

HOUSE BILL No. 5573

March 3, 1992, Introduced by Reps. McBryde, Harder, Hickner, Gnodtke, Bobier, Gernaat, Robertson, Bandstra, Middleton, Jamian, McNutt, Dalman, Bodem, Horton, Oxender, Fitzgerald, Brackenridge, Dolan, Sikkema, London, Randall, Muxlow, Anthony, DeLange, Alley, Rocca, Bennett, Middaugh, Byrum, Walberg, Strand, Kosteva, Gubow, Jondahl, DeMars, Wozniak, Olshove, Dobb, Willis Bullard, O'Connor, Martin, Munsell, Shugars, Nye, Bartnik, O'Neill, Gilmer, Hoffman, Trim, Jaye, Weeks, Bender, Hillegonds, Porreca, Dresch, Niederstadt, Pitoniak, Ostling and Bankes and referred to the Committee on Agriculture, Forestry and Minerals.

A bill to amend sections 2, 6, and 7a of Act No. 141 of the Public Acts of 1939, entitled as amended

"Grain dealers act,"

sections 2 and 7a as amended by Act No. 365 of the Public Acts of 1988 and section 6 as amended by Act No. 33 of the Public Acts of 1982, being sections 285.62, 285.66, and 285.67a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 6, and 7a of Act No. 141 of the
2 Public Acts of 1939, sections 2 and 7a as amended by Act No. 365
3 of the Public Acts of 1988 and section 6 as amended by Act No. 33
4 of the Public Acts of 1982, being sections 285.62, 285.66, and
5 285.67a of the Michigan Compiled Laws, are amended to read as
6 follows:

1 Sec. 2. As used in this act:

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

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

11 (c) "Grain dealer" means a person ENGAGED in the business of
12 receiving, buying, exchanging, selling, or storing farm produce,
13 but does not include:

14 (i) A grower or producer selling farm produce THAT the
15 grower or producer actually produces.

16 (ii) A person who buys farm produce on a cash basis as a
17 feeder of the person's own livestock or poultry.

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

20 (iv) A person who purchases farm produce from a nongrower;
21 purchases farm produce on a cash basis; does not take possession
22 of the farm produce; and is not required to offer warehouse
23 receipts, price later agreements, or scale tickets.

24 (d) "Director" means the director of the state department of
25 agriculture and the director's authorized agents and
26 representatives.

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

4 (f) "Acknowledgment form" means a written receipt issued by
5 a grain dealer or his or her authorized representative to a farm
6 produce owner which identifies the FARM produce being transferred
7 from the physical jurisdiction of the owner to the GRAIN dealer.
8 "Scale ticket" is synonymous with acknowledgment form if used to
9 describe weighed quantities of farm produce.

10 (g) "Cash sale" means farm produce whose title is trans-
11 ferred only after a price is decided upon not later than the time
12 of delivery.

13 (h) "Grain bank" or "feed bank" means the storage of FARM
14 produce on a warehouse receipt intended to be, periodically, par-
15 tially withdrawn by the owner.

16 (i) "Warehouse receipt" means a written acknowledgment
17 issued by the grain dealer to a farm produce owner upon accep-
18 tance of the FARM produce for storage in the GRAIN dealer's
19 facility.

20 (J) "FINANCIAL INSTITUTION" MEANS A COMMERCIAL BANK WHOSE
21 DEPOSITS ARE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION
22 OR A NATIONAL BANK FOR COOPERATIVES SUBJECT TO THE FARM CREDIT
23 ACT OF 1971, PUBLIC LAW 92-181, 85 STAT. 583.

24 Sec. 6. (1) The director shall prepare and, upon acceptance
25 of an application, issue a grain dealer's license to the
26 applicant. The license shall be of 1 year's duration, renewable
27 annually, and shall carry a license fee as provided in subsection

1 (2). Each license shall be suspendible or revocable for cause by
 2 the director, carry a serial identification number, be nontrans-
 3 ferable, and be prominently displayed on the location or vehicle
 4 of the holder of the license. A separate license ~~shall be~~ IS
 5 required for each business location of the grain dealer, and if
 6 the grain dealer receives farm produce and later disposes of it
 7 without depositing that farm produce at a licensed business loca-
 8 tion of the grain dealer, the grain dealer shall secure a grain
 9 dealer's license for each vehicle used in such business
 10 transactions. The license shall grant authority to the holder to
 11 receive farm produce for storage if ~~bonded as required by~~ THE
 12 HOLDER IS IN COMPLIANCE WITH THE BONDING OR LETTER OF CREDIT
 13 REQUIREMENTS IMPOSED IN section 7a; assess and collect storage
 14 charges on the stored farm produce; issue warehouse receipts on
 15 the stored farm produce; issue price later agreements; and issue
 16 ~~acknowledgments of receipts of~~ ACKNOWLEDGMENT FORMS REGARDING
 17 farm produce, under the rules and supervision established by the
 18 director in accordance with this act.

19 (2) A grain dealer's license shall be issued upon the pay-
 20 ment of the following fee:

21 (a) For a facility having a total bushel capacity of:

22 (i) Not more than 50,000.....\$125.00

23 (ii) More than 50,000, and less than or equal to 100,000

24\$150.00

1 (iii) More than 100,000, and less than or equal to
 2 200,000.....\$200.00

3 (iv) More than 200,000, and less than or equal to
 4 300,000.....\$270.00

5 (v) More than 300,000, and less than or equal to 400,000
 6\$325.00

7 (vi) More than 400,000, and less than or equal to
 8 500,000.....\$375.00

9 (vii) More than 500,000.....\$400.00

10 (b) For 1 vehicle.....\$200.00

11 (c) For each additional vehicle..... \$ 50.00.

12 Sec. 7a. (1) An application for a grain dealer's license
 13 shall be made on a form provided by the director, shall be filed
 14 30 days in advance of a license expiration date if there is an
 15 outstanding license, and shall be accompanied by a sufficient
 16 bond on a form provided by the director or an irrevocable letter
 17 of credit on a form provided by the director in favor of the
 18 department of agriculture which fulfills the requirements of
 19 subsection (4). The bond shall run to the department of

1 agriculture with sufficient surety conditioned for the faithful
2 performance of the duties of a grain dealer and compliance with
3 all laws of this state relating to grain dealers. The amount of,
4 the bond for a grain dealer who is a bailee of farm produce or
5 who issues warehouse receipts shall be \$15,000.00 for the first
6 10,000 bushels of storage capacity of the grain dealer, plus
7 \$5,000.00 for each additional 10,000 bushel capacity or fraction
8 of that capacity used for the storage of warehouse receipted farm
9 produce. The amount of the bond for a grain dealer who does not
10 own a farm produce storage or handling facility ~~nor~~ OR DOES NOT
11 OWN a vehicle used to transport farm produce shall be
12 \$50,000.00.

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

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

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

22 (c) Maintain sufficient cash or other short-term secured
23 investments in an escrow account with a financial institution
24 ~~regulated by this state or by the federal government~~ in an
25 amount equal to 80% of the value, established by daily bid price,
26 of any deficiency in the price later agreements. This deficiency

1 shall be protected by procuring an offsetting purchase
2 commitment.

3 (3) Instead of the bonding requirements in subsection (1), a
4 person owning 2 or more farm produce storage facilities may fur-
5 nish a blanket surety bond equal to the sum of the requirements
6 for the individual facilities, except that when the requirements
7 are equal to or greater than \$400,000.00 a blanket bond in the
8 amount of \$400,000.00 shall be considered sufficient to meet the
9 requirements of this act. The bond shall show the address and
10 capacity of each facility.

11 (4) A person may submit an irrevocable letter of credit with
12 an application for a grain dealer's license if the letter of
13 credit is in an amount equal to the amount that would otherwise
14 be required by this section for a bond and if it is issued by a
15 ~~commercial bank insured by the federal deposit insurance~~
16 ~~corporation~~ FINANCIAL INSTITUTION.

17 (5) A ~~commercial bank~~ FINANCIAL INSTITUTION shall not
18 cancel, reduce, or allow the expiration of an irrevocable letter
19 of credit unless the ~~commercial bank~~ FINANCIAL INSTITUTION
20 notifies in writing the department of agriculture not less than
21 30 days before the effective date of the cancellation, reduction,
22 or expiration.

23 (6) Upon demand of a grower from whom farm produce is pur-
24 chased in accordance with a price later agreement, the grain
25 dealer who issues the price later agreement shall grant the
26 grower a security interest in that farm produce as provided in
27 section 9312 of the uniform commercial code, Act No. 174 of the

1 Public Acts of 1962, being section 440.9312 of the Michigan
2 Compiled Laws. A security agreement may be on a form which shall
3 be prescribed and provided to grain dealers by the director and
4 which shall include a description of the rights and responsibili-
5 ties of a grower concerning the security agreement. A grain
6 dealer shall post a sign to inform growers of the availability of
7 security agreements and forms.

8 (7) Upon the written demand of the department of agricul-
9 ture, a ~~commercial bank~~ FINANCIAL INSTITUTION shall uncondi-
10 tionally pay a claim in an amount specified by the department of
11 agriculture but not greater than the maximum value of the irrevoc-
12 cable letter of credit. Upon the payment of a claim, a
13 ~~commercial bank~~ FINANCIAL INSTITUTION may request the depart-
14 ment of agriculture in writing for justification of the claim.