

Act No. 388  
Public Acts of 1998  
Approved by the Governor  
November 24, 1998  
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STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

Introduced by Senators McManus and Gougeon

# ENROLLED SENATE BILL No. 1173

AN ACT to amend 1939 PA 141, entitled "An act to permit the director of the department of agriculture of this state to regulate the storage, warehousing, buying, and selling of farm produce within this state; to provide for the licensing, regulation, and bonding of grain dealers; to provide for warehouse receipts and price later agreements and their priority; to provide for the creation of security interests; to provide for the establishment of an inspection service and personnel for licensed grain dealers; and to provide penalties for the violation of this act," by amending section 7a (MCL 285.67a), as amended by 1992 PA 238.

*The People of the State of Michigan enact:*

Sec. 7a. (1) An application for a grain dealer's license shall be made on a form provided by the director and shall be filed 30 days in advance of a license expiration date if there is an outstanding license. If the grain dealer is a bailee of farm produce and issues warehouse receipts or is a grain dealer who does not own a farm produce or handling facility or does not own a vehicle used to transport farm produce, the application shall be accompanied by a bond on a form provided by the director or an irrevocable letter of credit on a form provided by the director in favor of the department of agriculture which fulfills the requirements of subsection (4). The bond shall run to the department of agriculture and apply only to warehouse receipt transactions. The amount of the bond for a grain dealer who is a bailee of farm produce and who issues warehouse receipts shall be \$15,000.00 for the first 10,000 bushels of capacity intended for storage, plus \$5,000.00 for each additional 10,000 bushel capacity or fraction of that capacity used for the storage of warehouse receipted farm produce. The amount of the bond for a grain dealer who does not own a farm produce storage or handling facility or does not own a vehicle used to transport farm produce shall be \$50,000.00.

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

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

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

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

(3) Instead of the bonding requirements in subsection (1), a person owning 2 or more farm produce storage facilities may furnish a blanket surety bond equal to the sum of the requirements for the individual facilities, except that when the requirements are equal to or greater than \$400,000.00 a blanket bond in the amount of \$400,000.00 shall meet the requirements of this act. The bond shall show the address and capacity of each facility. The term of the bond shall be continuous and the total and aggregate liability of the surety on the obligation shall be limited to the amount specified

in this section. Although the obligation is continuous in nature, the liability of the surety shall not accumulate for each successive license period during which the bond is in effect and the liability shall not be affected by the number of claimants involved in the transactions covered by that bond.

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

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

(6) Upon demand of a grower from whom farm produce is purchased in accordance with a price later agreement, the grain dealer who issues the price later agreement shall grant the grower a security interest in that farm produce as provided in section 9312 of the uniform commercial code, 1962 PA 174, MCL 440.9312. A security agreement may be on a form which shall be prescribed and provided to grain dealers by the director and which shall include a description of the rights and responsibilities of a grower concerning the security agreement. A grain dealer shall post a sign to inform growers of the availability of security agreements and forms.

(7) Upon the written demand of the department of agriculture, a financial institution shall unconditionally pay a claim in an amount specified by the department of agriculture but not greater than the maximum value of the irrevocable letter of credit. Upon the payment of a claim, a financial institution may request the department of agriculture in writing for justification of the claim.

This act is ordered to take immediate effect.



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Secretary of the Senate.



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Clerk of the House of Representatives.

Approved \_\_\_\_\_

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Governor.