

# HOUSE BILL No. 5408

February 22, 2000, Introduced by Reps. Switalski, Law, Shulman, Sanborn, Kukuk, LaSata, Baird, Minore, Schermesser, Koetje, Voorhees, Hart, Richner and Faunce and referred to the Committee on Family and Civil Law.

A bill to amend 1939 PA 141, entitled  
"Grain dealers act,"  
by amending section 7a (MCL 285.67a), as amended by 1998 PA 388.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 7a. (1) An application for a grain dealer's license  
2 shall be made on a form provided by the director and shall be  
3 filed 30 days in advance of a license expiration date if there is  
4 an outstanding license. If the grain dealer is a bailee of farm  
5 produce and issues warehouse receipts or is a grain dealer who  
6 does not own a farm produce or handling facility or does not own  
7 a vehicle used to transport farm produce, the application shall  
8 be accompanied by a bond on a form provided by the director or an  
9 irrevocable letter of credit on a form provided by the director  
10 in favor of the department of agriculture ~~which~~ THAT fulfills  
11 the requirements of subsection (4). The bond shall run to the

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1 department of agriculture and apply only to warehouse receipt  
2 transactions. The amount of the bond for a grain dealer who is a  
3 bailee of farm produce and who issues warehouse receipts shall be  
4 \$15,000.00 for the first 10,000 bushels of capacity intended for  
5 storage, plus \$5,000.00 for each additional 10,000 bushel capac-  
6 ity or fraction of that capacity used for the storage of ware-  
7 house receipted farm produce. The amount of the bond for a grain  
8 dealer who does not own a farm produce storage or handling facil-  
9 ity or does not own a vehicle used to transport farm produce  
10 shall be \$50,000.00.

11 (2) A grain dealer issuing price later agreements shall  
12 maintain allowable net assets of not less than \$20,000.00 and  
13 shall comply with 1 or more of the following:

14 (a) Keep the farm produce, fungible farm produce, or farm  
15 produce of equivalent value on hand as the dealer's own  
16 property.

17 (b) Procure and maintain price later agreements or warehouse  
18 receipts in other grain dealers' facilities as approved by the  
19 director.

20 (c) Maintain sufficient cash or other short-term secured  
21 investments in an escrow account with a financial institution in  
22 an amount equal to 80% of the value, established by daily bid  
23 price, of any deficiency in the price later agreements. This  
24 deficiency shall be protected by procuring an offsetting purchase  
25 commitment.

26 (3) Instead of the bonding requirements in subsection (1), a  
27 person owning 2 or more farm produce storage facilities may

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1 furnish a blanket surety bond equal to the sum of the  
2 requirements for the individual facilities, except that when the  
3 requirements are equal to or greater than \$400,000.00 a blanket  
4 bond in the amount of \$400,000.00 shall meet the requirements of  
5 this act. The bond shall show the address and capacity of each  
6 facility. The term of the bond shall be continuous and the total  
7 and aggregate liability of the surety on the obligation shall be  
8 limited to the amount specified in this section. Although the  
9 obligation is continuous in nature, the liability of the surety  
10 shall not accumulate for each successive license period during  
11 which the bond is in effect and the liability shall not be  
12 affected by the number of claimants involved in the transactions  
13 covered by that bond.

14       (4) A person may submit an irrevocable letter of credit with  
15 an application for a grain dealer's license if the letter of  
16 credit is in an amount equal to the amount that would otherwise  
17 be required by this section for a bond and if it is issued by a  
18 financial institution.

19       (5) A financial institution shall not cancel, reduce, or  
20 allow the expiration of an irrevocable letter of credit unless  
21 the financial institution notifies in writing the department of  
22 agriculture not less than 30 days before the effective date of  
23 the cancellation, reduction, or expiration.

24       (6) Upon demand of a grower from whom farm produce is pur-  
25 chased in accordance with a price later agreement, the grain  
26 dealer who issues the price later agreement shall grant the  
27 grower a security interest in that farm produce as provided in

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1 ~~section 9312 of the uniform commercial code, 1962 PA 174,~~  
2 ~~MCL 440.9312~~ ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, 1962  
3 PA 174, MCL 440.9101 TO 440.9708. A security agreement may be on  
4 a form ~~which shall be~~ THAT IS prescribed and provided to grain  
5 dealers by the director and ~~which shall include~~ THAT INCLUDES a  
6 description of the rights and responsibilities of a grower con-  
7 cerning the security agreement. A grain dealer shall post a sign  
8 to inform growers of the availability of security agreements and  
9 forms.

10 (7) Upon the written demand of the department of agricul-  
11 ture, a financial institution shall unconditionally pay a claim  
12 in an amount specified by the department of agriculture but not  
13 greater than the maximum value of the irrevocable letter of  
14 credit. Upon the payment of a claim, a financial institution may  
15 request the department of agriculture in writing for justifica-  
16 tion of the claim.

[Enacting section 1. This amendatory act takes effect July 1,  
2001.]

17 Enacting section [2]. This amendatory act does not take  
18 effect unless House Bill No. 5228 of the 90th Legislature is  
19 enacted into law.

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