

Substituted by SF 2337
3-25-96 (p.941)

MAR 5 1996
Place On Calendar

HOUSE FILE **2439**
BY COMMITTEE ON AGRICULTURE

WITHDRAWN
3-25-96
(p.942)

(SUCCESSOR TO HSB 725)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to receiverships regarding the administration of
2 the assets of grain dealers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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WITHDRAWN

HF 2439

1 Section 1. Section 203.8, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

3 A person required to be licensed as a grain dealer shall
4 pay the purchase price to the owner or the owner's agent for
5 grain upon delivery or demand of the owner or agent, but not
6 later than thirty days after delivery by the owner or agent
7 unless in accordance with the terms of a credit-sale contract
8 that satisfies the requirements of this chapter.

9 Sec. 2. NEW SECTION. 203.12B APPOINTMENT OF DEPARTMENT
10 AS RECEIVER.

11 1. As used in this section:

12 a. "Grain dealer assets" means the same as defined in
13 section 203.12A, including any proceeds from a deficiency bond
14 or irrevocable letter of credit, or any insurance policy
15 relating to those assets.

16 b. "Interested seller" means a person who delivers or has
17 delivered grain to a grain dealer who has not been paid as
18 provided in section 203.8 or according to the terms of a
19 credit sale contract breached by the grain dealer.

20 c. "Issuer" means a person who issues a deficiency bond or
21 an irrevocable letter of credit pursuant to section 203.3, or
22 an issuer of grain assets.

23 2. a. The department may file a verified petition in
24 district court requesting that the department be appointed as
25 a receiver, and the district court shall appoint the
26 department as receiver, in order to protect interested
27 sellers, if any of the following apply:

28 (1) The grain dealer's license is revoked or suspended
29 under section 203.10.

30 (2) There is evidence that the grain dealer has engaged or
31 is engaging in business under this chapter without obtaining a
32 license as required pursuant to section 203.3.

33 b. Upon being appointed as a receiver, the department
34 shall take custody and provide for the disposition of the
35 grain dealer assets of the grain dealer under the supervision

1 of the court. The petition shall be filed in the county in
2 which the grain dealer maintains its principal place of
3 business in this state. The court may issue ex parte any
4 temporary order as it determines necessary to preserve or
5 protect the grain dealer assets and the rights of interested
6 sellers. The petition shall be accompanied by the
7 department's plan for disposition of grain dealer assets which
8 shall provide terms as may be necessary to preserve or protect
9 the grain dealer assets and the rights of interested sellers,
10 less expenses incurred by the department in connection with
11 the receivership. The plan may provide for the delivery or
12 sale of grain as provided in section 203C.4. The plan may
13 provide for the operation of the business of the grain dealer
14 on a temporary basis and any other course of action or
15 procedure which will serve the interests of interested
16 sellers. The petition shall be filed with the clerk of the
17 district court who shall set a date for a hearing in the same
18 manner as provided in section 203C.3. Copies of the petition,
19 the notice of hearing, and the department's plan of
20 disposition shall be delivered to the following:

21 (1) The grain dealer and each issuer who shall receive
22 copies delivered in the manner required for service of an
23 original notice.

24 (2) Interested sellers as determined by the department who
25 shall receive copies delivered by ordinary mail.

26 The failure of a person to receive the required
27 notification shall not invalidate the proceedings on the
28 petition or any part of the petition for the appointment of
29 the department as the receiver. A person is not a party to
30 the action unless admitted by the court upon application.

31 3. When appointed as a receiver, the department shall
32 publish notice of the appointment in the same manner provided
33 in section 203C.3.

34 4. The department may employ or appoint a person to appear
35 on behalf of the department in any proceedings before the

1 court as provided in section 203C.3.

2 5. An action of the department shall not be subject to the
3 provisions of chapter 17A. A person employed or appointed by
4 the department as receiver shall be deemed to be an employee
5 of the state as defined in section 669.2. Chapter 669 is
6 applicable to any claim as defined in section 669.2 against
7 the person carrying out the duties of the department acting as
8 receiver.

9 6. When the department is appointed as a receiver, the
10 issuer shall be joined as a party, and may be ordered by the
11 court to pay indemnification proceeds, and shall be discharged
12 from further liability as provided in section 203C.4. The
13 department shall provide notice to interested sellers within
14 one hundred twenty days after the date of appointment. A
15 failure of a person to file a timely claim as provided by the
16 department shall defeat the claim, except to the extent of any
17 excess grain dealer assets remaining after all timely claims
18 are paid in full.

19 7. If the court approves the sale of grain, the department
20 shall employ or appoint a merchandiser who shall enjoy the
21 same status, exercise the same powers, and receive
22 compensation to the same extent as a merchandiser employed or
23 appointed pursuant to section 203C.4. A person employed or
24 appointed as a merchandiser must meet the following
25 requirements:

26 a. Be experienced or knowledgeable in the operation of
27 grain dealers as provided in this chapter.

28 b. Be experienced or knowledgeable in the marketing of
29 grain.

30 c. Not have had a license issued pursuant to section 203.3
31 suspended or revoked.

32 d. Not have any pecuniary interest in the grain dealer
33 assets of the grain dealer and not have a business
34 relationship with the grain dealer.

35 8. The sale of the grain shall proceed in the same manner

1 as grain sold pursuant to section 203C.4. The department may,
2 with the approval of the court, continue the operation of all
3 or any part of the business of the grain dealer on a temporary
4 basis and take any other course of action or procedure which
5 will serve the interests of interested sellers. The
6 department is entitled to reimbursement out of grain dealer
7 assets for costs directly attributable to the receivership.
8 The department shall be reimbursed from the grain dealer
9 assets in the same manner as provided in section 203C.4. If
10 the approved plan of disposition requires a distribution of
11 cash proceeds, the department shall submit to the court a
12 proposed plan of distribution of those proceeds. The plan
13 shall be approved and executed and the department shall be
14 discharged and the receivership terminated in the same manner
15 as provided in section 203C.4.

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EXPLANATION

17 This bill amends chapter 203 which provides for the
18 regulation of grain dealers by the department of agriculture
19 and land stewardship. Generally, a grain dealer is a person
20 who buys during any calendar month 500 bushels of grain or
21 more from producers of the grain for purposes of resale,
22 milling, or processing. This bill provides that the
23 department may file a petition in district court requesting
24 that the department be appointed as a receiver of grain and
25 grain related assets of a grain dealer. The provisions are
26 similar to receivership procedures and powers provided under
27 chapter 203C for grain warehouses. The bill provides
28 procedures for filing a petition and providing notice to
29 persons interested in the disposition of the grain dealer
30 assets. The bill provides that a petition by the department
31 must be accompanied by a plan for the distribution of the
32 grain dealer assets. The plan may provide for the operation
33 of all or any part of the business of the grain dealer on a
34 temporary basis.

35 The bill also provides for the powers and duties of the

1 department acting as receiver, including for the payment of
2 claims. The bill provides for the appointment of a
3 merchandiser to accomplish the sale of grain. The bill
4 provides that the department is entitled to reimbursement out
5 of the grain or proceeds held in receivership for expenses.
6 The bill requires the department to receive court approval of
7 any disposition of cash proceeds. When the plan is approved
8 by the court and executed by the department, the receivership
9 is terminated. At termination, the department is required to
10 file a final report with the court.

11 Section 203.8 currently requires a grain dealer to pay an
12 owner of grain within 30 days of demand, unless the purchase
13 is pursuant to a credit sale contract. The bill amends
14 section 203.8 to provide that the 30-day requirement applies
15 to persons required to be licensed as grain dealers.

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HSB 725

Agriculture
Succeeded By
SF 1(HF) 2439

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON EDDIE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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