

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5434

(As passed the House, January 30, 2002)

A bill to amend 1939 PA 141, entitled "Grain dealers act," by amending the title and sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, and 22 (MCL 285.62, 285.63, 285.64, 285.65, 285.66, 285.67, 285.68, 285.69, 285.70, 285.71, 285.72, 285.73, 285.74, 285.75, 285.76, 285.78, 285.79, 285.80, 285.81, and 285.82), the title as amended by 1984 PA 169, sections 2, 3, 5, 6, and 18 as amended and section 21 as added by 1996 PA 311, and section 7 as amended by 1982 PA 33, and by adding sections 17, 23, 24, 25, 26, 27, and 28; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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2

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TITLE

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An act ~~to permit the director of the department of agricul-~~
~~ture of this state~~ to regulate the storage, warehousing, buying,
and selling of farm produce within this state; to provide for the
licensing, regulation, and bonding of grain dealers; to provide
for warehouse receipts, ACKNOWLEDGMENT FORMS, and price later
agreements and their USE AND priority; to provide for the cre-
ation of security interests; to provide for ~~the establishment of~~
~~an inspection service and personnel for licensed grain dealers~~
CERTAIN POWERS AND DUTIES OF THE DEPARTMENT OF AGRICULTURE AND
ITS DIRECTOR; TO IMPOSE CERTAIN DUTIES ON INSURANCE COMPANIES AND
SURETIES; and to provide ADMINISTRATIVE REMEDIES AND penalties
for the violation of this act.

Sec. 2. As used in this act:

~~(a) "Farm produce" means individually and collectively, dry~~
~~edible beans, soy beans, small grains, cereal grains, corn, grass~~
~~seeds, hay, and legume seeds in a raw or natural state, produced~~
~~or grown for storage or purchase by a person.~~

~~(b) "Person" means a person, partnership, firm, corporation,~~
~~association, cooperative organization, or other legal entity~~
~~operating within this state that buys, exchanges, or sells farm~~
~~produce grown, stored, handled, or shipped either into or out of~~
~~this state.~~

~~(c) "Grain dealer" means a person engaged in the business of~~
~~receiving, buying, exchanging, selling, or storing farm produce.~~
~~Grain dealer does not include the following:~~

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1 ~~(i) A grower or producer selling farm produce that the~~
2 ~~grower or producer actually produces.~~

3 ~~(ii) A person who buys farm produce pursuant to a cash sale~~
4 ~~as a feeder of the person's own livestock or poultry.~~

5 ~~(iii) A retailer who sells farm produce if the sales are an~~
6 ~~incidental portion of the retailer's business.~~

7 ~~(iv) Grain hauler.~~

8 ~~(v) A person who does all of the following:~~

9 ~~(A) Purchases farm produce from a nongrower.~~

10 ~~(B) Purchases farm produce pursuant to a cash sale.~~

11 ~~(C) Does not take possession of the farm produce.~~

12 ~~(D) Is not required to offer warehouse receipts, price later~~
13 ~~agreements, or scale tickets.~~

14 ~~(d) "Director" means the director of the state department of~~
15 ~~agriculture and the director's authorized agents and~~
16 ~~representatives.~~

17 ~~(e) "Price later agreement" means a written agreement by~~
18 ~~which a grain dealer takes title to farm produce for a sale price~~
19 ~~which is not fixed at the time of delivery.~~

20 ~~(f) "Acknowledgment form" means a written receipt issued by~~
21 ~~a grain dealer or his or her authorized representative to a farm~~
22 ~~produce owner which identifies the farm produce being transferred~~
23 ~~from the physical jurisdiction of the owner to the grain dealer.~~

24 ~~"Scale ticket" is synonymous with acknowledgment form if used to~~
25 ~~describe weighed quantities of farm produce.~~

26 ~~(g) "Cash sale" means farm produce whose title is~~
27 ~~transferred only after a price is decided upon not later than the~~

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1 ~~time of delivery and in which payment is made to the grower or~~
2 ~~producer by check or cash.~~

3 ~~(h) "Grain bank" or "feed bank" means the storage of farm~~
4 ~~produce on a warehouse receipt intended to be, periodically, par-~~
5 ~~tially withdrawn by the owner.~~

6 ~~(i) "Warehouse receipt" means a written acknowledgment~~
7 ~~issued by the grain dealer to a farm produce owner upon accep-~~
8 ~~tance of the farm produce for storage in the grain dealer's~~
9 ~~facility.~~

10 ~~(j) "Financial institution" means a commercial bank whose~~
11 ~~deposits are insured by the federal deposit insurance corporation~~
12 ~~or a national bank for cooperatives subject to the farm credit~~
13 ~~act of 1971, Public Law 92-181, 85 Stat. 583.~~

14 ~~(k) "Grain hauler" means a person whose primary source of~~
15 ~~income and whose primary occupation involve farming and who pur-~~
16 ~~chases, sells, exchanges, or receives farm produce upon payment~~
17 ~~in cash or check as an incidental activity. Grain hauler does~~
18 ~~not include:~~

19 ~~(i) A grower or producer selling farm produce that the~~
20 ~~grower or producer actually produces.~~

21 ~~(ii) A person who buys farm produce as a feeder of the~~
22 ~~person's own livestock or poultry.~~

23 ~~(iii) A retailer who sells farm produce if the sales are an~~
24 ~~incidental portion of the retailer's business.~~

25 ~~(iv) A person who does all of the following:~~

26 ~~(A) Purchases farm produce from a nongrower.~~

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1 ~~(B) Does not take possession of the farm produce.~~

2 ~~(C) Is not required to offer warehouse receipts, price later~~
3 ~~agreements, or scale tickets.~~

4 (A) "ACKNOWLEDGMENT FORM" MEANS A SCALE WEIGHT TICKET, A
5 LOAD SLIP, OR ANY OTHER EVIDENCE OF DEPOSIT ISSUED BY A GRAIN
6 DEALER OR HIS OR HER AUTHORIZED REPRESENTATIVE TO A DEPOSITOR
7 THAT IDENTIFIES THE FARM PRODUCE BEING TRANSFERRED FROM THE POS-
8 SESSION OF THE DEPOSITOR TO THE POSSESSION OF THE GRAIN DEALER.

9 (B) "ALLOWABLE NET ASSETS" DOES NOT INCLUDE INTANGIBLE
10 ASSETS OR ASSETS THAT THE DEPARTMENT OR A CERTIFIED PUBLIC
11 ACCOUNTANT DETERMINES HAVE NO MONETARY VALUE.

12 (C) "CASH SALE" MEANS A SALE IN WHICH THE TITLE TO FARM
13 PRODUCE IS TRANSFERRED ONLY AFTER A PRICE IS DECIDED UPON BEFORE
14 OR AT THE TIME OF DELIVERY AND PAYMENT FOR THE FARM PRODUCE MEETS
15 1 OF THE FOLLOWING:

16 (i) PAYMENT OF THE PRICE IS MADE TO THE DEPOSITOR IN CASH OR
17 BY CHECK, MONEY ORDER, WIRE TRANSFER, OR DRAFT WITHIN 10 DAYS OF
18 DELIVERY.

19 (ii) PAYMENT OF THE PRICE IS MADE BY PLACING THE AMOUNT OF
20 THE PRICE IN THE DEPOSITOR'S ACCOUNT AND A CREDIT STATEMENT IS
21 SENT TO THE DEPOSITOR WITHIN 10 DAYS OF DELIVERY.

22 (D) "CLAIMANT" MEANS A PERSON TO WHOM A GRAIN DEALER OWES A
23 FINANCIAL OBLIGATION FOR FARM PRODUCE OR WHO IS ENTITLED TO THE
24 FARM PRODUCE DELIVERED TO THE GRAIN DEALER OR THE PROCEEDS OF THE
25 FARM PRODUCE.

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1 (E) "COLLATERAL WAREHOUSE RECEIPT" MEANS A WAREHOUSE RECEIPT
2 ISSUED TO A FINANCIAL INSTITUTION BY A GRAIN DEALER FOR
3 UNENCUMBERED GRAIN OWNED BY THAT GRAIN DEALER.

4 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

5 (G) "DEPOSITOR" MEANS EITHER OF THE FOLLOWING:

6 (i) A PERSON WHO DELIVERS FARM PRODUCE TO A LICENSED GRAIN
7 DEALER FOR STORAGE, PROCESSING, SHIPMENT, OR SALE AND HAS TITLE
8 TO THE FARM PRODUCE AT THE TIME OF DELIVERY.

9 (ii) A PERSON WHO OWNS OR WHO IS LEGAL HOLDER OF AN ACKNOWLEDGMENT
10 FORM OR WAREHOUSE RECEIPT ISSUED BY A LICENSED GRAIN
11 DEALER FOR FARM PRODUCE.

12 (H) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS
13 OR HER DESIGNEE.

14 (I) IN A FARM PRODUCE TRANSACTION, "DISPOSITION" MEANS A
15 CASH SALE OR OTHER TRANSFER OF FARM PRODUCE OR PLACEMENT OF FARM
16 PRODUCE ON A WAREHOUSE RECEIPT OR PRICE LATER AGREEMENT.

17 (J) "FACILITY" MEANS AN EDIFICE, SILO, TANK, BIN, CRIB,
18 INTERSTICE, OR PROTECTED ENCLOSED STRUCTURE, OR MORE THAN 1 EDI-
19 FICE, SILO, TANK, BIN, CRIB, INTERSTICE, OR PROTECTED ENCLOSED
20 STRUCTURE LOCATED CONTIGUOUS TO EACH OTHER, USED TO RECEIVE,
21 DEPOSIT, OR STORE FARM PRODUCE IN BULK.

22 (K) "FAILURE" OF A LICENSEE OR GRAIN DEALER MEANS ANY OF THE
23 FOLLOWING:

24 (i) INABILITY OF A LICENSEE OR GRAIN DEALER TO FINANCIALLY
25 SATISFY CLAIMANTS.

26 (ii) A PUBLIC DECLARATION OF INSOLVENCY BY A LICENSEE OR
27 GRAIN DEALER.

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1 (l) "FARM PRODUCE" MEANS 1 OR MORE OF DRY EDIBLE BEANS,
2 SOYBEANS, SMALL GRAINS, CEREAL GRAINS, OR CORN.

3 (m) "FARM PRODUCE HANDLED" MEANS THE NUMBER OF BUSHELS OR
4 HUNDREDWEIGHT OF FARM PRODUCE THAT A LICENSEE RECEIVES OR IS OTH-
5 ERWISE OBLIGATED FOR IN A FISCAL PERIOD.

6 (n) "FARM PRODUCE HANDLING" MEANS ANY OF THE FOLLOWING:

7 (i) ENGAGING OR PARTICIPATING IN THE BUSINESS OF PURCHASING
8 FARM PRODUCE.

9 (ii) OPERATING A GRAIN ELEVATOR FOR THE RECEIVING, STORING,
10 SHIPPING, OR PROCESSING OF FARM PRODUCE.

11 (iii) RECEIVING FARM PRODUCE INTO A FACILITY UNDER A PRICE
12 LATER AGREEMENT.

13 (o) "FARM PRODUCE TRUCKER" MEANS A PERSON ENGAGED IN THE
14 BUSINESS OF HAULING FARM PRODUCE THAT ISSUES PRICE LATER AGREE-
15 MENTS OR ACKNOWLEDGMENT FORMS, TRANSFERS WAREHOUSE RECEIPTS, OR
16 IS RESPONSIBLE FOR PAYMENT TO A DEPOSITOR, BUT THAT DOES NOT OWN
17 A FACILITY.

18 (p) "FINANCIAL INSTITUTION" MEANS A STATE OR NATIONALLY
19 CHARTERED BANK OR A STATE OR FEDERALLY CHARTERED SAVINGS AND LOAN
20 ASSOCIATION, SAVINGS BANK, OR CREDIT UNION WHOSE DEPOSITS ARE
21 INSURED BY AN AGENCY OF THE UNITED STATES GOVERNMENT AND THAT
22 MAINTAINS A PRINCIPAL OFFICE OR BRANCH OFFICE LOCATED IN THIS
23 STATE, OR A NATIONAL BANK FOR COOPERATIVES SUBJECT TO THE FARM
24 CREDIT ACT OF 1971, PUBLIC LAW 92-181, 85 STAT. 583.

25 (q) "GRAIN BANK" OR "FEED BANK" MEANS FARM PRODUCE STORED ON
26 A NONNEGOTIABLE WAREHOUSE RECEIPT THAT THE OWNER INTENDS TO
27 PERIODICALLY, PARTIALLY WITHDRAW.

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1 (R) "GRAIN DEALER" MEANS A PERSON ENGAGED IN THE BUSINESS OF
2 RECEIVING, BUYING, EXCHANGING, SELLING, OR STORING FARM PRODUCE
3 IN THIS STATE. THE TERM INCLUDES A FARM PRODUCE TRUCKER, GRAIN
4 MERCHANDISER, OR PROCESSOR. THE TERM DOES NOT INCLUDE A PERSON
5 SOLELY ENGAGED IN 1 OF THE FOLLOWING:

6 (i) SELLING FARM PRODUCE PRODUCED BY THE PERSON.

7 (ii) BUYING FARM PRODUCE IN A CASH SALE TO FEED THE PERSON'S
8 LIVESTOCK OR POULTRY.

9 (iii) IF THE PERSON HANDLED LESS THAN 30,000 BUSHELS OF FARM
10 PRODUCE IN THE PERSON'S PRECEDING FISCAL YEAR AND IN THE PERSON'S
11 CURRENT FISCAL YEAR, BUYING FARM PRODUCE IN A CASH SALE.

12 (iv) PURCHASING FARM PRODUCE FROM A PERSON OTHER THAN THE
13 GROWER OR PRODUCER OF THE FARM PRODUCE IN A CASH SALE.

14 (v) CONTRACTING FOR LAND OR SERVICES TO PRODUCE SEED FOR
15 SOWING OR PROPAGATION.

16 (S) "GRAIN MERCHANDISER" MEANS A PERSON ENGAGED IN THE BUSI-
17 NESS OF RECEIVING, BUYING, EXCHANGING, SELLING, OR TAKING TITLE
18 TO FARM PRODUCE AND WHO IS RESPONSIBLE FOR PAYMENT TO A DEPOSITOR
19 BUT DOES NOT OPERATE A TRUCK OR A FACILITY.

20 (T) "LICENSE" MEANS A LICENSE ISSUED BY THE DEPARTMENT TO A
21 GRAIN DEALER IN THE MANNER PROVIDED UNDER THIS ACT. THE TERM
22 INCLUDES A PERMIT ISSUED UNDER SECTION 6.

23 (U) "LICENSEE" MEANS A GRAIN DEALER LICENSED UNDER THIS
24 ACT.

25 (V) "OPEN STORAGE" MEANS THE STORAGE OF FARM PRODUCE FOR 30
26 DAYS OR LESS UNDER AN ACKNOWLEDGMENT FORM THAT DOES NOT CONTAIN A
27 DESIGNATION OF A SPECIFIC TRANSACTION TYPE.

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1 (W) "OPERATING WITHIN THIS STATE" INCLUDES THE TRANSFER OF
2 PHYSICAL POSSESSION OR TITLE OF FARM PRODUCE FROM AN OWNER TO A
3 PERSON WITHIN THE BOUNDARIES OF THIS STATE.

4 (X) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED
5 LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION, COOPERATIVE ORGANI-
6 ZATION, OR OTHER LEGAL ENTITY.

7 (Y) "PRICE LATER AGREEMENT" MEANS A WRITTEN OR ELECTRONI-
8 CALLY TRANSMITTED AGREEMENT BETWEEN A DEPOSITOR AND A GRAIN
9 DEALER WHERE THE GRAIN DEALER RECEIVES TITLE TO FARM PRODUCE AND
10 THE DEPOSITOR RETAINS THE OPTION TO PRICE THE FARM PRODUCE AFTER
11 DELIVERY BASED ON CONDITIONS IN THE AGREEMENT.

12 (Z) "PROCESSING" MEANS DRYING, CLEANING, PACKAGING, OR OTH-
13 ERWISE CHANGING THE PHYSICAL CHARACTERISTICS OF FARM PRODUCE.

14 (AA) "PROCESSOR" MEANS A PERSON ENGAGED IN PROCESSING FARM
15 PRODUCE AND STORING THE FARM PRODUCE FOR A PERIOD OF 24 HOURS OR
16 MORE.

17 (BB) "RECEIVING POINT" MEANS A FACILITY WHERE FARM PRODUCE
18 IS RECEIVED, WEIGHED, AND STORED AND AN ACKNOWLEDGMENT FORM IS
19 ISSUED.

20 (CC) WITH RESPECT TO A FINANCIAL STATEMENT, "REVIEWED" MEANS
21 PERFORMING INQUIRY AND ANALYTICAL PROCEDURES THAT PROVIDE AN
22 ACCOUNTANT WITH A REASONABLE BASIS FOR EXPRESSING LIMITED ASSUR-
23 ANCE THAT THERE ARE NO MATERIAL MODIFICATIONS THAT SHOULD BE MADE
24 TO THE STATEMENT FOR IT TO CONFORM WITH GENERALLY ACCEPTED
25 ACCOUNTING PRINCIPLES.

26 (DD) "REVOCATION" MEANS THE REMOVAL OF A GRAIN DEALER'S
27 LICENSE UNDER THIS ACT IN ACCORDANCE WITH THE ADMINISTRATIVE

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1 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. THE
2 TERM DOES NOT INCLUDE A SUSPENSION OF A GRAIN DEALER'S LICENSE
3 UNDER THIS ACT.

4 (EE) "SHORTAGE" MEANS THAT A GRAIN DEALER DOES NOT HAVE A
5 SUFFICIENT AMOUNT OF FARM PRODUCE BY CLASS AND QUALITY TO COVER
6 THE GRAIN DEALER'S OUTSTANDING WAREHOUSE RECEIPT OBLIGATIONS FOR
7 THAT FARM PRODUCE.

8 (FF) "STORAGE" MEANS THE DEPOSIT OF FARM PRODUCE IN TRUST
9 WITH A GRAIN DEALER BY A DEPOSITOR.

10 (GG) "TEMPORARY FACILITY" MEANS A FACILITY THAT DOES NOT
11 HAVE A RECEIVING POINT AND IS USED BY A LICENSEE TO STORE FARM
12 PRODUCE.

13 (HH) "WAREHOUSE RECEIPT" MEANS A WRITTEN OR ELECTRONICALLY
14 TRANSMITTED RECEIPT ISSUED BY A GRAIN DEALER TO A DEPOSITOR AT
15 THE TIME THE GRAIN DEALER ACCEPTS FARM PRODUCE FOR STORAGE. A
16 WAREHOUSE RECEIPT IS 1 OF THE FOLLOWING:

17 (i) A NEGOTIABLE WAREHOUSE RECEIPT IF IT STATES THAT THE
18 GRAIN DEALER WILL DELIVER THE FARM PRODUCE TO THE BEARER OF THE
19 RECEIPT OR TO THE ORDER OF A PERSON NAMED IN THE RECEIPT.

20 (ii) A NONNEGOTIABLE WAREHOUSE RECEIPT IF IT DOES NOT SAT-
21 ISFY SUBPARAGRAPH (i).

22 Sec. 3. ~~(1) The director shall enforce this act by the use~~
23 ~~of personnel including a certified public accountant or an indi-~~
24 ~~vidual with accounting background and specialized investigative~~
25 ~~training and experience, rules, and procedures as are necessary~~
26 ~~to carry out the intent of this act, including the inspection of~~
27 ~~grain dealers' records, taking of inventories, and measurements.~~

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1 ~~(2) A grain dealer shall keep complete and accurate records~~
2 ~~of his or her business, including a daily position report. The~~
3 ~~daily position report shall be submitted to the department not~~
4 ~~less than once each month, at a time determined by the department~~
5 ~~by rule. The director may require a dealer to submit reports~~
6 ~~more frequently. All financial information and daily position~~
7 ~~report information submitted to the department by applicants and~~
8 ~~or licensees in compliance with the requirements set forth in~~
9 ~~this act is confidential, and is not subject to public disclosure~~
10 ~~as provided for in the freedom of information act, Act No. 442 of~~
11 ~~the Public Acts of 1976, as amended, being sections 15.231 to~~
12 ~~15.246 of the Michigan Compiled Laws.~~

13 ~~(3) The daily position report shall include all of the fol-~~
14 ~~lowing, on a form approved by the director:~~

15 ~~(a) The quantity of farm produce in inventory.~~

16 ~~(b) The quantity of price later agreements and warehouse~~
17 ~~receipts in other dealers' facilities, and outstanding warehouse~~
18 ~~receipts and price later agreements.~~

19 ~~(c) The total amount of loans against grain inventory.~~

20 ~~(d) All other farm produce obligations resulting in the bal-~~
21 ~~ance position of farm produce.~~

22 ~~(e) If a deficiency concerning price later agreements~~
23 ~~exists, the quantity of offsetting purchase commitments shall be~~
24 ~~stated on the form.~~

25 ~~(4) If a deficiency concerning price later agreements~~
26 ~~exists, the grain dealer shall secure offsetting purchase~~
27 ~~commitments.~~

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1 ~~(5) Periodically, the books, records, and accounts of a~~
2 ~~grain dealer shall be examined.~~

3 ~~(6) The rules shall be promulgated pursuant to the adminis-~~
4 ~~trative procedures act of 1969, Act No. 306 of the Public Acts of~~
5 ~~1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
6 ~~Laws.~~

7 ~~(7) The department shall regularly consult with representa-~~
8 ~~tives of producers, grain dealers, and their trade associations~~
9 ~~to assist in the implementation of this act.~~

10 ~~(8) On forms provided by the director, a grain hauler shall~~
11 ~~make a record of the specific type of farm produce subject to the~~
12 ~~cash sale, the amount of the farm produce, and the date of the~~
13 ~~cash sale. The form shall be signed by both the grain hauler and~~
14 ~~the seller of the farm produce, and each party shall retain a~~
15 ~~signed copy of the form. The grain hauler is required to retain~~
16 ~~a copy of the signed form for at least 2 years and is required to~~
17 ~~make it available to the department of agriculture upon request.~~
18 ~~The form shall include a statement in boldfaced type substan-~~
19 ~~tially conforming to the following: "The cash sale with this~~
20 ~~grain hauler is not regulated by the Michigan grain dealers act~~
21 ~~and the protection provided for a seller of farm produce under~~
22 ~~the grain dealers act does not apply to this cash sale."~~

23 (1) A PERSON SHALL NOT ACT OR OFFER TO ACT AS A GRAIN DEALER
24 IN THIS STATE WITHOUT A LICENSE FROM THE DEPARTMENT ISSUED UNDER
25 THIS ACT.

26 (2) A GRAIN DEALER SHALL NOT PROCESS OR STORE FARM PRODUCE,
27 ISSUE A WAREHOUSE RECEIPT, CHARGE OR COLLECT A FEE FOR STORAGE OF

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1 FARM PRODUCE, ISSUE A PRICE LATER AGREEMENT, OR ISSUE AN
2 ACKNOWLEDGMENT OF RECEIPT FOR DELIVERY OF FARM PRODUCE EXCEPT IN
3 COMPLIANCE WITH THIS ACT.

4 (3) SUBJECT TO SUBSECTION (4), THE DEPARTMENT MAY REFUSE TO
5 ISSUE OR RENEW A LICENSE TO A GRAIN DEALER UNLESS THE GRAIN
6 DEALER MEETS AT LEAST 1 OF THE FOLLOWING AT THE TIME THE GRAIN
7 DEALER SUBMITS THE APPLICATION:

8 (A) HAS ALLOWABLE NET ASSETS OF MORE THAN \$1,000,000.00.

9 (B) HAS ALLOWABLE NET ASSETS OF \$50,000.00 OR MORE AND HAN-
10 DLED 500,000 OR FEWER BUSHEL OF FARM PRODUCE IN THE GRAIN
11 DEALER'S MOST RECENT FISCAL YEAR.

12 (C) HAS ALLOWABLE NET ASSETS OF \$50,000.00 OR MORE, AND THE
13 ALLOWABLE NET ASSETS EQUAL OR EXCEED THE PRODUCT OF 10 CENTS
14 MULTIPLIED BY THE NUMBER OF BUSHEL OF FARM PRODUCE HANDLED BY
15 THE GRAIN DEALER IN THE GRAIN DEALER'S MOST RECENT COMPLETED
16 FISCAL YEAR.

17 (4) IF A GRAIN DEALER FAILS TO MEET ANY OF THE ALLOWABLE NET
18 ASSET REQUIREMENTS UNDER SUBSECTION (3), THE DEPARTMENT MAY ISSUE
19 OR RENEW THE LICENSE IF THE GRAIN DEALER PROVIDES THE DEPARTMENT
20 WITH A NEGOTIABLE BOND ISSUED BY A SURETY AUTHORIZED TO CONDUCT
21 BUSINESS IN THIS STATE, OR PROOF OF ESTABLISHMENT OF A RESTRICTED
22 ACCOUNT IN A FINANCIAL INSTITUTION THAT CONDUCTS BUSINESS IN THIS
23 STATE, ACCEPTABLE TO THE DEPARTMENT AND OF WHICH THE DEPARTMENT
24 IS THE SOLE BENEFICIARY, THAT IS IN AN AMOUNT EQUAL TO THE AMOUNT
25 BY WHICH THE GRAIN DEALER'S ALLOWABLE NET ASSETS FAILED TO MEET
26 THE ALLOWABLE NET ASSET REQUIREMENT APPLICABLE UNDER
27 SUBSECTION (3).

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1 (5) A PERSON WHO ACTS OR OFFERS TO ACT AS A GRAIN DEALER
2 WITHOUT A LICENSE IS GUILTY OF A MISDEMEANOR. EACH DAY THAT THE
3 PERSON ACTS OR OFFERS TO ACT AS A GRAIN DEALER WITHOUT A LICENSE
4 IS A SEPARATE MISDEMEANOR.

5 (6) IF THE DIRECTOR HAS PROBABLE CAUSE TO BELIEVE THAT A
6 PERSON IS ACTING OR OFFERING TO ACT AS A GRAIN DEALER WITHOUT A
7 LICENSE, THE DIRECTOR MAY REVIEW THE BOOKS AND RECORDS RELATING
8 TO THE OPERATIONS OF THE PERSON.

9 (7) UPON APPLICATION OF THE DEPARTMENT, A COURT IN THIS
10 STATE SHALL ISSUE A TEMPORARY OR PERMANENT INJUNCTION ENJOINING A
11 PERSON FROM ACTING AS A GRAIN DEALER WITHOUT A LICENSE, ISSUING A
12 WAREHOUSE RECEIPT OR PRICE LATER AGREEMENT WITHOUT A LICENSE, OR
13 INTERFERING WITH AN EMPLOYEE OF THE DEPARTMENT OR A RECEIVER
14 APPOINTED UNDER THIS ACT THAT IS PERFORMING HIS OR HER DUTIES
15 UNDER THIS ACT.

16 Sec. 4. ~~A grain dealer shall not offer storage facilities
17 for farm produce or accept farm produce for storage; or issue
18 warehouse receipts thereon; or charge or collect storage charges
19 therefor; or issue price later agreements; or issue acknowledg-
20 ments of receipts of delivery of farm produce contrary to this
21 act.~~

22 (1) THE DEPARTMENT MAY ISSUE, AMEND, OR RENEW A LICENSE IF
23 THE DEPARTMENT DETERMINES THAT THE APPLICANT HAS COMPLIED WITH
24 THIS ACT AND RULES PROMULGATED UNDER THIS ACT.

25 (2) A LICENSEE MAY RECEIVE FARM PRODUCE FOR STORAGE OR PROCESSING,
26 ASSESS AND COLLECT STORAGE OR PROCESSING CHARGES ON FARM PRODUCE STORED, ISSUE
27 WAREHOUSE RECEIPTS ON STORED OR PROCESSED FARM PRODUCE, ISSUE PRICE LATER

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1 AGREEMENTS, COLLECT HANDLING CHARGES ON PRICE LATER AGREEMENTS,
2 AND ISSUE ACKNOWLEDGMENT FORMS.

3 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), A LICENSE IS
4 ISSUED FOR A TERM OF 1 YEAR. A LICENSE IS NOT TRANSFERABLE BY
5 THE LICENSEE. A LICENSEE SHALL PROMINENTLY DISPLAY HIS OR HER
6 LICENSE ON THE VEHICLE OF A LICENSEE WHO IS A FARM PRODUCE
7 TRUCKER OR AT THE PRINCIPAL PLACE OF BUSINESS OF A LICENSEE WHO
8 IS A GRAIN MERCHANTISER OR AT A FACILITY, AS APPLICABLE.

9 (4) THE DEPARTMENT MAY, IN ITS DISCRETION, ISSUE A NEW
10 LICENSE FOR A TERM OF UP TO 21 MONTHS.

11 Sec. 5. ~~(1) A person shall not act or offer to act as a~~
12 ~~grain dealer without annually securing a license from the~~
13 ~~director. The director shall not issue a license to a grain~~
14 ~~dealer unless the grain dealer has allowable net assets of not~~
15 ~~less than \$20,000.00.~~

16 ~~(2) A person shall not act or offer to act as a grain hauler~~
17 ~~without being registered as a grain hauler under section 6.~~

18 ~~(3) A person acting or offering to act as a grain dealer or~~
19 ~~grain hauler without being licensed or registered as required~~
20 ~~under this act or without being exempt from licensure or regis-~~
21 ~~tration under this act is guilty of a misdemeanor. Each day of~~
22 ~~operation in violation of this act is a separate and distinct~~
23 ~~misdemeanor.~~

24 (1) THE DEPARTMENT MAY REVOKE A GRAIN DEALER'S LICENSE, BUT
25 THE GRAIN DEALER MAY APPLY FOR A NEW LICENSE, IF ANY OF THE FOL-
26 LOWING EVENTS OCCUR:

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16

1 (A) THE LICENSEE IS A PARTY TO A MERGER, CONSOLIDATION,
2 CONVERSION, OR SIMILAR TRANSACTION. THE DEPARTMENT MAY DECIDE
3 NOT TO REVOKE THE LICENSE IF THE SUCCESSOR TO THE LICENSEE IS
4 LICENSED UNDER THIS ACT AND EXECUTES A SUCCESSOR'S AGREEMENT
5 ACCEPTABLE TO THE DEPARTMENT.

6 (B) FIFTY PERCENT OR MORE OF THE SHARES, OTHER THAN PUBLICLY
7 TRADED SHARES, OR OTHER OWNERSHIP INTERESTS IN THE LICENSEE ARE
8 SOLD, EXCHANGED, OR OTHERWISE TRANSFERRED. THE DEPARTMENT MAY
9 DECIDE NOT TO REVOKE THE LICENSE IF THE TRANSFEREE IS LICENSED
10 UNDER THIS ACT AND EXECUTES A SUCCESSOR'S AGREEMENT ACCEPTABLE TO
11 THE DEPARTMENT.

12 (C) FIFTY PERCENT OR MORE OF THE PROPERTY AND ASSETS OF THE
13 LICENSEE ARE SOLD, LEASED, EXCHANGED, OR OTHERWISE TRANSFERRED.
14 THE DEPARTMENT MAY WAIVE THIS REQUIREMENT IF THE TRANSFEREE IS
15 LICENSED UNDER THIS ACT AND EXECUTES A SUCCESSOR'S AGREEMENT
16 ACCEPTABLE TO THE DEPARTMENT.

17 (D) THE LICENSEE CEASES TO PAY ITS DEBTS IN THE ORDINARY
18 COURSE OF BUSINESS, CANNOT PAY ITS DEBTS AS THEY BECOME DUE, OR
19 IS INSOLVENT UNDER AN APPLICABLE BANKRUPTCY OR INSOLVENCY LAW.

20 (E) IF THE GRAIN DEALER HAS 100 OR MORE STOCKHOLDERS, MEM-
21 BERS, PARTNERS, OR OWNERS, AS APPLICABLE, MORE THAN 1/2 OF THE
22 GRAIN DEALER'S BOARD OF DIRECTORS OR OTHER GOVERNING BODY OR
23 BOARD ARE REPLACED WITH DIFFERENT INDIVIDUALS.

24 (F) THE NAME OF THE GRAIN DEALER IS CHANGED.

25 (2) IF AN EVENT DESCRIBED IN SUBSECTION (1) OCCURS, THE
26 GRAIN DEALER SHALL FILE A NOTICE OF THE EVENT WITH THE DEPARTMENT
27 WITHIN 1 BUSINESS DAY OF THE EVENT.

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1 Sec. 6. ~~(1) The director shall prepare and, upon~~
2 ~~acceptance of a completed application and payment of the license~~
3 ~~fee provided in subsection (2), issue a grain dealer's license to~~
4 ~~the applicant. The license shall be of 1 year's duration and is~~
5 ~~renewable annually. A grain dealer's license is subject to sus-~~
6 ~~pension or revocation for cause by the director, shall carry a~~
7 ~~serial identification number, is nontransferable, and shall be~~
8 ~~prominently displayed on the location or vehicle of the holder of~~
9 ~~the license. A separate license is required for each business~~
10 ~~location of the grain dealer. If the grain dealer receives farm~~
11 ~~produce and later disposes of it without depositing that farm~~
12 ~~produce at a licensed business location of the grain dealer, the~~
13 ~~grain dealer shall secure a grain dealer's license for each vehi-~~
14 ~~cle used in such business transactions. The grain dealer's~~
15 ~~license shall grant authority to the holder to do the following~~
16 ~~under the rules promulgated by the director under this act:~~
17 ~~(a) Receive farm produce for storage if the holder is in~~
18 ~~compliance with the bonding or letter of credit requirements~~
19 ~~imposed in section 7a.~~
20 ~~(b) Assess and collect storage charges on the stored farm~~
21 ~~produce.~~
22 ~~(c) Issue warehouse receipts on the stored farm produce.~~
23 ~~(d) Issue price later agreements.~~
24 ~~(e) Issue acknowledgment forms regarding farm produce.~~
25 ~~(2) The license fee for a grain dealer's license shall be~~
26 ~~based upon the following schedule:~~

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- 1 ~~(a) For a facility having a total bushel capacity of:~~
- 2 ~~(i) Not more than 50,000\$125.00~~
- 3 ~~(ii) More than 50,000, and less than or equal to~~
- 4 ~~100,000\$150.00~~
- 5 ~~(iii) More than 100,000, and less than or equal to~~
- 6 ~~200,000\$200.00~~
- 7 ~~(iv) More than 200,000, and less than or equal to~~
- 8 ~~300,000\$270.00~~
- 9 ~~(v) More than 300,000, and less than or equal to~~
- 10 ~~400,000\$325.00~~
- 11 ~~(vi) More than 400,000, and less than or equal to~~
- 12 ~~500,000\$375.00~~
- 13 ~~(vii) More than 500,000\$400.00~~
- 14 ~~(b) For 1 vehicle\$200.00~~
- 15 ~~(c) For each additional vehicle \$ 50.00.~~
- 16 ~~(3) The director shall prepare and, upon acceptance of a~~
- 17 ~~completed application and payment of the \$50.00 registration fee,~~
- 18 ~~issue a grain hauler registration to the applicant. The regis-~~
- 19 ~~tration shall be of 1 year in duration and is renewable~~
- 20 ~~annually. The applicant for a grain hauler registration also~~
- 21 ~~annually shall submit an affidavit stating that farming is the~~
- 22 ~~intended primary occupation and that grain hauling is an inciden-~~
- 23 ~~tal activity. A grain hauler registration is subject to suspen-~~
- 24 ~~sion or revocation for cause by the director, is nontransferable,~~
- 25 ~~and shall be made available for viewing to a grower or producer~~
- 26 ~~upon request.~~

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1 (1) IF A GRAIN DEALER HAS APPLIED FOR A LICENSE BUT NEEDS
2 ADDITIONAL TIME TO COMPLY WITH THE REQUIREMENTS OF THIS ACT FOR
3 ISSUANCE OF A LICENSE, THE DEPARTMENT MAY ISSUE 1 TEMPORARY
4 PERMIT TO THE APPLICANT. A PERMIT ISSUED UNDER THIS SECTION
5 EXPIRES ON THE EXPIRATION DATE SET BY THE DEPARTMENT, WHICH MAY
6 NOT BE MORE THAN 30 DAYS AFTER THE PERMIT IS ISSUED, WHEN A
7 LICENSE IS ISSUED, OR WHEN THE APPLICATION FOR LICENSE IS DENIED,
8 WHICHEVER OCCURS FIRST. THE DEPARTMENT MAY GRANT 1 EXTENSION OF
9 UP TO 30 DAYS OF A PERMIT ISSUED UNDER THIS SECTION.

10 (2) A GRAIN DEALER WHO HAS BEEN GRANTED A PERMIT UNDER THIS
11 SECTION HAS THE SAME RIGHTS AND OBLIGATIONS OF A LICENSEE UNDER
12 THIS ACT.

13 Sec. 7. ~~An application for a grain dealer's license pro-~~
14 ~~vided for in section 6 shall be made by the applicant to the~~
15 ~~director on forms supplied by the director. Except an applica-~~
16 ~~tion of a grower or producer who sells farm produce the grower or~~
17 ~~producer actually produces, each application shall be accompanied~~
18 ~~by a financial statement prepared in accordance with generally~~
19 ~~accepted accounting principles, and sworn as to accuracy by the~~
20 ~~owner, principal officer, or a partner of the applicant. The~~
21 ~~financial statement shall be prepared by a certified public~~
22 ~~accountant or by an accountant who meets the requirements of the~~
23 ~~accreditation council for accountancy or its successor organiza-~~
24 ~~tion, and shall include, to the extent permitted by the occupa-~~
25 ~~tional code, Act No. 299 of the Public Acts of 1980, as amended,~~
26 ~~being sections 339.101 to 339.2601 of the Michigan Compiled Laws,~~
27 ~~a letter from the preparer to the applicant or producer stating~~

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~~1 any qualifications, reservations, or departures determined by the
2 preparer to be applicable to the financial statement. The direc-
3 tor shall promulgate rules pursuant to the administrative proce-
4 dures act of 1969, Act No. 306 of the Public Acts of 1969, as
5 amended, being sections 24.201 to 24.315 of the Michigan Compiled
6 Laws, to prescribe the specific contents of the financial state-
7 ment required by this section. Each application shall be accom-
8 panied by the payment of the required license fee, which shall be
9 returned to the applicant if the application is rejected. The
10 applicant shall disclose, under oath, pertinent information
11 relating to the location of each facility where farm produce is
12 received and storage capacity of each storage facility for each
13 specific farm produce on which storage is to be offered; the
14 ownership or control agreement covering each storage facility of
15 the applicant; the form of warehouse receipt, price later agree-
16 ment, and acknowledgment of delivery the applicant desires to
17 use, and other pertinent information as the director may require;
18 and agreement by the applicant to comply with this act and the
19 rules promulgated under this act. The application for license of
20 the applicant shall be approved or rejected within 15 days after
21 receipt by the director if the application is of proper form and
22 detail. A rejection of application shall be accompanied by a
23 statement from the director of the additional requirements neces-
24 sary to license, and the applicant may resubmit application.~~

25 (1) A GRAIN DEALER SHALL FILE AN APPLICATION FOR A NEW
26 LICENSE OR FOR RENEWAL OR AMENDMENT OF A LICENSE WITH THE
27 DEPARTMENT. THE DEPARTMENT MAY DETERMINE THE TIME WHEN AN

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1 APPLICATION IS FILED AND THE FORM OF THE APPLICATION. A COMPLETE
2 APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING:

3 (A) THE NAME AND OWNERSHIP INTEREST OF EACH OWNER, STOCK-
4 HOLDER, MEMBER, OR PARTNER OF THE GRAIN DEALER WHO OWNS AT LEAST
5 5% OF THE SHARES, OTHER THAN PUBLICLY TRADED SHARES, OR OTHER
6 OWNERSHIP INTERESTS OF THE GRAIN DEALER, OR FOR A GRAIN DEALER
7 DESCRIBED IN SECTION 9(3), AT LEAST 5% OF THE SHARES, OTHER THAN
8 PUBLICLY TRADED SHARES, OR OTHER OWNERSHIP INTERESTS OF THE
9 PARENT CORPORATION.

10 (B) THE LOCATION AND STORAGE CAPACITY OF EACH FACILITY OF
11 THE GRAIN DEALER.

12 (C) PROOF OF INSURANCE FOR ALL FARM PRODUCE STORED AT EACH
13 FACILITY OF THE GRAIN DEALER.

14 (D) A STATEMENT THAT NONE OF THE EVENTS DESCRIBED IN SECTION
15 10 HAVE OCCURRED WITHIN THE 5 YEARS PRECEDING THE DATE OF THE
16 LICENSE APPLICATION, OR IF ANY OF THOSE EVENTS HAVE OCCURRED, A
17 DESCRIPTION OF THOSE EVENTS.

18 (E) A STATEMENT OF THE TOTAL BUSHEL OF FARM PRODUCE HANDLED
19 BY THE GRAIN DEALER DURING THE GRAIN DEALER'S MOST RECENT COM-
20 PLETED FISCAL YEAR.

21 (F) IF THE GRAIN DEALER'S MOST RECENT COMPLETED FISCAL YEAR
22 WAS FOR A PERIOD OF LESS THAN 12 MONTHS OR THE GRAIN DEALER MATE-
23 RIALY CHANGED ITS FARM PRODUCE HANDLING PRACTICES IN THAT FISCAL
24 YEAR, A PROJECTION OF THE TOTAL BUSHEL OF FARM PRODUCE THE GRAIN
25 DEALER EXPECTS TO HANDLE IN THE CURRENT FISCAL YEAR.

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1 (G) COPIES OF ALL WAREHOUSE RECEIPT FORMS, PRICE LATER
2 AGREEMENT FORMS, AND ACKNOWLEDGMENT FORMS USED BY THE GRAIN
3 DEALER.

4 (H) COPIES OF ALL OF THE GRAIN DEALER'S FACILITY LEASE
5 AGREEMENTS AND BIN CHARTS.

6 (I) IF THE GRAIN DEALER DOES NOT MAINTAIN AN OFFICE IN THIS
7 STATE AND DOES NOT HAVE A RESIDENT AGENT IN THIS STATE, THE
8 APPLICATION SHALL INCLUDE A WRITTEN APPOINTMENT OF A STATUTORY
9 AGENT UPON WHOM PROCESS, NOTICE, OR DEMAND MAY BE SERVED. THE
10 STATUTORY AGENT SHALL BE AN INDIVIDUAL RESIDING IN THIS STATE OR
11 A CORPORATION WHOSE PRINCIPAL PLACE OF BUSINESS IS LOCATED IN
12 THIS STATE. IF THE IDENTITY OR ADDRESS OF THE STATUTORY AGENT
13 CHANGES WHILE THE APPLICATION IS PENDING OR AFTER A LICENSE IS
14 ISSUED, THE GRAIN DEALER SHALL WITHIN 3 DAYS FILE WITH THE
15 DEPARTMENT A WRITTEN APPOINTMENT OF THE NEW STATUTORY AGENT OR
16 WRITTEN NOTICE OF THE NEW ADDRESS, AS APPLICABLE.

17 (2) THE DEPARTMENT SHALL ISSUE OR DENY A LICENSE WITHIN 30
18 DAYS AFTER RECEIPT OF THE COMPLETED APPLICATION UNDER THIS SEC-
19 TION, LICENSE FEE DESCRIBED IN SECTION 8, AND FINANCIAL STATEMENT
20 DESCRIBED IN SECTION 9.

21 (3) FOR A LICENSE RENEWAL, THE LICENSEE SHALL SUBMIT THE
22 APPLICATION, LICENSE FEE, AND FINANCIAL STATEMENT TO THE DEPART-
23 MENT AT LEAST 30 DAYS BEFORE THE EXPIRATION OF THE CURRENT
24 LICENSE TERM.

25 (4) IF AN APPLICATION IS WITHDRAWN BEFORE A LICENSE OR
26 RENEWAL IS APPROVED, THE DEPARTMENT SHALL RETAIN \$50.00 FOR

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1 PROCESSING AND RETURN THE REMAINDER OF THE LICENSE FEE TO THE
2 GRAIN DEALER.

3 (5) BY SUBMITTING AN APPLICATION, A GRAIN DEALER CONSENTS TO
4 INSPECTION AND AUDITING OF ITS FARM PRODUCE AND FINANCIAL RECORDS
5 AND ITS OPERATIONS BY THE DEPARTMENT. THE GRAIN DEALER SHALL
6 MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT IN THIS STATE IF THE
7 DEPARTMENT MAKES A REQUEST TO INSPECT OR AUDIT THE RECORDS.

8 Sec. 8. ~~Acceptance of farm produce for storage by a grain
9 dealer for which a warehouse receipt is issued shall be a bail-
10 ment and not a sale, and farm produce so stored shall not be
11 liable to seizure upon process of a court in an action against
12 the bailee, except upon action by owners of the warehouse
13 receipts to enforce the terms thereof, but the farm produce shall
14 at all times, in the event of the failure or insolvency of the
15 bailee, be first applied exclusively to the redemption of out-
16 standing storage receipts for farm produce so stored with the
17 bailee, and in that event, farm produce on hand in a particular
18 warehouse of the bailee shall be first applied to the redemption
19 and satisfaction of the warehouse receipts issued by that grain
20 dealer as the bailee.~~

21 (1) A GRAIN DEALER SHALL PAY A LICENSE FEE TO THE DEPARTMENT
22 WITH AN APPLICATION FOR A LICENSE OR RENEWAL OF A LICENSE. THE
23 LICENSE FEE IS THE SUM OF ALL OF THE FOLLOWING THAT APPLY TO THE
24 GRAIN DEALER:

25 (A) FOR EACH RECEIVING POINT OF THE GRAIN DEALER THAT HAS
26 TOTAL BUSHEL CAPACITY OF:

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- 1 (i) 100,000 OR LESS.....\$150.00
2 (ii) MORE THAN 100,000 AND 200,000 OR LESS.....\$225.00
3 (iii) MORE THAN 200,000 AND 300,000 OR LESS.....\$300.00
4 (iv) MORE THAN 300,000 AND 400,000 OR LESS.....\$375.00
5 (v) MORE THAN 400,000.....\$450.00
6 (B) FOR VEHICLES OWNED BY A FARM PRODUCE TRUCKER:
7 (i) FOR 1 VEHICLE.....\$200.00
8 (ii) FOR EACH ADDITIONAL VEHICLE.....\$100.00
9 (C) FOR A GRAIN MERCHANTISER'S LICENSE.....\$450.00
10 (2) THE GRAIN DEALERS FEES FUND IS CREATED IN THE STATE
11 TREASURY. THE DEPARTMENT SHALL DEPOSIT LICENSE FEES AND ADMINIS-
12 TRATIVE FINES RECEIVED UNDER THIS ACT IN THE GRAIN DEALERS FEES
13 FUND, TO BE USED PURSUANT TO LEGISLATIVE APPROPRIATION BY THE
14 DIRECTOR IN CARRYING OUT THOSE DUTIES REQUIRED BY LAW. AFTER THE
15 PAYMENT OF THE AMOUNTS APPROPRIATED BY THE LEGISLATURE FOR THE
16 NECESSARY EXPENSES INCURRED IN THE ADMINISTRATION OF THIS ACT,
17 THE MONEY REMAINING IN THE GRAIN DEALERS FEES FUND SHALL NOT
18 REVERT OR BE CREDITED TO THE GENERAL FUND AT THE CLOSE OF THE
19 FISCAL YEAR BUT SHALL REMAIN IN THE GRAIN DEALERS FEES FUND.
20 (3) A LICENSE FEE DETERMINED PURSUANT TO SUBSECTION (1) IS
21 THE FEE FOR A 1-YEAR LICENSE. IF THE DEPARTMENT HAS ISSUED A
22 LICENSE FOR A PERIOD OF LONGER THAN 1 YEAR UNDER SECTION 4(3), IT
23 SHALL REQUIRE A LICENSE FEE INCREASED ON A PROPORTIONATE BASIS TO
24 REFLECT THE LONGER TERM OF THE LICENSE.
25 (4) EVERY 3 YEARS, THE DEPARTMENT MAY ADJUST THE FEE SCHED-
26 ULE IN SUBSECTION (1) BY AN AMOUNT DETERMINED BY THE STATE
27 TREASURER TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN

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1 THE DETROIT CONSUMER PRICE INDEX OVER THE 3-YEAR PERIOD. AN
2 ADJUSTMENT UNDER THIS SUBSECTION SHALL NOT EXCEED 5% EVEN IF THE
3 AMOUNT DETERMINED BY THE STATE TREASURER TO REFLECT THE CUMULA-
4 TIVE ANNUAL PERCENTAGE CHANGE OVER THE 3-YEAR PERIOD IS MORE THAN
5 5%. A FEE ADJUSTED UNDER THIS SUBSECTION SHALL BE ROUNDED TO THE
6 NEAREST WHOLE DOLLAR. AS USED IN THIS SUBSECTION, "DETROIT CON-
7 SUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX OF CONSUMER
8 PRICES AVAILABLE FOR THE DETROIT AREA FROM THE BUREAU OF LABOR
9 STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.

10 Sec. 9. ~~(1) Upon delivery of farm produce for storage by a~~
11 ~~person to a grain dealer licensed under this act, the grain~~
12 ~~dealer within 30 days after delivery shall deliver to the owner~~
13 ~~of the farm produce stored a warehouse receipt of a form approved~~
14 ~~by the director which shall embody within its written or printed~~
15 ~~terms:~~

16 ~~(a) The location of the warehouse where the farm produce is~~
17 ~~stored.~~

18 ~~(b) The statement whether the farm produce will be delivered~~
19 ~~to the bearer, to a specified person, or to a specified person or~~
20 ~~his or her order.~~

21 ~~(c) The date of issuance of the receipt.~~

22 ~~(d) The rate of storage charges or the basis for the~~
23 ~~charges.~~

24 ~~(e) The net weight and percentage of dockage together with~~
25 ~~the grade established.~~

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1 ~~(f) The words "not negotiable", "nonnegotiable", or~~
2 ~~"negotiable", according to the nature of the receipt, clearly and~~
3 ~~conspicuously printed or stamped on the receipt.~~

4 ~~(g) The signature of the grain dealer, which may be made by~~
5 ~~his or her authorized agent.~~

6 ~~(h) A declaration of the ownership of the farm produce,~~
7 ~~whether wholly or jointly or in common with others.~~

8 ~~(i) A statement of the amounts of advances made or liability~~
9 ~~incurred for which the grain dealer claims a lien, or instead of~~
10 ~~a lien a statement that advances have been made or liabilities~~
11 ~~incurred and the purpose of the advances or liabilities is~~
12 ~~sufficient.~~

13 ~~(j) A statement as to whether the farm produce stored is to~~
14 ~~be stored separately or commingled as fungible goods. A grain~~
15 ~~dealer shall be liable under the provisions of Act No. 303 of~~
16 ~~the Public Acts of 1909, as amended, being sections 443.50 to~~
17 ~~443.55 of the Michigan Compiled Laws, to a person injured, for~~
18 ~~all damages caused by omission from a warehouse receipt of any of~~
19 ~~the terms required by this act for the negotiable or nonnegotia-~~
20 ~~ble receipt as issued.~~

21 ~~(2) An exact copy of each warehouse receipt shall be avail-~~
22 ~~able for examination in the dealer's facility of issuance for 2~~
23 ~~years after cancellation or expiration. All warehouse receipts~~
24 ~~shall be serially numbered and issued in numerical sequence. All~~
25 ~~voided forms shall be held as if used.~~

26 (1) A GRAIN DEALER SHALL INCLUDE WITH AN APPLICATION FOR A
27 LICENSE OR RENEWAL A FINANCIAL STATEMENT FOR THE GRAIN DEALER'S

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1 MOST RECENT COMPLETED FISCAL YEAR. THE FINANCIAL STATEMENT SHALL
2 BE A REVIEWED OR AUDITED FINANCIAL STATEMENT, PREPARED BY A CER-
3 TIFIED PUBLIC ACCOUNTANT IN ACCORDANCE WITH GENERALLY ACCEPTED
4 ACCOUNTING PRINCIPLES. THE END OF THE GRAIN DEALER'S MOST RECENT
5 COMPLETED FISCAL YEAR SHALL BE WITHIN 6 MONTHS OF THE EXPIRATION
6 DATE OF THE GRAIN DEALER'S CURRENT LICENSE. THE FINANCIAL STATE-
7 MENT SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING:

8 (A) AN ACCOUNTANT'S REPORT, A BALANCE SHEET, AN INCOME
9 STATEMENT, AND NOTES AND DISCLOSURES.

10 (B) A STATEMENT OF THE GRAIN DEALER'S ALLOWABLE NET ASSETS
11 FOR PURPOSES OF SECTION 3.

12 (2) IF A FINANCIAL STATEMENT DESCRIBED IN SUBSECTION (1)
13 DISCLOSES THAT THE GRAIN DEALER DURING THE PRECEDING FISCAL YEAR
14 HAD A CURRENT ASSET TO CURRENT LIABILITY RATIO OF LESS THAN 1 TO
15 1, THE LICENSEE SHALL INCLUDE WITH THE APPLICATION A PLAN AND
16 TIMETABLE TO INCREASE THE CURRENT ASSET TO CURRENT LIABILITY
17 RATIO TO 1 TO 1 OR MORE.

18 (3) IF A FINANCIAL STATEMENT DESCRIBED IN SUBSECTION (1) IS
19 A FINANCIAL STATEMENT OF THE LICENSEE'S PARENT CORPORATION OR A
20 CONSOLIDATED FINANCIAL STATEMENT OF THE LICENSEE AND ITS PARENT
21 CORPORATION, THE APPLICATION SHALL INCLUDE A DECLARATION OF
22 LIABILITY SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE PARENT
23 CORPORATION, BY WHICH THE PARENT CORPORATION ASSUMES ALL FINAN-
24 CIAL OBLIGATIONS INCURRED BY THE LICENSEE DURING THE TERM OF THE
25 LICENSE.

26 Sec. 10. ~~Failure of a grain dealer to issue a warehouse~~
27 ~~certificate of a form approved by the director to a person~~

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1 ~~storing any farm produce with him, or the use of subterfuge by a~~
2 ~~grain dealer to avoid the issuance of a warehouse certificate for~~
3 ~~farm produce which is in fact stored with him, shall be suffi-~~
4 ~~cient cause for revocation of license of the grain dealer.~~ AFTER
5 A HEARING CONDUCTED IN ACCORDANCE WITH THE ADMINISTRATIVE PROCE-
6 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE DEPART-
7 MENT MAY REVOKE OR REFUSE TO ISSUE OR RENEW A LICENSE, OR REQUIRE
8 A FIDELITY BOND IN AN AMOUNT AND ON TERMS DETERMINED BY THE
9 DEPARTMENT, IF ANY OF THE FOLLOWING OCCURRED WITHIN THE 5 YEARS
10 PRECEDING THE DATE OF THE LICENSE APPLICATION:

11 (A) THE APPLICANT, A MANAGER EMPLOYED BY THE APPLICANT, OR
12 ANY OTHER INDIVIDUAL WITH MANAGEMENT RESPONSIBILITIES FOR THE
13 FARM PRODUCE HANDLING BUSINESS OF THE APPLICANT WAS A PRINCIPAL
14 IN A GRAIN DEALER RECEIVERSHIP OR INSOLVENCY PROCEEDING THAT
15 RESULTED IN LOSSES TO CREDITORS OR DEPOSITORS.

16 (B) THE APPLICANT, A MANAGER EMPLOYED BY THE APPLICANT, OR
17 ANY OTHER INDIVIDUAL WITH MANAGEMENT RESPONSIBILITIES FOR THE
18 FARM PRODUCE HANDLING BUSINESS OF THE APPLICANT PLED GUILTY OR
19 WAS CONVICTED OF ANY FELONY INVOLVING FRAUD, CONVERSION, OR
20 EMBEZZLEMENT.

21 (C) THE APPLICANT'S LICENSE UNDER THE UNITED STATES WARE-
22 HOUSE ACT, 39 STAT. 486, 7 U.S.C. 241 TO 273, WAS REVOKED OR
23 CANCELED DUE TO A VIOLATION OF THAT ACT.

24 Sec. 11. ~~A form of acknowledgment of receipt of farm~~
25 ~~produce, issued by a grain dealer for farm produce delivered to~~
26 ~~the grain dealer, that does not contain the essential terms of a~~
27 ~~warehouse receipt as required by section 9, as approved by the~~

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1 ~~director shall have prominently printed on the face of the form~~
2 ~~the words "Not a storage warehouse receipt".~~

3 (1) A GRAIN DEALER WHO USES A TEMPORARY FACILITY SHALL
4 REPORT TO THE DEPARTMENT ON THE DAILY POSITION REPORT REQUIRED
5 UNDER SECTION 15 THE ADDRESS AND BUSHEL CAPACITY OF THE TEMPORARY
6 FACILITY FOR ANY PERIOD THAT THE TEMPORARY FACILITY IS IN USE.
7 THE GRAIN DEALER SHALL PROVIDE THE DEPARTMENT WITH A COPY OF THE
8 LEASE AGREEMENT AND BIN CHARTS, IF ANY, FOR THE TEMPORARY FACIL-
9 ITY IF THE GRAIN DEALER HAS NOT PREVIOUSLY PROVIDED THEM.

10 (2) A GRAIN DEALER USING A TEMPORARY FACILITY SHALL PAY AN
11 ADDITIONAL LICENSE FEE, CALCULATED UNDER SECTION 8, BASED ON THE
12 BUSHEL CAPACITY OF THE TEMPORARY FACILITY. THE GRAIN DEALER
13 SHALL PAY THE ADDITIONAL LICENSE FEE TO THE DEPARTMENT WITH THE
14 POSITION REPORT FOR THE FIRST MONTH THE GRAIN DEALER USES THE
15 TEMPORARY FACILITY.

16 Sec. 12. ~~A grain dealer shall at all times keep all farm~~
17 ~~produce stored by him insured in some reliable insurance company~~
18 ~~authorized to do business in Michigan, against loss by fire,~~
19 ~~inherent explosion, and tornado, to the extent of its full market~~
20 ~~value, and failure to so do shall be sufficient cause for revoca-~~
21 ~~tion of license. The average market value of farm produce so~~
22 ~~stored as evidenced by the warehouse receipt or price later~~
23 ~~agreement as held by any owner on the date of destruction by any~~
24 ~~of the insurable causes shall be the basis of settlement in case~~
25 ~~of loss.~~

26 (1) A LICENSEE SHALL MAINTAIN ON FILE WITH THE DEPARTMENT A
27 CURRENT CERTIFICATE OF INSURANCE EVIDENCING AN EFFECTIVE POLICY

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1 OF INSURANCE ISSUED BY AN INSURANCE COMPANY AUTHORIZED TO DO
2 BUSINESS IN THIS STATE. THE POLICY SHALL INSURE IN THE NAME OF
3 THE GRAIN DEALER ALL FARM PRODUCE IN THE FACILITIES OF THE GRAIN
4 DEALER FOR THE FULL MARKET VALUE OF THE FARM PRODUCE AGAINST LOSS
5 BY FIRE, EXPLOSION, LIGHTNING, AND WINDSTORM. IN ADDITION TO ANY
6 OTHER REMEDY AVAILABLE UNDER THIS ACT, THE DEPARTMENT MAY DENY,
7 REVOKE, OR SUSPEND A LICENSE FOR A VIOLATION OF THIS SUBSECTION.

8 (2) IF FIRE, EXPLOSION, LIGHTNING, OR WINDSTORM DESTROYS OR
9 DAMAGES ANY FARM PRODUCE IN A FACILITY OPERATED BY A LICENSEE,
10 AND THE DEPOSITOR OF THE FARM PRODUCE DEMANDS REIMBURSEMENT AND
11 PROVIDES THE LICENSEE WITH A WAREHOUSE RECEIPT OR OTHER EVIDENCE
12 OF OWNERSHIP OF THE FARM PRODUCE, THE LICENSEE SHALL REIMBURSE
13 THE DEPOSITOR OF THE FARM PRODUCE FOR THE MARKET PRICE OF THE
14 FARM PRODUCE MINUS ANY CHARGES OR ADVANCES TO THE DEPOSITOR. AS
15 USED IN THIS SUBSECTION, "MARKET PRICE" MEANS THE AVERAGE PRICE
16 PAID FOR FARM PRODUCE OF THE SAME TYPE, GRADE, AND QUALITY ON THE
17 DATE OF THE LOSS AT THE LOCATION OF THE FACILITY.

18 (3) A GRAIN DEALER SHALL REIMBURSE ALL DEPOSITORS WHOSE FARM
19 PRODUCE IS DESTROYED OR DAMAGED BY FIRE, EXPLOSION, LIGHTNING, OR
20 WINDSTORM, WITHIN 10 DAYS AFTER THE LICENSEE RECEIVES PAYMENT
21 FROM AN INSURER UNDER A POLICY DESCRIBED IN SUBSECTION (1). IN
22 ADDITION TO ANY OTHER REMEDY AVAILABLE UNDER THIS ACT, THE
23 DEPARTMENT MAY DENY, REVOKE, OR SUSPEND A LICENSE FOR A VIOLATION
24 OF THIS SUBSECTION.

25 (4) IF THE DEPARTMENT DETERMINES THAT A LICENSEE'S INSURANCE
26 IS INSUFFICIENT, EVEN IF THE INSURANCE WAS PREVIOUSLY ACCEPTABLE
27 TO THE DEPARTMENT, THE DEPARTMENT SHALL REQUIRE THAT THE LICENSEE

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1 OBTAIN ADDITIONAL INSURANCE THAT CONFORMS TO THE REQUIREMENTS OF
2 THIS ACT.

3 (5) AN INSURANCE COMPANY MAY NOT CANCEL OR NONRENEW INSUR-
4 ANCE REQUIRED BY THIS ACT, INCLUDING INSURANCE PROVIDED BY
5 BINDER, UNLESS IT SENDS A NOTICE OF INTENT TO CANCEL OR NONRENEW
6 TO THE DEPARTMENT BY CERTIFIED OR REGISTERED MAIL MORE THAN 15
7 DAYS BEFORE THE CANCELLATION OR NONRENEWAL OF THE INSURANCE IS
8 EFFECTIVE.

9 Sec. 13. ~~If authorized by agreement or custom, grain deal-~~
10 ~~ers may commingle fungible farm produce with other farm produce~~
11 ~~of like kind and grade. In such case, the various depositors of~~
12 ~~the mingled goods shall own the entire mass in common, and each~~
13 ~~depositor shall be entitled to the portion as the amount depos-~~
14 ~~ited by him bears to the whole, and the grain dealer shall be~~
15 ~~liable, severally, to each depositor for the care and redelivery~~
16 ~~of his share of the mass to the same extent and under the same~~
17 ~~circumstances as if the goods had been kept separate. A grain~~
18 ~~dealer may dispose of only that quantity of a part of a fungible~~
19 ~~mass of farm produce that is in excess of the amount covered by~~
20 ~~outstanding warehouse receipts issued by him.~~

21 (1) THE DIRECTOR MAY REQUIRE THAT A GRAIN DEALER MAKE ITS
22 BOOKS AND RECORDS AVAILABLE FOR AUDIT OR INSPECTION.

23 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), FINANCIAL INFORMA-
24 TION AND DAILY POSITION REPORT INFORMATION SUBMITTED TO THE
25 DEPARTMENT BY AN APPLICANT OR LICENSEE FOR PURPOSES OF THIS ACT
26 ARE CONFIDENTIAL AND ARE NOT SUBJECT TO THE DISCLOSURE
27 REQUIREMENTS OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL

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1 15.231 TO 15.246, EXCEPT THAT DISCLOSURE OF FINANCIAL INFORMATION
2 OR DAILY POSITION REPORT INFORMATION MAY BE MADE IN ANY OF THE
3 FOLLOWING CIRCUMSTANCES:

4 (A) WITH THE WRITTEN CONSENT OF THE APPLICANT OR LICENSEE.

5 (B) PURSUANT TO A COURT PROCEEDING.

6 (C) THE DISCLOSURE IS MADE TO AN AGENT OR EMPLOYEE OF THE
7 DEPARTMENT.

8 (D) THE DISCLOSURE IS MADE TO AN AGENT OR EMPLOYEE OF A
9 STATE OR THE FEDERAL GOVERNMENT AUTHORIZED BY LAW TO SEE OR
10 REVIEW THE INFORMATION.

11 (3) THE DEPARTMENT MAY DISCLOSE INFORMATION DESCRIBED IN
12 SUBSECTION (2) IN THE FORM OF AN INFORMATION SUMMARY OR PROFILE,
13 OR AS PART OF A STATISTICAL STUDY THAT INCLUDES DATA ON MORE THAN
14 1 GRAIN DEALER THAT DOES NOT IDENTIFY THE GRAIN DEALER TO WHOM
15 ANY SPECIFIC INFORMATION APPLIES.

16 Sec. 14. ~~The grades of farm produce as stated upon any~~
17 ~~warehouse receipt or price later agreement issued by a grain~~
18 ~~dealer shall conform to the official grade standards as estab-~~
19 ~~lished by the state department of agriculture, if those grades~~
20 ~~have been or are established, and in the absence of official~~
21 ~~state grades, shall conform to the official United States grade~~
22 ~~standards as established by the bureau of agricultural economics~~
23 ~~of the United States department of agriculture, for the specific~~
24 ~~farm produce specified in the warehouse receipt as issued.~~

25 (1) UPON REQUEST, THE DEPARTMENT SHALL PROVIDE TO EACH GRAIN
26 DEALER A CURRENT COPY OF THIS ACT, ANY RULES PROMULGATED UNDER
27 THIS ACT, AND ANY AMENDMENTS TO THE ACT OR RULES.

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1 (2) A LICENSEE MAY COMMINGLE A DEPOSITOR'S FARM PRODUCE WITH
2 OTHER FUNGIBLE FARM PRODUCE, UNLESS THE LICENSEE AND DEPOSITOR
3 HAVE EXECUTED A WRITTEN AGREEMENT THAT REQUIRES THE LICENSEE TO
4 KEEP THE DEPOSITOR'S FARM PRODUCE SEPARATE FROM OTHER FARM
5 PRODUCE AND AVAILABLE FOR IDENTIFICATION AND DELIVERY TO OR AS
6 DIRECTED BY THE DEPOSITOR.

7 (3) A LICENSEE THAT ELECTS TO LIMIT THE TYPES OF FARM
8 PRODUCE TRANSACTIONS IT OFFERS SHALL POST A LIST OF THE TYPES OF
9 FARM PRODUCE TRANSACTIONS IT OFFERS AT A READILY VISIBLE LOCATION
10 IN EACH OFFICE OR AT EACH SCALE OF THE LICENSEE.

11 (4) IF A WAREHOUSE RECEIPT OR ACKNOWLEDGMENT FORM ISSUED
12 UNDER THIS ACT IS OUTSTANDING BY THE GRAIN DEALER WHO ISSUED IT,
13 THE GRAIN DEALER SHALL NOT ISSUE ANOTHER WAREHOUSE RECEIPT OR
14 ACKNOWLEDGMENT FORM FOR ALL OR ANY PART OF THAT FARM PRODUCE
15 EXCEPT AS PROVIDED IN THIS SUBSECTION. IF A WAREHOUSE RECEIPT OR
16 ACKNOWLEDGMENT FORM IS LOST, STOLEN, OR DESTROYED, THE HOLDER OF
17 THE WAREHOUSE RECEIPT OR ACKNOWLEDGMENT FORM IS ENTITLED TO A
18 SUBSTITUTE WAREHOUSE RECEIPT OR ACKNOWLEDGMENT FORM. IF A SUB-
19 STITUTE WAREHOUSE RECEIPT OR ACKNOWLEDGMENT FORM IS ISSUED UNDER
20 THIS SUBSECTION, IT HAS THE SAME LEGAL EFFECT AS THE ORIGINAL
21 WAREHOUSE RECEIPT OR ACKNOWLEDGMENT FORM AND THE ISSUANCE OF THE
22 SUBSTITUTE CANCELS THE ORIGINAL WAREHOUSE RECEIPT OR ACKNOWLEDG-
23 MENT FORM. A SUBSTITUTE WAREHOUSE RECEIPT OR ACKNOWLEDGMENT FORM
24 SHALL STATE THE NUMBER AND DATE OF THE ORIGINAL WAREHOUSE RECEIPT
25 OR ACKNOWLEDGMENT FORM; SHALL CONTAIN A NOTARIZED STATEMENT BY
26 THE HOLDER THAT THE ORIGINAL WAS LOST, STOLEN, OR DESTROYED; AND
27 SHALL CONTAIN A NOTARIZED STATEMENT OF THE HOLDER AND GRAIN

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1 DEALER THAT THE SUBSTITUTE WAREHOUSE RECEIPT OR ACKNOWLEDGMENT
2 FORM CONTAINS THE SAME TERMS AS AND IS ISSUED TO REPLACE THE
3 ORIGINAL WAREHOUSE RECEIPT OR ACKNOWLEDGMENT FORM. IF THE LOST,
4 STOLEN, OR DESTROYED INSTRUMENT IS A NEGOTIABLE WAREHOUSE
5 RECEIPT, THE HOLDER SHALL PROVIDE THE GRAIN DEALER WITH A LOST
6 INSTRUMENT BOND IN AN AMOUNT EQUAL TO 2 TIMES THE CURRENT MARKET
7 VALUE OF THE FARM PRODUCE COVERED BY THAT WAREHOUSE RECEIPT, IN A
8 FORM PRESCRIBED BY THE DEPARTMENT FROM A SURETY AUTHORIZED TO
9 CONDUCT BUSINESS IN THIS STATE.

10 (5) A GRAIN DEALER SHALL EXERCISE DUE CARE AS THE CUSTODIAN
11 OF THE FARM PRODUCE IN HIS OR HER CUSTODY.

12 (6) IF A DEPOSITOR FAILS TO REMOVE OR SELL FARM PRODUCE IN
13 ACCORDANCE WITH THE WRITTEN TERMS OF THE DEPOSITOR'S AGREEMENT
14 WITH THE LICENSEE, THE LICENSEE MAY SELL THE FARM PRODUCE IN
15 ACCORDANCE WITH THE WRITTEN TERMS OF THE DEPOSITOR'S AGREEMENT.

16 (7) A GRAIN DEALER MAY NOT BORROW MONEY OR HOLD AN OUTSTAND-
17 ING LOAN BALANCE SECURED BY FARM PRODUCE INVENTORY IN AN AMOUNT
18 GREATER THAN THE NET POSITIVE ACCUMULATED DOLLAR VALUE OF FARM
19 PRODUCE, AS REPORTED ON ITS DAILY POSITION REPORT, AT ANY POINT
20 IN TIME.

21 Sec. 15. ~~A grain dealer shall not accept for storage farm~~
22 ~~produce in excess of his licensed storage capacity, under penalty~~
23 ~~of revocation of his license, except to the extent the grain~~
24 ~~dealer has and maintains in effect unencumbered bona fide con-~~
25 ~~tracts with other licensed grain dealers for storage facilities~~
26 ~~sufficient to maintain, and does so maintain in storage~~
27 ~~sufficient quantities of each farm produce of the proper grade to~~

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1 ~~at all times satisfy all outstanding warehouse receipts issued by~~
2 ~~him, and failure to do so shall be sufficient cause for revoca-~~
3 ~~tion of license. The director shall revoke the license of a~~
4 ~~grain dealer upon evidence of his failure to comply with this~~
5 ~~section of this act.~~

6 (1) A GRAIN DEALER SHALL KEEP A COMPLETE AND ACCURATE DAILY
7 POSITION REPORT. THE GRAIN DEALER SHALL SUBMIT THE DAILY POSI-
8 TION REPORT FOR THE LAST BUSINESS DAY OF THE PRECEDING FISCAL
9 MONTH TO THE DEPARTMENT DURING THE FIRST 10 BUSINESS DAYS OF THE
10 GRAIN DEALER'S FISCAL MONTH.

11 (2) A DAILY POSITION REPORT SHALL INCLUDE ALL OF THE FOLLOW-
12 ING INFORMATION ABOUT THE GRAIN DEALER'S OPERATIONS, AS OF THE
13 LAST BUSINESS DAY OF THE PRECEDING FISCAL MONTH, ON A FORM
14 APPROVED BY THE DIRECTOR:

15 (A) THE QUANTITY OF EACH TYPE OF FARM PRODUCE IN INVENTORY.

16 (B) THE QUANTITY OF FARM PRODUCE COVERED BY OUTSTANDING
17 WAREHOUSE RECEIPTS, OPEN STORAGE, AND PRICE LATER AGREEMENTS,
18 INCLUDING PRICE LATER AGREEMENTS AND WAREHOUSE RECEIPTS FOR FARM
19 PRODUCE IN OTHER GRAIN DEALERS' FACILITIES.

20 (C) THE QUANTITY OF FARM PRODUCE COVERED BY COLLATERAL WARE-
21 HOUSE RECEIPTS.

22 (D) THE TOTAL DOLLAR AMOUNTS OF LOANS AGAINST GRAIN
23 INVENTORY.

24 (E) A DESCRIPTION AND QUANTITY OF ANY OTHER FARM PRODUCE
25 OBLIGATIONS RESULTING IN THE GRAIN DEALER'S BALANCE POSITION OF
26 FARM PRODUCE.

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1 (F) IF A DEFICIENCY CONCERNING PRICE LATER AGREEMENTS
2 EXISTS, THE QUANTITY OF OFFSETTING PURCHASE COMMITMENTS.

3 (3) IF THE DEPARTMENT DETERMINES THAT THERE IS A DEFICIENCY
4 IN ANY WAREHOUSE RECEIPT POSITION, THE DEPARTMENT SHALL NOTIFY
5 THE GRAIN DEALER AND REQUIRE THAT THE GRAIN DEALER COVER THE
6 SHORTAGE OR FURNISH BOND OR SECURITY IN AN AMOUNT AND ON TERMS
7 REQUIRED BY THE DEPARTMENT. IF THE GRAIN DEALER FAILS TO COMPLY,
8 THE DEPARTMENT MAY SEIZE GRAIN ASSETS FOR THE BENEFIT OF
9 CLAIMANTS.

10 (4) IF A NET DEFICIENCY CONCERNING PRICE LATER AGREEMENTS
11 EXISTS, BASED UPON DAILY BID PRICES, THE GRAIN DEALER SHALL COVER
12 THE DEFICIENCY BY PLACING IN AN ESCROW ACCOUNT CASH, CASH EQUIVA-
13 LENTS, OR MARKETABLE SECURITIES EQUAL TO 80% OF THE DEFICIENCY
14 AND OFFSETTING PURCHASE COMMITMENTS EQUAL TO AT LEAST 20% OF THE
15 DEFICIENCY. THE GRAIN DEALER SHALL FILE A COPY OF THE ESCROW
16 AGREEMENT WITH THE DEPARTMENT. THE ESCROW AGREEMENT SHALL
17 REQUIRE THAT THE ESCROW INSTITUTION SUBMIT A MONTHLY STATEMENT
18 FOR THE ESCROW ACCOUNT TO THE DEPARTMENT.

19 (5) A VIOLATION OF THIS SECTION BY A GRAIN DEALER MAY RESULT
20 IN A FINE OR SUSPENSION OR REVOCATION OF THE GRAIN DEALER'S
21 LICENSE UNDER SECTION 22. IF THE VIOLATION IS THE INTENTIONAL
22 FILING OF A FALSE DAILY POSITION REPORT, IN ADDITION TO LICENSE
23 REVOCATION, THE GRAIN DEALER IS SUBJECT TO THE PENALTY DESCRIBED
24 IN SECTION 23 FOR EACH VIOLATION.

25 Sec. 16. ~~A grain dealer under license shall designate to~~
26 ~~the director the personnel authorized by the grain dealer to~~
27 ~~accept farm produce for storage and issue warehouse receipts~~

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~~1 therefor, or who shall be responsible in any manner for the grain
2 dealer's compliance with this act. A grain dealer shall promptly
3 notify the director of any changes made in the personnel as
4 designated. The director, in his discretion, may require fidel-
5 ity bonds of a grain dealer for the personnel so designated, and
6 to stipulate the form and amount of the bonds.~~

7 (1) A LICENSEE SHALL KEEP A COMPLETE AND ACCURATE SET OF
8 RECORDS AND ACCOUNTS OF ALL TRANSACTIONS PERTAINING TO THE OPERA-
9 TION OF EACH FACILITY, INCLUDING, BUT NOT LIMITED TO, RECORDS AND
10 ACCOUNTS OF ALL FARM PRODUCE RECEIVED IN OR WITHDRAWN FROM A
11 FACILITY, OF ALL UNISSUED WAREHOUSE RECEIPTS AND ACKNOWLEDGMENT
12 FORMS IN THE GRAIN DEALER'S POSSESSION, AND OF ALL ISSUED WARE-
13 HOUSE RECEIPTS AND ACKNOWLEDGMENT FORMS, COPIES OF ALL CONTRACTS,
14 AND ANY WAREHOUSE RECEIPTS AND ACKNOWLEDGMENT FORMS RETURNED TO
15 AND SETTLED BY THE LICENSEE. A GRAIN DEALER SHALL RETAIN A PAPER
16 COPY OR A COPY STORED IN ELECTRONIC OR OTHER FORM OF A WAREHOUSE
17 RECEIPT, ACKNOWLEDGMENT FORM, OR OTHER DOCUMENT EVIDENCING OWNER-
18 SHIP OF ANY FARM PRODUCE OR LIABILITY AS A GRAIN DEALER FOR AT
19 LEAST THE PERIOD THAT THE DOCUMENT IS OUTSTANDING, AND IF THE
20 DOCUMENT HAS BEEN CANCELED, FOR A PERIOD OF NOT LESS THAN 3 YEARS
21 FROM THE DATE OF CANCELLATION. A GRAIN DEALER SHALL RETAIN ANY
22 OTHER RECORDS AND THE ACCOUNTS FOR AT LEAST 7 YEARS.

23 (2) A LICENSEE SHALL KEEP ITS RECORDS AND ACCOUNTS CONCERN-
24 ING ITS FARM PRODUCE HANDLING BUSINESS SEPARATE AND DISTINCT FROM
25 THE RECORDS AND ACCOUNTS OF ANY OTHER BUSINESS CONDUCTED BY THE
26 LICENSEE.

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1 (3) THE DEPARTMENT MAY EXAMINE THE RECORDS AND ACCOUNTS
2 PERTAINING TO THE GRAIN DEALER'S FARM PRODUCE HANDLING BUSINESS
3 AT ANY TIME DURING NORMAL BUSINESS HOURS.

4 (4) A GRAIN DEALER SHALL NOT INTENTIONALLY MAINTAIN FALSE OR
5 MISLEADING BOOKS AND RECORDS. A GRAIN DEALER WHO VIOLATES THIS
6 SUBSECTION IS SUBJECT TO THE PENALTY DESCRIBED IN SECTION 23.

7 SEC. 17. (1) IF A GRAIN DEALER INTENDS TO DISCONTINUE HIS
8 OR HER FARM PRODUCE HANDLING BUSINESS AT OR BEFORE THE EXPIRATION
9 OF HIS OR HER LICENSE, AT LEAST 30 DAYS BEFORE THE DATE THE GRAIN
10 DEALER INTENDS TO DISCONTINUE THE BUSINESS, THE GRAIN DEALER
11 SHALL BY REGISTERED OR CERTIFIED MAIL PROVIDE NOTICE OF INTENT TO
12 DISCONTINUE BUSINESS TO THE DIRECTOR, EACH PERSON STORING FARM
13 PRODUCE IN A FACILITY OF THE GRAIN DEALER, AND EACH KNOWN HOLDER
14 OF A WAREHOUSE RECEIPT, ACKNOWLEDGMENT FORM, OR OPEN STORAGE OR
15 PRICE LATER AGREEMENT ISSUED BY THE GRAIN DEALER. IF THE HOLDER
16 OF A WAREHOUSE RECEIPT, ACKNOWLEDGMENT FORM, OR OPEN STORAGE OR
17 PRICE LATER AGREEMENT IS NOT KNOWN, THE GRAIN DEALER SHALL PUB-
18 LISH THE NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH
19 COUNTY IN WHICH A FACILITY IS LOCATED.

20 (2) IF A GRAIN DEALER HAS PROVIDED OR PUBLISHED A NOTICE OF
21 INTENT TO DISCONTINUE BUSINESS UNDER SUBSECTION (1) AND THE
22 DEPARTMENT DETERMINES THAT THERE IS SUFFICIENT FARM PRODUCE TO
23 COVER WAREHOUSE RECEIPTS AND OPEN STORAGE ARRANGEMENTS, A DEPOSI-
24 TOR OF FARM PRODUCE UNDER A WAREHOUSE RECEIPT OR OPEN STORAGE
25 ARRANGEMENT IN A FACILITY OF THE GRAIN DEALER MAY REMOVE OR
26 DIRECT THE REMOVAL OF THE FARM PRODUCE FROM THE FACILITY BEFORE
27 THE EXPIRATION OF THE 30-DAY PERIOD DESCRIBED IN SUBSECTION (1).

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1 (3) WITHIN 14 DAYS OF DISCONTINUING HIS OR HER FARM PRODUCE
2 HANDLING BUSINESS, THE GRAIN DEALER SHALL FILE A LIST OF ALL FARM
3 PRODUCE LIABILITIES ASSUMED BY A PURCHASER OF THE BUSINESS, OR
4 ANY PERSON OTHER THAN THE LICENSEE, WITH THE DEPARTMENT.

5 Sec. 18. ~~(1) The director may revoke, suspend, or deny the~~
6 ~~license of a grain dealer or the registration of a grain hauler~~
7 ~~after notification of an alleged violation and providing an~~
8 ~~opportunity for public hearing on those violations to the grain~~
9 ~~dealer or grain hauler pursuant to the administrative procedures~~
10 ~~act of 1969, Act No. 306 of the Public Acts of 1969, being~~
11 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws.~~

12 ~~(2) Within 15 days after the conclusion of the hearing, the~~
13 ~~department shall render a decision as to suspension, revocation,~~
14 ~~or denial of the license of the grain dealer or the registration~~
15 ~~of a grain hauler.~~

16 (1) A GRAIN DEALER SHALL ACKNOWLEDGE RECEIPT OF FARM PRODUCE
17 BY ISSUING AN ACKNOWLEDGMENT FORM TO THE DEPOSITOR. THE DEPOSI-
18 TOR OR HIS OR HER AUTHORIZED AGENT MUST SIGN THE ACKNOWLEDGMENT
19 FORM IF IT WILL BE USED AS A PRICE LATER AGREEMENT, AND THE
20 DEPOSITOR AND GRAIN DEALER ARE NOT PARTIES TO A PRIOR WRITTEN
21 AGREEMENT GOVERNING TITLE AND DELIVERY OF THE FARM PRODUCE. THE
22 GRAIN DEALER SHALL PROVIDE A COPY OF THE ACKNOWLEDGMENT FORM TO
23 THE DEPOSITOR AT THE TIME THE FARM PRODUCE IS DELIVERED TO THE
24 GRAIN DEALER.

25 (2) AN ACKNOWLEDGMENT FORM MUST CONTAIN ALL OF THE
26 FOLLOWING:

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1 (A) THE NAME AND ADDRESS OF THE GRAIN DEALER.

2 (B) THE DATE OF TRANSFER, WEIGHT, AND TYPE OF FARM PRODUCE
3 DEPOSITED.

4 (C) A STATEMENT THAT UNLESS THE PARTIES AGREE TO ANOTHER
5 DISPOSITION WITHIN 30 DAYS OF THE DELIVERY TO THE GRAIN DEALER,
6 THE FARM PRODUCE TRANSACTION IS A PRICE LATER AGREEMENT
7 TRANSACTION.

8 (3) FARM PRODUCE DELIVERED TO A GRAIN DEALER IS IN OPEN
9 STORAGE, AND THE RESPONSIBILITIES OF THE GRAIN DEALER AND DEPOSITOR
10 UNDER AN ACKNOWLEDGMENT FORM ARE THE SAME AS IF A NONNEGOTIA-
11 BLE WAREHOUSE RECEIPT HAD BEEN ISSUED FOR THE FARM PRODUCE,
12 UNLESS 1 OF THE FOLLOWING OCCURS:

13 (A) THE ACKNOWLEDGMENT FORM SATISFIES THE REQUIREMENTS
14 APPLICABLE TO A PRICE LATER AGREEMENT AND IS SIGNED BY THE DEPOSITOR
15 AND GRAIN DEALER OR THEIR AUTHORIZED AGENTS.

16 (B) THE FARM PRODUCE IS SOLD FOR A SET PRICE AT THE TIME OF
17 DELIVERY TO THE GRAIN DEALER OR ANOTHER DISPOSITION OCCURS.

18 (4) IF A GRAIN DEALER OBTAINS FARM PRODUCE FROM A DEPOSITOR
19 AND THE FARM PRODUCE IS NOT BEING DELIVERED TO A FACILITY OF THE
20 GRAIN DEALER, THE GRAIN DEALER SHALL ISSUE A TEMPORARY ACKNOWLEDGMENT
21 FORM IDENTIFYING THE ESTIMATED QUANTITY, TYPE OF FARM
22 PRODUCE, GRAIN DEALER'S NAME AND ADDRESS, AND THE NAME OF THE
23 DRIVER OF THE TRANSPORTING VEHICLE.

24 (5) A GRAIN DEALER SHALL RECORD THE DISPOSITION OF THE FARM
25 PRODUCE ON THE ACKNOWLEDGMENT FORM UNLESS HE OR SHE PROVIDES
26 OTHER SETTLEMENT DOCUMENTATION REFERENCING THE ACKNOWLEDGMENT
27 FORM.

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1 (6) IF A DEPOSITOR DEPOSITS FARM PRODUCE AT A FACILITY IN
2 THE NAME OF ANOTHER GRAIN DEALER, THE GRAIN DEALER IN WHOSE NAME
3 THE FARM PRODUCE IS DEPOSITED SHALL ISSUE THE ACKNOWLEDGMENT FORM
4 FOR THE FARM PRODUCE.

5 (7) IF A GRAIN DEALER'S LICENSE IS REVOKED OR TERMINATED,
6 THE GRAIN DEALER SHALL DELIVER ALL UNUSED ACKNOWLEDGMENT FORMS TO
7 THE DEPARTMENT.

8 Sec. 19. ~~For the protection of holders of warehouse
9 receipts or price later agreements of a grain dealer during a
10 proceeding of suspension or revocation of license, the director
11 may act as their agent, and shall seize and protect in the name
12 of the state of Michigan by any legal, civil, or criminal proce-
13 dure necessary, the assets of the grain dealer involved for the
14 account of the holders of his outstanding warehouse receipts and
15 price later agreements. Upon revocation of a grain dealer's
16 license, the director may liquidate, for the account of the hold-
17 ers of the warehouse receipts and price later agreements, the
18 grain dealer's assets and provide for an equitable distribution
19 of those assets among the holders of warehouse receipts and price
20 later agreements to the extent of their value, if possible, and
21 provide for the return to the grain dealer of any remaining
22 assets.~~

23 (1) A GRAIN DEALER SHALL POST AT EACH FACILITY A NOTICE THAT
24 STATES THAT THE GRAIN DEALER RESERVES THE RIGHT TO TERMINATE
25 STORAGE, PROCESSING, SHIPPING, AND HANDLING ARRANGEMENTS AND COL-
26 LECT OUTSTANDING CHARGES IF THE GRAIN DEALER'S LICENSE IS
27 SUSPENDED OR REVOKED.

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1 (2) A LICENSEE RECEIVING FARM PRODUCE FOR DEPOSIT SHALL
2 WEIGH AND INSPECT THE FARM PRODUCE.

3 Sec. 20. ~~The director shall establish and maintain a ware-~~
4 ~~house inspection service and personnel adequate for the enforce-~~
5 ~~ment of this act. The fees collected under this act shall be~~
6 ~~turned over to the state treasury and shall be credited to the~~
7 ~~general fund.~~

8 (1) IF THE LICENSEE AND DEPOSITOR AGREE, A LICENSEE SHALL
9 ISSUE A WAREHOUSE RECEIPT FOR ANY FARM PRODUCE RECEIVED FROM A
10 DEPOSITOR FOR STORAGE.

11 (2) IF A GRAIN DEALER ISSUES A WAREHOUSE RECEIPT FOR A
12 DEPOSIT, THE WAREHOUSE RECEIPT MUST BE ON A FORM APPROVED BY THE
13 DEPARTMENT THAT INCLUDES SPACES FOR INSERTING ALL OF THE FOLLOW-
14 ING INFORMATION AND STATEMENTS, AS APPLICABLE:

15 (A) THE LOCATION OF THE FACILITY.

16 (B) THE DATE THE WAREHOUSE RECEIPT IS ISSUED.

17 (C) THE GRAIN DEALER'S STORAGE RATE AND THE CALCULATION OF
18 THE DEPOSITOR'S STORAGE CHARGE.

19 (D) THE NET WEIGHT AND GRADE FACTORS OF THE FARM PRODUCE.

20 (E) WHETHER THE WAREHOUSE RECEIPT IS NEGOTIABLE OR NONNEGO-
21 TIABLE, WHICH SHALL BE CONSPICUOUSLY PRINTED ON THE FORM.

22 (F) THE SIGNATURE OF THE GRAIN DEALER OR HIS OR HER AUTHO-
23 RIZED AGENT.

24 (G) AN EXPIRATION DATE. AT THE EXPIRATION DATE, THE GRAIN
25 DEALER AND HOLDER SHALL RENEGOTIATE THE TERMS OF STORAGE OR
26 SETTLE AT MARKET PRICE.

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1 (H) A STATEMENT OF THE AMOUNT OF ADVANCES MADE OR LIABILITY
2 INCURRED FOR WHICH THE GRAIN DEALER CLAIMS A LIEN. IF THE EXACT
3 AMOUNT OF ADVANCES MADE OR LIABILITIES INCURRED AT THE TIME OF
4 ISSUANCE OF THE WAREHOUSE RECEIPT IS UNKNOWN TO THE GRAIN DEALER,
5 THE WAREHOUSE RECEIPT SHALL INCLUDE A STATEMENT OF THE FACT THAT
6 ADVANCES HAVE BEEN MADE OR LIABILITIES INCURRED.

7 (I) A STATEMENT THAT THE WAREHOUSE RECEIPT IS ISSUED SUBJECT
8 TO THIS ACT AND RULES PROMULGATED UNDER THIS ACT.

9 (3) THE HOLDER OF A WAREHOUSE RECEIPT HAS LEGAL TITLE TO
10 FARM PRODUCE HELD UNDER THE WAREHOUSE RECEIPT.

11 (4) A GRAIN DEALER SHALL SEQUENTIALLY NUMBER ITS WAREHOUSE
12 RECEIPTS AND ISSUE THEM IN NUMERICAL SEQUENCE AND RETAIN ANY
13 VOIDED WAREHOUSE RECEIPTS.

14 (5) IF A GRAIN DEALER'S LICENSE IS REVOKED OR TERMINATED,
15 THE GRAIN DEALER SHALL DELIVER ALL UNUSED WAREHOUSE RECEIPTS TO
16 THE DEPARTMENT.

17 (6) A PERSON SHALL NOT DO ANY OF THE FOLLOWING:

18 (A) ISSUE A WAREHOUSE RECEIPT FOR FARM PRODUCE EXCEPT ON A
19 FORM APPROVED BY THE DIRECTOR UNDER THIS SECTION.

20 (B) FALSELY MAKE, ALTER, FORGE, OR COUNTERFEIT A WAREHOUSE
21 RECEIPT.

22 (C) KNOWINGLY DEPOSIT FARM PRODUCE UNDER A WAREHOUSE RECEIPT
23 WITHOUT DISCLOSING ANY LIEN OR LACK OF TITLE.

24 (7) IF A GRAIN DEALER DELIVERS FROM STORAGE A PORTION OF THE
25 FARM PRODUCE FOR WHICH HE OR SHE HAS ISSUED A NEGOTIABLE WARE-
26 HOUSE RECEIPT, THE GRAIN DEALER SHALL CANCEL THE ORIGINAL
27 WAREHOUSE RECEIPT AND ISSUE A NEW WAREHOUSE RECEIPT FOR THE

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1 REMAINDER OF THE FARM PRODUCE STILL IN STORAGE. THE NEW
2 WAREHOUSE RECEIPT SHALL CONTAIN THE NUMBER AND DATE OF THE ORIGI-
3 NAL WAREHOUSE RECEIPT IN ADDITION TO MEETING THE OTHER REQUIRE-
4 MENTS OF THIS SECTION.

5 (8) A WAREHOUSE RECEIPT ISSUED FOR FARM PRODUCE IDENTIFIED
6 AND STORED SEPARATELY SHALL DESCRIBE THE STORAGE LOCATION OF THE
7 FARM PRODUCE.

8 (9) A LICENSEE MAY ISSUE A COLLATERAL WAREHOUSE RECEIPT ONLY
9 AGAINST FARM PRODUCE OWNED AND UNENCUMBERED BY THE LICENSEE AT
10 THE TIME OF ISSUANCE.

11 (10) A GRAIN DEALER SHALL PLACE FARM PRODUCE HELD IN A GRAIN
12 BANK OR FEED BANK ON A WAREHOUSE RECEIPT.

13 Sec. 21. ~~(1) A grain hauler who fails or neglects to~~
14 ~~present a seller of farm produce with the completed record form~~
15 ~~described in section 3(8) or who fails to pay for any type of~~
16 ~~farm produce by cash or check at the time of delivery is guilty~~
17 ~~of a misdemeanor punishable by a fine of not less than \$2,000.00~~
18 ~~and not more than \$5,000.00 or imprisonment for not more than 90~~
19 ~~days, or both.~~

20 ~~(2) The court shall order restitution from a person con-~~
21 ~~victed under this section.~~

22 (1) IF THERE IS NO OTHER DISPOSITION WITHIN 30 DAYS AFTER
23 THE DELIVERY OF FARM PRODUCE TO A GRAIN DEALER, THE FARM PRODUCE
24 TRANSACTION IS A PRICE LATER AGREEMENT TRANSACTION.

25 (2) TITLE OF FARM PRODUCE SUBJECT TO A PRICE LATER AGREEMENT
26 IS TRANSFERRED TO THE GRAIN DEALER AT THE TIME THE PRICE LATER
27 AGREEMENT IS EXECUTED.

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1 (3) A GRAIN DEALER SHALL MAINTAIN A SEPARATE FILE IN
2 NUMERICAL SEQUENCE OF NONCANCELED PRICE LATER AGREEMENTS THAT IS
3 AVAILABLE FOR INSPECTION DURING NORMAL BUSINESS HOURS BY THE
4 DEPARTMENT. THE GRAIN DEALER SHALL INCLUDE IN THE RECORDS AN
5 ACCOUNT OF ANY INFORMATION REQUIRED BY THE DIRECTOR TO DOCUMENT
6 THE GRAIN DEALER'S OBLIGATION TO A DEPOSITOR UNDER A PRICE LATER
7 AGREEMENT.

8 (4) A GRAIN DEALER SHALL NOT INCLUDE A CHARGE FOR STORAGE IN
9 ANY TRANSACTION THAT INCLUDES A PRICE LATER AGREEMENT.

10 (5) THE FORM AND CONTENT OF A PRICE LATER AGREEMENT SHALL BE
11 APPROVED BY THE DEPARTMENT. EACH PRICE LATER AGREEMENT MUST CON-
12 TAIN BLANK LINES OR SPACES FOR INSERTING ALL OF THE FOLLOWING
13 INFORMATION, STATEMENTS, AND PROVISIONS, AS APPLICABLE:

14 (A) THE DATE OF RECEIPT OF THE FARM PRODUCE.

15 (B) THE GRAIN DEALER'S HANDLING CHARGE RATES AND THE CALCU-
16 LATION OF THE DEPOSITOR'S CHARGES.

17 (C) THE NET WEIGHT, TYPE, AND GRADE FACTORS OF THE FARM
18 PRODUCE.

19 (D) THE SIGNATURE OF THE GRAIN DEALER OR HIS OR HER AUTHO-
20 RIZED AGENT.

21 (E) THE NAME AND ADDRESS OF THE DEPOSITOR.

22 (F) THE SIGNATURE OF THE DEPOSITOR OR, IF SIGNED BY AN
23 AUTHORIZED AGENT OF THE DEPOSITOR, THE NAME AND SIGNATURE OF THE
24 DEPOSITOR'S AUTHORIZED AGENT. THIS SUBDIVISION DOES NOT APPLY TO
25 A TRANSACTION DESCRIBED IN SUBSECTION (1).

26 (G) AN EXPIRATION DATE.

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1 (H) A STATEMENT THAT THE PRICE LATER AGREEMENT IS ISSUED
2 SUBJECT TO THIS ACT AND RULES PROMULGATED UNDER THIS ACT.

3 (6) A PERSON SHALL NOT KNOWINGLY DEPOSIT FARM PRODUCE UNDER
4 A PRICE LATER AGREEMENT WITHOUT DISCLOSING ANY LIEN ON OR LACK OF
5 TITLE TO THE FARM PRODUCE.

6 (7) A PRICE LATER AGREEMENT SHALL NOT BE CONVERTED TO A
7 WAREHOUSE RECEIPT.

8 (8) AT THE EXPIRATION DATE OF A PRICE LATER AGREEMENT, A
9 GRAIN DEALER SHALL SETTLE AT MARKET PRICE OR RENEGOTIATE.

10 Sec. 22. ~~A person who wilfully alters or destroys any~~
11 ~~warehouse receipt or price later agreement, or record of ware-~~
12 ~~house receipts or price later agreements required by this act, or~~
13 ~~issues a warehouse receipt or price later agreement without pre-~~
14 ~~serving a record; or intentionally falsifies a position sheet; or~~
15 ~~issues a warehouse receipt when the commodity or commodities enu-~~
16 ~~merated in the warehouse receipt are not in fact in the building~~
17 ~~or buildings it is certified they are in, or, with intent to~~
18 ~~defraud, issues a second or other receipt or agreement for any~~
19 ~~commodity for which, or for any part of which, a former valid~~
20 ~~receipt or agreement is outstanding and in force; or while any~~
21 ~~valid receipt is outstanding and in force, sells, pledges, mort-~~
22 ~~gages, or encumbers, or transfers contrary to this act or permits~~
23 ~~the same to be done without the written consent of the holder of~~
24 ~~the receipt, or, a person who receives the property or helps to~~
25 ~~dispose of the property, is guilty of a felony and shall be pun-~~
26 ~~ished by a fine of not more than \$10,000.00 or by imprisonment~~
27 ~~for not more than 5 years, or both.~~

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1 (1) THE DIRECTOR SHALL ADMINISTER AND ENFORCE THIS ACT. IN
2 ADDITION TO ANY OTHER POWERS CONFERRED BY THIS ACT, THE DIRECTOR
3 MAY DO ANY OF THE FOLLOWING:

4 (A) AUDIT AND INVESTIGATE THE RECEIVING, STORING, PROCESS-
5 ING, BUYING, SELLING, AND HANDLING OF FARM PRODUCE AND ANY COM-
6 PLAINTS CONCERNING THE RECEIVING, STORING, PROCESSING, BUYING,
7 SELLING, AND HANDLING OF FARM PRODUCE.

8 (B) REQUIRE A GRAIN DEALER TO TERMINATE RECEIVING, STORING,
9 PROCESSING, BUYING, SELLING, OR OTHER FARM PRODUCE HANDLING UPON
10 REVOCATION, SUSPENSION, OR SUMMARY SUSPENSION OF HIS OR HER
11 LICENSE.

12 (C) ADMINISTER OATHS AND ISSUE SUBPOENAS TO COMPEL THE
13 ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF
14 RECORDS IN CONNECTION WITH ANY INVESTIGATION OR HEARING UNDER
15 THIS ACT.

16 (D) PRESCRIBE AND APPROVE ALL FORMS, WITHIN THE LIMITATIONS
17 SET FORTH IN THIS ACT, INCLUDING THE FORMS OF WAREHOUSE RECEIPTS,
18 ACKNOWLEDGMENT FORMS, AND APPLICATIONS FOR LICENSES.

19 (E) EMPLOY INVESTIGATORY PERSONNEL, INCLUDING, BUT NOT
20 LIMITED TO, A CERTIFIED PUBLIC ACCOUNTANT OR AN INDIVIDUAL WITH
21 ACCOUNTING BACKGROUND AND SPECIALIZED INVESTIGATIVE TRAINING AND
22 EXPERIENCE.

23 (2) THE DEPARTMENT MAY PROMULGATE RULES PURSUANT TO THE
24 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
25 24.328, TO IMPLEMENT AND ADMINISTER THIS ACT.

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1 (3) THE DIRECTOR MAY REVOKE OR SUSPEND THE LICENSE OF A
2 GRAIN DEALER OR DENY A LICENSE TO A GRAIN DEALER IF THE DIRECTOR
3 FINDS THAT THE LICENSEE HAS DONE ANY OF THE FOLLOWING:

4 (A) ENGAGED IN FRAUDULENT OR DECEPTIVE PRACTICES.

5 (B) VIOLATED OR ATTEMPTED TO VIOLATE THIS ACT OR RULES
6 PROMULGATED UNDER THIS ACT.

7 (C) FAILED TO MAINTAIN INSURANCE COVERAGE REQUIRED BY THIS
8 ACT.

9 (D) FAILED TO MAINTAIN ACCURATE AND COMPLETE RECORDS AS
10 REQUIRED BY THIS ACT.

11 (E) FAILED TO PAY A FEE REQUIRED BY THIS ACT.

12 (F) REFUSED TO ALLOW ANY AUTHORIZED REPRESENTATIVE OF THE
13 DEPARTMENT TO EXAMINE THE APPLICANT'S OR LICENSEE'S ACCOUNTING
14 RECORDS, ACCOUNTS, FARM PRODUCE INVENTORIES, OR FACILITIES DURING
15 REGULAR BUSINESS HOURS.

16 (G) FAILED TO POSSESS SUFFICIENT FARM PRODUCE TO COVER THE
17 OUTSTANDING WAREHOUSE RECEIPTS OR ACKNOWLEDGMENT FORMS ISSUED OR
18 ASSUMED BY THE APPLICANT OR LICENSEE.

19 (H) ISSUED A WAREHOUSE RECEIPT IN VIOLATION OF THIS ACT OR
20 ANY RULES ADOPTED UNDER THIS ACT.

21 (I) FAILED TO MAINTAIN THE NET ALLOWABLE ASSETS REQUIRED BY
22 THIS ACT.

23 (J) FAILED TO SUBMIT A FINANCIAL STATEMENT IN COMPLIANCE
24 WITH THIS ACT.

25 (K) FAILED TO SECURE HIS OR HER OBLIGATIONS FOR PRICE LATER
26 AGREEMENTS.

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1 (4) IN A PROCEEDING TO SUSPEND OR REVOKE A LICENSE PURSUANT
2 TO SUBSECTION (3), THE DIRECTOR SHALL COMPLY WITH THE
3 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
4 24.328. THE DIRECTOR MAY ORDER A SUMMARY SUSPENSION OF A LICENSE
5 PURSUANT TO SECTION 92(2) OF THE ADMINISTRATIVE PROCEDURES ACT OF
6 1969, 1969 PA 306, MCL 24.292.

7 (5) THE DIRECTOR SHALL POST A NOTICE ON THE PROPERTY OF A
8 GRAIN DEALER WHOSE LICENSE HAS BEEN RESTRICTED, SUSPENDED, OR
9 REVOKED THAT STATES THE LIMITATIONS OR RESTRICTIONS IMPOSED ON
10 THE GRAIN DEALER. THE NOTICE SHALL NOT BE REMOVED FROM THE PROP-
11 ERTY WITHOUT WRITTEN AUTHORIZATION FROM THE DIRECTOR.

12 (6) IF A GRAIN DEALER'S LICENSE IS SUSPENDED OR REVOKED, THE
13 GRAIN DEALER MAY TERMINATE STORAGE, PROCESSING, SHIPPING, OR HAN-
14 DLING ARRANGEMENTS AND COLLECT OUTSTANDING CHARGES.

15 (7) IF A GRAIN DEALER'S LICENSE IS SUSPENDED OR REVOKED, THE
16 DIRECTOR SHALL NOTIFY ALL KNOWN WAREHOUSE RECEIPT HOLDERS AND
17 UNPAID DEPOSITORS OF THE GRAIN DEALER.

18 (8) IF THE DIRECTOR REVOKES A LICENSE UNDER THIS SECTION OR
19 A LICENSE EXPIRES, THE GRAIN DEALER SHALL TERMINATE ALL ARRANGE-
20 MENTS FOR FARM PRODUCE HANDLING IN ANY FACILITY OF THE GRAIN
21 DEALER COVERED BY THE LICENSE IN THE MANNER PRESCRIBED BY THE
22 DIRECTOR. UNDER THE DIRECTION OR SUPERVISION OF THE DIRECTOR,
23 THE GRAIN DEALER MAY LIQUIDATE FARM PRODUCE PREVIOUSLY RECEIVED
24 BY THE GRAIN DEALER.

25 (9) IF THE DIRECTOR SUSPENDS A GRAIN DEALER'S LICENSE UNDER
26 THIS ACT, THE GRAIN DEALER MAY UNDER DIRECTION OR SUPERVISION OF
27 THE DIRECTOR OPERATE THE GRAIN DEALER'S FACILITIES, BUT SHALL NOT

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1 RECEIVE ANY FARM PRODUCE FOR HANDLING DURING THE TERM OF THE
2 SUSPENSION.

3 (10) DURING A LICENSE SUSPENSION OR REVOCATION PROCEEDING,
4 ON BEHALF OF THIS STATE AND FOR THE PROTECTION OF HOLDERS OF
5 WAREHOUSE RECEIPTS OR OPEN STORAGE OR PRICE LATER AGREEMENTS OF
6 THE LICENSEE, THE DIRECTOR MAY SEIZE AND PROTECT THE ASSETS OF
7 THE LICENSEE BY ANY LEGAL, CIVIL, OR CRIMINAL PROCEEDINGS
8 NECESSARY. IF THE GRAIN DEALER'S LICENSE IS REVOKED, THE DIREC-
9 TOR MAY LIQUIDATE THE GRAIN DEALER'S WAREHOUSE RECEIPTS, OPEN
10 STORAGE AND PRICE LATER AGREEMENTS, AND OTHER ASSETS. THE DIREC-
11 TOR SHALL DISTRIBUTE THE PROCEEDS, FIRST TO THE HOLDERS OF WARE-
12 HOUSE RECEIPTS AND OPEN STORAGE AGREEMENTS, THEN TO THE SECURED
13 HOLDERS OF PRICE LATER AGREEMENTS, AND THEN TO ALL REMAINING
14 HOLDERS OF PRICE LATER AGREEMENTS. THE DIRECTOR SHALL RETURN ANY
15 REMAINING PROCEEDS TO THE GRAIN DEALER.

16 SEC. 23. (1) UNLESS OTHERWISE PROVIDED IN THIS ACT, A
17 PERSON WHO VIOLATES THIS ACT IS GUILTY OF A MISDEMEANOR AND IS
18 ALSO LIABLE FOR ALL DAMAGES SUSTAINED BY A DEPOSITOR FOR FARM
19 PRODUCE HANDLED IN VIOLATION OF THIS ACT. IN AN ENFORCEMENT
20 ACTION, A COURT MAY ORDER RESTITUTION TO A PARTY INJURED BY THE
21 HANDLING OF FARM PRODUCE IN VIOLATION OF THIS ACT IN ADDITION TO
22 ANY OTHER PENALTY PROVIDED BY LAW.

23 (2) A GRAIN DEALER WHO VIOLATES THIS ACT OR A RULE PROMUL-
24 GATED UNDER THIS ACT IS GUILTY OF A MISDEMEANOR AND SHALL BE
25 FINED NOT MORE THAN \$5,000.00 FOR EACH OFFENSE.

26 (3) A GRAIN DEALER WHO INTENTIONALLY VIOLATES THIS ACT OR A
27 RULE PROMULGATED UNDER THIS ACT IS GUILTY OF A MISDEMEANOR AND

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1 SHALL BE FINED NOT MORE THAN \$10,000.00 FOR EACH OFFENSE. THE
2 COURT MAY ALLOW THE DEPARTMENT TO RECOVER REASONABLE COSTS OF
3 INVESTIGATION INCURRED IN A PROSECUTION RESULTING IN A CONVICTION
4 FOR A VIOLATION DESCRIBED IN THIS SUBSECTION.

5 (4) A PERSON WHO DOES ANY OF THE FOLLOWING IS GUILTY OF A
6 FELONY PUNISHABLE BY A FINE OF NOT MORE THAN \$20,000.00 OR BY
7 IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR BOTH:

8 (A) INTENTIONALLY ALTERS OR DESTROYS A WAREHOUSE RECEIPT OR
9 PRICE LATER AGREEMENT OR A RECORD OF WAREHOUSE RECEIPTS OR PRICE
10 LATER AGREEMENTS REQUIRED BY THIS ACT.

11 (B) INTENTIONALLY FALSIFIES A POSITION SHEET, OR ISSUES A
12 WAREHOUSE RECEIPT IF THE FARM PRODUCE OR COMMODITIES ENUMERATED
13 IN THE WAREHOUSE RECEIPT IS NOT IN FACT IN THE FACILITY STATED IN
14 THE WAREHOUSE RECEIPT.

15 (C) WITH INTENT TO DEFRAUD, ISSUES A SECOND OR OTHER WARE-
16 HOUSE RECEIPT OR AGREEMENT FOR FARM PRODUCE IF A VALID WAREHOUSE
17 RECEIPT OR AGREEMENT IS OUTSTANDING AND IN FORCE FOR THE FARM
18 PRODUCE.

19 (D) WHILE A VALID WAREHOUSE RECEIPT IS OUTSTANDING AND IN
20 FORCE AND WITHOUT THE CONSENT OF THE HOLDER OF THE WAREHOUSE
21 RECEIPT, SELLS, PLEDGES, MORTGAGES, ENCUMBERS, OR TRANSFERS FARM
22 PRODUCE IN VIOLATION OF THIS ACT OR PERMITS THE SALE, PLEDGE,
23 MORTGAGE, ENCUMBRANCE, OR TRANSFER OF FARM PRODUCE IN VIOLATION
24 OF THIS ACT.

25 (E) KNOWINGLY RECEIVES FARM PRODUCE FROM A PERSON IN VIOLA-
26 TION OF SUBDIVISION (D).

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1 (F) INTENTIONALLY FILES A FALSE DAILY VIOLATION REPORT.

2 (G) INTENTIONALLY MAINTAINS FALSE OR MISLEADING RECORDS AND
3 ACCOUNTS REQUIRED UNDER SECTION 16.

4 SEC. 24. (1) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY
5 LAW, A PERSON WHO INDIVIDUALLY, OR BY THE ACTION OF HIS OR HER
6 AGENT OR EMPLOYEE, OR AS THE EMPLOYEE OR AGENT OF ANOTHER, VIO-
7 LATES THIS ACT OR A RULE PROMULGATED UNDER THIS ACT IS SUBJECT TO
8 1 OF THE FOLLOWING ADMINISTRATIVE FINES:

9 (A) FOR A FIRST VIOLATION, A FINE OF NOT LESS THAN \$50.00 OR
10 MORE THAN \$1,000.00, PLUS ACTUAL COSTS OF THE INVESTIGATION AND
11 THE AMOUNT OF ANY ECONOMIC BENEFIT ASSOCIATED WITH THE
12 VIOLATION.

13 (B) FOR A SECOND VIOLATION WITHIN 2 YEARS FROM THE DATE OF
14 THE FIRST VIOLATION, A FINE OF NOT LESS THAN \$100.00 OR MORE THAN
15 \$5,000.00, PLUS ACTUAL COSTS OF THE INVESTIGATION AND THE AMOUNT
16 OF ANY ECONOMIC BENEFIT ASSOCIATED WITH THE VIOLATION.

17 (C) FOR A THIRD VIOLATION WITHIN 2 YEARS FROM THE DATE OF
18 THE FIRST VIOLATION, A FINE OF NOT LESS THAN \$500.00 OR MORE THAN
19 \$10,000.00, PLUS ACTUAL COSTS OF THE INVESTIGATION AND THE AMOUNT
20 OF ANY ECONOMIC BENEFIT ASSOCIATED WITH THE VIOLATION.

21 (2) UPON THE REQUEST OF A PERSON TO WHOM THE DIRECTOR HAS
22 ASSESSED AN ADMINISTRATIVE FINE UNDER SUBSECTION (1), THE DIREC-
23 TOR SHALL CONDUCT A HEARING PURSUANT TO THE ADMINISTRATIVE PROCE-
24 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

25 (3) IF THE DIRECTOR FINDS THAT A VIOLATION OF THIS ACT HAS
26 OCCURRED DESPITE THE EXERCISE OF DUE CARE, THE DIRECTOR MAY ISSUE

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1 A WARNING INSTEAD OF IMPOSING AN ADMINISTRATIVE FINE UNDER
2 SUBSECTION (1).

3 (4) THE DIRECTOR MAY ADVISE THE ATTORNEY GENERAL OF THE
4 FAILURE OF A PERSON TO PAY AN ADMINISTRATIVE FINE IMPOSED UNDER
5 SUBSECTION (1), AND THE ATTORNEY GENERAL MAY BRING AN ACTION IN A
6 COURT OF COMPETENT JURISDICTION TO RECOVER THE FINE.

7 (5) THE DIRECTOR MAY REVOKE THE LICENSE OF A LICENSEE WHO
8 DOES NOT PAY AN ADMINISTRATIVE FINE IMPOSED UNDER SUBSECTION
9 (1).

10 (6) AN ADMINISTRATIVE FINE, COSTS, AND THE RECOVERY OF ANY
11 ECONOMIC BENEFIT ASSOCIATED WITH A VIOLATION COLLECTED BY THE
12 DEPARTMENT UNDER THIS SECTION SHALL BE RETAINED BY THE DEPARTMENT
13 AND USED PURSUANT TO LEGISLATIVE APPROPRIATION FOR THE ADMINIS-
14 TRATION OF THIS ACT.

15 SEC. 25. (1) THE DIRECTOR MAY BRING AN ACTION TO ENJOIN THE
16 VIOLATION OR THREATENED VIOLATION OF THIS ACT OR A RULE PROMUL-
17 GATED UNDER THIS ACT IN A STATE COURT IN THE COUNTY IN WHICH THE
18 VIOLATION OCCURS OR IS THREATENED TO OCCUR OR IN INGHAM COUNTY.

19 (2) THE PENALTIES PROVIDED FOR A VIOLATION OF THIS ACT DO
20 NOT APPLY TO A PUBLIC OFFICIAL OF THIS STATE OR THE FEDERAL GOV-
21 ERNMENT ENGAGED IN THE PERFORMANCE OF HIS OR HER OFFICIAL DUTIES
22 IN ADMINISTERING THE LAWS, RULES, OR REGULATIONS OF THIS STATE OR
23 THE FEDERAL GOVERNMENT.

24 (3) ENACTMENT OF THIS AMENDATORY ACT DOES NOT TERMINATE OR
25 IN ANY WAY MODIFY ANY CIVIL OR CRIMINAL LIABILITY UNDER THIS ACT
26 IN EXISTENCE ON OR BEFORE THE EFFECTIVE DATE OF THE AMENDATORY
27 ACT ADDING THIS SECTION.

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1 (4) A PERSON AGGRIEVED BY AN ORDER OF THE DIRECTOR ISSUED
2 UNDER THIS ACT MAY REQUEST A HEARING PURSUANT TO THE ADMINISTRA-
3 TIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

4 (5) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
5 THAT ADDED THIS SECTION, THIS ACT PREEMPTS AND SUPERSEDES ANY
6 LOCAL ORDINANCE, REGULATION, OR RESOLUTION THAT IMPOSES CONFLICT-
7 ING, DIFFERENT, OR ADDITIONAL STANDARDS OR REQUIREMENTS ON GRAIN
8 DEALERS THAN THOSE CONTAINED IN THIS ACT. A LOCAL UNIT OF GOV-
9 ERNMENT SHALL NOT ADOPT OR ENFORCE AN ORDINANCE, REGULATION, OR
10 RESOLUTION THAT IMPOSES CONFLICTING, DIFFERENT, OR ADDITIONAL
11 STANDARDS OR REQUIREMENTS ON GRAIN DEALERS THAN THOSE CONTAINED
12 IN THIS ACT.

13 SEC. 26. (1) IF A GRAIN DEALER FAILS, THE DIRECTOR SHALL
14 TAKE POSSESSION OF, LIQUIDATE, AND DISTRIBUTE THE ASSETS AND PRO-
15 CEEDS OF THE ASSETS TO SATISFY CLAIMS AS FOLLOWS:

16 (A) TO ALL OF THE FOLLOWING ON A PRO RATA BASIS, IF ANY:

17 (i) CLAIMANTS, INCLUDING LENDERS, WHO POSSESS WAREHOUSE
18 RECEIPTS FOR FARM PRODUCE STORED BY THE GRAIN DEALER.

19 (ii) CLAIMANTS WHO POSSESS ACKNOWLEDGMENT FORMS OR OTHER
20 WRITTEN EVIDENCE OF OWNERSHIP OTHER THAN WAREHOUSE RECEIPTS THAT
21 DISCLOSE A STORAGE OBLIGATION OF THE GRAIN DEALER.

22 (iii) CLAIMANTS WHO SURRENDERED WAREHOUSE RECEIPTS TO THE
23 GRAIN DEALER AS PART OF A FARM PRODUCE TRANSACTION BUT WERE NOT
24 FULLY PAID FOR THE FARM PRODUCE WITHIN 21 DAYS AFTER THE
25 SURRENDER.

26 (B) IF ASSETS OR PROCEEDS OF ASSETS REMAIN AFTER SATISFYING
27 ALL CLAIMS DESCRIBED IN SUBDIVISION (A), THE REMAINING ASSETS OR

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1 PROCEEDS OF ASSETS SHALL BE DISTRIBUTED PRO RATA TO CLAIMANTS WHO
2 POSSESS PRICE LATER AGREEMENTS.

3 (C) IF ASSETS OR PROCEEDS OF ASSETS REMAIN AFTER SATISFYING
4 ALL CLAIMS DESCRIBED IN SUBDIVISIONS (A) AND (B), THE REMAINING
5 ASSETS OR PROCEEDS OF ASSETS SHALL BE DISTRIBUTED PRO RATA TO
6 CLAIMANTS WHO POSSESS ACKNOWLEDGMENT FORMS, SIMILAR FORMS OF FARM
7 PRODUCE DELIVERY CONTRACTS, OR OTHER WRITTEN EVIDENCE OF THE SALE
8 OF FARM PRODUCE AND WHO COMPLETED DELIVERY AND PRICING OF THE
9 FARM PRODUCE WITHIN 30 DAYS PRIOR TO THE FAILURE OF THE GRAIN
10 DEALER.

11 (D) IF ASSETS OR PROCEEDS OF ASSETS REMAIN AFTER SATISFYING
12 ALL CLAIMS DESCRIBED IN SUBDIVISIONS (A), (B), AND (C), THE
13 REMAINING ASSETS OR PROCEEDS OF ASSETS SHALL BE DISTRIBUTED PRO
14 RATA TO ALL OTHER CLAIMANTS WHO POSSESS WRITTEN EVIDENCE OF THE
15 SALE OF FARM PRODUCE TO THE GRAIN DEALER.

16 (E) IF ASSETS OR PROCEEDS OF ASSETS REMAIN AFTER SATISFYING
17 ALL CLAIMS DESCRIBED IN SUBDIVISIONS (A), (B), (C), AND (D), THE
18 REMAINING ASSETS OR PROCEEDS OF ASSETS SHALL BE DISTRIBUTED TO
19 THE GRAIN DEALER.

20 (2) THE DIRECTOR MAY REDUCE THE AMOUNT OF A CLAIM UNDER SUB-
21 SECTION (1) TO REFLECT THE LIABILITIES OWED TO THE GRAIN DEALER
22 BY THE CLAIMANT.

23 SEC. 27. (1) BEFORE A LICENSE IS ISSUED TO A GRAIN DEALER
24 OTHER THAN A GRAIN MERCHANDISER OR FARM PRODUCE TRUCKER, THE
25 GRAIN DEALER SHALL PROVIDE A BOND TO THE DEPARTMENT THAT SECURES
26 ONLY THE GRAIN DEALER'S WAREHOUSE RECEIPTS AND OPEN STORAGE
27 TRANSACTIONS. EXCEPT AS PROVIDED IN SUBSECTION (3), THE AMOUNT

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1 OF THE BOND SHALL BE \$15,000.00 FOR THE FIRST 10,000 BUSHELS OF
2 STORAGE CAPACITY OF THE DEALER'S FACILITY USED FOR OPEN STORAGE
3 AND STORAGE UNDER WAREHOUSE RECEIPTS, PLUS \$5,000.00 FOR EACH
4 ADDITIONAL 10,000 BUSHEL CAPACITY OR FRACTION OF THAT CAPACITY
5 USED FOR OPEN STORAGE AND STORAGE UNDER WAREHOUSE RECEIPTS OTHER
6 THAN COLLATERAL WAREHOUSE RECEIPTS.

7 (2) A BOND PROVIDED UNDER THIS SECTION SHALL NAME THE
8 DEPARTMENT AS PAYEE, BE EXECUTED BY THE APPLICANT AS PRINCIPAL,
9 AND BE ISSUED BY A SURETY AUTHORIZED TO CONDUCT BUSINESS IN THIS
10 STATE. THE DEPARTMENT SHALL PRESCRIBE THE FORM AND TERMS AND
11 CONDITIONS OF THE BOND. THE BOND SHALL CONTAIN THE ADDRESS AND
12 STORAGE CAPACITY OF THE FACILITY OF THE GRAIN DEALER.

13 (3) A GRAIN DEALER WHO OWNS 2 OR MORE FACILITIES AND IS
14 REQUIRED TO PROVIDE A BOND UNDER SUBSECTION (1) MAY FURNISH SEPA-
15 RATE BONDS FOR EACH FACILITY OR A BLANKET SURETY BOND TO SATISFY
16 HIS OR HER OBLIGATION UNDER SUBSECTION (1). THE AMOUNT OF A
17 BLANKET SURETY BOND SHALL BE THE LESSER OF THE CUMULATIVE AMOUNT
18 DETERMINED BY APPLYING SUBSECTION (1) TO EACH FACILITY OR
19 \$400,000.00. A BLANKET SECURITY BOND SHALL CONTAIN THE ADDRESS
20 AND STORAGE CAPACITY OF EACH FACILITY OF THE GRAIN DEALER.

21 (4) A BOND PROVIDED UNDER THIS SECTION SHALL SECURE THE
22 FAITHFUL PERFORMANCE OF THE GRAIN DEALER OF HIS OR HER OBLIGA-
23 TIONS UNDER ALL WAREHOUSE RECEIPTS AND OPEN STORAGE AGREEMENTS
24 OUTSTANDING ON OR AFTER THE EFFECTIVE DATE OF THE BOND AND OUT-
25 STANDING AT THE TIME THE LICENSE OF THE GRAIN DEALER IS REVOKED
26 OR THE BOND IS CANCELED AS PROVIDED IN THIS ACT, WHICHEVER OCCURS
27 FIRST. THE BOND SHALL SECURE THE GRAIN DEALER'S FAITHFUL

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1 PERFORMANCE OF THOSE OBLIGATIONS WHETHER THE GRAIN DEALER IS
2 LICENSED OR NOT.

3 (5) A BOND PROVIDED UNDER SUBSECTION (1) SHALL HAVE A CON-
4 TINUOUS TERM AND SHALL NOT HAVE A FIXED EXPIRATION OR TERMINATION
5 DATE.

6 (6) THE TOTAL AGGREGATE LIABILITY OF A SURETY UNDER A BOND
7 PROVIDED UNDER THIS SECTION IS LIMITED TO THE AMOUNT OF THE BOND
8 WITHOUT REGARD TO THE NUMBER OF CLAIMANTS INVOLVED IN A TRANSAC-
9 TION IN WHICH A CLAIM ON THE BOND IS MADE. THE LIABILITY OF A
10 SURETY ON A BOND PROVIDED UNDER THIS SECTION SHALL NOT ACCUMULATE
11 FOR ANY SUCCESSIVE LICENSE PERIOD.

12 (7) A PERSON REQUIRED TO PROVIDE A BOND TO THE DEPARTMENT
13 UNDER THIS SECTION MAY AT HIS OR HER OPTION PROVIDE THE DEPART-
14 MENT WITH A CERTIFICATE OF DEPOSIT OR OTHER SECURITY ACCEPTABLE
15 TO THE DEPARTMENT IN LIEU OF ALL OR PART OF THE BOND, PAYABLE TO
16 THE DEPARTMENT. THE PRINCIPAL AMOUNT OF THE CERTIFICATE OF
17 DEPOSIT OR OTHER SECURITY PROVIDED, OR THE AGGREGATE AMOUNT OF
18 THE BOND PROVIDED AND THE PRINCIPAL AMOUNT OF THE CERTIFICATE OF
19 DEPOSIT OR OTHER SECURITY PROVIDED, SHALL BE THE SAME AS THE
20 AMOUNT OF THE BOND OTHERWISE REQUIRED UNDER THIS SECTION. THE
21 INTEREST ON THE CERTIFICATE OF DEPOSIT OR OTHER SECURITY PROVIDED
22 UNDER THIS SUBSECTION SHALL BE MADE PAYABLE TO THE PERSON OR
23 OTHER PURCHASER OF THE CERTIFICATE OF DEPOSIT OR OTHER SECURITY.
24 THE CERTIFICATE OF DEPOSIT OR OTHER SECURITY SHALL REMAIN ON
25 DEPOSIT UNTIL IT IS RELEASED, CANCELED, OR DISCHARGED AS PROVIDED
26 FOR BY RULE OF THE DEPARTMENT. THE PROVISIONS OF THIS SECTION
27 THAT APPLY TO A BOND REQUIRED UNDER THIS SECTION APPLY TO A

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1 CERTIFICATE OF DEPOSIT OR OTHER SECURITY PROVIDED UNDER THIS
2 SUBSECTION.

3 (8) HOLDERS OF COLLATERAL WAREHOUSE RECEIPTS OR WAREHOUSE
4 RECEIPTS ISSUED IN THE NAME OF THE GRAIN DEALER MAY NOT RECOVER
5 AGAINST A BOND PROVIDED UNDER SUBSECTION (1).

6 (9) IF THE DEPARTMENT DETERMINES THAT A BOND PREVIOUSLY PRO-
7 VIDED UNDER THIS SECTION IS INSUFFICIENT, THE DEPARTMENT SHALL
8 REQUIRE THAT THE GRAIN DEALER PROVIDE AN ADDITIONAL BOND. THE
9 ADDITIONAL BOND SHALL BE IN AN AMOUNT DETERMINED BY THE DEPART-
10 MENT AND CONFORM WITH ALL OTHER REQUIREMENTS OF THIS SECTION.

11 (10) A GRAIN DEALER SHALL NOT CANCEL A BOND REQUIRED BY THIS
12 SECTION WITHOUT THE CONSENT OF THE DEPARTMENT AND THE
13 DEPARTMENT'S PRIOR APPROVAL OF A SUBSTITUTE BOND.

14 (11) THE SURETY ON A BOND REQUIRED BY THIS SECTION MAY NOT
15 CANCEL THE BOND UNLESS IT SENDS A NOTICE OF INTENT TO CANCEL TO
16 THE DEPARTMENT MORE THAN 60 DAYS BEFORE IT CANCELS THE BOND. IF
17 THE DEPARTMENT RECEIVES A NOTICE FROM A SURETY UNDER THIS SUBSEC-
18 TION, IT SHALL PROMPTLY NOTIFY THE GRAIN DEALER THAT PROVIDED THE
19 BOND. THE DEPARTMENT MAY SUSPEND OR REVOKE THE LICENSE OF A
20 LICENSEE WHO FAILS TO PROVIDE A NEW BOND WITHIN 60 DAYS AFTER THE
21 DEPARTMENT RECEIVES NOTICE OF INTENT TO CANCEL FROM A SURETY.

22 SEC. 28. (1) BEFORE A LICENSE IS ISSUED TO A GRAIN MERCHAN-
23 DISER OR FARM PRODUCE TRUCKER, THE GRAIN MERCHANDISER OR FARM
24 PRODUCE TRUCKER SHALL PROVIDE A BOND TO THE DEPARTMENT IN THE
25 AMOUNT OF \$100,000.00.

26 (2) A BOND PROVIDED UNDER THIS SECTION SHALL NAME THE
27 DEPARTMENT AS PAYEE, BE EXECUTED BY THE APPLICANT AS PRINCIPAL,

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1 AND BE ISSUED BY A SURETY AUTHORIZED TO CONDUCT BUSINESS IN THIS
2 STATE. THE DEPARTMENT SHALL PRESCRIBE THE FORM AND TERMS AND
3 CONDITIONS OF THE BOND.

4 (3) A BOND PROVIDED UNDER THIS SECTION SHALL SECURE THE
5 FAITHFUL PERFORMANCE OF THE GRAIN MERCHANTISER OR FARM PRODUCE
6 TRUCKER OF HIS OR HER OBLIGATIONS IN ANY FARM PRODUCE TRANSACTION
7 OUTSTANDING ON OR AFTER THE EFFECTIVE DATE OF THE BOND AND OUT-
8 STANDING AT THE TIME THE LICENSE OF THE GRAIN MERCHANTISER OR
9 FARM PRODUCE TRUCKER IS REVOKED OR THE BOND IS CANCELED AS PRO-
10 VIDED IN THIS ACT, WHICHEVER OCCURS FIRST. THE BOND SHALL SECURE
11 THE FAITHFUL PERFORMANCE BY THE GRAIN MERCHANTISER OR FARM
12 PRODUCE TRUCKER OF THOSE OBLIGATIONS WHETHER THE GRAIN MERCHANT-
13 DISER OR FARM PRODUCE TRUCKER IS LICENSED OR NOT.

14 (4) THE TOTAL AGGREGATE LIABILITY OF A SURETY UNDER A BOND
15 PROVIDED UNDER THIS SECTION IS LIMITED TO THE AMOUNT OF THE BOND
16 WITHOUT REGARD TO THE NUMBER OF CLAIMANTS INVOLVED IN A TRANSAC-
17 TION IN WHICH A CLAIM ON THE BOND IS MADE. THE LIABILITY OF A
18 SURETY ON A BOND PROVIDED UNDER THIS SECTION SHALL NOT ACCUMULATE
19 FOR ANY SUCCESSIVE LICENSE PERIOD.

20 (5) A GRAIN MERCHANTISER OR FARM PRODUCE TRUCKER REQUIRED TO
21 PROVIDE A BOND TO THE DEPARTMENT UNDER THIS SECTION MAY AT HIS OR
22 HER OPTION PROVIDE THE DEPARTMENT WITH A CERTIFICATE OF DEPOSIT
23 OR OTHER SECURITY ACCEPTABLE TO THE DEPARTMENT IN LIEU OF ALL OR
24 PART OF THE BOND, PAYABLE TO THE DEPARTMENT AS TRUSTEE. THE
25 PRINCIPAL AMOUNT OF THE CERTIFICATE OF DEPOSIT OR OTHER SECURITY
26 PROVIDED, OR THE AGGREGATE AMOUNT OF THE BOND PROVIDED AND THE
27 PRINCIPAL AMOUNT OF THE CERTIFICATE OF DEPOSIT OR OTHER SECURITY

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1 PROVIDED, SHALL BE THE SAME AS THE AMOUNT OF THE BOND OTHERWISE
2 REQUIRED UNDER THIS SECTION. THE INTEREST ON THE CERTIFICATE OF
3 DEPOSIT OR OTHER SECURITY PROVIDED UNDER THIS SUBSECTION SHALL BE
4 MADE PAYABLE TO THE GRAIN MERCHANTISER OR FARM PRODUCE TRUCKER OR
5 OTHER PURCHASER OF THE CERTIFICATE OF DEPOSIT OR OTHER SECURITY.
6 THE CERTIFICATE OF DEPOSIT OR OTHER SECURITY SHALL REMAIN ON
7 DEPOSIT UNTIL IT IS RELEASED, CANCELED, OR DISCHARGED AS PROVIDED
8 FOR BY RULE OF THE DEPARTMENT. THE PROVISIONS OF THIS SECTION
9 THAT APPLY TO A BOND REQUIRED UNDER THIS SECTION APPLY TO A CER-
10 TIFICATE OF DEPOSIT OR OTHER SECURITY PROVIDED UNDER THIS
11 SUBSECTION.

12 (6) IF THE DEPARTMENT DETERMINES THAT A BOND PREVIOUSLY PRO-
13 VIDED UNDER THIS SECTION IS INSUFFICIENT, THE DEPARTMENT SHALL
14 REQUIRE THAT THE GRAIN MERCHANTISER OR FARM PRODUCE TRUCKER PRO-
15 VIDE AN ADDITIONAL BOND. THE ADDITIONAL BOND SHALL BE IN AN
16 AMOUNT DETERMINED BY THE DEPARTMENT AND CONFORM WITH ALL OTHER
17 REQUIREMENTS OF THIS SECTION.

18 (7) A GRAIN MERCHANTISER OR FARM PRODUCE TRUCKER SHALL NOT
19 CANCEL A BOND REQUIRED BY THIS SECTION WITHOUT THE CONSENT OF THE
20 DEPARTMENT AND THE DEPARTMENT'S PRIOR APPROVAL OF A SUBSTITUTE
21 BOND.

22 (8) THE SURETY ON A BOND REQUIRED BY THIS SECTION MAY NOT
23 CANCEL THE BOND UNLESS IT SENDS A NOTICE OF INTENT TO CANCEL TO
24 THE DEPARTMENT MORE THAN 60 DAYS BEFORE IT CANCELS THE BOND. IF
25 THE DEPARTMENT RECEIVES A NOTICE FROM A SURETY UNDER THIS SUBSEC-
26 TION, IT SHALL PROMPTLY NOTIFY THE GRAIN MERCHANTISER OR FARM
27 PRODUCE TRUCKER THAT PROVIDED THE BOND. THE DEPARTMENT SHALL

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1 REVOKE THE LICENSE OF A GRAIN MERCHANTISER OR FARM PRODUCE
2 TRUCKER WHO FAILS TO PROVIDE A NEW BOND WITHIN 60 DAYS AFTER THE
3 DEPARTMENT RECEIVES NOTICE OF INTENT TO CANCEL FROM A SURETY.
4 Enacting section 1. Sections 6a, 6b, 7a, 9a, 11a, and 22a
5 of the grain dealers act, 1939 PA 141, MCL 285.66a, 285.66b,
6 285.67a, 285.69a, 285.71a, and 285.82a, are repealed.