

GRAIN DEALERS ACT (EXCERPT)
Act 141 of 1939

285.62 Definitions.

Sec. 2. As used in this act:

(a) "Acknowledgment form" means a scale weight ticket, a load slip, or any other evidence of deposit issued by a grain dealer or his or her authorized representative to a depositor that identifies the farm produce being transferred from the possession of the depositor to the possession of the grain dealer.

(b) "Allowable net assets" does not include intangible assets or assets that the department or a certified public accountant determines have no monetary value.

(c) "Cash sale" means a sale in which the title to farm produce is transferred only after a price is decided upon before or at the time of delivery and payment for the farm produce meets 1 of the following:

(i) Payment of the price is made to the depositor in cash or by check, money order, wire transfer, or draft within 10 days of delivery.

(ii) Payment of the price is made by placing the amount of the price in the depositor's account and a credit statement is sent to the depositor within 10 days of delivery.

(d) "Claimant" means a person to whom a grain dealer owes a financial obligation for farm produce or who is entitled to the farm produce delivered to the grain dealer or the proceeds of the farm produce.

(e) "Collateral warehouse receipt" means a warehouse receipt issued to a financial institution by a grain dealer for unencumbered grain owned by that grain dealer.

(f) "Department" means the department of agriculture.

(g) "Depositor" means either of the following:

(i) A person who delivers farm produce to a licensed grain dealer for storage, processing, shipment, or sale and has title to the farm produce at the time of delivery.

(ii) A person who owns or who is legal holder of an acknowledgment form or warehouse receipt issued by a licensed grain dealer for farm produce.

(h) "Director" means the director of the department or his or her designee.

(i) In a farm produce transaction, "disposition" means a cash sale or other transfer of farm produce or placement of farm produce on a warehouse receipt or price later agreement.

(j) "Facility" means an edifice, silo, tank, bin, crib, interstice, or protected enclosed structure, or more than 1 edifice, silo, tank, bin, crib, interstice, or protected enclosed structure located contiguous to each other, used to receive, deposit, or store farm produce in bulk.

(k) "Failure" of a licensee or grain dealer means any of the following:

(i) Inability of a licensee or grain dealer to financially satisfy claimants.

(ii) A public declaration of insolvency by a licensee or grain dealer.

(l) "Farm produce" means 1 or more of dry edible beans, soybeans, small grains, cereal grains, or corn.

(m) "Farm produce handled" means the number of bushels or hundredweight of farm produce that a licensee receives or is otherwise obligated for in a fiscal period.

(n) "Farm produce handling" means any of the following:

(i) Engaging or participating in the business of purchasing farm produce.

(ii) Operating a grain elevator for the receiving, storing, shipping, or processing of farm produce.

(iii) Receiving farm produce into a facility under a price later agreement.

(o) "Farm produce trucker" means a person engaged in the business of hauling farm produce that issues price later agreements or acknowledgment forms, transfers warehouse receipts, or is responsible for payment to a depositor, but that does not own a facility.

(p) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state, or a national bank for cooperatives subject to the farm credit act of 1971, Public Law 92-181, 85 Stat. 583.

(q) "Grain bank" or "feed bank" means farm produce stored on a nonnegotiable warehouse receipt that the owner intends to periodically, partially withdraw.

(r) "Grain dealer" means a person engaged in the business of receiving, buying, exchanging, selling, or storing farm produce in this state. The term includes a farm produce trucker, grain merchandiser, or processor. The term does not include a person solely engaged in 1 of the following:

(i) Selling farm produce produced by the person.

(ii) Buying farm produce in a cash sale to feed the person's livestock or poultry.

(iii) If the person handled less than 30,000 bushels of farm produce in the person's preceding fiscal year and in the person's current fiscal year, buying farm produce in a cash sale.

(iv) Purchasing farm produce from a person other than the grower or producer of the farm produce in a cash sale.

(v) Contracting for land or services to produce seed for sowing or propagation.

(s) "Grain merchandiser" means a person engaged in the business of receiving, buying, exchanging, selling, or taking title to farm produce and who is responsible for payment to a depositor but does not operate a truck or a facility.

(t) "License" means a license issued by the department to a grain dealer in the manner provided under this act. The term includes a permit issued under section 6.

(u) "Licensee" means a grain dealer licensed under this act.

(v) "Open storage" means the storage of farm produce for 30 days or less under an acknowledgment form that does not contain a designation of a specific transaction type.

(w) "Operating within this state" includes the transfer of physical possession or title of farm produce from an owner to a person within the boundaries of this state.

(x) "Person" means an individual, corporation, limited liability company, partnership, association, cooperative organization, or other legal entity.

(y) "Price later agreement" means a written or electronically transmitted agreement between a depositor and a grain dealer where the grain dealer receives title to farm produce and the depositor retains the option to price the farm produce after delivery based on conditions in the agreement.

(z) "Processing" means drying, cleaning, packaging, or otherwise changing the physical characteristics of farm produce.

(aa) "Processor" means a person engaged in processing farm produce and storing the farm produce for a period of 24 hours or more.

(bb) "Receiving point" means a facility where farm produce is received, weighed, and stored and an acknowledgment form is issued.

(cc) With respect to a financial statement, "reviewed" means performing inquiry and analytical procedures that provide an accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statement for it to conform with generally accepted accounting principles.

(dd) "Revocation" means the removal of a grain dealer's license under this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The term does not include a suspension of a grain dealer's license under this act.

(ee) "Shortage" means that a grain dealer does not have a sufficient amount of farm produce by class and quality to cover the grain dealer's outstanding warehouse receipt obligations for that farm produce.

(ff) "Storage" means the deposit of farm produce in trust with a grain dealer by a depositor.

(gg) "Temporary facility" means a facility that does not have a receiving point and is used by a licensee to store farm produce.

(hh) "Warehouse receipt" means a written or electronically transmitted receipt issued by a grain dealer to a depositor at the time the grain dealer accepts farm produce for storage. A warehouse receipt is 1 of the following:

(i) A negotiable warehouse receipt if it states that the grain dealer will deliver the farm produce to the bearer of the receipt or to the order of a person named in the receipt.

(ii) A nonnegotiable warehouse receipt if it does not satisfy subparagraph (i).

History: 1939, Act 141, Eff. Sept. 29, 1939;—CL 1948, 285.62;—Am. 1963, Act 180, Eff. Sept. 6, 1963;—Am. 1976, Act 259, Imd. Eff. Aug. 12, 1976;—Am. 1978, Act 154, Imd. Eff. May 22, 1978;—Am. 1979, Act 206, Imd. Eff. Jan. 8, 1980;—Am. 1982, Act 33, Eff. Sept. 12, 1982;—Am. 1988, Act 365, Imd. Eff. Dec. 21, 1988;—Am. 1992, Act 238, Imd. Eff. Nov. 12, 1992;—Am. 1996, Act 311, Imd. Eff. June 24, 1996;—Am. 2002, Act 80, Eff. Mar. 31, 2003.

Compiler's note: Section 2 of Act 33 of 1982 provides: "This amendatory act shall take effect 6 months after it has been enacted into law and shall apply only to licenses issued or renewed after the effective date."