



## OFFICE OF THE GOVERNOR

CHESTER J. CULVER  
GOVERNOR

PATTY JUDGE  
LT. GOVERNOR

April 11, 2008

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

**House File 2606**, an Act relating to the regulation of transactions involving grain, by providing for the regulation of grain dealers and warehouse operators, and providing for the administration of the grain indemnity fund.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





HOUSE FILE 2606

AN ACT

RELATING TO THE REGULATION OF TRANSACTIONS INVOLVING GRAIN, BY PROVIDING FOR THE REGULATION OF GRAIN DEALERS AND WAREHOUSE OPERATORS, AND PROVIDING FOR THE ADMINISTRATION OF THE GRAIN INDEMNITY FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 203.1, subsection 7, Code Supplement 2007, is amended to read as follows:

7. "Financial institution" means a any of the following:

a. A bank or savings and loan association authorized by the laws of this state, any other 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.

b. A bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233 or association chartered by the farm credit system under the federal Farm Credit Act, as amended, 12 U.S.C. ch. 23.

Sec. 2. Section 203.1, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 14. "Warehouse operator" means the same as defined in section 203C.1.

Sec. 3. Section 203.3, subsection 4, paragraph b, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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, except as provided in section 203.15, may elect 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. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this subsection.

Sec. 4. Section 203.3, subsection 5, paragraph b, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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. 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. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this section.

Sec. 5. Section 203.11B, subsection 4, paragraph d, Code 2007, is amended to read as follows:

d. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the civil penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a grain dealer as provided in section 203.3 or the license of a warehouse operator as provided in section 203C.6.

Sec. 6. Section 203.15, subsection 4, paragraph b, Code 2007, is amended to read as follows:

b. A grain dealer ~~holding a federal or state warehouse license~~ who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act, 7 U.S.C. 241 et seq., and 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 or the United States department of agriculture shall not purchase grain on credit-sale contract to correct the shortage of grain.

Sec. 7. Section 203.15, subsection 5, paragraphs a and b, Code 2007, are amended to read as follows:

a. The grain dealer ~~holding a federal or state warehouse license~~ who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act, 7 U.S.C. 241 et seq., does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture.

b. The grain dealer ~~holding a state or federal warehouse license~~ who is also a warehouse operator licensed by the department under chapter 203C or the United States department

of agriculture under the United States Warehouse Act, 7 U.S.C. 241 et seq., issues back to the grain dealer a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased on credit and is unpaid for by the grain dealer.

Sec. 8. Section 203.17, Code 2007, is amended to read as follows:

203.17 ~~STANDARDIZATION-OF-RECORDS-AND~~ DOCUMENTS AND RECORDS.

1. The department may adopt rules specifying the form, content, and use, and maintenance of documents issued by a grain dealer under this chapter including but not limited to scale tickets, settlement sheets, daily position records, and credit-sale contracts. The department may adopt rules for both printed and electronic documents, including rules for the transmission, receipt, authentication, and archiving of electronically generated or stored documents.

2. All scale ticket forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing. A grain dealer shall maintain an accurate record of all scale ticket numbers. The record shall include the disposition of each numbered form, whether issued, destroyed, or otherwise disposed of.

Sec. 9. Section 203C.1, subsection 9, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

9. "Financial institution" means the same as defined in section 203.1.

Sec. 10. Section 203C.5, Code 2007, is amended to read as follows:

203C.5 RULES -- DOCUMENTS AND FORMS.

1. 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.

2. a. The department may adopt rules specifying the form, content, and use of documents issued by a warehouse operator under this chapter including but not limited to scale tickets,



warehouse receipts, settlement sheets, and daily position records, shipping ledgers, and other documents used by licensed warehouses. The department may adopt rules for both printed and electronic documents, including rules for the transmission, receipt, authentication, and archiving of electronically generated or stored documents.

b. 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.

Sec. 11. Section 203C.6, subsection 4, paragraph b, Code Supplement 2007, 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. 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. A warehouse operator shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

Sec. 12. Section 203C.6, subsection 5, paragraph b, Code Supplement 2007, 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. 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. A warehouse operator shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

Sec. 13. Section 203D.1, subsections 3 and 9, Code 2007, are amended to read as follows:

3. "Depositor" means a person who deposits grain in a state licensed warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt issued by a state licensed warehouse, or who is lawfully entitled to possession of the grain.

9. "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 as provided in section 203.15. However, "seller" does not include a any of the following:

a. A person licensed as a grain dealer in any jurisdiction who sells grain to a licensed grain dealer.



b. A person who sells grain that is not produced in this state unless such grain is delivered to a licensed grain dealer at a location in this state as the first point of sale.

Sec. 14. Section 203D.1, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "First point of sale" means the initial transfer of title to grain from a person who has produced or caused to be produced the grain to the first purchaser of the grain for consideration, conditional or otherwise, in any manner or by any means.

NEW SUBSECTION. 6A. "Licensed warehouse" means the same as defined in section 203C.1.

Sec. 15. Section 203D.3, subsection 3, paragraph a, subparagraph (3), unnumbered paragraph 1, Code 2007, is amended to read as follows:

For licensed warehouse operators ~~or-participating-federally licensed-grain-warehouses~~ the following:

Sec. 16. Section 203D.4, subsection 1, Code 2007, is amended to read as follows:

1. The Iowa grain indemnity fund board is established to advise the department on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of agriculture or a designee who shall serve as president; the commissioner of insurance or a designee who shall serve as secretary; the state treasurer or a designee who shall serve as treasurer; and four representatives of the grain industry appointed by the governor, subject to confirmation by the senate, two of whom shall be representatives of producers and who shall be actively participating producers, and two of whom shall be representatives of licensed grain dealers and licensed warehouse operators and who shall be actively participating licensed grain dealers and licensed warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the grain industry representatives is three years, and the representatives are eligible for reappointment. However, only actively participating producers, and grain dealers and warehouse operators are eligible for reappointment. The grain industry representatives are entitled to a per diem as specified in section 7E.6 for each day spent in the performance of the duties of the board, plus actual expenses



incurred in the performance of those duties. Four members of the board constitute a quorum, and the affirmative vote of four members is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

Sec. 17. Section 203D.6, subsection 1, paragraph b, Code 2007, is amended to read as follows:

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

Sec. 18. Section 203D.6, subsection 3, paragraph d, Code 2007, is amended to read as follows:

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~~ a licensed 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~~ a licensed warehouse operator.

Sec. 19. Section 203D.6, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. TIME LIMITATION ON CLAIMS.

a. A claim shall expire if five years after the board determines that the claim is eligible, the claimant has failed to do any of the following:

(1) Provide for the fund's subrogation or has failed to render all necessary assistance to aid the department and the board in securing the department's rights of subrogation as required in this section.

(2) Failed to provide necessary documentation or information required by the board in order to process the claim.

b. The fund shall not be liable for the payment of an expired claim.

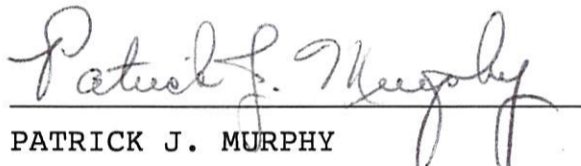
Sec. 20. TIME LIMITATIONS ON CURRENT CLAIMS.

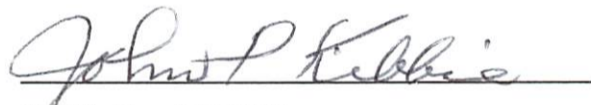
1. Notwithstanding section 203D.6, subsection 9, as enacted in this Act, a claim that the Iowa grain indemnity fund board has determined is eligible on or before the effective date of this Act, as provided in section 203D.6, shall expire if five years after the effective date of this Act, the claimant has failed to do any of the following:

a. Provide for the subrogation of the grain depositors and sellers indemnity fund created in section 203D.3, or has failed to render all necessary assistance to aid the department of agriculture and land stewardship and the Iowa grain indemnity fund board in securing the department's rights of subrogation as required in section 203D.6.


b. Provide necessary documentation or information required by the Iowa grain indemnity fund board in order to process the claim.

2. The grain depositors and sellers indemnity fund created in section 203D.3 shall not be liable for the payment of an expired claim.

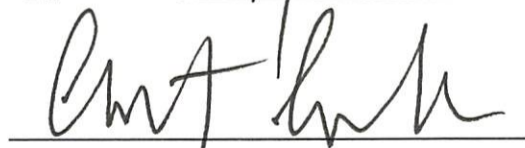
  
PATRICK J. MURPHY  
Speaker of the House

  
JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2606, Eighty-second General Assembly.

  
MARK BRANDSGARD  
Chief Clerk of the House

Approved 4/11, 2008

  
CHESTER J. CULVER  
Governor