

CHAPTER 143

GRAIN DEALERS AND WAREHOUSERS REGULATION

H.F. 533

AN ACT relating to the regulation of grain management, by providing for licensing and regulation of grain dealers and warehouse operators and the administration of licensing and regulation within the department of agriculture and land stewardship and by the Iowa grain indemnity board.

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

DIVISION I

Section 101. Sections 542.2, 542.9, 542.10, 542.13, 542A.7, 543.4, and 543.10, Code 1989, are amended by striking from the sections the words "warehouse division" and inserting in lieu thereof the words "warehouse bureau".

DIVISION II

Section 201. Section 542.3, subsection 4, paragraph a, Code 1989, is amended to read as follows:

a. The grain dealer shall have and maintain a net worth of at least ~~fifty~~ seventy-five thousand dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than ~~twenty-five~~ thirty-seven thousand five hundred dollars.

Sec. 202. Section 542.3, subsection 5, paragraph a, Code 1989, is amended to read as follows:

a. The grain dealer shall have and maintain a net worth of at least ~~twenty-five~~ thirty-seven thousand five hundred dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than ~~ten~~ seventeen thousand five hundred dollars.

DIVISION III

Sec. 301. Section 542.3, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a grain dealer submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed

in this state that is based upon a review performed by a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 302. Section 542.3, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a grain dealer submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 303. Section 543.6, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the department shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good

cause, in the manner provided in section 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.

Sec. 304. Section 543.6, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the department shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.

DIVISION IV

Sec. 401. Section 542.3, subsection 4, paragraph c, Code 1989, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least ninety one hundred percent of current liabilities or provide a deficiency bond or an irrevocable letter of credit under the following conditions:

(1) A grain dealer with current assets equal to at least ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than thirty consecutive days in a twelve-month period.

Sec. 402. Section 542.3, subsection 5, paragraph c, Code 1989, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least ~~ninety one~~ hundred percent of current liabilities or provide a deficiency bond or an irrevocable letter of credit under the following conditions:

(1) A grain dealer with current assets equal to at least ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than ~~forty-five~~ fifty percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than thirty consecutive days in a twelve-month period.

Sec. 403. Section 542.15, subsection 7, Code 1989, is amended to read as follows:

7. A grain dealer shall not purchase grain on credit during any time period in which the grain dealer's current assets are less than ~~forty-five~~ fifty percent of current liabilities.

DIVISION V

Sec. 501. Section 543.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person employed or appointed by the department and carrying out the duties of the department acting as receiver under this chapter shall be deemed to be an employee of the state as defined in section 25A.2. Chapter 25A is applicable to any claim as defined in section 25A.2 against the person carrying out the duties of the department acting as receiver.

Sec. 502. Section 543.4, subsection 3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the court approves the sale of commodities, the department shall employ a merchandiser to effect the sale of those commodities. A person employed or appointed as a merchandiser is deemed to be an employee of the state as defined in section 25A.2 and chapter 25A is applicable to any claim as defined in section 25A.2 against the person acting as a merchandiser. A person employed as a merchandiser must meet the following requirements:

DIVISION VI

Sec. 601. Section 542.16, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.

Sec. 602. Section 543.24, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.

DIVISION VII

Sec. 701. Section 542.5, Code 1989, is amended by adding the following new unnumbered paragraph:

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

1. 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 543, and the liability has not been discharged, settled, or satisfied.

2. 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 543 and the liability has not been discharged, settled, or satisfied.

Sec. 702. Section 543.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. 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 through operations under a license issued under this chapter or chapter 542, 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 542, and the liability has not been discharged, settled, or satisfied.

DIVISION VIII

Sec. 801. Section 543.6, subsection 1, Code 1989, is amended to read as follows:

1. The department is ~~authorized~~, upon application to it, ~~to may~~ issue to ~~any a~~ warehouse operator or to ~~any a~~ person about to become a warehouse operator a license ~~or licenses~~ for the operation of a warehouse ~~or warehouses~~ in accordance with the provisions of this chapter and ~~such the rules as may be made adopted~~ by the department under the authority of section 543.5. A single license to operate two or more warehouses located anywhere within a twenty-five mile radius of a central office the state may be issued.

Sec. 802. Section 543.6, subsection 3, Code 1989, is amended to read as follows:

3. An application for a warehouse license shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and net worth of the applicant. The financial statement must be prepared according to ~~normally generally~~ accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon written request, the department ~~or a designated employee~~ may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

Sec. 803. Section 543.7, subsection 7, Code 1989, is amended to read as follows:

7. A tariff on a form to be prescribed by the department, ~~for storage, conditioning of stored products, and receiving and loadout charges.~~

Sec. 804. Section 543.15, unnumbered paragraph 1, Code 1989, is amended to read as follows:

All agricultural products in storage in a licensed warehouse and all agricultural products which have been deposited temporarily in a licensed warehouse pending storage or for purposes other than storage, shall be kept fully insured by the warehouse operator for the current value of the agricultural products against loss by fire, inherent explosion, or windstorm.

PARAGRAPH DIVIDED. The insurance shall be carried in an insurance company or companies authorized to do business in this state, and evidence of the insurance coverage in a form approved by the department shall be filed with the department. An insurance policy shall not be canceled by the insurance company on less than sixty ninety days' notice by certified mail to the department and the principal unless the policy is being replaced with another policy

and evidence of the new policy is filed with the department at the time of cancellation of the policy on file. The insurance shall be provided by, and carried in the name of, the warehouse operator. However, whenever the department shall receive notice from an insurance company that it has canceled the insurance of a licensed warehouse, the department shall automatically suspend the warehouse license if replacement insurance is not received by the department within seventy-five days of receipt of the notice of cancellation. The department shall cause an inspection of the licensed warehouse immediately at the end of the seventy-five day period. If replacement insurance is not filed within another ten days following suspension, the warehouse license shall be automatically revoked. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The department shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection. Claimants against the insurance have precedence in the following order:

DIVISION IX

Sec. 901. Section 543A.1, subsection 1, Code 1989, is amended by striking the subsection.

Sec. 902. Section 543A.1, subsection 10, Code 1989, is amended to read as follows:

10. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit sale contract as a seller. However, "seller" does not include a person licensed as a grain dealer in any jurisdiction who sells grain to a licensed grain dealer.

Sec. 903. Section 543A.3, subsections 1 and 2, Code 1989, 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 543A.6. The fund consists of a per-bushel fee on assessable purchased grain remitted by licensed grain dealers and licensed warehouse operators; an annual fee charged to and remitted by licensed grain dealers and licensed warehouse operators; delinquency penalties; sums collected by the department by legal action on behalf of the fund; and interest, property, or securities acquired through the use of moneys in the fund. The fiscal year of the fund begins July 1. 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. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 543A.6 and to pay the administrative costs of this chapter.

2. A per-bushel fee shall be assessed on all purchased grain. As used in this chapter, "purchased grain" means grain which is entered in the company owned paid position as evidenced on the grain dealer's daily position record. However, if the grain dealer provides documentation regarding the transaction satisfactory to the department, the following transactions shall be excluded from the fee:

- a. Grain purchased from the United States government or any of its subdivisions or agencies.
- b. Grain purchased from a person licensed as a grain dealer in any jurisdiction.
- c. Grain purchased under a credit sale contract entered into on or before the date of delivery.

PARAGRAPH DIVIDED. The grain dealer or warehouse operator 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. If the per-bushel fee has not been received by the department by the date required by the department, the The grain dealer or warehouse operator is subject to a penalty of ten dollars for each day the grain dealer or warehouse operator 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 or warehouse operator is delinquent. If the per-bushel fee has and any penalty due have not been received by the department within thirty days after the payment was due notice by the department, the grain dealer's or warehouse operator's license shall be suspended. The per-bushel fee shall be collected only once on each bushel of grain.

Sec. 904. Section 543A.3, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. Payment of the full annual fee shall be made before a grain dealer's or warehouse operator's license is issued or renewed. If a licensee amends its license during the fiscal year for which an annual fee was paid, and the licensing entity remains the same, the licensee is required to pay a further fee only if the amendment changes the licensee's class from class 2 to class 1.

Sec. 905. Section 543A.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. 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 and revocation under chapter 542.

Sec. 906. Section 543A.4, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The duties of the board include the review and determination of claims, and the review and approval of administrative costs of the fund. To carry out these duties, the board has the power to adopt rules regarding its organization and procedures for determining claims. Further, the board shall approve rules proposed by the department for the administration of the per-bushel fee prior to their adoption by the department. The board may provide comment and advice to the department in regard to the department's administration of chapters 542 and 543 where the department's policies and rules may affect the exposure of the fund to liability. However, the board shall not become actively involved in a determination by the department as to whether disciplinary action is to be taken against a particular licensee. The board is not a forum for review or appeal in regard to any particular action taken by the department against a licensee.

NEW UNNUMBERED PARAGRAPH. The department through the grain warehouse bureau shall perform the administrative functions necessary for the operation of the board and the fund. Administrative costs approved by the board shall be paid from the fund. The rules of the department shall contain the rules of the board adopted for its organization and its procedures. The department shall adopt rules for the administration of the per-bushel fee upon the board's approval of the rules proposed by the department. The secretary of agriculture, as president of the board as well as head of the department of agriculture and land stewardship, shall administer the department so as to minimize the risk of loss to the fund while protecting interests of depositors and sellers of grain. Policies and rules for the administration of chapters 542 and 543 which, as determined by the secretary of agriculture, may affect the exposure of the fund, shall be presented to the board for comment prior to their adoption by the department. The department shall make reports to the board in regard to licensee investigations which may result in disciplinary action against a licensee and exposure of the fund. The reports may be discussed by the board in closed session pursuant to section 21.5, and are confidential. In making the report, the department shall make available to the board records of licensees which are otherwise confidential under section 22.7, 542.16, or 543.24. However, a determination to take disciplinary action against a particular licensee shall be made exclusively by the department. A report to the board is not a prerequisite to disciplinary action against a licensee. Review of any action against a licensee, whether or not relating to the fund, shall be made exclusively through the department.

Sec. 907. Section 543A.5, subsection 1, Code 1989, is amended to read as follows:

1. The board shall review annually the debits of and credits to the grain depositors and sellers indemnity fund created in section 543A.3 and shall make any adjustments in the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, that are necessary to maintain the fund within the limits established under this section. Not later than the first day of May 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 the previous year's fees in accordance with chapter 17A. Changes in the fees shall become effective on the following first day of July. The per-bushel fee shall not exceed one-quarter cent per bushel on all assessable purchased grain as defined in section 543A.3. Until the per-bushel fee is adjusted or waived as provided in this section, the per-bushel fee is one-quarter cent on all assessable purchased grain.

Sec. 908. Section 543A.6, Code 1989, is amended to read as follows:

543A.6 CLAIMS AGAINST FUND.

1. PERSONS WHO MAY FILE CLAIMS — TIME OF FILING. A depositor or seller may file a claim ~~concerning assessable grain~~ with the department for indemnification of a loss from the grain depositors and sellers indemnity fund. A claim shall be filed in the manner prescribed by the board. A claim shall not be filed prior to the incurrence date, which is the earlier of the following:

a. The revocation, termination, or cancellation of the license of the grain dealer or warehouse operator, or the

b. The filing of a petition in bankruptcy by a grain dealer or warehouse operator.

PARAGRAPH DIVIDED. However, to be timely, a claim shall be filed within one hundred twenty days of the revocation, termination, or cancellation of the license of the grain dealer or warehouse operator. The value of a loss is to be measured as follows: incurrence date.

2. NOTICE. The department shall cause notice of the opening of the claim period to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the licensee and the claim incurrence date. The notice shall also state that any claims against the fund on account of the licensee shall be sent by ordinary mail to the department within one hundred twenty days after the incurrence date, and that the failure to make a timely claim relieves the fund from liability to the claimant. This notice may be incorporated by the department with a notice required by section 542.12 or 543.14.

3. DETERMINATION OF ELIGIBLE* CLAIMS. The board shall determine a claim to be eligible for payment from the fund if the board finds all of the following:

a. That the claim was timely filed.

b. That the incurrence date was on or after May 15, 1986.

c. That the claimant qualifies as a depositor or seller.

d. That the claim derives from a covered transaction. For purposes of this paragraph, a claim derives from a covered transaction if the claimant is a seller who transferred title to the grain to the grain dealer other than by credit sale contract within six months of the incurrence date, or if the claimant is a depositor who delivered the grain to the warehouse operator.

e. That there is adequate documentation to establish the existence of a claim and to determine the amount of the loss.

a 4. VALUE OF LOSS — WAREHOUSE CLAIMS. The board shall determine the dollar value of a claim incurred by a depositor holding a warehouse receipt or a scale weight ticket for grain that the depositor delivered for storage to the licensed warehouse operator ~~or grain dealer~~. The value shall be based on the average fair market price being paid for the grain to producers by the three licensed grain dealers nearest the warehouse operator ~~or grain dealer~~ on the earlier of the following:

*According to enrolled Act

(1) The date of license revocation, termination, or cancellation.

(2) The date on which the licensed warehouse operator or licensed grain dealer filed a petition in bankruptcy. If the department has been appointed by the court as receiver of the grain assets of the warehouse operator, the value shall be presumed to be as stated in the plan of disposition approved by the court. If the warehouse operator has filed a petition in bankruptcy, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date the petition was filed. If there is neither a department receivership nor a bankruptcy filing, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date of license revocation or cancellation. If more than one date applies to a claim, the board may choose between the two. However, the board may accept the an alternative valuation of a claim as determined by a court of competent jurisdiction as the value of the claim upon a showing of just cause by the depositor or department. All depositors filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at time of payment from the fund.

b 5. VALUE OF LOSS — GRAIN DEALER CLAIMS. The dollar value of a claim incurred by a seller who has sold grain or delivered grain for sale or exchange and who is a creditor of the licensed grain dealer for all or part of the value of the grain shall be based on the amount stated on the obligation on the date of the sale. If the sold grain was unpriced, the value of a claim shall be presumed to be based upon the fair market price, free-on-board from the site of the grain dealer, being paid to producers for grain by the grain terminal operator nearest the grain dealer on the date of the license revocation or cancellation or the filing of a petition in bankruptcy. If more than one date applies to a claim, the board may choose between the two. However, the board may accept the an alternative valuation of a claim as determined by a court of competent jurisdiction as the value of the claim upon a showing of just cause by the seller or department. All sellers filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at the time of payment from the fund.

2. The grain depositors and sellers indemnity fund is liable to a depositor or seller for a claim which arises on or after May 15, 1986, for ninety percent of the loss, as determined under subsection 1, but not more than one hundred fifty thousand dollars per claimant.

3. The board shall determine the validity of all claims presented against the fund.

6. PROCEDURE — APPEAL. The board, through the department, shall provide for notice to each depositor and seller upon its determination of eligibility and value of loss. Within twenty days of the notice, the depositor or seller may request a hearing for the review of either determination. The request shall be made in the manner provided by the board. The hearing and any further appeal shall be conducted as a contested case subject to chapter 17A. A depositor or seller whose claim has been refused by the board may appeal the refusal to either the district court of Polk county or the district court of the county in which the depositor or seller resides. The board shall provide for payment from the fund to a depositor or seller whose claim has been found to be valid.

4. If at any time the fund does not contain sufficient assets to pay valid claims, the department shall hold those claims for payment until the fund again contains sufficient assets. Claims against the fund shall be paid in the order in which they are found to be valid. However, no claims shall be paid before the fund initially reaches one million dollars.

7. PAYMENT OF CLAIMS. Upon a determination that the claim is eligible for payment, the board shall provide for payment of ninety percent of the loss, as determined under subsection 4, but not more than one hundred fifty thousand dollars per claimant. If at any time the board determines that there are insufficient funds to make payment of all claims, the board may order that payment be deferred on specified claims. The department, upon the board's

instruction, shall hold those claims for payment until the board determines that the fund again contains sufficient assets.

5 8. SUBROGATION OF FUND. In the event of payment of a loss under this section, the fund is subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor or seller against any person regarding the loss. The depositor or seller shall render all necessary assistance to aid the department and the board in securing the rights granted in this section. No action or claim initiated by a depositor or seller and pending at the time of payment from the fund shall be compromised or settled without the consent of the board.

DIVISION X

Sec. 1001. Section 542.1, subsection 9, Code 1989, is amended to read as follows:

9. "Financial institution" means a bank or savings and loan association authorized by the state of Iowa or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation, respectively; or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

Sec. 1002. Section 543.1, subsection 25, Code 1989, is amended to read as follows:

25. "Financial institution" means a bank or savings and loan association authorized by the state of Iowa or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation, respectively; or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

DIVISION XI

Sec. 1101. Section 543.1, subsection 18, Code 1989, is amended to read as follows:

18. "Grain Standards Act" means the United States Grain Standards Act, as amended to and including January 1, 1977 7 U.S.C. ch. 3.

Sec. 1102. Section 543.39, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A licensed warehouse operator may store grain in any other licensed warehouse in Iowa in addition to the warehouse operator's own facilities licensed in accordance with section 543.6 or the United States Warehouse Act, 7 U.S.C. ch. 10, subject to the following conditions:

DIVISION XII

Sec. 1201. Section 542.18, Code 1989, is repealed.

Approved May 8, 1989

CHAPTER 144

VOTER REGISTRATION FORMS

H.F. 255

AN ACT relating to forms for the registration of voters.

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

Section 1. NEW SECTION. 48.21 VOTER REGISTRATION FORMS IN INCOME TAX RETURNS.

The director of the department of revenue and finance shall insert securely in each individual income tax return form or instruction booklet two voter registration forms, designed according to rules adopted by the state voter registration commission.