

REPRINTED

FILED FEB 27 1996

SENATE FILE **2337**

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 2273)

Passed Senate, Date 3/6/97 ^(p.658) Passed House, Date 3/25/96 ^(p.941)
 Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0
 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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SENATE FILE 2337

S-5217

1 Amend Senate File 2337 as follows:
 2 1. Page 1, line 26, by inserting after the word
 3 "receiver," the following: "in order to protect
 4 interested sellers,".

By EMIL J. HUSAK

S-5217 FILED MARCH 6, 1996
ADOPTED ^(p.658)

S.F. 2337

REPRINTED

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, if any of the following apply:

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

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

32 b. Upon being appointed as a receiver, the department
33 shall take custody and provide for the disposition of the
34 grain dealer assets of the grain dealer under the supervision
35 of the court. The petition shall be filed in the county in

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

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

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

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

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

33 4. The department may employ or appoint a person to appear
34 on behalf of the department in any proceedings before the
35 court as provided in section 203C.3.

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

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

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

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

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

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

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

34 8. The sale of the grain shall proceed in the same manner
35 as grain sold pursuant to section 203C.4. The department may,

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

15 EXPLANATION

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

34 The bill also provides for the powers and duties of the
35 department acting as receiver, including for the payment of

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

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

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Substituted for HF 2439
3-25-96 (P.941)

SENATE FILE 2337
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 2273)

(AS AMENDED AND PASSED BY THE SENATE MARCH 6, 1996)

~~_____~~ - New Language by the Senate

(P.658)
Passed Senate, Date 3/6/96 Passed House, (P.941) Date 3/25/96
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0
Approved April 1, 1996

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:

S.F. 2337

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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
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Husak

SSB-2273

Douglas
Gianetto

Agriculture

SENATE FILE (SF/HF 2337)

BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON PRIEBE)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

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2 the assets of grain dealers.

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24 requirements:

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

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

29 c. Not have had a license issued pursuant to section 203.3
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10 cash proceeds, the department shall submit to the court a
11 proposed plan of distribution of those proceeds. The plan
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EXPLANATION

16 This bill amends chapter 203 which provides for the
17 regulation of grain dealers by the department of agriculture
18 and land stewardship. Generally, a grain dealer is a person
19 who buys during any calendar month 500 bushels of grain or
20 more from producers of the grain for purposes of resale,
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28 persons interested in the disposition of the grain dealer
29 assets. The bill provides that a petition by the department
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31 grain dealer assets. The plan may provide for the operation
32 of all or any part of the business of the grain dealer on a
33 temporary basis.

34 The bill also provides for the powers and duties of the
35 department acting as receiver, including for the payment of

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2 merchandiser to accomplish the sale of grain. The bill
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4 of the grain or proceeds held in receivership for expenses.
5 The bill requires the department to receive court approval of
6 any disposition of cash proceeds. When the plan is approved
7 by the court and executed by the department, the receivership
8 is terminated. At termination, the department is required to
9 file a final report with the court.

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11 owner of grain within 30 days of demand, unless the purchase
12 is pursuant to a credit sale contract. The bill amends
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14 to persons required to be licensed as grain dealers.

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SENATE FILE 2337

AN ACT

RELATING TO RECEIVERSHIPS REGARDING THE ADMINISTRATION OF THE
ASSETS OF GRAIN DEALERS.

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

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

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

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

1. As used in this section:

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

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

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

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

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

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

b. Upon being appointed as a receiver, the department shall take custody and provide for the disposition of the grain dealer assets of the grain dealer under the supervision of the court. The petition shall be filed in the county in which the grain dealer maintains its principal place of business in this state. The court may issue ex parte any temporary order as it determines necessary to preserve or protect the grain dealer assets and the rights of interested sellers. The petition shall be accompanied by the department's plan for disposition of grain dealer assets which shall provide terms as may be necessary to preserve or protect the grain dealer assets and the rights of interested sellers, less expenses incurred by the department in connection with the receivership. The plan may provide for the delivery or

sale of grain as provided in section 203C.4. The plan may provide for the operation of the business of the grain dealer on a temporary basis and any other course of action or procedure which will serve the interests of interested sellers. The petition shall be filed with the clerk of the district court who shall set a date for a hearing in the same manner as provided in section 203C.3. Copies of the petition, the notice of hearing, and the department's plan of disposition shall be delivered to the following:

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

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

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

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

4. The department may employ or appoint a person to appear on behalf of the department in any proceedings before the court as provided in section 203C.3.

5. An action of the department shall not be subject to the provisions of chapter 17A. A person employed or appointed by the department as receiver 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.

6. When the department is appointed as a receiver, the issuer shall be joined as a party, and may be ordered by the court to pay indemnification proceeds, and shall be discharged

from further liability as provided in section 203C.4. The department shall provide notice to interested sellers within one hundred twenty days after the date of appointment. A failure of a person to file a timely claim as provided by the department shall defeat the claim, except to the extent of any excess grain dealer assets remaining after all timely claims are paid in full.

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

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

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

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

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

8. The sale of the grain shall proceed in the same manner as grain sold pursuant to section 203C.4. The department may, with the approval of the court, continue the operation of all or any part of the business of the grain dealer on a temporary basis and take any other course of action or procedure which will serve the interests of interested sellers. The department is entitled to reimbursement out of grain dealer assets for costs directly attributable to the receivership. The department shall be reimbursed from the grain dealer assets in the same manner as provided in section 203C.4. 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. The plan shall be approved and executed and the department shall be discharged and the receivership terminated in the same manner as provided in section 203C.4.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2337, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 1, 1996

TERRY E. BRANSTAD
Governor

SF 2337