

HOUSE BILL No. 4204

February 26, 1987, Introduced by Reps. RANDALL, SPANIOLA, ALLEY, GNODTKE, BENDER and GIESE and referred to the Committee on Agriculture and Forestry.

A bill to amend the title and sections 8 and 19 of Act No. 141 of the Public Acts of 1939, entitled as amended "Grain dealers act," being sections 285.68 and 285.79 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 8 and 19 of Act No. 141
2 of the Public Acts of 1939, being sections 285.68 and 285.79 of
3 the Michigan Compiled Laws, are amended to read as follows:

4 TITLE

5 An act to permit the director of the department of agricul-
6 ture of this state to regulate the storage, warehousing, buying,
7 and selling of farm produce within this state; to provide for the
8 licensing, regulation, and bonding of grain dealers; to provide
9 for warehouse receipts and price later agreements and their
10 priority; to provide for the creation of security interests AND

1 LIENS; to provide for the establishment of an inspection service
2 and personnel for licensed grain dealers; and to provide penal-
3 ties for the violation of this act.

4 Sec. 8. (1) Acceptance of farm produce for storage by a
5 grain dealer for which a warehouse receipt is issued shall be a
6 bailment and not a sale, and farm produce so stored shall not be
7 liable to seizure upon process of a court in an action against
8 the bailee, except upon action by owners of the warehouse
9 receipts to enforce the terms OF THE WAREHOUSE RECEIPTS.
10 ~~thereof, but the farm produce shall at all times, in the event~~
11 ~~of the failure or insolvency of the bailee, be first applied~~
12 ~~exclusively to the redemption of outstanding storage receipts for~~
13 ~~farm produce so stored with the bailee, and in that event, farm~~
14 ~~produce on hand in a particular warehouse of the bailee shall be~~
15 ~~first applied to the redemption and satisfaction of the warehouse~~
16 ~~receipts issued by that grain dealer as the bailee.~~

17 (2) A STATUTORY LIEN IS CREATED ON THE GRAIN ASSETS OF A
18 GRAIN DEALER IN FAVOR OF EACH OWNER OR GROWER OF FARM PRODUCE WHO
19 POSSESSES WRITTEN EVIDENCE OF STORAGE OR WRITTEN EVIDENCE OF
20 SALE. THE LIEN SHALL ATTACH ON DELIVERY OF THE GRAIN TO THE POS-
21 SESSION OF THE GRAIN DEALER AND SHALL CONTINUE UNTIL THE GRAIN
22 DEALER'S LIABILITY TO THE OWNER OR GROWER OF THE FARM PRODUCE HAS
23 BEEN SATISFIED. THE LIEN CREATED BY THIS SUBSECTION HAS PRIORITY
24 OVER ANY CONFLICTING SECURITY INTEREST IN THE FARM PRODUCE AS
25 COLLATERAL OR ITS IDENTIFIABLE CASH PROCEEDS, EXCEPT FOR A PER-
26 FECTED SECURITY INTEREST IN THE FARM PRODUCE THAT IS HELD BY A
27 PERSON MAKING LOANS OR EXTENDING CREDIT TO THE OWNER OR GROWER OF

1 THE FARM PRODUCE AND PERFECTED BEFORE THE ATTACHMENT OF THE LIEN
2 CREATED BY THIS SUBSECTION. THE LIEN CREATED BY THIS SUBSECTION
3 SHALL NOT BE CONSIDERED SATISFIED UNTIL THE OWNER OR GROWER OF
4 THE FARM PRODUCE HAS RECEIVED PAYMENT IN FULL FOR THAT FARM
5 PRODUCE DELIVERED TO THE GRAIN DEALER OR THE GRAIN DEALER RETURNS
6 ALL THE FARM PRODUCE TO THE POSSESSION OF THE OWNER OR GROWER.

7 (3) IN THE EVENT OF THE FAILURE, INSOLVENCY, OR BANKRUPTCY
8 OF A GRAIN DEALER, A GROWER OR OWNER OF FARM PRODUCE POSSESSING
9 WRITTEN EVIDENCE OF STORAGE OR SALE SHALL HAVE FIRST PRIORITY
10 AGAINST THE GRAIN ASSETS OF THE GRAIN DEALER. IF THE GRAIN
11 ASSETS OF THE GRAIN DEALER ARE INSUFFICIENT TO SATISFY THE CLAIMS
12 OF EACH GROWER OR OWNER OF FARM PRODUCE POSSESSING WRITTEN EVIDENCE
13 OF STORAGE OR SALE, EACH GROWER OR OWNER SHALL RECEIVE A
14 PRO RATA SHARE OF THE GRAIN ASSETS.

15 (4) AS USED IN THIS SECTION:

16 (A) "GRAIN ASSETS" MEANS FARM PRODUCE ON HAND; FARM PRODUCE
17 IN TRANSIT OR FARM PRODUCE MOVED TO ANOTHER FARM PRODUCE STORAGE
18 FACILITY; PROCEEDS FROM THE SALE OF FARM PRODUCE DUE OR TO BECOME
19 DUE; ASSETS IN COMMODITY EXCHANGE MARGIN ACCOUNTS; MONEY DUE OR
20 TO BECOME DUE FROM FUTURES CONTRACTS ON RECOGNIZED COMMODITY
21 EXCHANGES; AND ANY MONEY OR PROPERTY THAT IS TRACEABLE AND IDENTIFI-
22 FIFIABLE TO THE SALE OF FARM PRODUCE.

23 (B) "WRITTEN EVIDENCE OF SALE" MEANS A PRICE LATER AGREEMENT
24 OR ANY OTHER WRITTEN AGREEMENT BY WHICH A GRAIN DEALER TAKES
25 TITLE TO FARM PRODUCE AND PAYMENT IS NOT MADE AT THE TIME OF
26 DELIVERY.

1 (C) "WRITTEN EVIDENCE OF STORAGE" MEANS A WAREHOUSE RECEIPT
2 OR OTHER WRITTEN EVIDENCE OF OWNERSHIP THAT CREATES A STORAGE
3 OBLIGATION.

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