

## GRAIN DEALER LICENSING FEES

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**Senate Bill 887 without amendment**

**Senate Bill 888 (S-1)**

**Sponsor: Senator Mike Green**

**Senate Committee: Appropriations**

**House Committee: Appropriations**

**Complete to 3-21-12**

## A SUMMARY OF SENATE BILLS 887 AND 888 AS PASSED BY THE SENATE 3-15-12

Senate Bill 887 would amend Section 8 of the Grain Dealer's Act (1939 PA 141) to increase certain licensing fees under the act. The bill would also repeal Section 27, which requires grain dealers to obtain a bond, and would strike Section 8 subsection (5), which in current law references and provides for an exception to bond provisions of Section 27.

Senate Bill 888 would amend several sections of the Farm Produce Insurance Act (2003 PA 198), primarily sections dealing with administration of the farm produce insurance program. Among other things, the bill would increase the amount that the fund could reimburse the Michigan Department of Agriculture and Rural Development for producer security activities.

The two bills are not tie-barred but are related.

### **Background Information**

The Michigan Department of Agriculture and Rural Development (MDARD) administers a producer security program, which includes a grain dealer licensing function and administration of the Farm Produce Insurance Fund. As described by the department, *"the producer security program is responsible for regulating the storage, warehousing, and sale of farm produce as well as protecting producers in the event of a farm produce dealer's financial failure."* There are two public acts related to this department function.

The **Grain Dealers Act** (PA 141 of 1939) was first enacted in response to grain elevator bankruptcies in the period preceding the Great Depression. When grain elevators go bankrupt, farmers (producers) may not be paid and may not be able to reclaim the grain they have on deposit. The situation is very much like a run on a bank; there are more depositors asking for payment than the bank has cash on hand. Under authority of the Grain Dealers Act, the department provides financial regulatory oversight, including audits of grain dealers for financial solvency and measures to attest grain inventory. MDARD Producer Security staff currently consists of one financial manager, one auditor, one regulation agent, and one departmental technician.

Grain dealers, as defined in the Grain Dealer's Act, are required to obtain a license from the department and pay a license fee based on receiving capacity. The current fee structure ranges from \$158 to \$483 per license based on the bushel capacity of each receiving point. These licensing fees currently generate approximately \$76,000 per year in restricted licensing and inspection fee revenue each year. Senate Bill 887 would increase these grain dealer licensing fees to range from \$500 to \$1,000 per license based on bushel capacity. The department estimates that the bill would increase restricted fund revenue by approximately \$100,000 each year.

The Grain Dealer's Act allows the department to increase the statutorily established fees annually. The bill retains language in current law which limits annual fee increases to the Detroit Consumer Price index not to exceed 5%.

Senate Bill 887 would also repeal Section 27 which requires grain dealers to obtain a bond, and would strike Section 8 subsection (5) which in current law references and provides an exception to bond provisions of Section 27.

In addition to the Grain Dealers Act, another public act, the **Farm Produce Insurance Fund Act** (PA 198 of 2003), established a kind of insurance pool for producers who suffered losses as result of a grain dealer failure. This is a voluntary insurance program. A producer who participates in the program would be covered against losses; a producer who did not participate would not.

Under current law, the department administers the Farm Producers Insurance Fund.

Under current law, the Farm Produce Insurance Fund Act allows the fund to reimburse the director (i.e. the department) up to \$250,000 for producer security expenses. A memorandum of understanding between the Farm Produce Insurance Authority (FPIA) and the Michigan Department of Agriculture and Rural Development provides for an annual assessment of 1.5% of the fund's June 1 investment balance to reimburse the department for producer security administrative expenses. Reported administrative expenses were \$92,447 in 2009, \$134,552 in 2010, and \$90,874 in 2011. The current Farm Produce Insurance Fund balance is \$6.1 million.

Senate Bill 888 would allow the Produce Insurance Fund board, beginning in 2013, to establish an "administrative premium." The amount of the premium would be determined by the board to reflect the amount necessary to reimburse the department for producer security activities. According to provisions of the bill, the premium would be calculated as a percentage of the net proceeds from all farm produce sold by the producer to the licensee in this state.

The bill would also increase the maximum annual reimbursement from the fund to the department for costs of administering the fund from \$250,000 to \$500,000.

Additionally, the bill would provide for ways in which money in the Farm Produce Insurance Fund that is not needed to meet the immediate cash needs of the Fund could be invested.

## FISCAL IMPACT:

The FY 2011-12 Agriculture and Rural Development budget appropriates \$543,400 for MDARD's producer security program – \$300,000 in state General Fund revenue and \$243,400 in state restricted revenue shown in the budget as Grain Dealers Fund. The \$243,400 in Grain Dealers Fund revenue is more than the department can reasonably expect to receive under current law. Licensing fees under the Grain Dealers Act only generates approximately \$71,000 annually. And the department receives approximately \$106,000 in annual reimbursement from the Farm Produce Insurance Fund.

To provide sufficient revenue for the department's producer security functions, without the use of General Fund support, Governor Snyder had proposed, as part of his FY 2011-12 budget presentation, increasing fees under the Grain Dealers Act, and the establishment of a voluntary assessment to recover the department's administrative costs under the **Farm Produce Insurance Fund Act**.

The department indicated at the time that it had worked with producers, grain dealers, Farm Producer Insurance Authority representatives, Michigan Farm Bureau, and Michigan Agri-Business Association in the development of the proposal.

The Legislature did not enact bills in 2011 to either increase grain dealer fees under the Grain Dealers Act, or to provide for a voluntary assessment under the Farm Produce Insurance Fund Act. The enacted FY 2011-12 budget retained \$300,000 in General Fund support for the Producer Security line item.

Senate Bill 887 and Senate Bill 888 reflect the Governor's 2011 budget proposal. Enactment of the two bills would increase restricted revenue for use in the department's producer security program by approximately \$300,000. Of that, \$100,000 is from increased licensing fees, and \$200,000 in Farm Producer Insurance Fund reimbursement. Enactment of the bills would allow the redirection of the General Fund revenue currently appropriated for the program.

Although the proposed fees would represent a fee increase to grain dealers, grain dealers had experienced savings from a reduction in the bond requirements under 2010 amendments to the Grain Dealers Act (Senate Bill 1396 of the 2010 Legislative Session enacted as Public Act 264 of 2010). Senate Bill 887 would eliminate certain bond requirements entirely.

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