



Sen. Lawrence M. Walsh

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LRB093 05349 JAM 53668 a

1 AMENDMENT TO HOUSE BILL 665

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 665 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Grain Code is amended by changing Section  
5 5-30 as follows:

6 (240 ILCS 40/5-30)

7 Sec. 5-30. Grain Insurance Fund assessments. The Illinois  
8 Grain Insurance Fund is established as a continuation of the  
9 fund created under the Illinois Grain Insurance Act, now  
10 repealed. Licensees, applicants for a new license, first  
11 sellers of grain to grain dealers at Illinois locations, and  
12 lenders to licensees shall pay assessments as set forth in this  
13 Section.

14 (a) Subject to subsection (e) of this Section, a licensee  
15 that is newly licensed after the effective date of this Code  
16 shall pay an assessment into the Fund for 3 consecutive years.  
17 These assessments are known as "newly licensed assessments".  
18 Except as provided in item (6) of subsection (b) of this  
19 Section, the first installment shall be paid at the time of or  
20 before the issuance of a new license, the second installment  
21 shall be paid on or before the first anniversary date of the  
22 issuance of the new license, and the third installment shall be  
23 paid on or before the second anniversary date of the issuance  
24 of the new license. For a grain dealer, the payment of each of

1 the 3 installments shall be based upon the total estimated  
2 value of grain purchases by the grain dealer for the applicable  
3 year with the final installment amount determined as set forth  
4 in item (6) of subsection (b) of this Section. After the  
5 licensee has paid or was required to pay the last 3  
6 installments of the newly licensed assessments, the licensee  
7 shall be subject to subsequent assessments as set forth in  
8 subsection (d) of this Section.

9 (b) Grain dealer newly licensed assessments.

10 (1) The first installment for a grain dealer shall be  
11 an amount equal to:

12 (A) \$0.000145 multiplied by the total value of  
13 grain purchases for the grain dealer's first fiscal  
14 year as shown in the final financial statement for that  
15 year provided to the Department under Section 5-20; and

16 (B) \$0.000255 multiplied by that portion of the  
17 value of grain purchases for the grain dealer's first  
18 fiscal year that exceeds the adjusted equity of the  
19 licensee multiplied by 20, as shown on the final  
20 financial statement for the licensee's first fiscal  
21 year provided to the Department under Section 5-20.

22 (2) The minimum amount for the first installment shall  
23 be \$500 and the maximum shall be \$15,000.

24 (3) The second installment for a grain dealer shall be  
25 an amount equal to:

26 (A) \$0.0000725 multiplied by the total value of  
27 grain purchases for the grain dealer's second fiscal  
28 year as shown in the final financial statement for that  
29 year provided to the Department under Section 5-20; and

30 (B) \$0.0001275 multiplied by that portion of the  
31 value of grain purchases for the grain dealer's second  
32 fiscal year that exceeds the adjusted equity of the  
33 licensee multiplied by 20, as shown on the final  
34 financial statement for the licensee's second fiscal

1 year provided to the Department under Section 5-20.

2 (4) The third installment for a grain dealer shall be  
3 an amount equal to:

4 (A) \$0.0000725 multiplied by the total value of  
5 grain purchases for the grain dealer's third fiscal  
6 year as shown in the final financial statement for that  
7 year provided to the Department under Section 5-20; and

8 (B) \$0.0001275 multiplied by that portion of the  
9 value of grain purchases for the grain dealer's third  
10 fiscal year that exceeds the adjusted equity of the  
11 licensee multiplied by 20, as shown on the final  
12 financial statement for the licensee's third fiscal  
13 year.

14 (5) The minimum amount of the second and third  
15 installments shall be \$250 per year and the maximum for  
16 each year shall be \$7,500.

17 (6) Each of the newly licensed assessments shall be  
18 adjusted up or down based upon the actual annual grain  
19 purchases for each year as shown in the final financial  
20 statement for that year provided to the Department under  
21 Section 5-20. The adjustments shall be determined by the  
22 Department within 30 days of the date of approval of  
23 renewal of a license. Refunds shall be paid out of the Fund  
24 within 60 days after the Department's determination.  
25 Additional amounts owed for any installment shall be paid  
26 within 30 days after notification by the Department.

27 (7) For the purposes of grain dealer newly licensed  
28 assessments under subsection (b) of this Section, the total  
29 value of grain purchases shall be the total value of first  
30 time grain purchases by Illinois locations from producers.

31 (8) The second and third installments shall be paid to  
32 the Department within 60 days after the date posted on the  
33 written notice of assessment. The Department shall  
34 immediately deposit all paid installments into the Fund.

1 (c) Warehouseman newly licensed assessments.

2 (1) The first assessment for a warehouseman shall be an  
3 amount equal to:

4 (A) \$0.00085 multiplied by the total permanent  
5 storage capacity of the warehouseman at the time of  
6 license issuance; and

7 (B) \$0.00099 multiplied by that portion of the  
8 permanent storage capacity of the warehouseman at the  
9 time of license issuance that exceeds the adjusted  
10 equity of the licensee multiplied by 5, all as shown on  
11 the final financial statement for the licensee  
12 provided to the Department under Section 5-10.

13 (2) The minimum amount for the first installment shall  
14 be \$500 and the maximum shall be \$15,000.

15 (3) The second and third installments shall be an  
16 amount equal to:

17 (A) \$0.000425 multiplied by the total permanent  
18 storage capacity of the warehouseman at the time of  
19 license issuance; and

20 (B) \$0.000495 multiplied by that portion of the  
21 permanent licensed storage capacity of the  
22 warehouseman at the time of license issuance that  
23 exceeds the adjusted equity of the licensee multiplied  
24 by 5, as shown on the final financial statement for the  
25 licensee's last completed fiscal year provided to the  
26 Department under Section 5-20.

27 (4) The minimum amount for the second and third  
28 installments shall be \$250 per installment and the maximum  
29 for each installment shall be \$7,500.

30 (5) Every warehouseman shall pay an assessment when  
31 increasing available permanent storage capacity in an  
32 amount equal to \$0.001 multiplied by the total number of  
33 bushels to be added to permanent storage capacity. The  
34 minimum assessment on any increase in permanent storage

1 capacity shall be \$50 and the maximum assessment shall be  
2 \$20,000. The assessment based upon an increase in permanent  
3 storage capacity shall be paid at or before the time of  
4 approval of the increase in permanent storage capacity.  
5 This assessment on the increased permanent storage  
6 capacity does not relieve the warehouseman of any  
7 assessments as set forth in subsection (d) of this Section.

8 (6) Every warehouseman shall pay an assessment of  
9 \$0.0005 per bushel when increasing available storage  
10 capacity by use of temporary storage space. The minimum  
11 assessment on temporary storage space shall be \$100. The  
12 assessment based upon temporary storage space shall be paid  
13 at or before the time of approval of the amount of the  
14 temporary storage space. This assessment on the temporary  
15 storage space capacity does not relieve the warehouseman of  
16 any assessments as set forth in subsection (d) of this  
17 Section.

18 (7) Every warehouseman shall pay an assessment of  
19 \$0.001 per bushel of emergency storage space. The minimum  
20 assessment on any emergency storage space shall be \$100.  
21 The assessment based upon emergency storage space shall be  
22 paid at or before the time of approval of the amount of the  
23 emergency storage space. This assessment on the emergency  
24 storage space does not relieve the warehouseman of any  
25 assessments as set forth in subsection (d) of this Section.

26 (8) The second and third installments shall be paid to  
27 the Department within 60 days after the date posted on the  
28 written notice of assessment. The Department shall  
29 immediately deposit all paid installments into the Fund.

30 (d) Grain dealer subsequent assessments; warehouseman  
31 subsequent assessments.

32 (1) Subject to paragraph (4) of this subsection (d), if  
33 on the first working day of a calendar quarter when a  
34 licensee is not already subject to an assessment under this

1 subsection (d) (the assessment determination date), if the  
2 equity in the Fund is less than \$6,000,000, every grain  
3 dealer who has, or was required to have, already paid the  
4 newly licensed assessments shall be assessed by the  
5 Department in a total amount equal to:

6 (A) \$0.0000725 multiplied by the total value of  
7 grain purchases for the grain dealer's last completed  
8 fiscal year prior to the assessment determination date  
9 as shown in the final financial statement for that year  
10 provided to the Department under Section 5-20; and

11 (B) \$0.0001275 multiplied by that portion of the  
12 value of grain purchases for the grain dealer's last  
13 completed fiscal year prior to the assessment  
14 determination date that exceeds the adjusted equity of  
15 the licensee multiplied by 20, as shown on the final  
16 financial statement for the licensee's last completed  
17 fiscal year provided to the Department under Section  
18 5-20.

19 The minimum total amount for the grain dealer's  
20 subsequent assessment shall be \$250 per 12-month period and  
21 the maximum amount shall be \$7,500 per 12-month period. For  
22 the purposes of grain dealer assessments under this item  
23 (1) of subsection (d) of this Section, the total value of  
24 grain purchases shall be the total value of first time  
25 grain purchases by Illinois locations from producers.

26 (2) Subject to paragraph (4) of this subsection (d), if  
27 on the first working day of a calendar quarter when a  
28 licensee is not subject to an assessment under this  
29 subsection (d) (the assessment determination date), if the  
30 equity in the Fund is less than \$6,000,000, every  
31 warehouseman who has, or was required to have, already paid  
32 the newly licensed assessments shall be assessed a  
33 warehouseman subsequent assessment by the Department in a  
34 total amount equal to:

1 (A) \$0.000425 multiplied by the total licensed  
2 storage capacity of the warehouseman as of the first  
3 day of September that immediately precedes the  
4 assessment determination date; and

5 (B) \$0.000495 multiplied by that portion of the  
6 licensed storage capacity of the warehouseman as of the  
7 first day of September that immediately precedes the  
8 assessment determination date that exceeds the  
9 adjusted equity of the licensee multiplied by 5, as  
10 shown on the final financial statement for the  
11 licensee's last completed fiscal year provided to the  
12 Department under Section 5-20.

13 The minimum total amount for a warehouseman subsequent  
14 assessment shall be \$250 per 12-month period and the  
15 maximum amount shall be \$7,500 per 12-month period.

16 (3) Subject to paragraph (4) of this subsection (d), if  
17 the equity in the Fund is below \$6,000,000 on the first  
18 working day of a calendar quarter when a licensee is not  
19 already subject to an assessment under this subsection (d)  
20 (the assessment determination date), every incidental  
21 grain dealer who has, or was required to have, already paid  
22 all 3 installments of the newly licensed assessments shall  
23 be assessed by the Department in a total amount equal to  
24 \$100. It shall be paid to the Department within 60 days  
25 after the date posted on the written notification by the  
26 Department, which shall be sent after the first day of the  
27 calendar quarter immediately following the assessment  
28 determination date.

29 (4) Following the payment of the final quarterly  
30 installment by grain dealers and warehousemen, the next  
31 assessment determination date can be no sooner than the  
32 first working day of the sixth full calendar month  
33 following the payment.

34 (5) All assessments under paragraphs (1) and (2) of

1       this subsection (d) shall be effective as of the first day  
2       of the calendar quarter immediately following the  
3       assessment determination date and shall be paid to the  
4       Department by licensees in 4 equal installments by the  
5       twentieth day of each consecutive calendar quarter  
6       following notice by the Department of the assessment. The  
7       Department shall give written notice to all licensees of  
8       when the assessment is effective, and the rate of the  
9       assessment, by mail within 20 days after the assessment  
10      determination date.

11       (6) After an assessment under paragraph (1) and (2) of  
12      this subsection (d) is instituted, the amount of any unpaid  
13      installments for the assessment shall not be adjusted based  
14      upon any change in the financial statements or licensed  
15      storage capacity of a licensee.

16       (7) If the due date for the payment by a licensee of  
17      the third assessment under subsections (b) and (c) of this  
18      Section 5-30 is after the assessment determination date,  
19      that licensee shall not be subject to any of the 4  
20      installments of an assessment under paragraphs (1) and (2)  
21      of this subsection (d).

22       (8) The Department shall immediately deposit all paid  
23      assessments into the Fund.

24      (e) Newly licensed; exemptions.

25       (1) For the purpose of assessing fees for the Fund  
26      under subsection (a) of this Section, and subject to the  
27      provisions of item (e)(2) of this Section, the Department  
28      shall consider the following to be newly licensed:

29           (A) A person that becomes a licensee for the first  
30          time after the effective date of this Code.

31           (B) A licensee who has a lapse in licensing of more  
32          than 30 days. A license shall not be considered to be  
33          lapsed after its revocation or termination if an  
34          administrative or judicial action is pending or if an



1 order from an administrative or judicial body  
2 continues an existing license.

3 (C) A grain dealer that is a general partnership in  
4 which there is a change in partnership interests and  
5 that change is greater than 50% during the  
6 partnership's fiscal year.

7 (D) A grain dealer that is a limited partnership in  
8 which there is a change in the controlling interest of  
9 a general partner and that change is greater than 50%  
10 of the total controlling interest during the limited  
11 partnership's fiscal year.

12 (E) A grain dealer that is a limited liability  
13 company in which there is a change in membership  
14 interests and that change is greater than 50% during  
15 the limited liability company's fiscal year.

16 (F) A grain dealer that is the result of a  
17 statutory consolidation if that person has adjusted  
18 equity of less than 90% of the combined adjusted equity  
19 of the predecessor persons who consolidated. For the  
20 purposes of this paragraph, the adjusted equity of the  
21 resulting person shall be determined from the approved  
22 or certified financial statement submitted to the  
23 Department for the first fiscal year of the resulting  
24 person. For the purpose of this paragraph, the combined  
25 adjusted equity of the predecessor persons shall be  
26 determined by combining the adjusted equity of each  
27 predecessor person as set forth in the most recent  
28 approved or certified financial statement of each  
29 predecessor person submitted to the Department.

30 (G) A grain dealer that is the result of a  
31 statutory merger if that person has adjusted equity of  
32 less than 90% of the combined adjusted equity of the  
33 predecessor persons who merged. For the purposes of  
34 this paragraph, the adjusted equity of the resulting

1 person shall be determined from the approved or  
2 certified financial statement submitted to the  
3 Department for the first fiscal year of the resulting  
4 person ending after the merger. For the purposes of  
5 this paragraph, the combined adjusted equity of the  
6 predecessor persons shall be determined by combining  
7 the adjusted equity of each predecessor person as set  
8 forth in the most recent approved or certified  
9 financial statement submitted to the Department for  
10 the last fiscal year of each predecessor person ending  
11 on the date of or before the merger.

12 (H) A grain dealer that is a general partnership in  
13 which there is a change in partnership interests and  
14 that change is 50% or less during the partnership's  
15 fiscal year if the adjusted equity of the partnership  
16 after the change is less than 90% of the adjusted  
17 equity of the partnership before the change. For the  
18 purpose of this paragraph, the adjusted equity of the  
19 partnership after the change shall be determined from  
20 the approved or certified financial statement  
21 submitted to the Department for the first fiscal year  
22 ending after the change. For the purposes of this  
23 paragraph, the adjusted equity of the partnership  
24 before the change shall be determined from the approved  
25 or certified financial statement submitted to the  
26 Department for the last fiscal year of the partnership  
27 ending on the date of or before the change.

28 (I) A grain dealer that is a limited partnership in  
29 which there is a change in the controlling interest of  
30 a general partner and that change is 50% or less of the  
31 total controlling interest during the partnership's  
32 fiscal year if the adjusted equity of the partnership  
33 after the change is less than 90% of the adjusted  
34 equity of the partnership before the change. For the

1 purposes of this paragraph, the adjusted equity of the  
2 partnership after the change shall be determined from  
3 the approved or certified financial statement  
4 submitted to the Department for the first fiscal year  
5 ending after the change. For the purposes of this  
6 paragraph, the adjusted equity of the partnership  
7 before the change shall be determined from the approved  
8 or certified financial statement submitted to the  
9 Department for the last fiscal year of the partnership  
10 ending on the date of or before the change.

11 (J) A grain dealer that is a limited liability  
12 company in which there is a change in membership  
13 interests and that change is 50% or less of the total  
14 membership interests during the limited liability  
15 company's fiscal year if the adjusted equity of the  
16 limited liability company after the change is less than  
17 90% of the adjusted equity of the limited liability  
18 company before the change. For the purposes of this  
19 paragraph, the adjusted equity of the limited  
20 liability company after the change shall be determined  
21 from the approved or certified financial statement  
22 submitted to the Department for the first fiscal year  
23 ending after the change. For the purposes of this  
24 paragraph, the adjusted equity of the limited  
25 liability company before the change shall be  
26 determined from the approved or certified financial  
27 statement submitted to the Department for the last  
28 fiscal year of the limited liability company ending on  
29 the date of or before the change.

30 (K) A grain dealer that is the result of a  
31 statutory consolidation or merger if one or more of the  
32 predecessor persons that consolidated or merged into  
33 the resulting grain dealer was not a licensee under  
34 this Code at the time of the consolidation or merger.

1           (2) For the purpose of assessing fees for the Fund as  
2 set forth in subsection (a) of this Section, the Department  
3 shall consider the following as not being newly licensed  
4 and, therefore, exempt from further assessment unless an  
5 assessment is required by subsection (d) of this Section:

6           (A) A person resulting solely from a name change of  
7 a licensee.

8           (B) A warehouseman changing from a Class I  
9 warehouseman to a Class II warehouseman or from a Class  
10 II warehouseman to a Class I warehouseman under this  
11 Code.

12           (C) A licensee that becomes a wholly owned  
13 subsidiary of another licensee.

14           (D) Subject to item (e)(1)(K) of this Section, a  
15 person that is the result of a statutory consolidation  
16 if that person has adjusted equity greater than or  
17 equal to 90% of the combined adjusted equity of the  
18 predecessor persons who consolidated. For the purposes  
19 of this paragraph, the adjusted equity of the resulting  
20 person shall be determined from the approved or  
21 certified financial statement submitted to the  
22 Department for the first fiscal year of the resulting  
23 person. For the purpose of this paragraph, the combined  
24 adjusted equity of the predecessor persons shall be  
25 determined by combining the adjusted equity of each  
26 predecessor person as set forth in the most recent  
27 approved or certified financial statement of each  
28 predecessor person submitted to the Department.

29           (E) Subject to item (e)(1)(K) of this Section, a  
30 person that is the result of a statutory merger if that  
31 person has adjusted equity greater than or equal to 90%  
32 of the combined adjusted equity of the predecessor  
33 persons who merged. For the purposes of this paragraph,  
34 the adjusted equity of the resulting person shall be

1           determined from the approved or certified financial  
2           statement submitted to the Department for the first  
3           fiscal year of the resulting person ending after the  
4           merger. For the purposes of this paragraph, the  
5           combined adjusted equity of the predecessor persons  
6           shall be determined by combining the adjusted equity of  
7           each predecessor person as set forth in the most recent  
8           approved or certified financial statement, submitted  
9           to the Department for the last fiscal year of each  
10          predecessor person ending on the date of or before the  
11          merger.

12           (F) A general partnership in which there is a  
13          change in partnership interests and that change is 50%  
14          or less during the partnership's fiscal year and the  
15          adjusted equity of the partnership after the change is  
16          greater than or equal to 90% of the adjusted equity of  
17          the partnership before the change. For the purposes of  
18          this paragraph, the adjusted equity of the partnership  
19          after the change shall be determined from the approved  
20          or certified financial statement submitted to the  
21          Department for the first fiscal year ending after the  
22          change. For the purposes of this paragraph, the  
23          adjusted equity of the partnership before the change  
24          shall be determined from the approved or certified  
25          financial statement submitted to the Department for  
26          the last fiscal year of the partnership ending on the  
27          date of or before the change.

28           (G) A limited partnership in which there is a  
29          change in the controlling interest of a general partner  
30          and that change is 50% or less of the total controlling  
31          interest during the partnership's fiscal year and the  
32          adjusted equity of the partnership after the change is  
33          greater than or equal to 90% of the adjusted equity of  
34          the partnership before the change. For the purposes of

1           this paragraph, the adjusted equity of the partnership  
2           after the change shall be determined from the approved  
3           or certified financial statement submitted to the  
4           Department for the first fiscal year ending after the  
5           change. For the purposes of this paragraph, the  
6           adjusted equity of the partnership before the change  
7           shall be determined from the approved or certified  
8           financial statement submitted to the Department for  
9           the last fiscal year of the partnership ending on the  
10          date of or before the change.

11           (H) A limited liability company in which there is a  
12          change in membership interests and that change is 50%  
13          or less of the total membership interests during the  
14          limited liability company's fiscal year if the  
15          adjusted equity of the limited liability company after  
16          the change is greater than or equal to 90% of the  
17          adjusted equity of the limited liability company  
18          before the change. For the purposes of this paragraph,  
19          the adjusted equity of the limited liability company  
20          after the change shall be determined from the approved  
21          or certified financial statement submitted to the  
22          Department for the first fiscal year ending after the  
23          change. For the purposes of this paragraph, the  
24          adjusted equity of the limited liability company  
25          before the change shall be determined from the approved  
26          or certified financial statement submitted to the  
27          Department for the last fiscal year of the limited  
28          liability company ending on the date of or before the  
29          change.

30           (I) A licensed warehouseman that is the result of a  
31          statutory merger or consolidation to the extent the  
32          combined storage capacity of the resulting  
33          warehouseman has been assessed under this Code before  
34          the statutory merger or consolidation, except that any

1 storage capacity of the resulting warehouseman that  
2 has not previously been assessed under this Code shall  
3 be assessed as provided in items (c) (5), (c) (6), and  
4 (c) (7) of this Section.

5 (J) A federal warehouseman who participated in the  
6 Fund under Section 30-10 and who subsequently received  
7 an Illinois license to the extent the storage capacity  
8 of the warehouseman was assessed under this Code prior  
9 to Illinois licensing.

10 (f) Grain seller initial assessments and regular  
11 assessments. Assessments under this subsection (f) apply only  
12 to the first sale of grain to a grain dealer at an Illinois  
13 location.

14 (1) The grain seller initial assessment period is that  
15 period of time beginning on the effective date of this  
16 amendatory Act of the 93rd General Assembly and ending on  
17 the first assessment determination date thereafter when  
18 the equity in the fund is at least \$6,000,000.

19 (2) Subject to paragraph (3) of this subsection (f) (i)  
20 if during the grain seller initial assessment period the  
21 equity in the Fund is less than \$3,000,000 or (ii) if at  
22 any time after the grain seller initial assessment period  
23 the equity in the Fund is less than \$2,000,000, on the  
24 first working day of a calendar quarter when a grain seller  
25 is not already subject to an assessment under this  
26 subsection (f) (the assessment determination date), each  
27 person who settles for grain (sold to a grain dealer at an  
28 Illinois location) during the 12-month period commencing  
29 on the first day of the succeeding calendar quarter (the  
30 assessment period) shall pay an assessment equal to \$0.0004  
31 multiplied by the net market value of grain settled for  
32 (payment received for grain sold).

33 (3) The next assessment determination date can be no  
34 sooner than the first working day of the fourth full

1 calendar month following the end of the assessment period.

2 (4) "Net market value" of grain means the gross sales  
3 price of that grain adjusted by application of the grain  
4 dealer's discount schedule in effect at the time of sale  
5 and after deduction of any statutory commodity check-offs.  
6 Other charges such as storage charges, drying charges, and  
7 transportation costs shall not be deducted in arriving at  
8 the net market value of grain sold to a grain dealer. The  
9 net market value of grain shall be determined from the  
10 settlement sheet or other applicable written evidence of  
11 the sale of grain to the grain dealer.

12 (5) All assessments under this subsection (f) shall  
13 commence on the first day of the calendar quarter  
14 immediately following the assessment determination date  
15 and shall continue for a period of 12 consecutive calendar  
16 months. The assessments shall be collected by licensees at  
17 the time of settlement during the assessment period, and  
18 shall be remitted by licensees to the Department by the  
19 twentieth day of each calendar quarter, commencing with the  
20 second calendar quarter following the assessment  
21 determination date. The Department shall give written  
22 notice to all licensees of when an assessment under this  
23 subsection (f) is to begin and end, and the appropriate  
24 level of the assessment, by mail within 20 days after the  
25 assessment determination date.

26 (6) Assessments under this subsection (f) apply only to  
27 grain for which settlement is made during the assessment  
28 period, without regard to the date the grain was sold to  
29 the licensee.

30 (7) The collection and remittance of assessments from  
31 first sellers of grain under this subsection (f) is the  
32 sole responsibility of the licensees to whom the grain is  
33 sold. Sellers of grain shall not be penalized by reason of  
34 any licensee's failure to comply with this subsection (f).



1 Failure of a licensee to collect any assessment shall not  
2 relieve the grain seller from paying the assessment, and  
3 the grain seller shall promptly remit the uncollected  
4 assessments upon demand by the licensee, which may be  
5 accounted for in settlement of grain subsequently sold to  
6 that licensee. Licensees who do not collect assessments as  
7 required by this subsection (f), or who do not remit those  
8 assessments to the Department within the time deadlines  
9 required by this subsection (f), shall remit the amount of  
10 the assessments that should have been remitted to the  
11 Department and in addition shall be subject to a monetary  
12 penalty in an amount not to exceed \$1,000.

13 (8) Notwithstanding the other provisions of this  
14 subsection (f), no assessment shall be levied against grain  
15 sold by the Department as a result of a failure.

16 (g) Lender assessments.

17 (1) Subject to the provisions of this subsection (g),  
18 if on the first working day of a calendar quarter when a  
19 person is not already subject to an assessment under this  
20 subsection (g) the equity in the Fund is less than  
21 \$6,000,000, each person holding warehouse receipts issued  
22 from an Illinois location on grain owned or stored by a  
23 licensee to secure a loan to that licensee shall be  
24 assessed a quarterly lender assessment for each of 4  
25 consecutive calendar quarters beginning with the calendar  
26 quarter next succeeding the assessment determination date.

27 (2) Each quarterly lender assessment shall be at the  
28 rate of \$0.00000055 per bushel per day for bushels covered  
29 by a warehouse receipt held as security for the loan during  
30 that calendar quarter times the applicable commodity price  
31 times the lender assessment multiplier, if any, determined  
32 by the Department in accordance with paragraph (3) of this  
33 subsection (g). With respect to each calendar quarter  
34 within the assessment period, the "applicable commodity

1 price" shall be the closing price paid by the licensee on  
2 the last working day of that calendar quarter for the base  
3 commodity for which the warehouse receipt was issued.

4 (3) With respect to the second assessment period  
5 beginning after June 30, 2003, the Department shall  
6 determine and apply a lender assessment multiplier equal to  
7 250,000 divided by the aggregate dollar amount of lender  
8 assessments imposed under this subsection (g) under the  
9 first assessment period beginning after June 30, 2003. With  
10 respect to the third assessment period beginning after June  
11 30, 2003, the Department shall determine and apply a lender  
12 assessment multiplier equal to 250,000 divided by the  
13 average of aggregate dollar amounts of lender assessments  
14 imposed under this subsection (g) under the first 2  
15 assessment periods beginning after June 30, 2003. With  
16 respect to assessment periods thereafter, the Department  
17 shall determine and apply a lender assessment multiplier  
18 equal to 250,000 divided by the average of the 3 most  
19 recent aggregate dollar amounts of lender assessments  
20 imposed under this subsection (g).

21 (4) The next assessment determination date can be no  
22 sooner than the first working day of the fourth full  
23 calendar month following the end of the assessment period.

24 (5) The Department shall give written notice by mail  
25 within 20 days after the assessment determination date to  
26 all licensees of when assessments under this subsection (g)  
27 are to begin and end, the rate of the lender assessment,  
28 and the lender assessment multiplier, if any, that shall  
29 apply.

30 (6) It is the responsibility of a licensee to inform  
31 each of its lenders and other persons by virtue of whose  
32 relationship with the licensee this subsection (g) will  
33 apply as to the onset of an assessment for which that  
34 person might be liable and the applicable lender assessment

1 multiplier, if any. The notification must be in writing  
2 and, as to persons subject to assessment under this  
3 subsection (g) on the assessment determination date, must  
4 be sent no later than 20 days after the licensee receives  
5 notice of an assessment from the Department. As to persons  
6 not subject to assessment under this subsection (g) as of  
7 the assessment determination date, the notice shall be sent  
8 or given no later than the closing of any transaction  
9 subsequent to the assessment determination date involving  
10 the licensee and by virtue of which transaction the person  
11 is made subject to assessment under this subsection (g).

12 (7) Within 20 days after the end of each calendar  
13 quarter within the assessment period, each licensee shall  
14 send to each lender with which it has been associated  
15 during that calendar quarter and to the Department a  
16 written notice of quarterly assessment together with the  
17 information needed to determine the amount of the quarterly  
18 assessment owing with respect to loans from that lender.  
19 This information shall include the number of bushels  
20 covered by each warehouse receipt, organized by commodity,  
21 held as security for the loan owing to that lender, the  
22 number of days each of those warehouse receipts was  
23 outstanding during that calendar quarter, the applicable  
24 commodity price, the applicable lender assessment  
25 multiplier, the amount of the resulting quarterly lender  
26 assessment, and the due date of the quarterly assessment.

27 (8) Each quarterly assessment shall be due and paid by  
28 the lender or its designee to the Department within 20 days  
29 after the end of the calendar quarter to which the  
30 assessment pertains.

31 (9) Lenders shall not be penalized by reason of any  
32 licensee's failure to comply with this subsection (g).  
33 Failure of a licensee to comply with this subsection (g)  
34 shall not relieve the lender from paying the assessment,

1 and the lender shall promptly remit the uncollected  
2 assessments by the due date as set forth in the notice from  
3 the licensee.

4 (10) This subsection (g) applies to any person who  
5 holds a grain warehouse receipt issued by a licensee from  
6 an Illinois location pursuant to any transaction,  
7 regardless of its form, that creates a security interest in  
8 the grain including, without limitation, the advancing of  
9 money or other value to or for the benefit of a licensee  
10 upon the licensee's issuance or negotiation of a grain  
11 warehouse receipt and pursuant to or in connection with an  
12 agreement between the licensee and a counter-party for the  
13 repurchase of the grain by the licensee or designee of the  
14 licensee. For purposes of this subsection (g), any such  
15 transaction shall be treated as one in which grain is held  
16 as security for a loan outstanding to a licensee within the  
17 meaning of this subsection (g), and such a person shall be  
18 treated as a lender.

19 (11) The Department shall immediately deposit all paid  
20 assessments under this subsection (g) into the Fund.

21 (h) Equity in the Fund shall exclude moneys owing to the  
22 State or the Reserve Fund as a result of transfers to the Fund  
23 from the General Revenue Fund or the Reserve Fund under  
24 subsection (h) of Section 25-20. Notwithstanding the  
25 foregoing, for purposes of calculating equity in the Fund  
26 during the grain seller initial assessment period and assessing  
27 grain sellers, it shall be presumed that the State is owed,  
28 prior to repayment, only \$2,000,000 and the Reserve Fund  
29 contains a balance of \$2,000,000. Under no circumstances,  
30 however, shall there be more than 2 consecutive grain seller  
31 assessments during the initial assessment period, unless there  
32 is a failure that reduces the equity in the Fund to below  
33 \$3,000,000.

34 (i) Notwithstanding the provisions of subsections (d)(4),

1 (f) (3), and (g) (4) of this Section or any other law to the  
2 contrary, until the equity in the Fund reaches a level of  
3 \$6,000,000 for the first time, assessment periods shall  
4 continue without interruption, subject to the termination of  
5 assessments on grain sellers provided in subsections (f) (2) and  
6 (h) of this Section.

7 (Source: P.A. 93-225, eff. 7-21-03.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.".