

**CHAPTER 1082**

## REGULATION OF GRAIN TRANSACTIONS

S.F. 2299

**AN ACT** relating to grain transactions by regulating grain dealers and warehouse operators, providing for fees, and making penalties applicable.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 203.5, Code 2009, is amended to read as follows:

**203.5 License.**

1. a. Upon the filing of ~~the an~~ application on a form prescribed by the department and compliance with the terms and conditions of this chapter ~~and including rules of the department, the department shall issue the applicant a grain dealer's license to the applicant.~~ The license ~~shall terminate~~ expires at the end of the third calendar month following the close of the grain dealer's fiscal year. A grain dealer's license may be renewed annually by ~~the~~ filing of a ~~renewal fee and a~~ renewal application on a form prescribed by the department. An application for renewal ~~shall~~ must be received by the department on or before the end of the third calendar month following the close of the grain dealer's fiscal year.

b. The department shall not issue a grain dealer's license unless the applicant pays all of the following fees:

(1) For the issuance of a license, all of the following:

(a) A license fee imposed under section 203.6.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee imposed under a previous license as provided in that section.

(2) For the renewal of a license, all of the following:

(a) A renewal fee imposed under section 203.6.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee as provided in that section.

(c) A per-bushel fee as provided in section 203D.3A, and any delinquent per-bushel fee and penalty as provided in that section.

2. The department shall notify a licensed grain dealer of any delinquency in the payment of a participation fee or per-bushel fee as provided in section 203D.3A. The department shall suspend the grain dealer's license thirty days after delivering the notice unless the licensed grain dealer pays the delinquent fee.

3. The department may suspend or revoke the license of a grain dealer who discounts the purchase price paid for grain nominally for the participation fee or per-bushel fee as provided in section 203D.3A while that fee is not in effect.

4. A grain dealer license which has ~~terminated~~ expired may be reinstated by the department upon receipt of a proper renewal application, the renewal fee, and ~~the a~~ reinstatement fee as provided in section 203.6 ~~if filed, and any delinquent participation fee or per-bushel fee and penalty as provided in section 203D.3A.~~ The applicant must file the renewal application and pay the fees and penalty to the department within thirty days from the date of ~~termination~~ expiration of the grain dealer license.

5. The department may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

6. a. ~~Fees for licenses issued~~ The department shall refund a fee paid by an applicant to the department under this section if the department does not issue or renew a grain dealer's license.

b. The department shall prorate a fee paid by an applicant to the department under this section for the issuance or renewal of a license for less than a full year ~~shall be prorated from the date of the application.~~

7. If an applicant has had a license under this chapter or chapter 203C revoked for cause within the past three years, or has been convicted of a felony involving violations of this chapter or chapter 203C, or is owned or controlled by a person who has had a license so revoked or who has been so convicted, the department may deny a license to the applicant.

8. The department may deny a license to an applicant if any of the following apply:

a. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund in regard to a license issued under this chapter or chapter 203C, and the liability has not been discharged, settled, or satisfied.

b. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 203C and the liability has not been discharged, settled, or satisfied.

Sec. 2. Section 203C.1, subsection 5, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

5. “*Credit-sale contract*” means the same as defined in section 203.1.

Sec. 3. Section 203C.7, Code 2009, is amended to read as follows:

**203C.7 Application for the issuance or renewal of a license.**

1. Each application for the issuance of a license or licenses shall be in writing on a form prescribed by the department, subscribed and sworn to by the applicant or a duly authorized representative of the applicant. In addition to any other information required by rule of the department the application shall include all of the following:

1. a. The name of the individual, partnership, or corporation person making the application, the names of all partners if the applicant is a partnership, and the names and titles of the principal officers or managers if the applicant is a legal entity including but not limited to a limited partnership, limited liability partnership, limited liability company, corporation, or cooperative association.

2. b. The principal office or place of business of the applicant.

3. c. A general description of each warehouse as to storage capacity, type of construction, mechanical equipment, if any, and condition.

4. d. The approximate location of each warehouse.

5. e. The type and quantity of agricultural product, or products intended to be stored in each warehouse.

6. f. A complete financial statement for use of the department in the administration of this chapter, as required by section 203C.6.

7. g. A tariff on a form to be prescribed by the department for storage, receiving, and loadout charges.

2. Each application for the renewal of a license shall be in writing and include information required by the department, including changes to information required in subsection 1.

Sec. 4. Section 203C.37, Code 2009, is amended to read as follows:

**203C.37 ~~Failure to pay fee~~ Issuance of a license and payment of fees.**

1. a. Upon the filing of an application pursuant to section 203C.7 and compliance with the terms and conditions of this chapter including rules of the department, the department shall issue the applicant a warehouse operator’s license. The license expires at the end of the third calendar month following the close of the warehouse operator’s fiscal year. A warehouse operator’s license may be renewed annually by the filing of a renewal application on a form prescribed by the department pursuant to section 203C.37. An application for renewal must be received by the department on or before the end of the third calendar month following the close of the warehouse operator’s fiscal year.

b. The department shall not approve an application for the issuance or renewal of a warehouse operator’s license unless the applicant pays all of the following fees:

(1) For the issuance of a license, all of the following:

(a) A license fee imposed under section 203C.33.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee imposed under a previous license as provided in that section.

(2) For the renewal of a license, all of the following:

(a) A renewal fee imposed under section 203C.33.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee as provided in that section.

3. ~~Failure~~ The failure of a warehouse operator to file a renewal application and to pay the license a renewal fee as provided for in section 203C.33 and any delinquent participation fee

as provided in section 203D.3A, on or before the end of the third calendar month following the close of the licensee's fiscal year shall cause a license to ~~terminate~~ expire.

4. A warehouse license ~~which that has terminated~~ expired may be reinstated by the department upon receipt of a proper renewal application, the renewal fee, and the reinstatement fee as provided for in section 203C.33, ~~if filed and any delinquent participation fee as provided in section 203D.3A. The applicant must file the renewal application and pay the fees to the department~~ within thirty days from the date ~~of termination of that~~ the warehouse license expires.

5. The department may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

6. a. ~~The department shall refund a fee paid by a person to the department under this section if the department does not issue the person a license or renew the person's license.~~

b. ~~The department shall prorate a fee paid by a person to the department under this section for the issuance or renewal of a license for less than a full year.~~

Sec. 5. Section 203D.1, Code Supplement 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Credit-sale contract" means the same as defined in section 203.1.

NEW SUBSECTION. 6A. "Grain dealer" means the same as defined in section 203.1.

NEW SUBSECTION. 9A. "Licensee" means a licensed grain dealer or licensed warehouse operator.

NEW SUBSECTION. 13. "Warehouse operator" means the same as defined in section 203C.1.

Sec. 6. Section 203D.3, subsection 1, Code Supplement 2009, is amended to read as follows:

1. The grain depositors and sellers indemnity fund is created in the state treasury as a separate account. The general fund of the state is not liable for claims presented against the ~~grain depositors and sellers indemnity fund~~ under section 203D.6.

1A. The fund consists of ~~a per-bushel fee on purchased grain remitted~~ all of the following:

a. Participation fees paid to the department by licensed grain dealers and persons applying to be issued a grain dealer's license as provided in section 203D.3A.

b. Participation fees paid to the department by licensed warehouse operators and persons applying to be issued a warehouse operator's license as provided in section 203D.3A.

c. ~~Per-bushel fees paid to the department by licensed grain dealers and licensed warehouse operators; an annual fee charged to and remitted by licensed grain dealers and licensed warehouse operators; delinquency as provided in section 203D.3A.~~

d. ~~Delinquency penalties; sums.~~

e. ~~Amounts collected by the department by state pursuant to legal action on behalf of the fund; and interest.~~

f. Interest, earnings on investments, property, or securities acquired through the use of moneys in the fund.

1B. The fiscal year of the fund begins July 1 and ends on June 30. Fiscal quarters of the fund begin July 1, October 1, January 1, and April 1. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles.

1C. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 203D.6 and to pay the administrative costs of this chapter.

Sec. 7. Section 203D.3, subsections 2, 3, 4, and 7, Code Supplement 2009, are amended by striking the subsections.

Sec. 8. **NEW SECTION. 203D.3A Fees.**

The department shall collect fees as provided in this section, if established by the board pursuant to section 203D.5, at rates determined by the board as provided in that section. A person required to pay a fee shall use forms and deliver the payment to the department as required by the department.

1. *a.* A person who applies for the issuance of a new license as a grain dealer pursuant to section 203.5 or a warehouse operator pursuant to sections 203C.7 and 203C.33 shall pay the department an initial participation fee as part of the application.

(1) In calculating the amount of the initial participation fee, an applicant for a license shall be deemed a licensee paying the full amount of the participation fee owing on the licensee's first anniversary date as provided in paragraph "b". The department must be satisfied that the applicant is calculating the amount due in good faith and using the best information available.

(2) If the department issues the license, the licensee shall recalculate the participation fee when making a payment on the licensee's first installment date as provided in paragraph "b". The licensee may notify the department of any overpayment and shall notify the department of any underpayment by the licensee's first installment date in a manner and according to procedures required by the department. The department shall refund any overpayment to the licensee and the licensee shall pay any additional amount resulting from an underpayment.

*b.* A licensee shall pay a participation fee on four successive installment dates, with each installment date occurring on the last date of the fund's fiscal quarter as provided in section 203D.3. The licensee shall pay twenty-five percent of the total participation fee assessed on each installment date. However, nothing in this subsection prevents a licensee from paying the participation fee on an accelerated basis. A licensee shall pay the first installment on the last date of the fund's fiscal quarter immediately following the licensee's anniversary date.

(1) For a licensed grain dealer, the anniversary date is the last date to apply for the renewal of the grain dealer's license before the license expires as provided in section 203.5.

(2) For a licensed warehouse operator, the anniversary date is the last date to apply for the renewal of the warehouse operator's license before the license expires as provided in section 203C.37.

*c.* A licensee is delinquent if the licensee fails to submit the payment when due or if, upon examination, an underpayment of the fee is found by the department.

*d.* A licensee shall not pass on the cost of a participation fee to sellers. The department may suspend or revoke the license of a grain dealer for passing on the cost, as provided in chapter 203.

2. *a.* A per-bushel fee shall be assessed on all purchased grain. However, if the grain dealer provides documentation regarding the transaction satisfactory to the department, the following transactions shall be excluded from the per-bushel fee:

(1) Grain purchased from the United States government or any of its subdivisions or agencies.

(2) Grain purchased from a person licensed as a grain dealer in any jurisdiction.

(3) Grain purchased under a credit-sale contract.

*b.* The grain dealer shall forward the per-bushel fee to the department on a quarterly basis in the manner and using the forms prescribed by the department. A licensee is delinquent if the licensee fails to submit the full fee or quarterly forms when due or if, upon examination, an underpayment of the fee is found by the department. The grain dealer is subject to a penalty of ten dollars for each day the grain dealer is delinquent or an amount equal to the amount of the deficiency, whichever is less. However, a licensee who fails to submit the full fee or quarterly forms when due, is subject to a minimum payment of ten dollars. The department may establish and apply a margin of error in determining whether a grain dealer is delinquent. The per-bushel fee shall be collected only once on each bushel of grain.

*c.* A grain dealer may choose to pass on the cost of a per-bushel fee to the sellers by an itemized discount noted on the settlement sheet. However, if the per-bushel fee is not in effect, no grain dealer shall make such a discount on the purchase of grain. A discount made nominally for the per-bushel fee while the fee is not in effect is grounds for license suspension or revocation under chapter 203.

Sec. 9. Section 203D.5, Code Supplement 2009, is amended to read as follows:

**203D.5 Adjustments to fee Fees — imposition, adjustment, or waiver.**

1. The board shall annually review annually the debits of and credits to the grain depositors and sellers indemnity fund created in section 203D.3 and shall determine whether to impose the participation fee and per-bushel fee as provided in section 203D.3A, make any adjustments in the per-bushel fee required under section 203D.3, subsection 2, and

~~the dealer-warehouse fee required under section 203D.3, subsection 3, that are to the fees effective on the previous July 1, or waive the fees as necessary to maintain the fund within the limits established under comply with this section. Not~~ The board shall make the determination not later than the first day of May 1 of each year, ~~the board shall determine the proposed amount of the per-bushel fee based on the expected volume of grain on which the fee is to be collected and that is likely to be handled under this chapter, and shall also determine any adjustment to the dealer-warehouse fee. The board shall make any changes in impose the fees or adjust the previous year's fees effective on the previous July 1 in accordance with chapter 17A. Changes in~~ The imposition or adjustment of the fees shall become effective as follows:

~~a. For the participation fee, on the following July 1. However, the licensee shall continue to pay the participation fee at the rate in effect on the prior July 1, until the licensee has paid the amount owing.~~

~~b. For a per-bushel fee, on the following first day of July 1.~~

~~2. a. Except as provided in paragraph "b", the rate of a participation fee owed by a licensee shall be calculated as follows:~~

~~(1) For a licensed grain dealer, not more than fourteen thousandths of a cent per bushel assessed on all purchased grain entered in the company-owned paid position during the grain dealer's last fiscal year at each location at which records are maintained for transactions of the grain dealer, as determined according to information submitted by the grain dealer to the department for the issuance or renewal of a license as provided in section 203.5.~~

~~(2) For a licensed warehouse operator, not more than fourteen thousandths of a cent per bushel of bulk grain storage capacity for each warehouse licensed pursuant to section 203C.8 or five hundred dollars, whichever is less. The participation fee shall be determined using information provided to the department by the warehouse operator applying for the issuance or renewal of a license as provided in sections 203C.7 and 203C.37.~~

~~b. A licensee shall pay a participation fee of at least fifty dollars.~~

~~3. The rate of the per-bushel fee shall not exceed one-quarter cent per bushel assessed on all purchased grain as defined in section 203D.1. Until the per-bushel fee is adjusted or waived as provided in this section, the per-bushel fee is one-quarter cent on all purchased grain.~~

~~2. 4. If, at the end of any three-month period, the assets of the fund exceed eight million dollars, less any encumbered balances or pending or unsettled claims, all of the per-bushel fee required under section 203D.3, subsection 2, and the dealer-warehouse fee required under section 203D.3, subsection 3, following apply:~~

~~a. The participation fee shall be waived and shall not be assessable or owing for the following fiscal year of the fund. However, the licensee shall continue to pay any owing participation fee that was in effect on the prior July 1.~~

~~b. The per-bushel fee shall be waived and the fees are shall not be assessable or owing.~~

~~5. The board shall reinstate the fees as provided in this section if the assets of the fund, less any unencumbered balances or pending or unsettled claims, are three million dollars or less.~~

Approved March 22, 2010