

SENATE BILL NO. 1173

June 2, 1998, Introduced by Senators MC MANUS and GOUGEON and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1939 PA 141, entitled  
"Grain dealers act,"  
by amending section 7a (MCL 285.67a), as amended by 1992 PA 238.

**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. ~~—, and~~ IF THE GRAIN DEALER IS A BAILEE  
5 OF FARM PRODUCE AND ISSUES WAREHOUSE RECEIPTS OR IS A GRAIN  
6 DEALER WHO DOES NOT OWN A FARM PRODUCE OR HANDLING FACILITY OR  
7 DOES NOT OWN A VEHICLE USED TO TRANSPORT FARM PRODUCE, THE  
8 APPLICATION shall be accompanied by a ~~sufficient~~ bond on a form  
9 provided by the director or an irrevocable letter of credit on a  
10 form provided by the director in favor of the department of  
11 agriculture which fulfills the requirements of subsection (4).

**SB 1173, As Passed Senate, June 11, 1998**

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1 The bond shall run to the department of agriculture ~~with~~  
2 ~~sufficient surety conditioned for the faithful performance of the~~  
3 ~~duties of a grain dealer and compliance with all laws of this~~  
4 ~~state relating to grain dealers~~ AND APPLY ONLY TO WAREHOUSE  
5 RECEIPT TRANSACTIONS. The amount of the bond for a grain dealer  
6 who is a bailee of farm produce ~~or~~ AND who issues warehouse  
7 receipts shall be \$15,000.00 for the first 10,000 bushels of  
8 ~~storage~~ capacity ~~of the grain dealer~~ INTENDED FOR STORAGE,  
9 plus \$5,000.00 for each additional 10,000 bushel capacity or  
10 fraction of that capacity used for the storage of warehouse  
11 receipted farm produce. The amount of the bond for a grain  
12 dealer who does not own a farm produce storage or handling facil-  
13 ity or does not own a vehicle used to transport farm produce  
14 shall be \$50,000.00.

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

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

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

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

1 deficiency 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  
9 the requirements of this act. The bond shall show the address  
10 and capacity of each facility. THE TERM OF THE BOND SHALL BE  
11 CONTINUOUS AND THE TOTAL AND AGGREGATE LIABILITY OF THE SURETY ON  
12 THE OBLIGATION SHALL BE LIMITED TO THE AMOUNT SPECIFIED IN THIS  
13 SECTION. ALTHOUGH THE OBLIGATION IS CONTINUOUS IN NATURE, THE  
14 LIABILITY OF THE SURETY SHALL NOT ACCUMULATE FOR EACH SUCCESSIVE  
15 LICENSE PERIOD DURING WHICH THE BOND IS IN EFFECT AND THE LIABIL-  
16 ITY SHALL NOT BE AFFECTED BY THE NUMBER OF CLAIMANTS INVOLVED IN  
17 THE TRANSACTIONS COVERED BY THAT BOND.

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

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

1           (6) Upon demand of a grower from whom farm produce is  
2 purchased in accordance with a price later agreement, the grain  
3 dealer who issues the price later agreement shall grant the  
4 grower a security interest in that farm produce as provided in  
5 section 9312 of the uniform commercial code, ~~Act No. 174 of the~~  
6 ~~Public Acts of 1962, being section 440.9312 of the Michigan~~  
7 ~~Compiled Laws~~ 1962 PA 174, MCL 440.9312. A security agreement  
8 may be on a form which shall be prescribed and provided to grain  
9 dealers by the director and which shall include a description of  
10 the rights and responsibilities of a grower concerning the secur-  
11 ity agreement. A grain dealer shall post a sign to inform grow-  
12 ers of the availability of security agreements and forms.

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