

WAREHOUSES FOR AGRICULTURAL PRODUCTS

Footnotes

This chapter not enacted as a part of this title;
transferred from chapter 543 in Code 1993

203C.1 Definitions.

As used in this chapter:

1. "*Agricultural product*" shall mean any product of agricultural activity suitable for storage in quantity, including refined or unrefined sugar and canned agricultural products and shall also mean any product intended for consumption in the production of other agricultural products, such as stock salt, binding twine, bran, cracked corn, soybean meal, commercial feeds, and cottonseed meal.
2. "*Bond*" means a bond issued by a surety company or an irrevocable letter of credit issued by a financial institution.
3. "*Bulk grain*" shall mean grain which is not contained in sacks.
4. "*Check*" means the same as defined in section 203.1.
5. "*Credit-sale contract*" means a contract for the sale of grain pursuant to which the sale price is to be paid more than thirty days after the delivery of the grain to the buyer, or a contract which is titled as a credit-sale contract, including but not limited to those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts.
6. "*Department*" means the department of agriculture and land stewardship.
7. "*Depositor*" means any person who deposits an agricultural product in a warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt, or who is lawfully entitled to possession of the agricultural product.
8. "*Electronic funds transfer*" means the same as defined in section 203.1.
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.
10. "*Good cause*" means that the department has cause to believe that the net worth or current asset to current liability ratio of a warehouse operator presents a danger to depositors with whom the warehouse operator does business, based on evidence of any of the following:
 - a. The making of a payment by use of a check or electronic funds transfer, and a financial institution refuses payment because of insufficient funds in the warehouse operator's account.
 - b. A violation of recordkeeping requirements provided in this chapter or rules adopted pursuant to this chapter by the department.
 - c. A quality or quantity shortage in the warehouse facility.

d. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on a statistical model provided in section 203C.40.

11. "*Grain*" shall mean wheat, corn, oats, barley, rye, flaxseed, field peas, soybeans, grain sorghums, spelt, and similar agricultural products, as defined in the Grain Standards Act.

12. "*Grain bank*" means grain owned by a depositor and held temporarily by the warehouse operator for use in the formulation of feed or to be processed and returned to the depositor on demand.

13. "*Grain Standards Act*" means the United States Grain Standards Act, 7 U.S.C. ch. 3.

14. "*Incidental warehouse operator*" means a person regulated under chapter 198 whose grain storage capacity does not exceed twenty-five thousand bushels which is used exclusively for grain owned or grain which will be returned to the depositor for use in a feeding operation or as an ingredient in a feed.

15. "*Incidental warehouse operator's obligation*" means a sufficient quantity and quality of grain to cover company owned grain and deposits of grain for which actual payment has not been made.

16. "*License*" means a license issued under this chapter.

17. "*Licensed warehouse*" shall mean a warehouse for the operation of which the department has issued a license in accordance with the provisions of section 203C.6.

18. "*Licensed warehouse operator*" shall mean a warehouse operator who has obtained a license for the operation of a warehouse under the provisions of section 203C.6.

19. "*Official grain standards*" means the standards of quality and condition of grain which establishes the grade, fixed and established by the secretary of agriculture under the Grain Standards Act.

20. "*Open storage*" means grain or agricultural products which are received by a warehouse operator from a depositor for which warehouse receipts have not been issued or a purchase made and the records documented accordingly.

21. "*Person*" means the same as defined in section 4.1 and includes a business association as defined in section 202B.102 or a joint or common venture regardless of whether it is organized under a chapter of the Code.

22. "*Receiving and loadout charge*" shall mean the charge made by the warehouse operator for receiving grain into and loading grain from the warehouse, exclusive of the warehouse operator's other charges.

23. "*Scale weight ticket*" means a load slip or other evidence, other than a receipt, given to a depositor by a warehouse operator licensed under this chapter upon initial delivery of the agricultural product to the warehouse.

24. "*Station*" means a warehouse located more than three miles from the central office of the warehouse.

25. "*Storage*" means any grain or other agricultural products that have been received and have come under care, custody or control of a warehouse operator either for the depositor for which a contract of purchase has not been negotiated or for the warehouse operator operating the facility.

26. "*Unlicensed warehouse operator*" means a warehouse operator who retains grain in the warehouse not to exceed thirty days and is not licensed under the provisions of this chapter or Title VII, U.S.C.

27. *"Warehouse"* shall mean any building, structure, or other protected enclosure in this state used or usable for the storage of agricultural products. Buildings used in connection with the operation of the warehouse shall be deemed to be a part of the warehouse.

28. *"Warehouse operator"* means a person engaged in the business of operating or controlling a warehouse for the storing, shipping, handling or processing of agricultural products, but does not include an incidental warehouse operator.

29. *"Warehouse operator's obligation"* means a sufficient quantity and quality of grain or other products for which a warehouse operator is licensed including company owned grain and grain of depositors as the warehouse operator's records indicate. For an unlicensed warehouse operator it means a sufficient quantity and quality of grain to cover company owned grain and all deposits of grain for which actual payment has not been made.

[C24, 27, 31, § 9719; C35, § 9751-g1; C39, § **9751.01**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.1; 81 Acts, ch 180, § 18]

86 Acts, ch 1006, § 3; 86 Acts, ch 1152, § 12, 13; 86 Acts, ch 1245, § 671; 89 Acts, ch 143, §1002, 1101; 92 Acts, ch 1239, §66

C93, § 203C.1

95 Acts, ch 28, § 2; 99 Acts, ch 106, §911; 2003 Acts, ch 69, §1316

203C.2 Duties and powers of the department operator recordkeeping.

1. The department shall administer this chapter and may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products.

2. The department may inspect or cause to be inspected any warehouse including warehouse records as provided in this section. Inspections may be made at times and for purposes as the department determines. Except as provided in section 203C.6, the department shall inspect every licensed warehouse and its contents once every twelve months. The department shall prioritize inspections based on the system provided in section 203C.40. The department may require the filing of reports relating to a warehouse or its operation.

a. A licensed warehouse operator operating a licensed warehouse shall provide for complete and correct recordkeeping. The records shall account for the storage and withdrawal of all agricultural products handled in each warehouse which the warehouse operator is licensed to operate. The records shall include all original and duplicate receipts issued by, returned to, and canceled by the warehouse operator. A licensed warehouse operator shall keep records for the previous six years. If the licensed warehouse operator's records are incomplete or inaccurate, the department may reconstruct the warehouse operator's records in order to determine whether the warehouse operator is in compliance with the provisions of this chapter. The department may charge the licensed warehouse operator the actual cost for reconstructing the warehouse operator's records.

b. If upon inspection of a warehouse a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouse operator's books and records according to official grain standards, the department may require an employee of the department to remain at the licensed warehouse and supervise all operations involving agricultural products stored there under this chapter until the deficiency is corrected. The charge for the cost of maintaining an employee of the department at a warehouse to supervise the correction of a deficiency is one hundred fifty dollars per day.

3. The department may make available to the United States government, or any of its agencies, including the commodity credit corporation, the results of inspections made and inspection reports submitted to it by employees of the department, upon payment to it of charges as determined by the department, but the charges shall not be less than the actual cost of services rendered, as determined by the department. The department may enter into contracts and agreements for such purpose and shall keep a record of all money thus received.

4. The department may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of a warehouse the only type or types and the quantity of agricultural products which may be stored in the warehouse. The department may prescribe, within the limitations of this chapter, the duties of licensed warehouse operators with respect to the care of and responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The department may from time to time publish data in connection with the administration of this chapter as may be of public interest.

5. Moneys received by the department in administering this section shall be considered repayment receipts as defined in section 8.2.

[C24, 27, 31, § 9739, 9744, 9750; C35, § 9751-g22, -g27, -g32; C39, § **9751.22, 9751.27, 9751.32**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.2; 81 Acts, ch 180, § 19]

84 Acts, ch 1100, § 3; 86 Acts, ch 1152, § 14; 92 Acts, ch 1239, §67

C93, § 203C.2

2003 Acts, ch 69, §17

203C.3 Appointment of department as receiver.

1. The department in its discretion may, following summary suspension of a license under section 203C.10, or following a suspension or revocation of a license as otherwise provided in section 203C.10 or 203C.11, file a verified petition in the district court requesting that the department be appointed as a receiver to take custody of commodities stored in the licensee's warehouse and to provide for the disposition of those assets in the manner provided in this chapter and under the supervision of the court. The petition shall be filed in the county in which the warehouse is located. The district court shall appoint the department as receiver. Upon the filing of the petition the court shall issue ex parte such temporary orders as may be necessary to preserve or protect the assets in receivership, or the value thereof, and the rights of depositors, until a plan of disposition is approved.

2. A petition filed by the department under subsection 1 shall be accompanied by the department's plan for disposition of stored commodities. The plan may provide for the pro rata delivery of part or all of the stored commodities to depositors holding warehouse receipts or unpriced scale weight tickets, or may provide for the sale under the supervision of the department of part or all of the stored commodities for the benefit of those depositors, or may provide for any combination thereof, as the department in its discretion determines to be necessary to minimize losses.

3. When a petition is filed by the department under subsection 1 the clerk of court shall set a date for hearing on the department's proposed plan of disposition at a time not less than ten nor more than fifteen days after the date the petition is filed. Copies of the petition, the notice of hearing, and the department's plan of disposition shall be served upon the licensee and upon the issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 203C.6 in the manner required for service of an original notice. A delay in effecting service upon the licensee or issuer is not cause for denying the appointment of a receiver and is not grounds for invalidating any action or proceeding in connection with the appointment.

4. The department shall cause a copy of each of the documents served upon the licensee under subsection 3 to be mailed by ordinary mail to every person holding a warehouse receipt or unpriced scale weight ticket issued by the licensee, as determined by the records of the licensee or the records of the department. The failure of any person referred to in this subsection to receive the required notification shall not invalidate the proceedings on the petition for the appointment of a receiver or any portion thereof. Persons referred to in this subsection are not parties to the action unless admitted by the court upon application therefor.

5. When appointed as a receiver under this chapter, the department shall cause notification of the appointment 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 in this state.

6. The department may designate an employee of the department to appear on behalf of the department in any proceedings before the court with respect to the receivership, and to exercise the functions of the department as receiver under this section and section 203C.4, except that the department shall determine whether or not to petition for appointment as receiver, shall approve the proposed plan for disposition of stored commodities, shall approve the proposed plan for distribution of any cash proceeds, and shall approve the proposed final report.

7. The actions of the department in connection with petitioning for appointment as a receiver, and all actions pursuant to such appointment shall not be subject to the provisions of the administrative procedure Act.

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 669.2. Chapter 669 is applicable to any claim as defined in section 669.2 against the person carrying out the duties of the department acting as receiver.

[C79, 81, § 543.3]

86 Acts, ch 1152, § 15; 89 Acts, ch 143, §501

C93, § 203C.3

203C.4 Powers and duties of receiver.

1. When the department is appointed as receiver under this chapter the issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 203C.6 shall be joined as a party defendant by the department. If required by the court, the issuer shall pay the indemnification proceeds or so much thereof as the court finds necessary into the court, and when so paid the issuer shall be absolutely discharged from any further liability under the bond or irrevocable letter of credit to the extent of the payment.

2. When appointed as receiver under this chapter the department is authorized to give notice in the manner specified by the court to persons holding warehouse receipts or other evidence of deposit issued by the licensee to file their claims within one hundred twenty days after the date of appointment. Failure to timely file a claim shall defeat the claim with respect to the issuer of a deficiency bond or of an irrevocable letter of credit, grain depositors and sellers indemnity fund created in chapter 203D, and any commodities or proceeds from the sale of commodities, except to the extent of any excess commodities or proceeds of sale remaining after all timely claims are paid in full.

3. 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 669.2 and chapter 669 is applicable to any claim as defined in section 669.2 against the person acting as a merchandiser. A person employed as a merchandiser must meet the following requirements:

- a. The person shall be experienced or knowledgeable in the operation of warehouses licensed under this chapter; and if the person has ever held a license issued under this chapter, the person shall never have had that license suspended or revoked.
 - b. The person shall be experienced or knowledgeable in the marketing of agricultural products.
 - c. The person shall not be the holder of a warehouse receipt or scale weight ticket issued by the licensee, and shall not have a claim against the licensee whether as a secured or unsecured creditor, and otherwise shall not have any pecuniary interest in the licensee or the licensee's business. The merchandiser shall be entitled to reasonable compensation as determined by the department, payable out of funds appropriated for operating expenses of the department. A sale of commodities shall be made in a commercially reasonable manner and under the supervision of the warehouse bureau of the department. The department shall provide for the payment out of appropriations to the department of all expenses incurred in handling and disposing of commodities. The department shall have authority to sell the commodities, any provision of chapter 554 to the contrary notwithstanding, and any commodities so sold shall be free of all liens and other encumbrances.
4. The plan of disposition, as approved by the court, shall provide for the distribution of the stored commodities, or the proceeds from the sale of commodities, or the proceeds from any insurance policy, deficiency bond, or irrevocable letter of credit, less expenses incurred by the department in connection with the receivership, to depositors as their interests are determined. Distribution shall be without regard to any setoff, counterclaim, or storage lien or charge.
 5. The department may, with the approval of the court, continue the operation of all or any part of the business of the licensee on a temporary basis and take any other course of action or procedure which will serve the interests of the depositors.
 6. The department is entitled to reimbursement out of commodities or proceeds held in receivership for all expenses incurred as court costs or in handling and disposing of stored commodities, and for all other costs directly attributable to the receivership. The right of reimbursement of the department is prior to any claims against the commodities or proceeds of sales of commodities, and constitutes a claim against a deficiency bond or irrevocable letter of credit.
 7. If the approved plan of disposition requires a distribution of cash proceeds, the department shall submit to the court a proposed plan of distribution of those proceeds. Upon notice and hearing as required by the court, the court shall accept or modify the proposed plan. When the plan is approved by the court and executed by the department, the department shall be discharged and the receivership terminated.
 8. At the termination of the receivership the department shall file a final report containing the details of its actions, together with such additional information as the court may require.

[C79, 81, § 543.4]

86 Acts, ch 1152, § 16; 87 Acts, ch 147, §5; 89 Acts, ch 143, §101, 502

C93, § 203C.4

203C.5 Rules.

The department shall adopt rules as it deems necessary for the efficient administration of this chapter, and

may designate an employee or officer of the department to act for the department in any details connected with administration, including the issuance of licenses and approval of deficiency bonds or irrevocable letters of credit in the name of the department, but not including matters requiring a public hearing or suspension or revocation of licenses.

The department may adopt rules specifying the form, content and use of scale tickets, warehouse receipts, settlement sheets, daily position records, shipping ledgers, and other documents used by licensed warehouses. All scale ticket forms and warehouse receipt forms in the possession of a warehouse operator shall have been permanently and consecutively numbered at the time of printing. A warehouse operator shall maintain an accurate record of the numbers of these documents. The record shall include the disposition of each form, whether issued, destroyed, or otherwise disposed of. The department may by rule require this use of prenumbered forms and recording for documents other than scale tickets and warehouse receipts.

[C24, 27, 31, § 9721; C35, § 9751-g3; C39, § **9751.03**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 543.3; C79, 81, § 543.5; 81 Acts, ch 180, § 20]

86 Acts, ch 1152, § 17

C93, § 203C.5

203C.6 Issuance of license and financial responsibility.

1. The department, upon application to it, may issue to a warehouse operator or to a person about to become a warehouse operator a license for the operation of a warehouse in accordance with this chapter and the rules adopted by the department under section 203C.5. A single license to operate two or more warehouses located anywhere within the state may be issued.

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the storage capacity of a warehouse is more than one hundred thousand bushels.

b. A class 2 license is required for a warehouse that is not required to have a class 1 license.

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 generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon written request, the department 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.

4. In order to receive and retain a class 1 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least twenty-five cents per bushel of warehouse capacity, 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 warehouse operator if the person has a net worth of less than twenty-five thousand dollars.

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. 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.

5. In order to receive and maintain a class 2 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least twenty-five cents per bushel of warehouse capacity, 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 2 warehouse operator if the person has a net worth of less than ten thousand dollars.

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. 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.

6. The department may adopt rules governing the timing and form of financial statements to be submitted to it. The department may require additional information or verification with respect to the financial resources of the applicant or licensee and the applicant's or licensee's ability to maintain the quantity and quality of stored grain.

7. If an applicant has had a license under chapter 203 or 203C revoked for cause within the past three years, or has been convicted of a felony involving violations of chapter 203 or 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 through operations under a license issued under this chapter or chapter 203, 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 203, and the liability has not been discharged, settled, or satisfied.

9. A deficiency bond or irrevocable letter of credit filed with the department pursuant to this section shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the department and the principal.

[C24, 27, 31, § 9722; C35, § 9751-g4; C39, § **9751.04**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 543.4; C79, 81, § 543.6; 81 Acts, ch 180, § 21]

86 Acts, ch 1152, § 18, 19; 87 Acts, ch 147, §6, 7; 88 Acts, ch 1134, §98; 89 Acts, ch 143, § 303, 304, 702, 801, 802; 92 Acts, ch 1239, §69, 70

C93, § 203C.6

2003 Acts, ch 69, §48

203C.7 Application for license.

Each application for a license or licenses shall be in writing 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 the following:

1. The name of the individual, partnership, or corporation making the application, the names of all partners if applicant is a partnership, and the names and titles of the principal officers if applicant is a corporation.
2. The principal office or place of business of the applicant.
3. A general description of each warehouse as to storage capacity, type of construction, mechanical equipment, if any, and condition.
4. The approximate location of each warehouse.
5. The type and quantity of agricultural product, or products intended to be stored in each warehouse.
6. A complete financial statement for use of the department in the administration of this chapter, as required by section 203C.6.
7. A tariff on a form to be prescribed by the department for storage, receiving and loadout charges.

[C24, 27, 31, § 9722; C35, § 9751-g4; C39, § **9751.04**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 543.5; C79, 81, § 543.7]

89 Acts, ch 143, §803

C93, § 203C.7

203C.8 License to specify type and quantity of products which may be stored.

The department shall determine with respect to each application for a license whether the warehouse or warehouses described in the application is or are suitable for the proper and safe storage of the particular agricultural product or products intended to be stored therein in the quantities specified in the application, provided that no warehouse shall be found to be suitable and safe for the storage of bulk grain unless such warehouse is equipped with a fixed or portable mechanical device of a type in common use as an adjunct to the movement of bulk grain. Each license issued for the operation of a single warehouse shall specify the type or types and quantities of agricultural products which may be stored in such warehouse. Each license issued to a warehouse operator for the operation of two or more warehouses shall specify with respect to each warehouse the type or types and quantities of agricultural product which may be stored in such warehouse. It

shall be unlawful for any licensed warehouse operator to accept for storage or to store in any licensed warehouse any agricultural product or products other than the type or types and quantities specified in the license for the operation of such warehouse.

[C24, 27, 31, § 9722; C35, § 9751-g4; C39, § **9751.04**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 543.6; C79, 81, § 543.8; 81 Acts, ch 180, § 22]

C93, § 203C.8

203C.9 Amendment of license.

The department is authorized, upon its own motion, or upon receipt of written application, to amend any license previously issued by it, to change or modify the provisions as to the type and quantity of agricultural products which may be stored in the warehouse or warehouses in respect to which the license was originally issued. Application for amendments to licenses shall include the same information, except as to the financial condition of the applicant, as required by section 203C.7 to be included in an original application. Applications for amendments of licenses shall be considered by the department on the same basis as applications for original licenses, and except as otherwise provided in this chapter, a license when amended shall have the same status, as of the date of the amendment, as though originally issued as amended.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 543.8; C79, 81, § 543.9]

C93, § 203C.9

203C.10 Suspension or revocation of license.

The department may issue an order to suspend or revoke the license of a warehouse operator who violates a provision of this chapter, including a rule adopted under this chapter, as provided in chapter 17A. If a warehouse operator fails to consent to a departmental inspection during an inspection as provided in section 203C.2, the department may issue an order to immediately suspend or revoke the grain dealer's license pursuant to section 17A.18.

[C24, 27, 31, § 9747; C35, § 9751-g29; C39, § **9751.29**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.10]

89 Acts, ch 143, §101

C93, § 203C.10

98 Acts, ch 1202, §34, 46; 2003 Acts, ch 69, §18

203C.11 Suspension or revocation for insufficient evidence of financial responsibility notice.

1. When the department determines that insurance is not fully provided as required under section 203C.15, it may require the licensed warehouse operator to provide additional evidence of insurance coverage so that the insurance conforms with the requirements of this chapter. If additional insurance is not provided within thirty days after receipt by the licensee of notice by certified mail, the license of the warehouse operator concerned shall be automatically suspended. If additional insurance is not filed within another ten days, 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.

2. If the department determines that the net worth of a licensed warehouse operator is not in compliance with the requirements of section 203C.6, the department shall issue a notice to the warehouse operator and shall suspend the warehouse operator's license if the warehouse operator does not provide evidence of compliance within thirty days of the issuance of the notice. The department shall inspect the warehouse at the end of the thirty-day period. If evidence of compliance is not provided within sixty days of the issuance of the notice, the department shall revoke the warehouse operator's license, and shall again inspect the warehouse. If a license is revoked, the department shall give notice of the revocation to each holder of an outstanding warehouse receipt and to all known persons who have grain retained in open storage. The revocation notice shall state that the grain must be removed from the warehouse not later than the thirtieth day after the issuance of the revocation notice. The revocation notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection. The department shall conduct a final inspection of the warehouse at the end of the thirty-day period following the issuance of the revocation notice.

3. When the department receives notice that a deficiency bond or irrevocable letter of credit is being canceled by the issuer, and determines that upon the cancellation the warehouse operation will not be in compliance with section 203C.6, the department shall suspend the warehouse operator's license if a new deficiency bond or irrevocable letter of credit is not received by the department within sixty days of receipt by the department of the notice of cancellation. If a new deficiency bond or irrevocable letter of credit is not received by the department within thirty days following suspension, the warehouse operator's license shall be 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, and 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 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.

[C24, 27, 31, § 9748; C35, § 9751-g30; C39, § **9751.30**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.11; 81 Acts, ch 180, § 23; 82 Acts, ch 1093, § 2]

86 Acts, ch 1006, § 4; 86 Acts, ch 1152, § 20, 21

C93, § 203C.11

203C.12 Participation in fund required.

A person licensed to operate a warehouse under this chapter shall participate in and comply with the grain depositors and sellers indemnity fund provided in chapter 203D.

[C24, 27, 31, § 9723; C35, § 9751-g5; C39, § **9751.05**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.12]

86 Acts, ch 1152, § 22

C93, § 203C.12

203C.12A Lien on warehouse operator assets.

1. A statutory lien is imposed on all warehouse operator assets in favor of depositors possessing warehouse receipts covering grain stored by the warehouse operator and depositors with written evidence of ownership

other than warehouse receipts disclosing a storage obligation of a warehouse operator.

2. *"Warehouse operator assets"* includes proceeds received or due a warehouse operator upon the sale, including exchange, collection, or other disposition, of grain sold by the warehouse operator. As used in this section, *"proceeds"* means noncash and cash proceeds as defined in section 554.9102. *"Warehouse operator assets"* also includes storage payments received or due to a warehouse operator, grain owned by the warehouse operator, and any other funds or property of the warehouse operator which can be directly traced as being from the sale of grain by the warehouse operator, or which were utilized in the business operation of the warehouse operator. A court, upon petition by an affected party, may order that claimed warehouse operator assets are not warehouse operator assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not warehouse operator assets as defined in this section.

3. The lien shall arise at the commencement of the storage obligation, and shall terminate when the liability of the warehouse operator to the depositor has been discharged. The lien of all depositors is hereby assigned to the Iowa grain indemnity fund board, on behalf of the grain depositors and sellers indemnity fund.

4. To perfect the lien, the Iowa grain indemnity fund board must file a lien statement with the office of the secretary of state. The lien statement is valid only if filed on or after the date of suspension but not later than sixty days after the incurrence date as provided in section 203D.6. The lien statement shall disclose the name of the warehouse operator, the address of the warehouse operator's principal place of business, a description of identifiable warehouse operator assets, and the amount of the lien. The lien amount shall be the board's estimate of the final cost of reimbursing the grain depositors and sellers indemnity fund for the payment of claims made against the fund resulting from the breach of the warehouse operator's obligations. The board shall correct the amount not later than one hundred eighty days following the incurrence date. A court, upon petition by an affected person, may correct the amount. The board shall have the burden of proving that the amount is an accurate estimate.

5. The Iowa grain indemnity fund board shall upon written demand of the warehouse operator file a termination statement with the secretary of state, if the license of the warehouse operator is not revoked, terminated, or canceled after one hundred eighty days from the date that the lien is perfected. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the warehouse operator.

6. The secretary of state shall note the filing of a lien statement under this section in a manner provided by chapter 554, the uniform commercial code. The secretary shall note the filing of a termination statement with the lien statement.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section 554.9322.

8. In the event the department is appointed as a receiver under section 203C.3, assets under the authority of the receiver are free from this statutory lien. However, if there are receivership assets in excess of those necessary to fully reimburse depositors, the perfected lien will attach to those excess assets.

9. The Iowa grain indemnity fund board may enforce the lien in the manner provided in chapter 554, article 9, part 6, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the warehouse operator assets, the remaining assets shall be returned to the warehouse operator or, if there are competing claims to those remaining assets by other creditors, those assets shall be placed in the custody of the district court and the known creditors impleaded.

For purposes of enforcement of the lien, the board is deemed to be the secured party and the warehouse operator is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 6. If a right or duty under chapter 554, article 9, part 6, is

contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

10. Actions relating to this section shall be brought in the district court in the county in which the warehouse operator's primary place of business is located or in Polk county.

92 Acts, ch 1239, §71; 2000 Acts, ch 1149, §164, 187

203C.13 Form and amount of evidence of financial responsibility.

1. A warehouse operator who stores only agricultural products other than bulk grain shall have and maintain a net worth of at least ten percent of the value of the warehouse capacity, 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 eligible for a license to store only agricultural products other than bulk grain if the person has a net worth of less than ten thousand dollars.

2. If the agricultural product or products intended to be stored by the warehouse operator, as specified in the application for a license or amended license, are other than bulk grain, the quantity of such product intended to be stored shall be valued at the fair market price on the date of filing the application, and the minimum amount of bond shall be determined with reference to such value as follows:

a. For intended storage of such products of a value less than twenty thousand dollars the minimum amount of the bond shall be three thousand dollars, plus one thousand dollars for each two thousand dollars, or fraction thereof, of value in excess of six thousand dollars up to twenty thousand dollars.

b. For intended storage of such products of a value not less than twenty thousand dollars and not more than fifty thousand dollars the minimum amount of the bond shall be ten thousand dollars plus one thousand dollars for each three thousand dollars, or fraction thereof, of value in excess of twenty thousand dollars up to fifty thousand dollars.

c. For intended storage of such products of a value not less than fifty thousand dollars the minimum amount of the bond shall be twenty thousand dollars plus one thousand dollars for each five thousand dollars, or fraction thereof, of value in excess of fifty thousand dollars.

3. A bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the department and the principal. When the department receives notice from an issuer that it has canceled the bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain of a warehouse operator, the department shall automatically suspend the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain if a new bond, deficiency bond, or irrevocable letter of credit is not received by the department within sixty days of the issuance of the notice of cancellation. The department shall conduct an inspection of the licensee's warehouse immediately at the end of the sixty-day period. If a new bond, deficiency bond, or irrevocable letter of credit is not provided within ninety days of the issuance of the notice of cancellation, the department shall revoke the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain. The department shall conduct a further inspection of the licensee's warehouse after the ninety-day period. When an authorization to store or accept for storage agricultural products other than bulk grain is revoked, the department shall give notice of the revocation to all known persons who have agricultural products other than bulk grain in storage, and shall notify them that the agricultural products other than bulk grain must be removed from the warehouse not later than one hundred twenty days after the issuance of the notice of cancellation. The revocation notice shall be

sent by ordinary mail to the last known address of each person having agricultural products other than bulk grain in storage. The department shall cause a final inspection of the licensee's warehouse after the end of the one hundred twenty-day period.

[C24, 27, 31, § 9725; C35, § 9751-g6; C39, § **9751.06**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.13]

86 Acts, ch 1006, § 5; 86 Acts, ch 1152, § 23, 24

C93, § 203C.13

203C.14 Suit claims notice of revocation.

A person injured by the breach of an obligation of a warehouse operator, for the performance of which a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit has been given under any of the provisions of this chapter, may sue on the bond on agricultural products other than bulk grain, deficiency bond, or irrevocable letter of credit in the person's own name in a court of competent jurisdiction to recover any damages the person has sustained by reason of the breach.

Upon revocation, termination, or cancellation of a warehouse license, a claim against the warehouse operator arising under this chapter shall be made in writing with the warehouse operator, with the issuer of a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit, and, if the claim relates to bulk grain, with the department within one hundred twenty days after revocation, termination, or cancellation. Failure to make a timely claim relieves the issuer and, if the claim relates to bulk grain, the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant. Upon revocation of a warehouse license, the department shall cause notice of the revocation 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 warehouse operator and the effective date of revocation. The notice shall also state that any claims against the warehouse operator shall be made in writing and sent by ordinary mail to the warehouse operator, to the issuer of a bond on agricultural products other than bulk grain, deficiency bond, or an irrevocable letter of credit, and to the department within one hundred twenty days after revocation, and the notice shall state that the failure to make a timely claim does not relieve the warehouse operator from liability to the claimant. This paragraph does not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the department prior to the expiration of one hundred twenty days after revocation, termination, or cancellation of the license.

[C24, 27, 31, § 9749; C35, § 9751-g31; C39, § **9751.31**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.14]

86 Acts, ch 1152, § 25

C93, § 203C.14

203C.15 Insurance required exception.

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.

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 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:

1. Holders of warehouse receipts other than the warehouse operator and owners of bulk grain other than the warehouse operator.
2. Owners of all other agricultural products as their interests appear.
3. Warehouse operators who have warehouse receipts.
4. Warehouse operators owners of bulk grain.

However, notwithstanding the insurance requirements set forth in this section, a licensed warehouse may exclude from the insurance coverage stored grain to which title is fully vested in the United States government or any of its subdivisions or agencies, provided that the licensed warehouse has on file with the United States government or any of its subdivisions or agencies a current and accepted uninsured storage rate under the provisions of their uniform grain storage agreement. The licensed warehouse shall file a copy of the current uninsured tariff rate with the department immediately upon acceptance of the uninsured rate by the United States government or any of its subdivisions or agencies.

[C24, 27, 31, § 9725; C35, § 9751-g7; C39, § **9751.07**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.15]

86 Acts, ch 1006, § 6; 86 Acts, ch 1103, § 1; 86 Acts, ch 1152, § 26; 89 Acts, ch 143, §804

C93, § 203C.15

203C.16 License required for the storage of bulk grain.

A person other than a licensed warehouse operator shall not place in storage or accept for storage any bulk grain. A person shall not place bulk grain in storage in a warehouse other than a licensed warehouse. This section shall not apply to any of the following:

1. The acceptance and storage of bulk grain by a person bonded and licensed under the provisions of a federal law, to the extent that the person is authorized under federal law to accept and store bulk grain. However, the person shall comply with all other provisions of this chapter which do not conflict with such federal law.
2. The storage of bulk grain by a person who owns all the stored bulk grain.

3. The storage of bulk grain by more than one person, if all of the following apply:

- a. The bulk grain was jointly produced by all persons storing the grain. As used in this subsection, "*jointly produced*" includes but is not limited to grain owned by a landlord who receives a share of agricultural products as rent.
- b. The bulk grain is stored on the property owned or leased by one of the persons jointly producing the grain.
- c. No person other than persons jointly producing the grain owns the stored bulk grain.

[C24, 27, 31, § 9722, 9724; C35, § 9751-g2; C39, § **9751.02**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.16]

C93, § 203C.16

94 Acts, ch 1113, §1

203C.17 Receiving bulk grain at licensed and unlicensed warehouses.

1. Any grain which has been received at any licensed warehouse for which the actual sale price is not fixed and proper documentation made or payment made shall be construed to be grain held for storage within the meaning of this chapter. Grain may be held in open storage or placed on warehouse receipt. A warehouse receipt shall be issued for all grain held in open storage within one year from the date of delivery to the warehouse, unless the depositor has signed a statement that the depositor does not desire a warehouse receipt. The warehouse operator's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.
2. Bulk grain deposited with a licensed warehouse operator for processing, cleaning, drying, shipping for the account of the depositor or any other purpose shall be removed within thirty days or such grain shall be determined as stored grain and the warehouse operator's tariff charges shall apply.
3. Grain received on a scale ticket which fails to have the price fixed and properly documented on the records of the warehouse operator shall be construed to be in open storage.
4. All bulk grain whether open storage or having been placed on warehouse receipt is covered by the grain depositors and sellers indemnity fund created in chapter 203D.
5. Any grain which has been received at any unlicensed warehouse and for which the actual sale price has not been fixed and payment made within thirty days from receipt of the grain, unless covered by a credit-sale contract, shall be construed to be unlawful storage within the meaning of this chapter. Bulk grain received at any unlicensed warehouse for any other purpose must either be returned to the depositor or disposed of by order of the depositor within thirty days from date of actual deposit of the bulk grain.
6. If the depositor of bulk grain in an unlicensed warehouse fails to sell the grain or orders other disposition of the grain, the warehouse operator may purchase the grain, if otherwise allowed by law, on the thirtieth day after deposit at not less than the local market price at the close of business on the thirtieth day or return the grain to the depositor by the thirtieth day.
7. A licensed warehouse operator who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department shall not purchase grain on credit-sale contract to correct the shortage of grain. A licensed warehouse operator shall not issue a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased by credit-sale contract and is unpaid for by the warehouse operator.

8. Every licensed warehouse operator shall, on or before July 1 of each year, send a statement for each holder of a warehouse receipt covering grain held for more than one year at that warehouse to the holder's last known address. The statement shall show the amount of all grain held pursuant to warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouse operator against that grain. However, a licensed warehouse operator need not prepare this annual statement for a holder of a warehouse receipt, if the licensed warehouse operator prepares such statements monthly, quarterly or for any other period more frequent than annually. The failure to prepare a statement required by this subsection is a simple misdemeanor.

Violation of this section shall not constitute grounds for suspension, revocation, or modification of the license of anyone licensed under this chapter.

[C24, 27, 31, § 9730; C35, § 9751-g12; C39, § **9751.12**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.17; 81 Acts, ch 180, § 24]

86 Acts, ch 1152, § 27; 92 Acts, ch 1239, §72, 73

C93, § 203C.17

99 Acts, ch 106, §12

Footnotes

See § 203.15

203C.18 Issuance of warehouse receipts.

For all agricultural products that become storage in a licensed warehouse, warehouse receipts signed by the licensed warehouse operator or the operator's authorized agent shall be issued by the licensed warehouse operator. Such warehouse receipts shall be in the form required or permitted by uniform commercial code, sections 554.7202 and 554.7204, provided, however, that each receipt issued for agricultural products, in addition to the matters specified in uniform commercial code, section 554.7202 shall embody in its written or printed terms:

1. The receiving and loadout charges which will be made by the warehouse operator.
2. The grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made; provided that such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated; provided, further, that until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the secretary of agriculture of the United States.
3. A statement that the receipt is issued subject to the Iowa warehouse Act and the rules and regulations prescribed pursuant to the Act.
4. Such other terms and conditions as may be required by rules of the department.

Warehouses that are not licensed pursuant to this chapter or by the United States government shall not issue warehouse receipts for agricultural products.

The original copy of every warehouse receipt shall be imprinted with the signature of the secretary of

agriculture prior to issuance.

[C24, 27, 31, § 9736, 9737; C35, § 9751-g17, 9751-g18; C39, § **9751.17, 9751.18**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.18; 81 Acts, ch 180, § 25]

86 Acts, ch 1152, § 28

C93, § 203C.18

203C.19 Rights and obligations with respect to warehouse receipts lost receipts.

Insofar as not inconsistent with the provisions of this chapter, original or duplicate receipts issued by licensed warehouse operators shall be deemed to have been issued under the provisions of uniform commercial code, chapter 554, article 7.

Duplicates and releases for lost, destroyed, or stolen warehouse receipts may be issued only in accordance with the provisions of section 554.7601.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.19]

C93, § 203C.19

203C.20 Receipt by warehouse operator to self.

A licensed warehouse operator may issue a warehouse receipt for agricultural products owned by the warehouse operator and dispose of the title to or interest in such products through the medium of such receipt. Such receipt shall be of the same standing as though it had been issued to a person other than the licensed warehouse operator upon a rightful deposit of the products by such other person. Sections 203C.18 and 203C.19 shall be applicable to any such receipt.

[C71, 73, 75, 77, 79, 81, § 543.20]

C93, § 203C.20

203C.21 and 203C.22 Reserved.

203C.23 Warehouse operator's obligation.

1. A warehouse operator shall maintain at all times sufficient quantity and quality of grain or other agricultural products to cover the warehouse operator's obligation. A warehouse operator shall not at any time have less grain or other agricultural products in the warehouse than the obligations to depositors, as determined by an investigation of the warehouse operator's records.

2. An incidental warehouse operator shall maintain at all times sufficient quantity and quality of grain to cover the incidental warehouse operator's obligation. An incidental warehouse operator shall not at any time have less grain in a warehouse than the obligations to depositors, as determined by an investigation of the incidental warehouse operator's records.

[81 Acts, ch 180, § 29]

C83, § 543.23

C93, § 203C.23

99 Acts, ch 106, §13

203C.24 Confidentiality of records.

Notwithstanding the provisions of chapter 22, all financial statements of warehouse operators under this chapter shall be kept confidential by the department and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 203.
3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.
4. When required by subpoena or other court orders.
5. Disclosure to law enforcement agencies in regards to the detection and prosecution of public offenses.
6. Where released to a bonding company approved by the department or to the United States department of agriculture or any of their divisions.
7. Where released at the request of the Iowa accountancy examining board for licensee review and discipline in accordance with chapters 272C and 542 and subject to the confidentiality requirements of section 272C.6.
8. Disclosure to the grain industry peer review panel as provided in section 203.11B.

[81 Acts, ch 180, § 30]

C83, § 543.24

83 Acts, ch 104, § 2; 89 Acts, ch 143, §602

C93, § 203C.24

99 Acts, ch 106, §14; 2001 Acts, ch 55, §24, 38

203C.25 Shrinkage adjustments disclosures penalties.

1. A person who, in connection with the receipt of corn or soybeans for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain shall compute the amount of the adjustment by multiplying the scale weight of the grain by that factor which results in a rate of adjustment of one and eighteen hundredths percent of weight per one percent of moisture content. The use of any rate of weight adjustment for moisture content other than the one prescribed by this subsection is a fraudulent practice. The person shall post on the business premises in a conspicuous place notice of the rate of adjustment for moisture content that is prescribed by this subsection. Failure to make this disclosure is a simple misdemeanor.
2. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. Failure to make the required disclosure is a simple misdemeanor.
3. A person who adjusts the scale weight of corn or soybeans both for moisture content and for handling,

processing, or storage losses may combine the two adjustment factors into a single factor and may use this resulting factor to compute the amount of weight adjustment in connection with storage, processing, or sale transactions, provided that the person shall post on the business premises in a conspicuous place a notice that discloses the moisture shrinkage factor prescribed by subsection 1, the handling shrinkage factor to be imposed, and the single factor that results from combining these factors. Failure to make the required disclosure is a simple misdemeanor.

[81 Acts, ch 180, § 31]

C83, § 543.25

C93, § 203C.25

203C.26 Reserved.

203C.27 Discrimination.

Every warehouse operator conducting a warehouse licensed under this chapter shall receive for storage therein, so far as its authorized storage capacity permits, any product of the kind the operator is permitted by the operator's license to store, and which may be tendered to the operator in a suitable condition for warehousing, in the usual manner and in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

[C24, 27, 31, § 9729; C35, § 9751-g11; C39, § **9751.11**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.27]

C93, § 203C.27

203C.28 Tariff rates.

A warehouse operator shall, at the time of application for a license, file a tariff with the department which shall contain rates to be charged for receiving, storage, and load-out of grain. The tariff shall be posted in a conspicuous place at the place of business of the licensee in a form prescribed by the department and shall become effective at the time the license becomes effective.

Storage charges shall commence on the date of delivery to the warehouse. Storage, receiving, or load-out charges other than those specified in the tariff may be made if the charge is required by the terms of a written contract with the United States government or any of its subdivisions or agencies.

Grain deposited with the warehouse for the sole purpose of processing and redelivery to the depositor is subject only to the charges listed under the grain bank section of the tariff. Drying and cleaning of grain shall not be construed as processing.

A tariff may be amended at any time and is effective immediately, except that grain in store on the effective date of a storage charge increase does not assume the increased rate until the subsequent anniversary date of deposit. Any decrease in storage rates shall be effective immediately and shall be applicable to all grain in store on the effective date of the decrease.

A warehouse operator may file with the department and publish the supplemental tariff applicable only to grain meeting special descriptive standards or characteristics as set forth in the supplemental tariff. A supplemental tariff shall be in a form prescribed by the department and be posted adjacent to the warehouse tariff.

All tariff charges shall be nondiscriminatory within classes.

[C24, 27, 31, § 9737; C35, § 9751-g18; C39, § **9751.18**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.28]

86 Acts, ch 1103, § 2

C93, § 203C.28

203C.29 Reserved.

203C.30 Inspecting and grading.

Grain, flaxseed, or any other fungible agricultural product stored in a warehouse licensed under this chapter for which no separate compartment is provided, and its identity preserved, shall be inspected and graded.

[C24, 27, 31, § 9733; C35, § 9751-g14; C39, § **9751.14**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.30]

C93, § 203C.30

203C.31 and 203C.32 Reserved.

203C.33 Fees.

The department shall charge the following fees for deposit in the general fund:

1. For the issuance or renewal of a warehouse license, the fee shall be determined on the basis of the storage capacity in bushels of grain as follows:

a. If the total storage capacity is one hundred thousand bushels or less, the fee is fifty-eight dollars.

b. If the total storage capacity is more than one hundred thousand bushels, but not more than seven hundred fifty thousand bushels, the fee is one hundred twenty- five dollars.

c. If the total storage capacity is more than seven hundred fifty thousand bushels, but not more than one million five hundred thousand bushels, the fee is one hundred ninety-one dollars.

d. If the total storage capacity is more than one million five hundred thousand bushels, but not more than three million bushels, the fee is two hundred forty-nine dollars.

e. If the total storage capacity is more than three million bushels, but not more than four million seven hundred fifty thousand bushels, the fee is three hundred seven dollars.

f. If the total storage capacity is more than four million seven hundred fifty thousand bushels, but not more than nine million five hundred thousand bushels, the fee is three hundred seventy-four dollars.

g. If the total storage capacity is more than nine million five hundred thousand bushels, the fee is four hundred forty dollars.

2. For the issuance or renewal of a warehouse license for the storage of products other than bulk grain, the fee shall be determined as follows:

- a. For intended storage of products of a value of one hundred thousand dollars or less, a fee of sixty dollars.
- b. For intended storage of products of a value greater than one hundred thousand dollars but not greater than three hundred thousand dollars, a fee of one hundred dollars.
- c. For intended storage of products of a value in excess of three hundred thousand dollars, a fee of two hundred dollars.

For each inspection of a warehouse or station for the purpose of licensing, a fee of twenty-five dollars, and for each additional warehouse or station under the same license, a fee of ten dollars.

3. For each amendment of a license, a fee of ten dollars.
4. For each amendment of a tariff, a fee of ten dollars.
5. For a duplicate license, a fee of five dollars.
6. For the reinstatement of a license, a fee of fifty dollars.

New licenses issued for less than a year shall be prorated from the date of application.

[C24, 27, 31, § 9726; C35, § 9751-g9; C39, § **9751.09**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.33; 81 Acts, ch 180, § 26, 32]

83 Acts, ch 175, § 3, 4; 84 Acts, ch 1100, § 4; 92 Acts, ch 1239, § 74

C93, § 203C.33

203C.34 Display of license.

Every warehouse operator's license issued under this chapter shall be conspicuously displayed in the office of the warehouse for the operation of which the license has been issued.

[C24, 27, 31, § 9728; C35, § 9751-g10; C39, § **9751.10**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.34]

86 Acts, ch 1152, § 29

C93, § 203C.34

203C.35 Licensed warehouse operator to keep records. Repealed by 2003 Acts, ch 69, § 22.

203C.36 Penalties injunction.

1. A person who knowingly withholds information from or knowingly submits false information to the department or any of its employees in a record required to be maintained or submitted to the department under this chapter commits a fraudulent practice as provided in chapter 714.

2. a. Except as provided in paragraph "b", a person commits a serious misdemeanor if the person does any of the following:

- (1) Engages in business as a warehouse operator without a license as required in section 203C.6.

(2) Obstructs the inspection of the person's business premises or records required to be kept by a licensed warehouse operator pursuant to section 203C.2.

(3) Uses a scale ticket, warehouse receipt, or other document in violation of this chapter or requirements established by the department under this chapter.

b. A person who commits an offense specified in paragraph "a" after having been found guilty of the same offense commits an aggravated misdemeanor.

3. Except as provided in subsections 1 and 2, a person who violates any provision of this chapter commits a simple misdemeanor. With respect to a continuing violation, each day that the violation continues is a separate offense.

4. A person in violation of this chapter, or in violation of chapter 714 or 715A, which violation involves the business of a warehouse operator, is subject to prosecution by the county attorney in the county where the business is located. However, if the county attorney fails to initiate prosecution within thirty days, and upon request by the department, the attorney general may initiate and carry out the prosecution in cooperation, if possible, with the county attorney. The person in violation may be restrained by injunction in an action brought by the department or the attorney general upon request by the department.

[C24, 27, 31, § 9751; C35, § 9751-g33; C39, § **9751.33**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 543.36; 81 Acts, ch 180, § 27]

92 Acts, ch 1239, § 75

C93, § 203C.36

2003 Acts, ch 69, §19

203C.36A Civil penalties.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed against a warehouse operator for a violation of this chapter.

2. The amount of a civil penalty shall not exceed one thousand five hundred dollars. Each day that a violation continues shall constitute a separate violation. The amount of the civil penalty that may be assessed in an administrative case shall not exceed the amount recommended by the grain industry peer review panel established pursuant to section 203.11B. Moneys collected in civil penalties by the department or the attorney general shall be deposited in the general fund of the state.

3. A civil penalty may be administratively assessed only after an opportunity for a contested case hearing under chapter 17A. The department may be represented in an administrative hearing or judicial proceeding by the attorney general. A civil penalty shall be paid within thirty days from the date that an order or judgment for the penalty becomes final. When a person against whom a civil penalty is administratively assessed under this section seeks timely judicial review of an order imposing the penalty as provided under chapter 17A, the order is not final until all judicial review processes are completed. When a person against whom a civil penalty is judicially assessed under this section seeks a timely appeal of judgment, the judgment is not final until the right of appeal is exhausted.

4. A person who fails to timely pay a civil penalty as provided in this section shall pay, in addition to the penalty, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

203C.37 Failure to pay fee.

Failure to pay the license fee provided for in section 203C.33 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. A warehouse license which has terminated 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 within thirty days from the date of termination of the warehouse license. 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.

[C71, 73, 75, 77, 79, 81, § 543.37; 81 Acts, ch 180, § 28]

84 Acts, ch 1100, § 5; 92 Acts, ch 1239, §76

C93, § 203C.37

203C.38 No obligation of state.

Nothing in this chapter shall be construed to imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees or officials, either elective or appointive, in respect of any agreement or undertaking to which the provisions of this chapter relate.

[C71, 73, 75, 77, 79, 81, § 543.38]

C93, § 203C.38

203C.39 Grain stored in another warehouse.

A licensed warehouse operator may store grain in any other warehouse in Iowa licensed in accordance with section 203C.6 or the United States Warehouse Act, 7 U.S.C. ch. 10, subject to the following conditions:

1. The warehouse operator must obtain from such warehouse operator a nonnegotiable warehouse receipt and such receipt must show clearly the following notation: "Held in trust for depositors of" (name of original receiving warehouse).
2. When the warehouse operator begins to use the additional facilities described in this section, the operator must have sufficient net worth under section 203C.6 or provide a deficiency bond or an irrevocable letter of credit to cover the increase in the operator's gross capacity.
3. A licensed warehouse operator may transfer grain for storage to another licensed warehouse operator while the warehouse operator receiving such grain has grain stored elsewhere under the provisions of this section.

[C71, 73, 75, 77, 79, 81, § 543.39]

86 Acts, ch 1152, § 30; 89 Acts, ch 143, §1102

C93, § 203C.39

2003 Acts, ch 69, §20

203C.40 Prioritization of inspections of warehouse operators.

The department shall develop a system to prioritize the inspections of warehouse operators provided in section 203C.2. The system of prioritization shall be computed each year based on the risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator. The department shall compute the risk by utilizing an available statistical model to measure the financial condition of warehouse operators. Procedures for utilizing the statistical model shall be adopted by department rules. The statistical model shall be used to provide risk ratings. A risk rating shall be used as a factor by the department to prioritize its inspection schedule. The department may inspect a warehouse operator at any time based on a risk of loss to the fund according to the risk rating. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on the statistical model shall be good cause.

92 Acts, ch 1239, §77