

1 AMENDMENT TO SENATE BILL 1573

2 AMENDMENT NO. _____. Amend Senate Bill 1573, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Grain Code is amended by changing
6 Sections 1-10, 1-15, 1-25, 5-10, 5-15, 5-20, 5-25, 5-30,
7 10-10, 10-15, 10-20, 15-15, 15-20, 15-35, 15-45, 20-15,
8 20-20, 25-5, 25-10, 25-20, 30-5, and 30-10 and adding Article
9 35 as follows:

10 (240 ILCS 40/1-10)

11 Sec. 1-10. Definitions. As used in this Act:

12 "Board" means the governing body of the Illinois Grain
13 Insurance Corporation.

14 "Certificate" means a document, other than the license,
15 issued by the Department that certifies that a grain dealer's
16 license has been issued and is in effect.

17 "Claimant" means:

18 (a) a person, including, without limitation, a lender:

19 (1) who possesses warehouse receipts issued from an
20 Illinois location covering grain owned or stored by a
21 failed warehouseman; or

22 (2) who has other written evidence of a storage

1 obligation of a failed warehouseman issued from an
2 Illinois location in favor of the holder, including, but
3 not limited to, scale tickets, settlement sheets, and
4 ledger cards; or

5 (3) who has loaned money to a warehouseman and was
6 to receive a warehouse receipt issued from an Illinois
7 location as security for that loan, who surrendered
8 warehouse receipts as part of a grain sale at an Illinois
9 location, or who delivered grain out of storage with the
10 warehouseman as part of a grain sale at an Illinois
11 location; and

12 (i) the grain dealer or warehouseman failed
13 within 21 days after the loan of money, the
14 surrender of warehouse receipts, or the delivery of
15 grain, as the case may be, and no warehouse receipt
16 was issued or payment in full was not made on the
17 grain sale, as the case may be; or

18 (ii) written notice was given by the person to
19 the Department within 21 days after the loan of
20 money, the surrender of warehouse receipts, or the
21 delivery of grain, as the case may be, stating that
22 no warehouse receipt was issued or payment in full
23 made on the grain sale, as the case may be; or

24 (b) a producer not included in item (a)(3) in the
25 definition of "Claimant" who possesses evidence of the sale
26 at an Illinois location of grain delivered to a failed grain
27 dealer and who was not paid in full.

28 "Class I warehouseman" means a warehouseman who is
29 authorized to issue negotiable and non-negotiable warehouse
30 receipts.

31 "Class II warehouseman" means a warehouseman who is
32 authorized to issue only non-negotiable warehouse receipts.

33 "Code" means the Grain Code.

34 "Collateral" means:

- 1 (a) irrevocable letters of credit;
- 2 (b) certificates of deposit;
- 3 (c) cash or a cash equivalent; or
- 4 (d) any other property acceptable to the Department to
- 5 the extent there exists equity in that property. For the
- 6 purposes of this item (d), "equity" is the amount by which
- 7 the fair market value of the property exceeds the amount owed
- 8 to a creditor who has a valid, prior, perfected security
- 9 interest in or other lien on the property.

10 "Corporation" means the Illinois Grain Insurance
11 Corporation.

12 "Daily position record" means a grain inventory
13 accountability record maintained on a daily basis that
14 includes an accurate reflection of changes in grain
15 inventory, storage obligations, company-owned inventory by
16 commodity, and other information that is required by the
17 Department.

18 "Daily grain transaction report" means a record of the
19 daily transactions of a grain dealer showing the amount of
20 all grain received and shipped during each day and the amount
21 on hand at the end of each day.

22 "Date of delivery of grain" means:

23 (a) the date grain is delivered to a grain dealer for
24 the purpose of sale;

25 (b) the date grain is delivered to a warehouseman for
26 the purpose of storage; or

27 (c) in reference to grain in storage with a
28 warehouseman, the date a warehouse receipt representing
29 stored grain is delivered to the issuer of the warehouse
30 receipt for the purpose of selling the stored grain or, if no
31 warehouse receipt was issued:

32 (1) the date the purchase price for stored grain is
33 established; or

34 (2) if sold by price later contract, the date of

1 the price later contract.

2 "Department" means the Illinois Department of
3 Agriculture.

4 "Depositor" means a person who has evidence of a storage
5 obligation from a warehouseman.

6 "Director", unless otherwise provided, means the Illinois
7 Director of Agriculture, or the Director's designee.

8 "Electronic document" means a document that is generated,
9 sent, received, or stored by electrical, digital, magnetic,
10 optional electromagnetic, or any other similar means,
11 including electronic data interchange, electronic mail,
12 telegram, telex, or telecopy.

13 "Electronic warehouse receipt" means a warehouse receipt
14 that is issued or transmitted in the form of an electronic
15 document.

16 "Emergency storage" means space measured in bushels and
17 used for a period of time not to exceed 3 months for storage
18 of grain as a consequence of an emergency situation.

19 "Equity assets" means:

20 (a) The equity in any property of the licensee or failed
21 licensee, other than grain assets. For purposes of this item
22 (a):

23 (1) "equity" is the amount by which the fair market
24 value of the property exceeds the amount owed to a
25 creditor who has a valid security interest in or other
26 lien on the property that was perfected before the date
27 of failure of the licensee;

28 (2) a creditor is not deemed to have a valid
29 security interest or other lien on property if (i) the
30 property can be directly traced as being from the sale of
31 grain by the licensee or failed licensee; (ii) the
32 security interest was taken as additional collateral on
33 account of an antecedent debt owed to the creditor; and
34 (iii) the security interest or other lien was perfected

1 (A) on or within 90 days before the date of failure of
2 the licensee or (B) when the creditor is a related
3 person, within one year of the date of failure of the
4 licensee.

5 "Failure" means, in reference to a licensee:

6 (a) a formal declaration of insolvency;

7 (b) a revocation of a license;

8 (c) a failure to apply for license renewal, leaving
9 indebtedness to claimants;

10 (d) a denial of license renewal, leaving indebtedness to
11 claimants; or

12 (e) a voluntary surrender of a license, leaving
13 indebtedness to claimants.

14 "Federal warehouseman" means a warehouseman licensed by
15 the United States government under the United States
16 Warehouse Act (7 U.S.C. 241 et seq.).

17 "Fund" means the Illinois Grain Insurance Fund.

18 "Grain" means corn, soybeans, wheat, oats, rye, barley,
19 grain sorghum, canola, buckwheat, flaxseed, edible soybeans,
20 and other like agricultural commodities designated by rule.

21 "Grain assets" means:

22 (a) all grain owned and all grain stored by a licensee
23 or failed licensee, wherever located;

24 (b) redeposited grain of a licensee or failed licensee;

25 (c) identifiable proceeds, including, but not limited
26 to, insurance proceeds, received by or due to a licensee or
27 failed licensee resulting from the sale, exchange,
28 destruction, loss, or theft of grain, or other disposition of
29 grain by the licensee or failed licensee; or

30 (d) assets in hedging or speculative margin accounts
31 held by commodity or security exchanges on behalf of a
32 licensee or failed licensee and any moneys due or to become
33 due to a licensee or failed licensee, less any secured
34 financing directly associated with those assets or moneys,

1 from any transactions on those exchanges.

2 For purposes of this Act, storage charges, drying
3 charges, price later contract service charges, and other
4 grain service charges received by or due to a licensee or
5 failed licensee shall not be deemed to be grain assets, nor
6 shall such charges be deemed to be proceeds from the sale or
7 other disposition of grain by a licensee or a failed
8 licensee, or to have been directly or indirectly traceable
9 from, to have resulted from, or to have been derived in whole
10 or in part from, or otherwise related to, the sale or other
11 disposition of grain by the licensee or failed licensee.

12 "Grain dealer" means a person who is licensed by the
13 Department to engage in the business of buying grain from
14 producers.

15 "Grain Indemnity Trust Account" means a trust account
16 established by the Director under Section 205-410 of the
17 Department of Agriculture Law (20 ILCS 205/205-410) that is
18 used for the receipt and disbursement of moneys paid from the
19 Fund and proceeds from the liquidation of and collection upon
20 grain assets, equity assets, collateral, or guarantees of or
21 relating to failed licensees. The Grain Indemnity Trust
22 Account shall be used to pay valid claims, authorized refunds
23 from the Fund, and expenses incurred in preserving,
24 liquidating, and collecting upon grain assets, equity assets,
25 collateral, and guarantees relating to failed licensees.

26 "Guarantor" means a person who assumes all or part of the
27 obligations of a licensee to claimants.

28 "Guarantee" means a document executed by a guarantor by
29 which the guarantor assumes all or part of the obligations of
30 a licensee to claimants.

31 "Incidental grain dealer" means a grain dealer who
32 purchases grain only in connection with a feed milling
33 operation and whose total purchases of grain from producers
34 during the grain dealer's fiscal year do not exceed \$100,000.

1 "Licensed storage capacity" means the maximum grain
2 storage capacity measured in bushels approved by the
3 applicable licensing agency for use by a warehouseman.

4 "Licensee" means a grain dealer or warehouseman who is
5 licensed by the Department and a federal warehouseman that is
6 a participant in the Fund, under subsection (c) of Section
7 30-10.

8 "Official grain standards" means the official grade
9 designations as adopted by the United States Department of
10 Agriculture under the United States Grain Standards Act and
11 regulations adopted under that Act (7 U.S.C. 71 et seq. and 7
12 CFR 810.201 et seq.).

13 "Permanent storage capacity" means the capacity of
14 permanent structures available for storage of grain on a
15 regular and continuous basis and measured in bushels.

16 "Person" means any individual or entity, including, but
17 not limited to, a sole proprietorship, a partnership, a
18 corporation, a cooperative, an association, a limited
19 liability company, an estate, ~~or~~ a trust, or a governmental
20 agency.

21 "Price later contract" means a written contract for the
22 sale of grain whereby any part of the purchase price may be
23 established by the seller after delivery of the grain to a
24 grain dealer according to a pricing formula contained in the
25 contract. Title to the grain passes to the grain dealer at
26 the time of delivery. The precise form and the general terms
27 and conditions of the contract shall be established by rule.

28 "Producer" means the owner, tenant, or operator of land
29 who has an interest in and receives all or part of the
30 proceeds from the sale of the grain produced on the land.

31 "Producer protection holding corporation" means a holding
32 corporation to receive, hold title to, and liquidate assets
33 of or relating to a failed licensee, including assets in
34 reference to collateral or guarantees relating to a failed

1 licensee.

2 "Regulatory Fund" means the fund created pursuant to
3 Article 35.

4 "Related persons" means affiliates of a licensee, key
5 persons of a licensee, owners of a licensee, and persons who
6 have control over a licensee. For the purposes of this
7 definition:

8 (a) "Affiliate" means a person who has direct or
9 indirect control of a licensee, is controlled by a
10 licensee, or is under common control with a licensee.

11 (b) "Key person" means an officer, a director, a
12 trustee, a partner, a proprietor, a manager, a managing
13 agent, or the spouse of a licensee. An officer or a
14 director of an entity organized or operating as a
15 cooperative, however, shall not be considered to be a
16 "key person".

17 (c) "Owner" means the holder of: over 10% of the
18 total combined voting power of a corporation or over 10%
19 of the total value of shares of all classes of stock of a
20 corporation; over a 10% interest in a partnership; over
21 10% of the value of a trust computed actuarially; or over
22 10% of the legal or beneficial interest in any other
23 business, association, endeavor, or entity that is a
24 licensee. For purposes of computing these percentages, a
25 holder is deemed to own stock or other interests in a
26 business entity whether the ownership is direct or
27 indirect.

28 (d) "Control" means the power to exercise authority
29 over or direct the management or policies of a business
30 entity.

31 (e) "Indirect" means an interest in a business held
32 by the holder not through the holder's actual holdings in
33 the business, but through the holder's holdings in other
34 businesses.

1 (f) Notwithstanding any other provision of this
2 Act, the term "related person" does not include a lender,
3 secured party, or other lien holder solely by reason of
4 the existence of the loan, security interest, or lien, or
5 solely by reason of the lender, secured party, or other
6 lien holder having or exercising any right or remedy
7 provided by law or by agreement with a licensee or a
8 failed licensee.

9 "Successor agreement" means an agreement by which a
10 licensee succeeds to the grain obligations of a former
11 licensee.

12 "Temporary storage space" means space measured in bushels
13 and used for 6 months or less for storage of grain on a
14 temporary basis due to a need for additional storage in
15 excess of permanent storage capacity.

16 "Trust account" means the Grain Indemnity Trust Account.

17 "Valid claim" means a claim, submitted by a claimant,
18 whose amount and category have been determined by the
19 Department, to the extent that determination is not subject
20 to further administrative review or appeal.

21 "Warehouse" means a building, structure, or enclosure in
22 which grain is stored for the public for compensation,
23 whether grain of different owners is commingled or whether
24 identity of different lots of grain is preserved.

25 "Warehouse receipt" means a receipt for the storage of
26 grain issued by a warehouseman.

27 "Warehouseman" means a person who is licensed:

28 (a) by the Department to engage in the business of
29 storing grain for compensation; or

30 (b) under the United States Warehouse Act who
31 participates in the Fund under subsection (c) of Section
32 30-10.

33 (Source: P.A. 91-213, eff. 7-20-99; 91-239, eff. 1-1-00;
34 92-16, eff. 6-28-01.)

1 (240 ILCS 40/1-15)

2 Sec. 1-15. Powers and duties of Director. The Director
3 has all powers necessary and proper to fully and effectively
4 execute the provisions of this Code and has the general duty
5 to implement this Code. The Director's powers and duties
6 include, but are not limited to, the following:

7 (1) The Director may, upon application, issue or refuse
8 to issue licenses under this Code, and the Director may
9 extend, renew, reinstate, suspend, revoke, or accept
10 voluntary surrender of licenses under this Code.

11 (2) The Director shall examine and inspect each licensee
12 at least once each calendar year. The Director may inspect
13 the premises used by a licensee at any time. The books,
14 accounts, records, and papers of a licensee are at all times
15 during business hours subject to inspection by the Director.
16 Each licensee may also be required to make reports of its
17 activities, obligations, and transactions that are deemed
18 necessary by the Director to determine whether the interests
19 of producers and the holders of warehouse receipts are
20 adequately protected and safeguarded. The Director may take
21 action or issue orders that in the opinion of the Director
22 are necessary to prevent fraud upon or discrimination against
23 producers or depositors by a licensee.

24 (3) The Director may, upon his or her initiative or upon
25 the written verified complaint of any person setting forth
26 facts that if proved would constitute grounds for a refusal
27 to issue or renew a license or for a suspension or revocation
28 of a license, investigate the actions of any person applying
29 for, holding, or claiming to hold a license or any related
30 party of that person.

31 (4) The Director (but not the Director's designee) may
32 issue subpoenas and bring before the Department any person
33 and take testimony either at an administrative hearing or by
34 deposition with witness fees and mileage fees and in the same

1 manner as prescribed in the Code of Civil Procedure. The
2 Director or the Director's designee may administer oaths to
3 witnesses at any proceeding that the Department is authorized
4 by law to conduct. The Director (but not the Director's
5 designee) may issue subpoenas duces tecum to command the
6 production of records relating to a licensee, guarantor,
7 related business, related person, or related party. Subpoenas
8 are subject to the rules of the Department.

9 (5) Notwithstanding other judicial remedies, the
10 Director may file a complaint and apply for a temporary
11 restraining order or preliminary or permanent injunction
12 restraining or enjoining any person from violating or
13 continuing to violate this Code or its rules.

14 (6) The Director shall act as Trustee for the Trust
15 Account, act as Trustee over all collateral, guarantees,
16 grain assets, and equity assets held by the Department for
17 the benefit of claimants, and exercise certain powers and
18 perform related duties under Section 20-5 of this Code and
19 Section 205-410 of the Department of Agriculture Law (20 ILCS
20 205/205-410), except that the provisions of the Trust and
21 Trustees Act do not apply to the Trust Account or any other
22 trust created under this Code.

23 (7) The Director shall personally serve as president of
24 the Corporation.

25 (8) The Director shall collect and deposit all monetary
26 penalties, printer registration fees, funds, and assessments
27 authorized under this Code into the Fund.

28 (9) The Director may initiate any action necessary to
29 pay refunds from the Fund. The Director may initiate refunds
30 or errors of assessments that do not exceed \$2,000 per
31 license or grain seller without authorization by the Board.

32 (10) The Director shall maintain a holding corporation
33 to receive, hold title to, and liquidate assets of or
34 relating to a failed licensee, including assets in reference

1 to collateral or guarantees, and deposit the proceeds into
2 the Fund.

3 (11) The Director may initiate, participate in, or
4 withdraw from any proceedings to liquidate and collect upon
5 grain assets, equity assets, collateral, and guarantees
6 relating to a failed licensee, including, but not limited to,
7 all powers needed to carry out the provisions of Section
8 20-15.

9 (12) The Director, as Trustee or otherwise, may take any
10 action that may be reasonable or appropriate to enforce this
11 Code and its rules.

12 (Source: P.A. 91-213, eff. 7-20-99; 91-239, eff. 1-1-00;
13 92-16, eff. 6-28-01.)

14 (240 ILCS 40/1-25)

15 Sec. 1-25. Rules. The Department may promulgate rules
16 that are necessary for the implementation and administration
17 of this Code.

18 The Department shall adopt rules governing electronic
19 systems under which electronic warehouse receipts may be
20 issued and transferred; provided, however, that licensees
21 shall not be required to issue or use electronic warehouse
22 receipts. Such rules shall be adopted after the United
23 States Department of Agriculture adopts regulations
24 concerning an electronic receipt transfer system pursuant to
25 7 U.S.C. 242, 250.

26 (Source: P.A. 89-287, eff. 1-1-96.)

27 (240 ILCS 40/5-10)

28 Sec. 5-10. Financial statement and fee requirements to
29 obtain or amend a license.

30 (a) Applications for a new license to operate as a Class
31 I warehouseman or grain dealer shall be accompanied by each
32 of the following:

1 (1) A financial statement made within 90 days after
2 the applicant's fiscal year end and prepared in
3 conformity with generally accepted accounting principles
4 following an examination conducted in accordance with
5 generally accepted auditing standards that has attached
6 the unqualified opinion, or other opinion acceptable to
7 the Department, of an independent certified public
8 accountant licensed under Illinois law or an entity
9 permitted to engage in the practice of public accounting
10 under item (b)(3) of Section 14 of the Illinois Public
11 Accounting Act.

12 (A) If the applicant has been engaged in
13 business prior to the application, the financial
14 statement shall set forth the financial position and
15 results in operations for the most recent fiscal
16 year of the applicant. The financial statement
17 shall consist of a balance sheet, statement of
18 income, statement of retained earnings, statement of
19 cash flows, notes to financial statements, and other
20 information as required by the Department.

21 (B) If the applicant has not been engaged in
22 business prior to the application, the financial
23 statement shall consist of a balance sheet, notes to
24 financial statements, and other information as
25 required by the Department.

26 (2) An application fee of \$300 ~~\$100~~ for each
27 license, of which \$100 shall be deposited into the
28 General Revenue Fund and the balance deposited into the
29 Regulatory Fund.

30 (3) A fee for each required certificate. The
31 amount of the fee for each certificate shall be
32 established by rule and deposited into the Regulatory
33 Fund.

34 (b) Applications for a new license to operate as a Class

1 II warehouseman or incidental grain dealer shall be
2 accompanied by:

3 (1) A financial statement prepared in accordance
4 with the requirements of item (a)(1) of Section 5-10 or,
5 instead, a financial statement made within 90 days of the
6 date of the application prepared or certified by an
7 independent accountant and verified under oath by the
8 applicant. The financial statement shall set forth the
9 balance sheet and other information with respect to the
10 financial resources of the applicant that the Department
11 may require. If the applicant has been engaged in
12 business prior to the application, the financial
13 statement shall also set forth a statement of income of
14 the applicant.

15 (2) An application fee of \$150 ~~\$100~~ for each
16 license, of which \$100 shall be deposited into the
17 General Revenue Fund and the balance deposited into the
18 Regulatory Fund.

19 (3) A fee for each required certificate. The
20 amount of the fee for each certificate shall be
21 established by rule and deposited into the Regulatory
22 Fund.

23 (c) Applications to amend a warehouseman's licensed
24 storage capacity, including applications in reference to
25 temporary storage and emergency storage or to otherwise amend
26 a license, shall be accompanied by a filing fee of \$100, of
27 which \$50 shall be deposited into the General Fund and the
28 balance deposited into the Regulatory Fund \$50.

29 (Source: P.A. 89-287, eff. 1-1-96.)

30 (240 ILCS 40/5-15)

31 Sec. 5-15. Renewal of license.

32 (a) The application for renewal of a license shall be
33 filed with the Department annually within 90 days after the

1 licensee's fiscal year end. The Department may, upon request
2 of the licensee, payment of an extension fee of \$250 \$50, of
3 which \$50 shall be deposited into the General Revenue Fund
4 and the balance deposited into the Regulatory Fund, and
5 delivery to the Department of a preliminary financial
6 statement reviewed by an independent certified public
7 accountant licensed under Illinois law or an entity permitted
8 to engage in the practice of public accounting under item
9 (b)(3) of Section 14 of the Illinois Public Accounting Act
10 or, in the case of a Class II warehouseman or incidental
11 grain dealer, a preliminary financial statement reviewed by
12 an independent accountant that meets the financial
13 requirements of subsection (b) of Section 5-25, extend, for
14 up to but not exceeding 30 days, the period of time during
15 which the application for renewal of a license may be filed.
16 The Department, however, may provide by rule for reducing the
17 filing period for an application for renewal of a license to
18 no less than 60 days after the licensee's fiscal year end if
19 the Department determines that an applicant has financial
20 deficiencies, or there are other factors, that would create a
21 substantial risk of loss to potential claimants. The
22 Department must give written notice of the reduced filing
23 period to the licensee at least 60 days before the earlier
24 deadline imposed by the Department to file the application
25 for renewal of a license. Notice is deemed given when mailed
26 by certified mail, return receipt requested, properly
27 addressed and with sufficient postage attached.

28 (b) The application for renewal shall be accompanied by
29 the financial statement required by Section 5-20.

30 (c) Failure to meet all of the conditions to renew the
31 license may result in a denial of renewal of the license. The
32 licensee may request an administrative hearing to dispute the
33 denial of renewal, after which the Director shall enter an
34 order either renewing or refusing to renew the license.

1 (Source: P.A. 89-287, eff. 1-1-96.)

2 (240 ILCS 40/5-20)

3 Sec. 5-20. Financial statement and fee requirements for
4 the renewal of a license.

5 (a) Applications for a renewal of a license to operate
6 as a Class I warehouseman or grain dealer shall be
7 accompanied by each of the following:

8 (1) A financial statement made within 90 days after
9 the applicant's fiscal year end and prepared in
10 conformity with generally accepted accounting principles
11 following an examination conducted in accordance with
12 generally accepted auditing standards that has attached
13 the unqualified opinion, or other opinion acceptable to
14 the Department, of an independent certified public
15 accountant licensed under Illinois law or an entity
16 permitted to engage in the practice of public accounting
17 under item (b)(3) of Section 14 of the Illinois Public
18 Accounting Act. The financial statement shall consist of
19 a balance sheet, statement of income, statement of
20 retained earnings, statement of cash flows, notes to
21 financial statements, and other information as required
22 by the Department. The financial statement shall set
23 forth the financial position and results in operations
24 for the most recent fiscal year of the applicant.

25 (2) A fee of \$300 ~~\$100~~ for each license, of which
26 \$100 shall be deposited into the General Revenue Fund and
27 the balance deposited into the Regulatory Fund.

28 (3) A fee for each required certificate. The
29 amount of the fee for each certificate shall be
30 established by rule and deposited into the Regulatory
31 Fund.

32 (b) Applications for a renewal of a license to operate
33 as a Class II warehouseman or incidental grain dealer shall

1 be accompanied by each of the following:

2 (1) A financial statement prepared in accordance
3 with the requirements of item (a)(1) of Section 5-10 or,
4 instead, a financial statement made within 90 days after
5 the date of the application prepared or certified by an
6 independent accountant and verified under oath by the
7 applicant. The financial statement shall set forth the
8 balance sheet and statement of income of the applicant
9 and other information with respect to the financial
10 resources of the applicant that the Department may
11 require.

12 (2) A fee of \$150 ~~\$100~~ for each license, of which
13 \$100 shall be deposited into the General Revenue Fund and
14 the balance deposited into the Regulatory Fund.

15 (3) A fee for each required certificate. The
16 amount of the fee for each certificate shall be
17 established by rule and deposited into the Regulatory
18 Fund.

19 (Source: P.A. 89-287, eff. 1-1-96.)

20 (240 ILCS 40/5-25)

21 Sec. 5-25. Licensing standards and requirements. The
22 Department shall issue, amend, or renew a license if the
23 Department is satisfied that the applicant or licensee meets
24 the standards and requirements of this Section. The
25 standards and requirements of subsections (a) and (b) of this
26 Section must be observed and complied with at all times
27 during the term of the license.

28 (a) General requirements.

29 (1) The applicant or licensee must have a good
30 business reputation, have not been involved in improper
31 manipulation of books and records or other improper
32 business practices, and have the qualifications and
33 background essential for the conduct of the business of a

1 licensee. The Department must be satisfied as to the
2 business reputation, background, and qualifications of
3 the management and principal officers of the applicant or
4 licensee. The Department may obtain criminal histories
5 of management and principal officers of the applicant or
6 licensee.

7 (2) The applicant or licensee must maintain a
8 permanent business location in the State of Illinois. At
9 each location where the licensee is transacting business,
10 that place of business shall remain open from at least
11 one-half hour before the daily opening to at least
12 one-half hour after the daily closing of the Chicago
13 Board of Trade, unless otherwise approved by the
14 Department.

15 (3) The applicant or licensee must have insurance
16 on all grain in its possession or custody as required in
17 this Code.

18 (4) The applicant or licensee shall at all times
19 keep sufficiently detailed books and records, including
20 but not limited to Grain Seller Assessments, to reflect
21 compliance with all requirements of this Code.

22 (5) The applicant or licensee and each of its
23 officers, directors, partners, and managers must not have
24 been found guilty of a criminal violation of this Code,
25 any of its predecessor statutes, or any similar or
26 related statute or law of the United States or any other
27 state or jurisdiction within 10 3 years of the date of
28 application for the issuance or renewal of a license.

29 (6) The applicant or licensee and each of its
30 officers, directors, managers, and partners, that at any
31 one time have been a licensee under this Code or any of
32 its predecessor statutes, or licensed under any similar
33 or related statute or law of the United States or any
34 other state or jurisdiction, must not have had its

1 license terminated or revoked by the Department, by the
2 United States, or by any other state or jurisdiction,
3 within 2 years of the date of application for the
4 issuance or renewal of a license leaving unsatisfied
5 indebtedness to claimants.

6 (7) The applicant or licensee and each of its
7 officers, directors, managers, and partners must not have
8 been an officer, director, manager, or partner of a
9 former licensee under this Code or any of its predecessor
10 statutes, or of a business formerly licensed under any
11 similar or related statute or law of the United States or
12 any other state or jurisdiction, that had its license
13 terminated or revoked by the Department, by the United
14 States, or by any other state or jurisdiction, within 2
15 years of the date of application for the issuance or
16 renewal of a license, leaving unsatisfied indebtedness to
17 claimants, unless the applicant or licensee makes a
18 sufficient showing to the Department that the applicable
19 person or related party was not materially and
20 substantially involved as a principal in the business
21 that had its license terminated or revoked. An interim
22 or temporary manager that is employed by a licensee to
23 reorganize the licensee or to manage the licensee until
24 its business is sold, transferred, or liquidated is not
25 in violation of this subsection (7) solely because of
26 that employment as an interim or temporary manager.

27 (b) Financial requirements.

28 (1) The applicant or licensee's financial statement
29 must show a current ratio of the total adjusted current
30 assets to the total adjusted current liabilities of at
31 least one to one.

32 (A) Adjusted current assets shall be
33 calculated by deducting from the stated current
34 assets shown on the balance sheet submitted by the

1 applicant or licensee any current asset, as
2 calculated in item (B) of this subdivision (1),
3 resulting from notes receivable from related
4 persons, accounts receivable from related persons,
5 stock subscriptions receivable, and any other
6 related person receivables.

7 (B) A disallowed current asset shall be netted
8 against any related liability and the net result, if
9 an asset, shall be subtracted from the current
10 assets.

11 (2) The applicant or licensee's financial statement
12 and balance sheet must show an adjusted debt to adjusted
13 equity ratio of not more than 3 to one.

14 (A) Adjusted debt shall be calculated by
15 totaling current and long-term liabilities and
16 reducing the total liabilities, up to the amount of
17 current liabilities, by the liquid assets appearing
18 in the current asset section of the balance sheet
19 submitted by the applicant or licensee. For the
20 purposes of this Section, liquid assets include but
21 are not limited to cash, depository accounts, direct
22 obligations of the U.S. Government, marketable
23 securities, grain assets, balances in margin
24 accounts, and tax refunds.

25 (B) Adjusted equity shall be calculated by
26 deducting from the stated net worth shown on the
27 balance sheet submitted by the applicant or licensee
28 any asset, as calculated in item (C) of this
29 subdivision (2), resulting from notes receivable
30 from related persons, accounts receivable from
31 related persons, stock subscriptions receivable, or
32 any other related person receivables.

33 (C) A disallowed asset shall be netted against
34 any related liability and the net result, if an

1 asset, shall be subtracted from the stated net
2 worth, or if a liability it shall remain a
3 liability.

4 (3) An applicant or licensee must have an adjusted
5 equity of at least \$50,000 as determined by the method
6 specified in item (b)(2) of this Section.

7 (4) For the purposes of this Section, notes
8 receivable from related persons, accounts receivable from
9 related persons, and any other related person receivables
10 are not a disallowed asset if the related person is also
11 a licensee and meets all of the financial requirements of
12 this Code.

13 (5) An applicant for a new license shall not be
14 permitted to collateralize the requirements of items
15 (b)(1) and (b)(3) of this Section in order to satisfy the
16 requirements for a new license.

17 (Source: P.A. 89-287, eff. 1-1-96.)

18 (240 ILCS 40/5-30)

19 Sec. 5-30. Grain Insurance Fund assessments. The
20 Illinois Grain Insurance Fund is established as a
21 continuation of the fund created under the Illinois Grain
22 Insurance Act, now repealed. Licensees and applicants for a
23 new license shall pay assessments as set forth in this
24 Section.

25 (a) Subject to subsection (e) of this Section, a
26 licensee that is newly licensed after the effective date of
27 this Code shall pay an assessment into the Fund for 3
28 consecutive years. Except as provided in item (6) of
29 subsection (b) of this Section, the first assessment shall be
30 paid at the time of or before the issuance of a new license,
31 the second assessment shall be paid on or before the first
32 anniversary date of the issuance of the new license, and the
33 third assessment shall be paid on or before the second

1 anniversary date of the issuance of the new license. For a
2 grain dealer, the initial payment of each of the 3
3 assessments shall be based upon the total estimated value of
4 grain purchases by the grain dealer for the applicable year
5 with the final assessment amount determined as set forth in
6 item (6) of subsection (b) of this Section. After the
7 licensee has paid or was required to pay the first 3
8 assessments to the Department for payment into the Fund, the
9 licensee shall be subject to subsequent assessments as set
10 forth in subsection (d) of this Section.

11 (b) Grain dealer assessments.

12 (1) The first assessment for a grain dealer shall
13 be an amount equal to:

14 (A) \$0.000145 multiplied by the total value of
15 grain purchases for the grain dealer's first fiscal
16 year as shown in the final financial statement for
17 that year provided to the Department under Section
18 5-20; and

19 (B) \$0.000255 multiplied by that portion of
20 the value of grain purchases for the grain dealer's
21 first fiscal year that exceeds the adjusted equity
22 of the licensee multiplied by 20, as shown on the
23 final financial statement for the licensee's first
24 fiscal year provided to the Department under Section
25 5-20.

26 (2) The minimum assessment for the first assessment
27 shall be \$1,000 and the maximum shall be \$10,000.

28 (3) The second assessment for a grain dealer shall
29 be an amount equal to:

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

1 (B) \$0.0001275 multiplied by that portion of
2 the value of grain purchases for the grain dealer's
3 second fiscal year that exceeds the adjusted equity
4 of the licensee multiplied by 20, as shown on the
5 final financial statement for the licensee's second
6 fiscal year provided to the Department under Section
7 5-20.

8 (4) The third assessment for a grain dealer shall
9 be an amount equal to:

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

15 (B) \$0.0001275 multiplied by that portion of
16 the value of grain purchases for the grain dealer's
17 third fiscal year that exceeds the adjusted equity
18 of the licensee multiplied by 20, as shown on the
19 final financial statement for the licensee's third
20 fiscal year.

21 (5) The minimum second and third assessments shall
22 be \$500 per year and the maximum for each year shall be
23 \$5,000.

24 (6) Each of the first 3 assessments shall be
25 adjusted up or down based upon the actual annual grain
26 purchases for each year as shown in the final financial
27 statement for that year provided to the Department under
28 Section 5-20. The adjustments shall be determined by the
29 Department within 30 days of the date of approval of
30 renewal of a license. Refunds shall be paid out of the
31 Fund within 60 days after the Department's determination.
32 Additional amounts owed for assessments shall be paid as
33 provided in subsection (f) of this Section.

34 (7) For the purposes of grain dealer assessments

1 under subsection (b) of this Section, the total value of
2 grain purchases shall be the total value of first time
3 grain purchases by Illinois locations from producers.

4 (8) The second and third assessment shall be paid
5 to the Department within 60 days after the date posted on
6 the written notice of assessment. The Department shall
7 immediately forward all paid assessments to the Fund.

8 (c) Warehouseman assessments.

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

11 (A) \$0.00085 multiplied by the total permanent
12 storage capacity of the warehouseman at the time of
13 license issuance; and

14 (B) \$0.00099 multiplied by that portion of the
15 permanent storage capacity of the warehouseman at
16 the time of license issuance that exceeds the
17 adjusted equity of the licensee multiplied by 5, all
18 as shown on the final financial statement for the
19 licensee provided to the Department under Section
20 5-10.

21 (2) The minimum assessment for the first assessment
22 shall be \$1,000 and the maximum shall be \$10,000.

23 (3) The second and third assessments shall be an
24 amount equal to:

25 (A) \$0.000425 multiplied by the total
26 permanent storage capacity of the warehouseman at
27 the time of license issuance; and

28 (B) \$0.000495 multiplied by that portion of
29 the permanent licensed storage capacity of the
30 warehouseman at the time of license issuance that
31 exceeds the adjusted equity of the licensee
32 multiplied by 5, as shown on the final financial
33 statement for the licensee's last completed fiscal
34 year provided to the Department under Section 5-20.

1 (4) The minimum assessment for the second and third
2 assessments shall be \$500 per assessment and the maximum
3 for each assessment shall be \$5,000.

4 (5) Every warehouseman shall pay an assessment when
5 increasing available permanent storage capacity in an
6 amount equal to \$0.001 multiplied by the total number of
7 bushels to be added to permanent storage capacity. The
8 minimum assessment on any increase in permanent storage
9 capacity shall be \$50 and the maximum assessment shall be
10 \$20,000. The assessment based upon an increase in
11 permanent storage capacity shall be paid at or before the
12 time of approval of the increase in permanent storage
13 capacity. This assessment on the increased permanent
14 storage capacity does not relieve the warehouseman of any
15 assessments as set forth in subsection (d) of this
16 Section.

17 (6) Every warehouseman shall pay an assessment of
18 \$0.0005 per bushel when increasing available storage
19 capacity by use of temporary storage space. The minimum
20 assessment on temporary storage space shall be \$100. The
21 assessment based upon temporary storage space shall be
22 paid at or before the time of approval of the amount of
23 the temporary storage space. This assessment on the
24 temporary storage space capacity does not relieve the
25 warehouseman of any assessments as set forth in
26 subsection (d) of this Section.

27 (7) Every warehouseman shall pay an assessment of
28 \$0.001 per bushel of emergency storage space. The
29 minimum assessment on any emergency storage space shall
30 be \$100. The assessment based upon emergency storage
31 space shall be paid at or before the time of approval of
32 the amount of the emergency storage space. This
33 assessment on the emergency storage space does not
34 relieve the warehouseman of any assessments as set forth

1 in subsection (d) of this Section.

2 (8) The second and third assessment shall be paid
3 to the Department within 60 days after the date posted on
4 the written notice of assessment. The Department shall
5 immediately forward all paid assessments to the Fund.

6 (d) Grain Dealer Single Assessments and Double
7 Assessments; Warehouseman Single Assessments and Double
8 Assessments Subsequent-assessments.

9 (1) Subject to paragraph (5) of this subsection
10 (d), if, on the first working day of a calendar quarter
11 when a licensee is not subject to an assessment under
12 this subsection (d) (Assessment Determination Date), the
13 equity in the Fund is greater than \$100,000 but less than
14 \$5,000,000 below-\$3,000,000-on-September-1st-of-any-year,
15 every grain dealer who has, or was required to have,
16 already paid the first, second, and third assessments
17 shall be assessed a Grain Dealer Single Assessment by the
18 Department in a total an amount equal to:

19 (A) \$0.0000725 multiplied by the total value
20 of grain purchases for the grain dealer's last
21 completed fiscal year as shown in the final
22 financial statement for that year provided to the
23 Department under Section 5-20; and

24 (B) \$0.0001275 multiplied by that portion of
25 the value of grain purchases for the grain dealer's
26 last completed fiscal year that exceeds the adjusted
27 equity of the licensee multiplied by 20, as shown on
28 the final financial statement for the licensee's
29 last completed fiscal year provided to the
30 Department under Section 5-20.

31 The minimum total amount for the Grain Dealer Single
32 a-subsequent Assessment shall be \$500 per 12-month period
33 year and the maximum amount shall be \$5,000 per 12-month
34 period year. For the purposes of grain dealer

1 assessments under this item (1) of subsection (d) of this
 2 Section, the total value of grain purchases shall be the
 3 total value of first time grain purchases by Illinois
 4 locations from producers.

5 (2) Subject to paragraph (5) of this subsection
 6 (d), if, on the first working day of a calendar quarter
 7 when a licensee is not subject to an assessment under
 8 this subsection (d) (Assessment Determination Date), the
 9 equity in the Fund is greater than \$100,00 but less than
 10 \$5,000,000 ~~below-\$3,000,000-on-September-1st-of-any-year,~~
 11 every warehouseman who has, or was required to have,
 12 already paid the first, second, and third assessments
 13 shall be assessed a Warehouseman Single Assessment by the
 14 Department in a total an amount equal to:

15 (A) \$0.000425 multiplied by the total licensed
 16 storage capacity of the warehouseman as of September
 17 1st of that year; and

18 (B) \$0.000495 multiplied by that portion of
 19 the licensed storage capacity of the warehouseman as
 20 of September 1st of that year that exceeds the
 21 adjusted equity of the licensee multiplied by 5, as
 22 shown on the final financial statement for the
 23 licensee's last completed fiscal year provided to
 24 the Department under Section 5-20.

25 The minimum total amount for such Warehouseman
 26 Single Assessment subsequent-assessment shall be \$500
 27 per 12-month period year and the maximum amount shall be
 28 \$5,000 per 12-month period year.

29 (3) Subject to paragraph (5) of this subsection
 30 (d), if, on the first working day of a calendar quarter
 31 when a licensee is not subject to an assessment under
 32 this subsection (d) (Assessment Determination Date), the
 33 equity in the Fund is \$100,000 or less, every grain
 34 dealer who has, or was required to have, already paid the

1 first, second, or third assessment shall be assessed a
2 Grain Dealer Double Assessment by the Department in a
3 total amount equal to:

4 (A) \$0.0001450 multiplied by the total value
5 of grain purchases for the grain dealer's last
6 completed fiscal year as shown in the financial
7 statement for that year provided to the Department
8 under Section 5-20; and

9 (B) \$0.0002550 multiplied by that portion of
10 the value of grain purchases for the grain dealer's
11 last completed fiscal year that exceeds the adjusted
12 equity of the licensee multiplied by 20, as shown on
13 the final financial statement for the licensee's
14 last completed fiscal year provided to the
15 Department under Section 5-20.

16 The minimum total amount for this Grain Dealer Double
17 Assessment shall be \$1,000 per 12-month period, and the
18 maximum total amount shall be \$10,000 per 12-month period.
19 For the purpose of grain dealer assessments under this item
20 (3), the total value of grain purchases shall be the total
21 value of first-time grain purchases by Illinois locations
22 from producers.

23 (4) Subject to paragraph (5) of this subsection
24 (d), if, on the first working day of a calendar quarter
25 when a licensee is not subject to an assessment under
26 this subsection (d) (Assessment Determination Date), the
27 equity in the Fund is \$100,000 or less, every
28 warehouseman who has, or was required to have, already
29 paid the first, second, and third assessment shall be
30 assessed a Warehouseman Double Assessment by the
31 Department in a total amount equal to:

32 (A) \$0.000850 multiplied by the then current
33 total licensed storage capacity of the warehouseman;
34 and

1 (B) \$0.000990 multiplied by that portion of
2 the then current total licensed storage capacity of
3 the warehouseman that exceeds the adjusted equity of
4 the licensee multiplied by 5, as shown on the final
5 financial statement for the licensee's last
6 completed fiscal year provided to the Department
7 under Section 5-20. The minimum amount for this
8 Warehouseman Double Assessment shall be \$1,000 per
9 12-month period, and the maximum amount shall be
10 \$10,000 per 12-month period.

11 (5) Following the payment of the final quarterly
12 installment by grain dealers and warehouseman, the next
13 Assessment Determination Date can be no sooner than the
14 first working day of the sixth full month following the
15 payment.

16 (6) All assessments under paragraphs (1), (2), (3),
17 and (4) of this subsection (d) shall commence on the
18 first day of the calendar quarter immediately following
19 the Assessment Determination Date, and shall be paid to
20 the Department by licensees in 4 equal installments by
21 the twentieth day of each consecutive calendar quarter
22 following notice by the Department of the assessment. The
23 Department shall give written notice to all licensees of
24 when the assessment is to begin and end, and the rate
25 thereof, by mail within 20 days of the Assessment
26 Determination Date.

27 (7) After an assessment under paragraph (1), (2),
28 (3), or (4) of this subsection (d) is instituted, the
29 amount of any unpaid installments for the assessment
30 shall not be adjusted based upon any change in the
31 financial statements or licensed storage capacity of a
32 licensee.

33 (8) If the due date for the payment by a licensee
34 of the third assessment under subsections (b) and (c) of

1 this Section 5-30 is after the Assessment Determination
 2 Date, that licensee shall not be subject to any of the 4
 3 installments of an assessment under paragraphs (1), (2),
 4 (3), and (4) of this subsection (d).

5 (9) The Department shall immediately forward all
 6 paid assessments to the Fund.

7 ~~(3) If the due date for the payment by a licensee~~
 8 ~~of the third assessment is after September 1st in a year~~
 9 ~~when the equity in the Fund is below \$3,000,000, that~~
 10 ~~licensee shall not be subject to a subsequent assessment~~
 11 ~~for that year.~~

12 (e) Newly licensed; exemptions.

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

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

19 (B) A licensee who has a lapse in licensing of
 20 more than 30 days. A license shall not be
 21 considered to be lapsed after its revocation or
 22 termination if an administrative or judicial action
 23 is pending or if an order from an administrative or
 24 judicial body continues an existing license.

25 (C) A grain dealer that is a general
 26 partnership in which there is a change in
 27 partnership interests and that change is greater
 28 than 50% during the partnership's fiscal year.

29 (D) A grain dealer that is a limited
 30 partnership in which there is a change in the
 31 controlling interest of a general partner and that
 32 change is greater than 50% of the total controlling
 33 interest during the limited partnership's fiscal
 34 year.

1 (E) A grain dealer that is a limited liability
2 company in which there is a change in membership
3 interests and that change is greater than 50% during
4 the limited liability company's fiscal year.

5 (F) A grain dealer that is the result of a
6 statutory consolidation if that person has adjusted
7 equity of less than 90% of the combined adjusted
8 equity of the predecessor persons who consolidated.
9 For the purposes of this paragraph, the adjusted
10 equity of the resulting person shall be determined
11 from the approved or certified financial statement
12 submitted to the Department for the first fiscal
13 year of the resulting person. For the purpose of
14 this paragraph, the combined adjusted equity of the
15 predecessor persons shall be determined by combining
16 the adjusted equity of each predecessor person as
17 set forth in the most recent approved or certified
18 financial statement of each predecessor person
19 submitted to the Department.

20 (G) A grain dealer that is the result of a
21 statutory merger if that person has adjusted equity
22 of less than 90% of the combined adjusted equity of
23 the predecessor persons who merged. For the
24 purposes of this paragraph, the adjusted equity of
25 the resulting person shall be determined from the
26 approved or certified financial statement submitted
27 to the Department for the first fiscal year of the
28 resulting person ending after the merger. For the
29 purposes of this paragraph, the combined adjusted
30 equity of the predecessor persons shall be
31 determined by combining the adjusted equity of each
32 predecessor person as set forth in the most recent
33 approved or certified financial statement submitted
34 to the Department for the last fiscal year of each

1 predecessor person ending on the date of or before
2 the merger.

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

21 (I) A grain dealer that is a limited
22 partnership in which there is a change in the
23 controlling interest of a general partner and that
24 change is 50% or less of the total controlling
25 interest during the partnership's fiscal year if the
26 adjusted equity of the partnership after the change
27 is less than 90% of the adjusted equity of the
28 partnership before the change. For the purposes of
29 this paragraph, the adjusted equity of the
30 partnership after the change shall be determined
31 from the approved or certified financial statement
32 submitted to the Department for the first fiscal
33 year ending after the change. For the purposes of
34 this paragraph, the adjusted equity of the

1 partnership before the change shall be determined
2 from the approved or certified financial statement
3 submitted to the Department for the last fiscal year
4 of the partnership ending on the date of or before
5 the change.

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

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

32 (2) For the purpose of assessing fees for the Fund
33 as set forth in subsection (a) of this Section, the
34 Department shall consider the following as not being

1 newly licensed and, therefore, exempt from further
2 assessment unless an assessment is required by subsection
3 (d) of this Section:

4 (A) A person resulting solely from a name
5 change of a licensee.

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

10 (C) A licensee that becomes a wholly owned
11 subsidiary of another licensee.

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

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

1 certified financial statement submitted to the
2 Department for the first fiscal year of the
3 resulting person ending after the merger. For the
4 purposes of this paragraph, the combined adjusted
5 equity of the predecessor persons shall be
6 determined by combining the adjusted equity of each
7 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
11 the merger.

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

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

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

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

32 (I) A licensed warehouseman that is the result
33 of a statutory merger or consolidation to the extent
34 the combined storage capacity of the resulting

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

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

12 (f) Grain Seller Single Assessments and Double
13 Assessments.

14 (1) Subject to paragraph (3) of this subsection
15 (f), if, on the first working day of a calendar quarter
16 when a grain seller is not subject to an assessment under
17 this subsection (f) (Assessment Determination Date), the
18 equity in the Fund is greater than \$100,000 and less than
19 \$5,000,000 each person other than a licensee who sells
20 grain to a grain dealer shall pay an assessment equal to
21 \$0.0005 (Grain Seller Single Assessment) multiplied by
22 the net market value of grain settled for (payment
23 received for grain sold) during the 12-month period
24 commencing on the first day of the succeeding calendar
25 quarter (Assessment Period).

26 (2) Subject to paragraph (3) of this subsection(f),
27 if, on the first working day of a calendar quarter when a
28 grain seller is not subject to an assessment under this
29 subsection (f) (Assessment Determination Date), the
30 equity in the Fund is \$100,000 or less, each person other
31 than a licensee who sells grain to a grain dealer shall
32 pay an assessment equal to \$0.001 (Grain Seller Double
33 Assessment) multiplied by the net market value of grain
34 settled for during the Assessment Period.

1 (3) The next Assessment Determination Date can be
2 no sooner than the first working day of the fourth full
3 month following the end of the Assessment Period.

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

15 (5) All assessments under paragraphs (1) and (2) of
16 this subsection (f) shall commence on the first day of
17 the calendar quarter immediately following the Assessment
18 Determination Date, and shall continue for a period of 12
19 consecutive calendar months. The assessments shall be
20 collected by licensees at the time of settlement for sold
21 grain during the Assessment Period, and assessments for
22 the period ending on the last day of the immediate
23 preceding calendar quarter and not previously paid to the
24 Department shall be remitted by licensees to the
25 Department by the twentieth day of each calendar quarter,
26 commencing with the second calendar quarter following the
27 Assessment Determination Date. The Department shall give
28 written notice to all licensees of when assessment under
29 this subsection (f) is to begin and end, and the
30 appropriate level thereof, by mail within 20 days of the
31 Assessment Determination Date.

32 (6) Assessments under this subsection (f) apply to
33 all grain for which settlement is made during the
34 Assessment Period.

1 (7) The collection and remittance of assessments
2 from sellers of grain under this subsection (f) is the
3 sole responsibility of the licensees to whom the grain is
4 sold during any Assessment Period. Sellers of grain shall
5 not be penalized by reason of any licensee's failure to
6 comply with this subsection (f). Failure of a licensee to
7 collect any Grain Seller Single Assessment or Grain
8 Seller Double Assessment shall not relieve the grain
9 seller from paying the assessment, and the grain seller
10 shall promptly remit the uncollected assessments upon
11 demand by the licensee, which may be accounted for in
12 settlement of grain subsequently sold to that licensee.
13 Licensees who do not collect assessments under subsection
14 (f) or who do not remit those assessments to the
15 Department as required under subsection (f) shall remit
16 the amount of the assessments that should have been
17 remitted to the Department and pay a monetary penalty in
18 an amount not to exceed \$1,000.

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

22 (g) Equity in the Fund shall exclude any amount of money
23 in the Fund that has been transferred from the State of
24 Illinois' General Revenue Fund under subsection (h) of
25 Section 25-20.

26 (h) Notwithstanding the provisions of paragraphs (1),
27 (2), (3), and (4) of subsection (d) and paragraphs (1) and
28 (2) of subsection (f), on October 1, 2002 there shall
29 commence a Grain Seller Double Assessment, Grain Dealer
30 Double Assessment, and a Warehouseman Double Assessment that
31 shall terminate on September 30, 2003 and, on October 1,
32 2003, there shall commence a Grain Seller Single Assessment,
33 Grain Dealer Single Assessment, and a Warehouseman Single
34 Assessment that shall terminate on September 30, 2004.

1 (f) Except for the first assessment made under this
 2 Section, and assessments under items (e)(5), (e)(6), and
 3 (e)(7) of this Section, all assessments shall be paid to the
 4 Department within 60 days after the date posted on the
 5 written notice of assessment. The Department shall forward
 6 all paid assessments to the Fund.

7 (Source: P.A. 91-213, eff. 7-20-99.)

8 (240 ILCS 40/10-10)

9 Sec. 10-10. Duties and requirements of grain dealers.

10 (a) Long and short market position.

11 (1) Grain dealers shall at all times maintain an
 12 accurate and current long and short market position
 13 record for each grain commodity. The position record
 14 shall at a minimum contain the net position of all grain
 15 owned, wherever located, grain purchased and sold, and
 16 any grain option contract purchased or sold.

17 (2) Grain dealers, except grain dealers regularly
 18 and continuously reporting to the Commodity Futures
 19 Trading Commission or grain dealers who have obtained the
 20 permission of the Department to have different open long
 21 or short market positions, may maintain an open position
 22 in the grain commodity of which the grain dealer buys the
 23 greatest number of bushels per fiscal year not to exceed
 24 one bushel for each \$10 of adjusted equity at fiscal year
 25 end up to a maximum open position of 50,000 bushels and
 26 one-half that number of bushels up to 25,000 bushels for
 27 all other grain commodities that the grain dealer buys. A
 28 grain dealer, however, may maintain an open position of
 29 up to 5,000 bushels for each grain commodity the grain
 30 dealer buys.

31 (b) The license issued by the Department to a grain
 32 dealer shall be posted in the principal office of the
 33 licensee in this State. A certificate shall be posted in

1 each location where the licensee engages in business as a
2 grain dealer. In the case of a licensee operating a truck or
3 tractor trailer unit for the purpose of purchasing grain, the
4 licensee shall have a certificate carried in each truck or
5 tractor trailer unit used in connection with the licensee's
6 grain dealer business.

7 (c) The licensee must have at all times sufficient
8 financial resources to pay producers on demand for grain
9 purchased from them.

10 (d) A licensee that is solely a grain dealer shall on a
11 daily basis maintain an accurate and current daily grain
12 transaction report.

13 (e) A licensee that is both a grain dealer and a
14 warehouseman shall at all times maintain an accurate and
15 current daily position record.

16 (f) In the case of a change of ownership of a grain
17 dealer, the obligations of a grain dealer do not cease until
18 the grain dealer has surrendered all unused price later
19 contracts to the Department and the successor has executed a
20 successor's agreement that is acceptable to the Department,
21 or the successor has otherwise provided for the grain
22 obligations of its predecessor in a manner that is acceptable
23 to the Department.

24 (g) If a grain dealer proposes to cease doing business
25 as a grain dealer and there is no successor, it is the duty
26 of the grain dealer to surrender all unused price later
27 contracts to the Department, together with an affidavit
28 accounting for all grain dealer obligations setting forth the
29 arrangements made with producers for final disposition of the
30 grain dealer obligations and indicating the procedure for
31 payment in full of all outstanding grain obligations. It is
32 the duty of the Department to give notice by publication that
33 a grain dealer has ceased doing business without a successor.
34 After payment in full of all outstanding grain obligations,

1 it is the duty of the grain dealer to surrender its license.
2 (Source: P.A. 91-213, eff. 7-20-99.)

3 (240 ILCS 40/10-15)

4 Sec. 10-15. Price later contracts.

5 (a) Price later contracts shall be written on forms
6 prescribed or authorized by the Department. Price later
7 contract forms shall be printed by a person authorized to
8 print those contracts by the Department after that person has
9 agreed to comply with each of the following:

10 (1) That all price later contracts shall be printed
11 as prescribed by the Department and shall be printed
12 only for a licensed grain dealer.

13 (2) That all price later contracts shall be
14 numbered consecutively and a complete record of these
15 contracts shall be retained showing for whom printed and
16 the consecutive numbers printed on the contracts.

17 (3) That a duplicate copy of all invoices rendered
18 for printing price later contracts that will show the
19 consecutive numbers printed on the contracts, and the
20 number of contracts printed, shall be promptly forwarded
21 to the Department.

22 (4) that the person shall register with the
23 Department and pay an annual registration fee of \$100 to
24 print price later contracts.

25 (b) A grain dealer purchasing grain by price later
26 contract shall at all times own grain, rights in grain,
27 proceeds from the sale of grain, and other assets acceptable
28 to the Department as set forth in this Code totaling 90% of
29 the unpaid balance of the grain dealer's obligations for
30 grain purchased by price later contract. That amount shall
31 at all times remain unencumbered and shall be represented by
32 the aggregate of the following:

33 (1) Grain owned by the grain dealer valued by means

1 of the hedging procedures method that includes marking
2 open contracts to market.

3 (2) Cash on hand.

4 (3) Cash held on account in federally or State
5 licensed financial institutions.

6 (4) Investments held in time accounts with
7 federally or State licensed financial institutions.

8 (5) Direct obligations of the U.S. government.

9 (6) Funds on deposit in grain margin accounts.

10 (7) Balances due or to become due to the licensee
11 on price later contracts.

12 (8) Marketable securities, including mutual funds.

13 (9) Irrevocable letters of credit in favor of the
14 Department and acceptable to the Department.

15 (10) Price later contract service charges due or to
16 become due to the licensee.

17 (11) Other evidence of proceeds from or of grain
18 that is acceptable to the Department.

19 (c) For the purpose of computing the dollar value of
20 grain and the balance due on price later contract
21 obligations, the value of grain shall be figured at the
22 current market price.

23 (d) Title to grain sold by price later contract shall
24 transfer to a grain dealer at the time ~~on--the--date~~ of
25 delivery of the grain. Therefore, no storage charges shall
26 be made with respect to grain purchased by price later
27 contract. A service charge for handling the contract,
28 however, may be made.

29 (e) Subject to subsection (f) of this Section, if a
30 price later contract is not signed by all parties within 30
31 days of the last date of delivery of grain intended to be
32 sold by price later contract, then the grain intended to be
33 sold by price later contract shall be priced on the next
34 business day after 30 days from the last date of delivery of

1 grain intended to be sold by price later contract at the
2 market price of the grain at the close of the next business
3 day after the 29th day. When the grain is priced under this
4 subsection, the grain dealer shall send notice to the seller
5 of the grain within 10 days. The notice shall contain the
6 number of bushels sold, the price per bushel, all applicable
7 discounts, the net proceeds, and a notice that states that
8 the Grain Insurance Fund shall provide protection for a
9 period of only 160 days from the date of pricing of the
10 grain.

11 (f) If grain is in storage with a warehouseman and is
12 intended to be sold by price later contract, that grain shall
13 be considered as remaining in storage and not be deemed sold
14 by price later contract until the date the price later
15 contract is signed by all parties.

16 (g) Scale tickets or other approved documents with
17 respect to grain purchased by a grain dealer by price later
18 contract shall contain the following: "Sold Grain; Price
19 Later".

20 (h) Price later contracts shall be issued consecutively
21 and recorded by the grain dealer as established by rule.

22 (i) A licensee grain-dealer shall not issue a collateral
23 warehouse receipt on grain purchased by a price later
24 contract to the extent the purchase price has not been paid
25 by the licensee grain-dealer.

26 (j) Failure to comply with the requirements of this
27 Section may result in suspension of the privilege to purchase
28 grain by price later contract for up to one year.

29 (Source: P.A. 91-213, eff. 7-20-99.)

30 (240 ILCS 40/10-20)

31 Sec. 10-20. Duties and requirements of warehouseman.

32 (a) It is the duty of every warehouseman to receive for
33 storage any grain that may be tendered to it in the ordinary

1 course of business so far as the licensed storage capacity of
2 the warehouse permits and if the grain is of a kind
3 customarily stored by the warehouseman and is in suitable
4 condition for storage.

5 (1) If the condition of grain offered for storage
6 might adversely affect the condition of grain in the
7 warehouse, a warehouseman need not receive the grain for
8 storage, but if a warehouseman does receive the grain,
9 then it must be stored in a manner that will not lower
10 the grade of other grain in the warehouse.

11 (2) A warehouseman shall provide competent
12 personnel and equipment to weigh and grade all grain in
13 and out of storage.

14 (3) A warehouseman shall maintain all licensed
15 warehouse facilities in a manner suitable to preserve the
16 quality and quantity of grain stored.

17 (b) For the purposes of the Department's examinations, a
18 warehouseman shall provide and maintain safe and adequate
19 means of ingress and egress to the various and surrounding
20 areas of the facilities, storage bins, and compartments of
21 the warehouse.

22 (c) A warehouseman shall at all times have a sufficient
23 quantity of grain of like kind and quality to meet its
24 outstanding storage obligations.

25 (d) A warehouseman shall not store grain in excess of
26 the capacity for which it is licensed.

27 (e) A warehouseman may redeposit grain from its
28 warehouse with another warehouseman or a federal warehouseman
29 in an additional quantity not to exceed the licensed storage
30 capacity of its own warehouse.

31 (1) If grain is redeposited as provided in this
32 Section, a warehouseman must retain the receipt it
33 obtains from the second warehouseman as proof of the
34 redeposit and retain sufficient control over the

1 redeposited grain as is necessary to comply with
2 directions of the original depositor regarding
3 disposition of the redeposited grain.

4 (2) While grain is en route from the redepositing
5 warehouseman to the second warehouseman, a redepositing
6 warehouseman must retain an original or a duplicate bill
7 of lading instead of and until such time as it obtains
8 possession of the warehouse receipt as proof of
9 disposition of the redeposited grain.

10 (f) Schedule of rates and licenses.

11 (1) A warehouseman shall file its schedule of rates
12 with the Department and shall post its warehouse license
13 and a copy of the schedule of rates on file with the
14 Department in a conspicuous place in each location of the
15 warehouseman where grain is received.

16 (2) The schedule of rates shall be on a form
17 prescribed by the Department and shall include the names
18 and genuine signatures of all persons authorized to sign
19 warehouse receipts issued by the warehouseman.

20 (3) To change the schedule of rates or the name of
21 any person authorized to sign warehouse receipts, a
22 warehouseman must file with the Department a revised
23 schedule of rates and, thereafter, post the revised
24 schedule of rates at each location of the warehouseman
25 where grain is received. The revised schedule of rates
26 shall be deemed filed with the Department on the earlier
27 of the date it is delivered to the Department or mailed
28 to the Department by certified mail properly addressed
29 with sufficient postage attached. The revised schedule
30 of rates shall be effective on the date the schedule of
31 rates is posted after delivery or mailing to the
32 Department in accordance with this Section. Revised
33 schedules of rates shall apply only to grain delivered
34 for storage after the effective date of the revised

1 schedule of rates. No grain in storage at the time of
2 the effective date of a revised schedule of rates shall
3 be subject to a revised schedule of rates until one year
4 after the date of delivery of grain, unless otherwise
5 provided by a written contract.

6 (4) The schedule of rates may provide for the
7 negotiation of different rates for large deliveries of
8 grain if those rates are applied on a uniform basis to
9 all depositors under the same circumstances.

10 (g) A warehouseman may refuse to accept grain if the
11 identity of the grain is to be preserved. If a warehouseman
12 accepts grain and the identity of the grain is to be
13 preserved, the evidence of storage shall state on its face
14 that the grain is stored with its identity preserved and the
15 location of that grain.

16 (h) A warehouseman shall at all times maintain an
17 accurate and current daily position record on a daily basis.

18 (i) In the case of a change of ownership of a warehouse,
19 the obligations of a warehouseman do not cease until its
20 successor is properly licensed under this Code or the United
21 States Warehouse Act, it has surrendered all unused warehouse
22 receipts to the Department and has executed a successor's
23 agreement, or the successor has otherwise provided for the
24 obligations of its predecessor.

25 (j) If a warehouseman proposes to cease doing business
26 as a warehouseman and there is no successor, it is the duty
27 of the warehouseman to surrender all unused warehouse
28 receipts to the Department, together with an affidavit
29 accounting for all warehouse receipts setting forth the
30 arrangements made with depositors for final disposition of
31 the grain in storage and indicating the procedure for payment
32 in full of all outstanding obligations. After payment in full
33 of all outstanding obligations, it is the duty of the
34 warehouseman to surrender its license.

1 (k) Requests by a warehouseman for special examinations,
2 grain inventory computation, or verification of grain
3 quantity or quality shall be accompanied by a fee of \$200.

4 (l) For purposes of this Section, "like kind and
5 quality" means the type of commodity and a combination of
6 grade, specialty traits, if any, and class or sub-class as
7 applicable.

8 (m) Nothing in this Section shall be deemed to prohibit
9 a warehouseman from entering into agreements with depositors
10 of grain relating to allocation or reservation of storage
11 space.

12 (Source: P.A. 89-287, eff. 1-1-96.)

13 (240 ILCS 40/15-15)

14 Sec. 15-15. Violations of open position limits.

15 (a) Violations of maximum allowable open position limits
16 by more than 1,000 bushels but less than twice the maximum
17 allowable open position limits.

18 (1) If a licensee violates the maximum allowable
19 open position limits of item (a)(2) of Section 10-10 and
20 the open position is more than 1,000 bushels but less
21 than twice the maximum allowable open position limits,
22 the licensee shall be required to:

23 (A) Post collateral with the Department in an
24 amount equal to \$1 per bushel for each bushel of
25 soybeans in excess of the maximum allowable open
26 position limits and 50 cents per bushel of each
27 bushel for all other grain in excess of the maximum
28 allowable open position limits or \$2,500, whichever
29 is greater; and

30 (B) Pay a penalty in an amount not to exceed
31 \$250.

32 (2) If a licensee commits 2 violations as set forth
33 in item (a) (1) of Section 15-10 within a 2 year period,

1 the licensee must:

2 (A) post collateral with the Department in an
3 amount equal to \$1 per bushel for each bushel of
4 soybeans in excess of the maximum allowable open
5 position limits and 50 cents per bushel of each
6 bushel for all other grain in excess of the maximum
7 allowable open position limits or \$5,000, whichever
8 is greater; and

9 (B) pay a penalty in the amount of \$750 ~~\$500~~.

10 (3) If a licensee commits 3 or more violations as
11 set forth in item (a)(1) of Section 15-10 within a 5 year
12 period, the licensee must:

13 (A) post collateral with the Department in an
14 amount equal to \$2 per bushel for each bushel of
15 soybeans in excess of the maximum allowable open
16 position limits and \$1 per bushel of each bushel for
17 all other grain in excess of the maximum allowable
18 open position limits or \$10,000, whichever is
19 greater; and

20 (B) pay a penalty in an amount greater than
21 \$2,000 ~~\$1,000~~ but less than \$20,000 ~~\$10,000~~.

22 (b) Violations of maximum allowable open position limits
23 that equal or exceed twice the maximum allowable open
24 position.

25 (1) If a licensee violates the maximum allowable
26 open position limits of item (a)(2) of Section 10-10 and
27 the open position equals or exceeds twice the maximum
28 allowable open position limits, the licensee must:

29 (A) post collateral with the Department in an
30 amount equal to \$1 per bushel for each bushel of
31 soybeans in excess of the maximum allowable open
32 position and 50 cents per bushel for each bushel of
33 all other grain in excess of the maximum allowable
34 open position limits or \$5,000, whichever is

1 greater; and

2 (B) pay a penalty in the amount of \$500.00.

3 (2) If a licensee commits 2 violations as set forth
4 in item (b)(1) of Section 15-10 within a 2 year period,
5 the licensee must:

6 (A) post collateral with the Department in an
7 amount equal to \$2 per bushel for each bushel of
8 soybeans in excess of the maximum allowable open
9 position limits and \$1 per bushel for each bushel of
10 all other grain in excess of the maximum allowable
11 open position limits or \$10,000, whichever is
12 greater; and

13 (B) pay a penalty in an amount greater than
14 \$750 ~~\$500~~ but less than \$15,000 ~~\$10,000~~.

15 (3) If a licensee commits 3 or more violations as
16 set forth in item (b)(1) of Section 15-5 within a 5 year
17 period, the licensee must:

18 (A) post collateral with the Department in an
19 amount equal to \$2 per bushel for each bushel of
20 soybeans in excess of the maximum allowable open
21 position limits and \$1 per bushel for each bushel
22 for all other grain in excess of the maximum
23 allowable open position limits or \$10,000, whichever
24 is greater; and

25 (B) pay a penalty in an amount greater than
26 \$2,000 ~~\$1,000~~ but less than \$20,000 ~~\$10,000~~.

27 (Source: P.A. 89-287, eff. 1-1-96.)

28 (240 ILCS 40/15-20)

29 Sec. 15-20. Grain quantity and grain quality violations.

30 (a) Grain quantity deficiencies of more than \$1,000 but
31 less than \$20,000.

32 (1) If a licensee fails to have a sufficient
33 quantity of grain in store to meet outstanding storage

1 obligations and the value of the grain quantity
 2 deficiency as determined by the formula set forth in
 3 subsection (c) of Section 15-20 is more than \$1,000 but
 4 less than \$20,000, the licensee must:

5 (A) post collateral with the Department in an
 6 amount equal to the value of the grain quantity
 7 deficiency or \$2,500, whichever is greater; and

8 (B) pay a penalty of \$250.

9 (2) If a licensee commits 2 violations as set forth
 10 in item (a)(1) of Section 15-20 within a 2 year period,
 11 the licensee must:

12 (A) post collateral with the Department in an
 13 amount equal to the value of the grain quantity
 14 deficiency or \$10,000, whichever is greater; and

15 (B) pay a penalty of \$750 ~~\$500~~.

16 (3) If a licensee commits 3 or more violations as
 17 set forth in item (a)(1) of Section 15-20 within a 5 year
 18 period, the licensee must:

19 (A) post collateral with the Department in an
 20 amount equal to the value of the grain quantity
 21 deficiency or \$20,000, whichever is greater; and

22 (B) pay a penalty of no less than \$2,000
 23 ~~\$1,000~~ and no greater than \$20,000 ~~\$10,000~~.

24 (b) Grain quantity deficiencies of \$20,000 or more.

25 (1) If a licensee fails to have sufficient quantity
 26 of grain in store to meet outstanding storage obligations
 27 and the value of the grain quantity deficiency as
 28 determined by the formula set forth in subsection (c) of
 29 Section 15-20 equals or exceeds \$20,000, the licensee
 30 must:

31 (A) post collateral with the Department in an
 32 amount equal to twice the value of the grain
 33 quantity deficiency; and

34 (B) pay a penalty of \$500.

1 (2) If a licensee commits 2 violations as set forth
2 in item (b)(1) of Section 15-20 within a 2 year period,
3 the licensee must:

4 (A) post collateral with the Department in an
5 amount equal to twice the value of the grain
6 quantity deficiency or \$20,000, whichever is
7 greater; and

8 (B) pay a penalty of no less than \$750 \$500
9 and no greater than \$15,000 \$10,000.

10 (3) If a licensee commits 3 or more violations as
11 set forth in item (b)(1) of Section 15-20 within a 5 year
12 period, the licensee must:

13 (A) post collateral with the Department in an
14 amount equal to twice the value of the grain
15 quantity deficiency or \$40,000, whichever is
16 greater; and

17 (B) pay a penalty of no less than \$2,000
18 \$1,000 and no greater than \$20,000 \$10,000.

19 (c) To determine the value of the grain quantity
20 deficiency for the purposes of this Section, the rate shall
21 be \$1 per bushel for soybeans and 50 cents per bushel for all
22 other grains.

23 (d) If a licensee fails to have sufficient quality of
24 grain in store to meet outstanding storage obligations when
25 the value of the grain quality deficiency exceeds \$1,000, the
26 licensee must post collateral with the Department in an
27 amount equal to the value of the grain quality deficiency.
28 For the purposes of this Section, the value of the grain
29 quality deficiency shall be determined by applying prevailing
30 market discount factors to all grain quality factors.

31 (Source: P.A. 89-287, eff. 1-1-96; 89-463, eff. 5-31-96.)

32 (240 ILCS 40/15-35)

33 Sec. 15-35. If the next fiscal year's financial

1 statement of a licensee received by the Department and an
 2 examination performed by the Department after delivery or
 3 posting of any required collateral or the guarantee indicates
 4 compliance by the licensee with all statutory requirements of
 5 this Code for which the collateral and guarantees were
 6 required, the collateral and guarantee shall be returned
 7 within 90 days ~~a-reasonable-period-of-time~~ to the licensee
 8 and the guarantor following a written request for the return.
 9 The financial statement must comply with the requirements of
 10 Section 5-20.

11 (Source: P.A. 89-287, eff. 1-1-96.)

12 (240 ILCS 40/15-45)

13 Sec. 15-45. Criminal offenses.

14 (a) A person who causes a warehouse receipt for grain to
 15 be issued knowing that the grain for which that warehouse
 16 receipt is issued is not under the licensee's control at the
 17 time of issuing that warehouse receipt, or who causes a
 18 licensee to issue a warehouse receipt for grain knowing that
 19 the warehouse receipt contains any false representation, is
 20 guilty of a Class 2 3 felony.

21 (b) A person who, knowingly and without lawful
 22 authority, disposes of grain represented by outstanding
 23 warehouse receipts or covered by unreceipted storage
 24 obligations is guilty of a Class 2 3 felony.

25 (c) A person who, knowingly and without lawful
 26 authority:

- 27 (1) withholds records from the Department;
- 28 (2) keeps, creates, or files with the Department
 29 false, misleading, or inaccurate records;
- 30 (3) alters records without permission of the
 31 Department; or
- 32 (4) presents to the Department any materially false
 33 or misleading records;

1 is guilty of a Class 2 3 felony.

2 (d) A licensee who, after suspension or revocation of
3 its license, knowingly and without legal authority refuses to
4 surrender to the Department all books, accounts, and records
5 relating to the licensee that are in its possession or
6 control is guilty of a Class 2 3 felony.

7 (e) A licensee who knowingly impedes, obstructs,
8 hinders, or otherwise prevents or attempts to prevent the
9 Director from performing his or her duties under this Code,
10 or who knowingly refuses to permit inspection of its
11 premises, books, accounts, or records by the Department, is
12 guilty of a Class A misdemeanor.

13 (f) A person who, knowingly and without a license,
14 engages in the business of a grain dealer or a warehouseman
15 for which a license is required under the Code is guilty of a
16 Class A misdemeanor.

17 (g) A person who, intentionally, knowingly and without
18 lawful authority:

19 (1) fails to maintain sufficient assets as required
20 by subsection (b) of Section 10-15; or

21 (2) issues a collateral warehouse receipt covering
22 grain purchased by a price later contract to the extent
23 the purchase price has not been paid by the grain dealer;
24 is guilty of a Class 3 4 felony.

25 (h) In case of a continuing violation, each day a
26 violation occurs constitutes a separate and distinct offense.

27 (Source: P.A. 89-287, eff. 1-1-96.)

28 (240 ILCS 40/20-15)

29 Sec. 20-15. Liquidation procedures. When a licensee
30 experiences a failure, the Department has the authority and
31 shall:

32 (a) Immediately post notice at all locations of the
33 failed licensee stating that the licensee has experienced a

1 failure and that the license has been terminated and is no
2 longer effective.

3 (b) Immediately take physical control and possession of
4 the failed licensee's facility, including but not limited to
5 all offices and grain storage facilities, books, records, and
6 any other property necessary or desirable to liquidate grain
7 assets and equity assets.

8 (c) Give public notice and notify all known potential
9 claimants by certified mail of the licensee's failure and the
10 processes necessary to file grain claims with the Department
11 as set forth in Section 25-5.

12 (d) Perform an examination of the failed licensee.

13 (e) Seize and take possession of, protect, liquidate,
14 and collect upon all grain assets, collateral, and guarantees
15 of or relating to the failed licensee and deposit the
16 proceeds into the Trust Account. If at any time it appears,
17 however, in the judgment of the Department that the costs of
18 seizing and taking possession of, liquidating, and collecting
19 upon any or all of the grain assets, collateral, and
20 guarantees equals or exceeds the expected recovery to the
21 Department, the Department may elect not to pursue seizing
22 and taking possession of, liquidating, and collecting upon
23 any or all of the assets.

24 (f) Seize, take possession of, protect, liquidate, and
25 collect upon the equity assets of the failed licensee and
26 deposit the proceeds into the Trust Account if the Department
27 has first obtained the written consent of all applicable
28 secured parties or lien holders, if any. If at any time it
29 appears, however, in the judgment of the Department that the
30 costs of seizing and taking possession of, liquidating, and
31 collecting upon any or all of the equity assets equals or
32 exceeds the expected recovery to the Department, the
33 Department may elect not to pursue seizing and taking
34 possession of, liquidating, and collecting upon any or all of

1 the equity assets. If the Department does not otherwise
2 pursue seizing and taking possession of, liquidating, and
3 collecting upon any of the equity assets, the Department may
4 bring or participate in any liquidation or collection
5 proceedings involving the applicable secured parties or other
6 interested party, if any, and shall have the rights and
7 remedies provided by law, including the right to enforce its
8 lien by any available judicial procedure.

9 If an applicable secured party or lien holder does not
10 consent to the Department seizing, taking possession of,
11 liquidating, or collecting upon the equity assets, the
12 secured party or lien holder shall have the rights and
13 remedies provided by law or by agreement with the licensee or
14 failed licensee, including the right to enforce its security
15 interest or lien by any available judicial procedure.

16 (g) Make available on demand to an applicable secured
17 party or lien holder the equity asset, to the extent the
18 Department seized or otherwise gained possession or control
19 of the equity asset, but the secured party or lien holder
20 does not consent to the Department liquidating and collecting
21 upon the equity asset.

22 (Source: P.A. 89-287, eff. 1-1-96.)

23 (240 ILCS 40/20-20)

24 Sec. 20-20. Liquidation expenses.

25 (a) The Trustee shall pay from the Trust Account all
26 reasonable expenses incurred by the trustee on or after the
27 date of failure in reference to seizing, preserving, and
28 liquidating the grain assets, equity assets, collateral, and
29 guarantees of or relating to a failed licensee, including,
30 but not limited to, the hiring of temporary field personnel,
31 equipment rental, auction expenses, mandatory commodity
32 check-offs, and clerical expenses.

33 (b) Except as to claimants holding valid claims, any

1 outstanding indebtedness of a failed licensee that has
2 accrued before the date of failure shall not be paid by the
3 Trustee and shall represent a separate cause of action of the
4 creditor against the failed licensee.

5 (c) The Trustee shall report all expenditures paid from
6 the Trust Account to the Corporation at least annually.

7 (d) To the extent assets are available under subsection
8 (g) of Section 25-20 and upon presentation of documentation
9 satisfactory to the Trustee, the Trustee shall transfer from
10 the Trust Account to the Regulatory Fund an amount not to
11 exceed the expenses incurred by the Department in performance
12 of its duties under Article 20 of this Code.

13 (Source: P.A. 89-287, eff. 1-1-96.)

14 (240 ILCS 40/25-5)

15 Sec. 25-5. Adjudication of claims. When a licensee has
16 experienced a failure, the Department shall process the
17 claims in the following manner:

18 (a) The Department shall publish once each week for 3
19 successive weeks in a newspaper of general circulation within
20 the county of the licensee, and shall mail or deliver to each
21 claimant whose name and post office address are known or are
22 reasonably ascertainable by the Department, a notice stating:

23 (1) That the licensee has experienced a failure and
24 the date of that failure.

25 (2) The place and post office address where claims
26 may be filed.

27 (3) The procedure for filing claims, as determined
28 by rule.

29 (4) That a claimant's claims shall be barred if not
30 filed with the Department on or before the later of:

31 (A) the claim date, which shall be 90 days
32 after the date of failure of the licensee; or

33 (B) 7 days from the date notice was mailed to

1 a claimant if the date notice was mailed to that
2 claimant is on or before the claim date.

3 (b) Time of notice.

4 (1) The first date of publication of the notice as
5 provided for in subsection (a) of this Section shall be
6 within 30 days after the date of failure.

7 (2) The published notice as provided for in
8 subsection (a) of this Section shall be published in at
9 least 3 newspapers of general circulation in the area
10 formerly served by the failed licensee.

11 (3) The notice as provided for in subsection (a) of
12 this Section shall be mailed by certified mail, return
13 receipt requested, within 60 days after the date of
14 failure to each claimant whose name and post office
15 address are known by the Department within 60 days after
16 the date of failure.

17 (c) Every claim filed must be in writing, and verified,
18 and signed by a person who has the legal authority to file a
19 claim on behalf of the claimant, and must state information
20 sufficient to notify the Department of the nature of the
21 claim and the amount sought.

22 (d) A claim shall be barred and disallowed in its
23 entirety if:

24 (1) notice is published and given to the claimant
25 as provided for in subsections (a) and (b) of this
26 Section and the claimant does not file a claim with the
27 Department on or before the claim date; or

28 (2) the claimant's name or post office address is
29 not known by the Department or cannot, within 60 days
30 after the date of failure, be reasonably ascertained by
31 the Department and the claimant does not file a claim
32 with the Department on or before the later of the claim
33 date or 7 days after the date notice was mailed to that
34 claimant if the date notice was mailed to that claimant

1 is on or before the claim date.

2 (e) Subsequent notice.

3 (1) If, more than 60 days after the date of failure
4 but before the claim date, the Department learns of the
5 name and post office address of a claimant who was
6 previously not notified by the Department by mail, the
7 Department shall mail by certified mail, return receipt
8 requested, the notice to the claimant as provided for in
9 subsection (a) of this Section.

10 (2) The notice mailed as provided for in item
11 (e)(1) of this Section shall not extend the period of
12 time in which a claimant may file its claim beyond the
13 claim date. A claimant to whom notice is mailed under
14 item (e)(1) of this Section, however, shall have the
15 later of the claim date or 7 days after the date notice
16 was mailed to file a claim with the Department.

17 (f) The Department shall determine the validity,
18 category, and amount of each claim within 120 days after the
19 date of failure of the licensee.

20 (g) The Department shall give written notice to each
21 claimant and to the failed licensee of the Department's
22 determination as to the validity, category, and amount of
23 each claim.

24 (h) A claimant or the failed licensee may request a
25 hearing on the Department's determination within 30 days
26 after receipt of the written notice and the hearing shall be
27 held in accordance with rules.

28 (i) For the purposes of this Article, the "reasonably
29 ascertainable" standard shall be satisfied when the
30 Department conducts a review of the failed licensee's books
31 and records and an interview of office and clerical personnel
32 of the failed licensee.

33 (Source: P.A. 89-287, eff. 1-1-96.)

1 (240 ILCS 40/25-10)

2 Sec. 25-10. Claimant compensation. Within 30 days after
3 the day on which a claim becomes a valid claim, a claimant
4 shall be compensated to the extent of its valid claim in
5 accordance with the following provisions:

6 (a) Valid claims filed by warehouse claimants shall be
7 paid 100% of the amount determined by the Department out of
8 the net proceeds of the liquidation of grain assets as set
9 forth in this subsection (a). To the extent the net proceeds
10 are insufficient, warehouse claimants shall be paid their pro
11 rata share of the net proceeds of the liquidation of grain
12 assets and, subject to subsection (j) of this Section, an
13 additional amount per claimant not to exceed the balance of
14 their respective claims out of the Fund.

15 (b) Subject to subsection (j) of this Section, if the
16 net proceeds as set forth in subsection (a) of this Section
17 are insufficient to pay in full all valid claims filed by
18 warehouse claimants as payment becomes due, the balance shall
19 be paid out of the Fund in accordance with subsection (b) of
20 Section 25-20.

21 (c) Valid claims filed by producers who:

22 (1) have delivered grain within 21 days before the
23 date of failure or the date of suspension if the
24 suspension results in a failure for which pricing of that
25 grain has been completed before date of failure; or

26 (2) gave written notice to the Department within 21
27 days of the date of delivery of grain, if the pricing of
28 that grain has been completed, that payment in full for
29 that grain has not been made;

30 shall be paid, subject to subsection (j) of this Section,
31 100% of the amount of the valid claim determined by the
32 Department. Valid claims that are included in subsection (c)
33 of this Section shall receive no payment under subsection (d)
34 of this Section, and any claimant having a valid claim under

1 this subsection (c) determined by the Department to be in
2 excess of the limits, if any, imposed under subsection (j) of
3 this Section shall be paid only sums in excess of those
4 limits to the extent additional money is available under
5 subsection (d)(2) of Section 25-20.

6 (d) Valid claims that are not included in subsection (c)
7 of this Section that are filed by producers who completed
8 delivery and pricing of grain in reference to the valid
9 claim, whichever is later, within 160 days before the date of
10 failure shall be paid 85% of the amount of the valid claim
11 determined by the Department or \$300,000 ~~\$100,000~~, whichever
12 is less, per claimant. For claims filed by producers for
13 grain sold on a price later contract, however, the later of
14 the date of execution of the contract or the date of delivery
15 of grain in reference to the grain covered by the price later
16 contract must not be more than 270 days before the date of
17 failure in order for the claimant to receive any
18 compensation.

19 (e) Valid claims filed by producers for grain sold on a
20 price later contract, for which the final price has not been
21 established, shall be paid 85% of the amount of the valid
22 claims determined by the Department or \$300,000 ~~\$100,000~~,
23 whichever is less, per claimant, if the later of the date of
24 execution of the contract or the date of delivery of grain in
25 reference to the grain covered by the price later contract
26 occurred no more than 270 days before the date of failure.
27 The execution of subsequent price later contracts by the
28 producer and the licensee for grain previously covered by a
29 price later contract shall not extend the coverage of a claim
30 beyond the original 270 days.

31 (f) The maximum payment to producers under subsections
32 (d) and (e) of this Section, combined, shall be \$300,000
33 ~~\$100,000~~ per claimant.

34 (g) The following claims shall be barred and disallowed

1 in their entirety and shall not be entitled to any recovery
2 from the Fund or the Trust Account:

3 (1) Claims filed by producers who completed pricing
4 of the grain in reference to their claim in excess of 160
5 days before the date of failure.

6 (2) Claims filed by producers for grain sold on a
7 price later contract if the later of the date of
8 execution of the contract or the date of delivery of
9 grain in reference to the grain covered by the price
10 later contract occurred more than 270 days before the
11 date of failure.

12 (3) Claims filed by any claimant that are based
13 upon or acquired by fraudulent or illegal acts of the
14 claimant.

15 (h) To the extent moneys are available, additional pro
16 rata payments may be made to claimants under subsection (d)
17 of Section 25-20.

18 (i) For purposes of this Section, a claim filed in
19 connection with warehouse receipts that are possessed under a
20 collateral pledge of a producer, or that are subject to a
21 perfected security interest, or that were acquired by a
22 secured party or lien holder under an obligation of a
23 producer, shall be deemed to be a claim filed by the producer
24 and not a claim filed by the secured party or the lien
25 holder, regardless of whether the producer is in default
26 under that collateral pledge, security agreement, or other
27 obligation.

28 (j) With respect to any failure occurring on or after
29 July 1, 1998, the maximum payment out of the Fund for
30 claimants under subsection (a), (b), or (c) of this Section
31 shall be \$1,000,000 per claimant and the maximum payment out
32 of the Fund for claimants under subsections (c), (d), and (e)
33 of this Section, combined, shall be \$1,000,000 per claimant.

34 (Source: P.A. 91-213, eff. 7-20-99.)

1 (240 ILCS 40/25-20)

2 Sec. 25-20. Priorities and repayments.

3 (a) All valid claims shall be paid from the Trust
4 Account, as provided in Section 25-10, first from the
5 proceeds realized from liquidation of and collection upon the
6 grain assets relating to the failed licensee, as to warehouse
7 claimants, and the equity assets as to a secured party or
8 lien holder who has consented to the Department liquidating
9 and collecting upon the equity asset as set forth in
10 subsection (f) of Section 20-15, and the remaining equity
11 assets, collateral, and guarantees relating to the failed
12 licensee, as to grain dealer claimants.

13 (b) If the proceeds realized from liquidation of and
14 collection upon the grain assets, equity assets, collateral,
15 and guarantees relating to the failed licensee are
16 insufficient to pay all valid claims as provided in Section
17 25-10 and subsection (a) of this Section as payment on those
18 claims becomes due, the Director shall request from the Board
19 sufficient funds to be transferred from the Fund to the Trust
20 Account to pay the balance owed to claimants as determined
21 under Section 25-10. If a request is made by the Director
22 for a transfer of funds to the Trust Account from the Fund,
23 the Board shall act on that request within 25 days after the
24 date of that request. Once moneys are transferred from the
25 Fund to the Trust Account, the Director shall pay the balance
26 owed to claimants in accordance with Section 25-10.

27 (c) Net proceeds from liquidation of grain assets as set
28 forth in subsection (a) of Section 25-10 received by the
29 Department, to the extent not already paid to warehouse
30 claimants, shall be prorated among the fund and all warehouse
31 claimants who have not had their valid claims paid in full.

32 (1) The pro rata distribution to the Fund shall be
33 based upon the total amount of valid claims of all
34 warehouse claimants who have had their valid claims paid

1 in full. The pro rata distribution to each warehouse
2 claimant who has not had his or her valid claims paid in
3 full shall be based upon the total amount of that
4 claimant's original valid claims.

5 (2) If the net proceeds from the liquidation of
6 grain assets as set forth in subsection (a) of Section
7 25-10 exceed all amounts needed to satisfy all valid
8 claims filed by warehouse claimants, the balance
9 remaining shall be paid into the Trust Account or as set
10 forth in subsection (h).

11 (d) Subject to subsections (c) and (h):

12 (1) The proceeds realized from liquidation of and
13 collection upon the grain assets, equity assets,
14 collateral, and guarantees relating to the failed
15 licensee or any other assets relating to the failed
16 licensee that are received by the Department, to the
17 extent not already paid to claimants, shall be first used
18 to repay the Fund for moneys transferred to the Trust
19 Account.

20 (2) After the Fund is repaid in full for the moneys
21 transferred from it to pay the valid claims in reference
22 to a failed licensee, any remaining proceeds realized
23 from liquidation of and collection upon the grain assets,
24 equity assets, collateral, and guarantees relating to the
25 failed licensee thereafter received by the Department
26 shall be prorated to the claimants holding valid claims
27 who have not received 100% of the amount of their valid
28 claims based upon the unpaid amount of their valid
29 claims.

30 (e) After all claimants have received 100% of the amount
31 of their valid claims, to the extent moneys are available
32 interest at the rate of 6% per annum shall be assessed and
33 paid to the Fund on all moneys transferred from the Fund to
34 the Trust Account.

1 (f) After the Fund is paid the interest as provided in
2 subsection (e) of this Section, then those claims barred and
3 disallowed under paragraphs (1) and (2) of subsection (g) of
4 Section 25-10 shall be paid on a pro rata basis only to the
5 extent that moneys are available.

6 (g) Once all claims become valid claims and have been
7 paid in full and all interest as provided in subsection (e)
8 of this Section is paid in full, and all claims are paid in
9 full under subsection (f), any remaining grain assets, equity
10 assets, collateral, and guarantees, and the proceeds realized
11 from liquidation of and collection upon the grain assets,
12 equity assets, collateral, and guarantees relating to the
13 failed licensee shall be paid to the Regulatory Fund as
14 reimbursement for expenses incurred by the Department in
15 performance of its duties under Article 20 of this Code in
16 reference to the failed licensee, and, to the extent not paid
17 to the Regulatory Fund, shall be returned to the failed
18 licensee or its assignee, or as otherwise directed by a court
19 of competent jurisdiction.

20 (h) If amounts in the Fund are insufficient to pay all
21 valid claims, the General Assembly shall appropriate to the
22 Corporation amounts sufficient to satisfy the valid claims.
23 If for any reason the General Assembly fails to make an
24 appropriation to satisfy outstanding valid claims, this Code
25 constitutes an irrevocable and continuing appropriation of
26 all amounts necessary for that purpose and the irrevocable
27 and continuing authority for and direction to the State
28 Comptroller and to the State Treasurer to make the necessary
29 transfers and disbursements from the revenues and funds of
30 the State for that purpose. Subject to payments to warehouse
31 claimants as set forth in subsection (c) of Section 25-20,
32 the State shall be reimbursed as soon as funds become
33 available for any amounts paid under subsection (g) of this
34 Section upon replenishment of the Fund from assessments under

1 subsection (d) of Section 5-30 and collection upon grain
2 assets, equity assets, collateral, and guarantees relating to
3 the failed licensee.

4 (i) The Department shall have those rights of equitable
5 subrogation which may result from a claimant receiving from
6 the Fund payment in full of the obligations of the failed
7 licensee to the claimant.

8 (Source: P.A. 91-213, eff. 7-20-99.)

9 (240 ILCS 40/30-5)

10 Sec. 30-5. Illinois Grain Insurance Corporation.

11 (a) The Corporation is a political subdivision, body
12 politic, and public corporation. The governing powers of the
13 Corporation are vested in the Board of Directors composed of
14 the Director, who shall personally serve as president; the
15 Attorney General or his or her designee, who shall serve as
16 secretary; the State Treasurer or his or her designee, who
17 shall serve as treasurer; the Director of the Department of
18 Insurance or his or her designee; and the chief fiscal
19 officer of the Department. Three members of the Board
20 constitute a quorum at any meeting of the Board, and the
21 affirmative vote of 3 members is necessary for any action
22 taken by the Board at a meeting, except that a lesser number
23 may adjourn a meeting from time to time. A vacancy in the
24 membership of the Board does not impair the right of a quorum
25 to exercise all the rights and perform all the duties of the
26 Board and Corporation.

27 (b) The Corporation has the following powers, together
28 with all powers incidental or necessary to the discharge of
29 those powers in corporate form:

30 (1) To have perpetual succession by its corporate
31 name as a corporate body.

32 (2) To adopt, alter, and repeal bylaws, not
33 inconsistent with the provisions of this Code, for the

1 regulation and conduct of its affairs and business.

2 (3) To adopt and make use of a corporate seal and
3 to alter the seal at pleasure.

4 (4) To avail itself of the use of information,
5 services, facilities, and employees of the State of
6 Illinois in carrying out the provisions of this Code.

7 (5) To receive funds, printer registration fees,
8 and penalties assessed by the Department under this Code.

9 (6) To administer the Fund by investing funds of
10 the Corporation that the Board may determine are not
11 presently needed for its corporate purposes.

12 (7) To receive funds from the Trust Account for
13 deposit into the Fund.

14 (8) Upon the request of the Director, to make
15 payment from the Fund to the Trust Account when payment
16 is necessary to compensate claimants in accordance with
17 the provisions of Section 25-20 or for payment of refunds
18 to licensees in accordance with the provisions of this
19 Code.

20 (8.1) To authorize, receive, and disburse funds by
21 electronic means.

22 (9) To have those powers that are necessary or
23 appropriate for the exercise of the powers specifically
24 conferred upon the Corporation and all incidental powers
25 that are customary in corporations.

26 (Source: P.A. 91-213, eff. 7-20-99.)

27 (240 ILCS 40/30-10)

28 Sec. 30-10. Participants in the Fund.

29 (a) A licensee under this Code is subject to this
30 Article and shall collect and pay assessments into the Fund
31 as provided in Section 5-30.

32 (b) Except as provided in subsection (c) of this
33 Section, a person engaged in the business of a grain dealer

1 or warehouseman but not licensed under this Code shall not
2 participate in or benefit from the Fund and its claimants
3 shall not receive proceeds from the Fund.

4 (c) Participation of federal warehousemen.

5 (1) A federal warehouseman may participate in the
6 Fund. If a federal warehouseman chooses to participate
7 in the Fund, it shall to the extent permitted by federal
8 law:

9 (A) pay assessments into the Fund;

10 (B) be deemed a licensee and a warehouseman
11 under this Code;

12 (C) be subject to this Code; and

13 (D) execute a cooperative agreement between
14 itself and the Department.

15 (2) The cooperative agreement shall, at a minimum,
16 provide each of the following to the extent permitted by
17 federal law:

18 (A) Authorization for the Department to obtain
19 information about the federal warehouseman
20 including, but not limited to, bushel capacity of
21 storage space, financial stability, and examinations
22 performed by employees of the United States
23 Department of Agriculture.

24 (B) That the federal warehouseman submits
25 itself to the jurisdiction of the Department and
26 that it agrees to be subject to and bound by this
27 Code and deemed a licensee under this Code.

28 (C) That in the event of a failure of the
29 federal warehouseman, the Department shall have
30 authority to seize, liquidate, and collect upon all
31 grain assets, collateral, and guarantees relating to
32 the federal warehouseman as in the case of any other
33 licensee.

34 (D) Such other requirements as established by

1 rule.

2 (3) A federal warehouseman that participates in the
3 Fund shall at a minimum meet the licensing requirements
4 of this Code and shall comply with all requirements of a
5 licensee and a warehouseman under this Code to the extent
6 permitted by federal law.

7 (d) A federal warehouseman that participates in the Fund
8 or a warehouseman that desires to or has become a federal
9 warehouseman cannot withdraw from participation in the Fund
10 for the benefit of existing depositors until the occurrence
11 of all of the following:

12 (1) Payment in full by the federal warehouseman or
13 withdrawing warehouseman of all assessments under
14 subsection (a) of Section 5-30.

15 (2) Payment in full by the federal warehouseman or
16 withdrawing warehouseman of all assessments under
17 subsection (d) of Section 5-30 if the Fund is under
18 \$7,000,000 ~~\$3,000,000~~ at any time after the federal
19 warehouseman or withdrawing warehouseman notifies the
20 Department that it desires to withdraw from participation
21 in the Fund and before the issuance by the Department of
22 a certificate of withdrawal from the Fund.

23 (3) The expiration of 30 days following the later
24 of:

25 (A) the date the federal warehouseman or
26 withdrawing warehouseman has ceased providing its
27 depositors with coverage under the Fund;

28 (B) the date the federal warehouseman or
29 withdrawing warehouseman has posted at each of its
30 locations a notice stating when it will cease
31 providing its depositors with coverage under the
32 Fund;

33 (C) notification of all potential claimants by
34 the federal warehouseman or withdrawing warehouseman

1 of the date on which it will cease providing its
2 depositors with coverage under the Fund; and

3 (D) Completion of an audit and examination
4 satisfactory to the Department as provided for in
5 this Code and by rule, which is to be the
6 Department's final examination.

7 (4) Obtaining releases of liability from all
8 existing depositors or posting collateral with the
9 Department for 270 days after withdrawing from the Fund
10 in an amount equal to the liability to existing
11 depositors who have not executed releases before the
12 completion of the Department's final examination.

13 (5) Compliance with all notification requirements
14 as provided for in this Code and by rule.

15 (6) Issuance by the Department of a certificate of
16 withdrawal from the Fund when the federal warehouseman or
17 withdrawing warehouseman has met all requirements for
18 withdrawal from participation in the Fund.

19 (e) Before a federal warehouseman or a warehouseman that
20 desires to or has become a federal warehouseman may withdraw
21 from participation in the Fund, it must pay for an audit and
22 examination and must provide to the Department all names and
23 addresses of potential claimants for the purposes of
24 notification of withdrawal of participation in the Fund.

25 (Source: P.A. 89-287, eff. 1-1-96.)

26 ARTICLE 35. REGULATORY FUND

27 Sec. 35-5. Regulatory Fund.

28 (a) There is hereby created a trust fund in the State
29 Treasury to be known as the Regulatory Fund. The Regulatory
30 Fund shall receive license, certificate, and extension fees
31 under Sections 5-10, 5-15, and 5-20 and funds under
32 subsection (g) of Section 20-25 and shall pay expenses as set
33 forth in this Article 35.

1 (b) Any funds received by the Director pursuant to
2 Sections 5-10, 5-15, 5-20 and funds disbursed for deposit to
3 the Regulatory Fund under subsection (g) of Section 25-20
4 shall be deposited with the Treasurer as ex officio custodian
5 and held separate and apart from any public money of this
6 State, with interest accruing on moneys in the Regulatory
7 Fund deposited into the Regulatory Fund. Disbursement from
8 the Fund for expenses as set forth in this Article 35 shall
9 be by voucher ordered by the Director, accompanied by
10 documentation satisfactory to the Treasurer and the
11 Comptroller supporting the payment of amounts requested in
12 the voucher, and paid by a warrant drawn by the Comptroller
13 and countersigned by the Treasurer. Moneys in the Regulatory
14 Fund shall not be subject to appropriation by the General
15 Assembly but shall be subject to audit by the Auditor
16 General. Interest earned on moneys deposited into the
17 Regulatory Fund shall be deposited into the Regulatory Fund.

18 (c) Fees deposited into the Regulatory Fund under
19 Sections 5-10, 5-15, and 5-20 shall be expended only for the
20 following program expenses of the Department;

21 (1) Implementation and monitoring of programs of
22 the Department solely under this Code, including an
23 electronic warehouse receipt program.

24 (2) Employment or engagement of certified public
25 accountants to assist in oversight and regulation of
26 licensees.

27 (3) Training and education of examiners and other
28 Department employees in reference to Department programs
29 established to implement the Department's duties solely
30 under the Code.

31 (d) Any expenses incurred by the Department in
32 performance of its duties under Article 20 of the Code shall
33 be reimbursed to the Department out of the net assets of a
34 liquidation to the extent available under subsection (g) of

1 Section 25-20 and shall be deposited into the Regulatory Fund
2 and shall be expended solely for program expenses under the
3 Code.

4 Section 10. The State Finance Act is amended by adding
5 Section 5.570 as follows:

6 (30 ILCS 105/5.570 new)

7 Sec. 5.570. The Regulatory Fund.

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