) of the statutes is created to read:

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1 126.31 (1) (b) 1. In this paragraph, “estimated default exposure” means 20%
2 of the current local market value of grain that the grain warehouse keeper holds in
3 this state for others.

4 2. A grain warehouse keeper shall file security with the department, and
5 maintain that security until the department releases it under sub. (8) (am), if the
6 grain warehouse keeper files an annual financial statement under s. 126.28 (1) that
7 shows negative equity, a current ratio of less than 1.25 to 1.0, or a debt to equity ratio
8 of more than 4.0 to 1.0 and the grain warehouse keeper’s estimated default exposure
9 is greater than the following amount:

10 a. For the license year beginning on September 1, 2003, \$18,000,000.

11 b. For the license year beginning on September 1, 2004, \$19,000,000.

12 c. For a license year that begins on September 1, 2005, or later, \$20,000,000.

13 **SECTION 23.** 126.31 (3) of the statutes is renumbered 126.31 (3) (a) and
14 amended to read:

15 126.31 (3) (a) ~~A~~ Except as provided in par. (b), a grain warehouse keeper who
16 is required to file or maintain security under this section shall at all times maintain
17 security equal to at least 20% of the current local market value of grain that the grain
18 warehouse keeper holds in this state for others.

19 **SECTION 24.** 126.31 (3) (b) of the statutes is created to read:

20 126.31 (3) (b) A grain warehouse keeper who is only required to file or maintain
21 security under sub. (1) (b) shall at all times maintain security equal to the grain
22 warehouse keeper’s estimated default exposure, as defined in sub. (1) (b) 1., less the
23 following amount:

24 a. For the license year beginning on September 1, 2003, \$18,000,000.

25 b. For the license year beginning on September 1, 2004, \$19,000,000.

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1 c. For a license year that begins on September 1, 2005, or later, \$20,000,000.

2 **SECTION 25.** 126.31 (8) (a) (intro.) of the statutes is amended to read:

3 126.31 **(8)** (a) (intro.) The department may release security filed under sub. (1)
4 (a) if any of the following applies:

5 **SECTION 26.** 126.31 (8) (am) of the statutes is created to read:

6 126.31 **(8)** (am) The department may release security filed under sub. (1) (b),
7 except for any amount of security that the grain warehouse keeper is required to file
8 because sub. (1) (a) applies to the grain warehouse keeper, if the grain warehouse
9 keeper files 2 consecutive annual financial statements under s. 126.28 showing that
10 the grain warehouse keeper no longer has negative equity, a current ratio of less than
11 1.25 to 1.0, or a debt to equity ratio of more than 4.0 to 1.0.

12 **SECTION 27.** 126.45 (3) (a) of the statutes is amended to read:

13 126.45 **(3)** (a) A milk contractor who is required to file security under s. 126.47
14 (1) (a) is disqualified from the fund until the department releases that security under
15 s. 126.47 (7) (a). This paragraph does not apply, during the period beginning on May
16 1, 2002, and ending on April 30, 2007, to a qualified producer agent who files security
17 under s. 126.47 (3) (e) (a) 3.

18 **SECTION 28.** 126.45 (3) (c) 3. and 4. of the statutes are amended to read:

19 126.45 **(3)** (c) 3. Failure to reimburse the department, within 60 days after the
20 department issues a reimbursement demand under s. 126.73 (1), for the full amount
21 that the department pays to claimants under s. 126.72 (1) or under s. 126.72 (2) with
22 the proceeds of a loan under s. 126.06 (1) (b) because of that milk contractor's default.

23 4. Failure to reimburse a bond surety, within 60 days after the bond surety
24 issues a reimbursement demand under s. 126.73 (2), for the full amount that the

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

3 **SECTION 29.** 126.46 (1) (intro.) of the statutes is amended to read:

4 126.46 (1) GENERAL. (intro.) A contributing milk contractor shall pay an
5 annual fund assessment for each license year. The Except as provided in sub. (5m),
6 the assessment equals \$20 or the sum of the following, whichever is greater, unless
7 the department by rule specifies a different assessment:

8 **SECTION 30.** 126.46 (2) (c) of the statutes is amended to read:

9 126.46 (2) (c) If Except as provided in par. (e), if the milk contractor has filed
10 an annual financial statement under s. 126.44 and that financial statement shows
11 a current ratio of less than or equal to 1.05 to 1.0, the milk contractor's current ratio
12 assessment rate equals the current ratio assessment factor in sub. (3) (b) multiplied
13 by 0.1201478.

14 **SECTION 31.** 126.46 (2) (e) of the statutes is amended to read:

15 126.46 (2) (e) ~~If the milk contractor has not filed an annual financial statement~~
16 ~~under s. 126.44 and the milk contractor procures producer milk in this state solely~~
17 ~~as a producer agent and the milk contractor has not filed an annual financial~~
18 ~~statement under s. 126.44 or has filed an annual financial statement that shows a~~
19 current ratio of less than or equal to 1.05 to 1.0, the milk contractor's current ratio
20 assessment rate is 0.00025, except that, for the milk contractor's 5th or higher
21 consecutive full license year of participation in the fund, the milk contractor's
22 current ratio assessment rate is 0.000175.

23 **SECTION 32.** 126.46 (4) (c) of the statutes is amended to read:

24 126.46 (4) (c) If Except as provided in par. (e), if the milk contractor has filed
25 an annual financial statement under s. 126.44 and that financial statement shows

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1 negative equity or a debt to equity ratio of at least 3.1 to 1.0, the milk contractor's
2 debt to equity ratio assessment rate equals the debt to equity ratio assessment factor
3 in sub. (5) (b) multiplied by 0.8146917.

4 **SECTION 33.** 126.46 (4) (e) of the statutes is amended to read:

5 126.46 (4) (e) If the milk contractor ~~has not filed an annual financial statement~~
6 ~~under s. 126.44 and the milk contractor~~ procures producer milk in this state solely
7 as a producer agent and the milk contractor has not filed an annual financial
8 statement under s. 126.44 or has filed an annual financial statement that shows
9 negative equity or a debt to equity ratio of at least 3.1 to 1.0, the milk contractor's
10 debt to equity ratio assessment rate is 0.00025, except that, for the milk contractor's
11 5th or higher consecutive full license year of participation in the fund, the milk
12 contractor's debt to equity ratio assessment rate is 0.000175.

13 **SECTION 34.** 126.46 (5m) of the statutes is created to read:

14 126.46 (5m) REDUCED ASSESSMENT FOR CERTAIN MILK CONTRACTORS FILING
15 SECURITY. If a milk contractor files security under s. 126.47 (1) (b), the milk
16 contractor's assessment is the amount determined under sub. (1) reduced by an
17 amount determined as follows:

18 (a) Divide the amount of security that the milk contractor is required to file as
19 determined under s. 126.47 (3) (b) by the amount of the milk contractor's estimated
20 default exposure, as defined in s. 126.47 (1) (b) 1.

21 (b) Multiply the amount of the assessment determined under sub. (1) by the
22 amount determined under par. (a).

23 **SECTION 35.** 126.47 (1) of the statutes is renumbered 126.47 (1) (a).

24 **SECTION 36.** 126.47 (1) (b) of the statutes is created to read:

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1 126.47 (1) (b) 1. In this paragraph, “estimated default exposure” means 75%
2 of the amount last reported under s. 126.41 (6) (b) or (9).

3 2. A milk contractor shall file security with the department, and maintain that
4 security until the department releases it under sub. (7) (am), if the milk contractor
5 files an annual financial statement under s. 126.44 (1) that shows negative equity,
6 a current ratio of less than 1.25 to 1.0, or a debt to equity ratio of more than 2.0 to
7 1.0 and the milk contractor’s estimated default exposure is greater than the
8 following amount:

9 a. For the license year beginning on May 1, 2003, \$18,000,000.

10 b. For the license year beginning on May 1, 2004, \$19,000,000.

11 c. For a license year that begins on May 1, 2005, or later, \$20,000,000.

12 **SECTION 37.** 126.47 (3) of the statutes is renumbered 126.47 (3) (a), and 126.47
13 (3) (a) (intro.), 1. and 2. (intro.), as renumbered, are amended to read:

14 126.47 (3) (a) (intro.) ~~A~~ Except as provided in par. (b), a milk contractor who
15 is required to file or maintain security under this section shall at all times maintain
16 the following amount of security:

17 1. Except as provided in ~~par. (b) or (c)~~ subd. 2. or 3., security equal to at least
18 75% of the amount last reported under s. 126.41 (6) (b) or (9).

19 2. (intro.) Except as provided in ~~par. (c)~~ subd. 3., for a milk contractor who
20 procures milk in this state solely as a qualified producer agent, security equal to at
21 least the following amounts:

22 **SECTION 38.** 126.47 (3) (b) of the statutes is created to read:

23 126.47 (3) (b) A milk contractor who is only required to file or maintain security
24 under sub. (1) (b) shall at all times maintain security equal to the milk contractor’s
25 estimated default exposure, as defined in sub. (1) (b) 1., less the following amount:

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- 1 a. For the license year beginning on May 1, 2003, \$18,000,000.
- 2 b. For the license year beginning on May 1, 2004, \$19,000,000.
- 3 c. For a license year that begins on May 1, 2005, or later, \$20,000,000.

4 **SECTION 39.** 126.47 (7) (a) (intro.) of the statutes is amended to read:

5 126.47 (7) (a) (intro.) The department may release security filed under sub. (1)

6 (a) if any of the following applies:

7 **SECTION 40.** 126.47 (7) (am) of the statutes is created to read:

8 126.47 (7) (am) The department may release security filed under sub. (1) (b),

9 except for any amount of security that the milk contractor is required to file because

10 sub. (1) (a) applies to the milk contractor, if the milk contractor files 2 consecutive

11 annual financial statements under s. 126.44 showing that the milk contractor no

12 longer has negative equity, a current ratio of less than 1.25 to 1.0, or a debt to equity

13 ratio of more than 2.0 to 1.0.

14 **SECTION 41.** 126.59 (2) (c) 3. and 4. of the statutes are amended to read:

15 126.59 (2) (c) 3. Failure to reimburse the department, within 60 days after the

16 department issues a reimbursement demand under s. 126.73 (1), for the full amount

17 that the department pays to claimants under s. 126.72 (1) or under s. 126.72 (2) with

18 the proceeds of a loan under s. 126.06 (1) (b) because of that vegetable contractor's

19 default.

20 4. Failure to reimburse a bond surety, within 60 days after the bond surety

21 issues a reimbursement demand under s. 126.73 (2), for the full amount that the

22 surety pays to the department under s. 126.72 (2) ~~or (3)~~ for the benefit of claimants

23 affected by that vegetable contractor's default.

24 **SECTION 42.** 126.60 (1) (intro.) of the statutes is amended to read:

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1 126.60 (1) GENERAL. (intro.) A contributing vegetable contractor shall pay an
2 annual fund assessment for each license year. The Except as provided in sub. (5m),
3 the assessment equals \$20 or the sum of the following, whichever is greater, unless
4 the department by rule specifies a different assessment:

5 **SECTION 43.** 126.60 (5m) of the statutes is created to read:

6 **126.60 (5m) REDUCED ASSESSMENT FOR CERTAIN VEGETABLE CONTRACTORS FILING**
7 **SECURITY.** If a vegetable contractor files security under s. 126.61 (1) (bm), the
8 vegetable contractor's assessment is the amount determined under sub. (1) reduced
9 by an amount determined as follows:

10 (a) Divide the amount of security that the vegetable contractor is required to
11 file as determined under s. 126.61 (3) (b) by the amount of the vegetable contractor's
12 estimated default exposure, as defined in s. 126.61 (1) (bm) 1.

13 (b) Multiply the amount of the assessment determined under sub. (1) by the
14 amount determined under par. (a).

15 **SECTION 44.** 126.61 (1) (bm) of the statutes is created to read:

16 **126.61 (1) (bm) 1.** In this paragraph, "estimated default exposure" means the
17 sum of the following:

18 a. Seventy-five percent of the amount last reported under s. 126.56 (9) (b) or
19 (12) (a).

20 b. The full amount of the unpaid deferred contract obligations last reported
21 under s. 126.56 (9) (e) or (12) (b).

22 2. Except as provided in par. (c), a vegetable contractor shall file security with
23 the department, and maintain that security until the department releases it under
24 sub. (7) (bm), if the vegetable contractor files an annual financial statement under
25 s. 126.58 (1) that shows negative equity, a current ratio of less than 1.25 to 1.0, or a

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1 debt to equity ratio of more than 4.0 to 1.0 and the vegetable contractor's estimated
2 default exposure is greater than the following amount:

- 3 a. For the license year beginning on February 1, 2003, \$18,000,000.
- 4 b. For the license year beginning on February 1, 2004, \$19,000,000.
- 5 c. For a license year that begins on February 1, 2005, or later, \$20,000,000.

6 **SECTION 45.** 126.61 (1) (c) (intro.) of the statutes is amended to read:

7 126.61 (1) (c) (intro.) A vegetable contractor is not required to file security
8 under ~~par. (a) or (b)~~ this subsection if any of the following applies:

9 **SECTION 46.** 126.61 (3) of the statutes is renumbered 126.61 (3) (a), and 126.61
10 (3) (a) (intro.) and 1., as renumbered, are amended to read:

11 126.61 (3) (a) (intro.) ~~A~~ Except as provided in par. (b), a vegetable contractor
12 who is required to file or maintain security under this section shall, at all times,
13 maintain security that is at least equal to the sum of the following:

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

17 **SECTION 47.** 126.61 (3) (b) of the statutes is created to read:

18 126.61 (3) (b) A vegetable contractor who is only required to file or maintain
19 security under sub. (1) (bm) shall at all times maintain security equal to the
20 vegetable contractor's estimated default exposure, as defined in sub. (1) (bm) 1., less
21 the following amount:

- 22 1. For the license year beginning on February 1, 2003, \$18,000,000.
- 23 2. For the license year beginning on February 1, 2004, \$19,000,000.
- 24 3. For a license year that begins on February 1, 2005, or later, \$20,000,000.

25 **SECTION 48.** 126.61 (7) (a) (intro.) of the statutes is amended to read:

SENATE BILL 173**SECTION 48**

1 126.61 (7) (a) (intro.) The department may release security filed under sub. (1)
2 (a), except for any amount of security that the vegetable contractor is required to file
3 because sub. (1) (b) or (bm) applies to the vegetable contractor, if any of the following
4 applies:

5 **SECTION 49.** 126.61 (7) (b) (intro.) of the statutes is amended to read:

6 126.61 (7) (b) (intro.) The department may release security filed under sub. (1)
7 (b), except for any amount of security that the vegetable contractor is required to file
8 because sub. (1) (a) or (bm) applies to the vegetable contractor, if any of the following
9 applies:

10 **SECTION 50.** 126.61 (7) (bm) of the statutes is created to read:

11 126.61 (7) (bm) The department may release security filed under sub. (1) (bm),
12 except for any amount of security that the vegetable contractor is required to file
13 because sub. (1) (a) or (b) applies to the vegetable contractor, if the vegetable
14 contractor files 2 consecutive annual financial statements under s. 126.58 showing
15 that the vegetable contractor no longer has negative equity, a current ratio of less
16 than 1.25 to 1.0, or a debt to equity ratio of more than 4.0 to 1.0.

17 **SECTION 51.** 126.71 (1) (d) of the statutes is amended to read:

18 126.71 (1) (d) For each default claim allowed under s. 126.70 against a qualified
19 producer agent who, at the time of the default, was a contributing contractor and
20 maintained security under s. 126.47 (3) (c) (a) 3., if the default occurs after April 30,
21 2002, and before May 1, 2004, 15% of the amount allowed.

22 **SECTION 52.** 126.71 (1) (e) of the statutes is amended to read:

23 126.71 (1) (e) For each default claim allowed under s. 126.70 against a qualified
24 producer agent who, at the time of the default, was a contributing contractor and

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1 maintained security under s. 126.47 (3) ~~(e)~~ (a) 3., if the default occurs after April 30,
2 2004, and before May 1, 2007, 20% of the amount allowed.

3 **SECTION 53.** 126.72 (1) of the statutes is amended to read:

4 126.72 **(1)** PRODUCER SECURITY FUND. From the appropriation under s. 20.115
5 (1) (w), the department shall make payments authorized under s. 126.71 (1), up to
6 the deductible amount in sub. ~~(4)~~ (3).

7 **SECTION 54.** 126.72 (2) and (3) of the statutes are repealed and recreated to
8 read:

9 126.72 **(2)** PROCEEDS OF CONTINGENT FINANCIAL BACKING. The department shall
10 draw on the contingent financial backing acquired under s. 126.06 to make payments
11 authorized under s. 126.71 (1), to the extent that those payments exceed the
12 deductible amount in sub. (3).

13 **(3)** DEDUCTIBLE AMOUNT. The deductible amount, for purposes of subs. (1) and
14 (2), is 60% of the cash balance in the agricultural producer security fund on the last
15 day of the month preceding the month in which the default occurs.

16 **SECTION 55.** 126.72 (4) of the statutes is repealed.

17 **SECTION 56.** 126.73 of the statutes is amended to read:

18 **126.73 Reimbursing payments.** **(1)** PAYMENTS FROM THE FUND. The
19 department may demand and collect, from a contractor, any claim amounts that the
20 department pays under s. 126.72 (1) or under s. 126.72 (2) with the proceeds of a loan
21 under s. 126.06 (1) (b) because of the contractor's default.

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

