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Requirements for Grain Warehouses:

Iowa



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Requirements for Grain Warehouses: Iowa

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Iowa Code Tit. 5, Ch. 203C

Iowa Code Tit. 5, Ch. 203D

Current through Act 2024–32 of the 2024 Regular Session.

Iowa Code § 203C.1. Definitions.

As used in this chapter:

1. "Agricultural product" shall mean any product of agricultural activity suitable for storage in quantity, including refined or unrefined sugar and canned agricultural products and shall also mean any product intended for consumption in the production of other agricultural products, such as stock salt, binding twine, bran, cracked corn, soybean meal, commercial feeds, and cottonseed meal.
2. "Bond" means a bond issued by a surety company or an irrevocable letter of credit issued by a financial institution.
3. "Bulk grain" shall mean grain which is not contained in sacks.
4. "Check" means the same as defined in section 203.1.
5. "Credit-sale contract" means the same as defined in section 203.1.
6. "Department" means the department of agriculture and land stewardship.
7. "Depositor" means any person who deposits an agricultural product in a warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt, or who is lawfully entitled to possession of the agricultural product.
8. "Electronic funds transfer" means the same as defined in section 203.1.



9. "*Financial institution*" means the same as defined in section 203.1.
10. "*Good cause*" means that the department has cause to believe that the net worth or current asset to current liability ratio of a warehouse operator presents a danger to depositors with whom the warehouse operator does business, based on evidence of any of the following:
- a. The making of a payment by use of a check or electronic funds transfer, and a financial institution refuses payment because of insufficient funds in the warehouse operator's account.
 - b. A violation of recordkeeping requirements provided in this chapter or rules adopted pursuant to this chapter by the department.
 - c. A quality or quantity shortage in the warehouse facility.
 - d. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on a statistical model provided in section 203C.40.
11. "*Grain*" means the same as defined in section 203.1.
12. "*Grain bank*" means grain owned by a depositor and held temporarily by the warehouse operator for use in the formulation of feed or to be processed and returned to the depositor on demand.
13. "*Grain Standards Act*" means the United States Grain Standards Act, 7 U.S.C. ch. 3.
14. "*Incidental warehouse operator*" means a person regulated under chapter 198 whose grain storage capacity does not exceed twenty-five thousand bushels which is used exclusively for grain owned or grain which will be returned to the depositor for use in a feeding operation or as an ingredient in a feed.
15. "*Incidental warehouse operator's obligation*" means a sufficient quantity and quality of grain to cover company owned grain and deposits of grain for which actual payment has not been made.
16. "*License*" means a license issued under this chapter.
17. "*Licensed warehouse*" shall mean a warehouse for the operation of which the department has issued a license in accordance with the provisions of section 203C.6.
18. "*Licensed warehouse operator*" shall mean a warehouse operator who has obtained a license for the operation of a warehouse under the provisions of section 203C.6.
19. "*Official grain standards*" means the standards of quality and condition of grain which establishes the grade, fixed and established by the secretary of agriculture under the Grain Standards Act.
20. "*Open storage*" means grain or agricultural products which are received by a warehouse operator from a depositor for which warehouse receipts have not been issued or a purchase made and the records documented accordingly.



21. "*Person*" means the same as defined in section 4.1 and includes a business association as defined in section 202B.102 or a joint or common venture regardless of whether it is organized under a chapter of the Code.

22. "*Receiving and loadout charge*" shall mean the charge made by the warehouse operator for receiving grain into and loading grain from the warehouse, exclusive of the warehouse operator's other charges.

23. "*Scale weight ticket*" means a load slip or other evidence, other than a receipt, given to a depositor by a warehouse operator licensed under this chapter upon initial delivery of the agricultural product to the warehouse.

24. "*Station*" means a warehouse located more than three miles from the central office of the warehouse.

25. "*Storage*" means any grain or other agricultural products that have been received and have come under care, custody or control of a warehouse operator either for the depositor for which a contract of purchase has not been negotiated or for the warehouse operator operating the facility.

26. "*United States Warehouse Act*" means the same as defined in section 203.1.

27. "*Unlicensed warehouse operator*" means a warehouse operator who retains grain in the warehouse not to exceed thirty days and is not licensed under the provisions of this chapter or the United States Warehouse Act.

28. "*Warehouse*" shall mean any building, structure, or other protected enclosure in this state used or usable for the storage of agricultural products. Buildings used in connection with the operation of the warehouse shall be deemed to be a part of the warehouse.

29. "*Warehouse operator*" means a person engaged in the business of operating or controlling a warehouse for the storing, shipping, handling or processing of agricultural products, but does not include an incidental warehouse operator.

30. "*Warehouse operator's obligation*" means a sufficient quantity and quality of grain or other products for which a warehouse operator is licensed including company owned grain and grain of depositors as the warehouse operator's records indicate. For an unlicensed warehouse operator it means a sufficient quantity and quality of grain to cover company owned grain and all deposits of grain for which actual payment has not been made.

Iowa Code § 203C.2. Duties and powers of the department – operator recordkeeping.

1. The department shall administer this chapter and may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products.
2. The department may inspect or cause to be inspected any warehouse including warehouse records as provided in this section. Inspections



may be made at times and for purposes as the department determines. Except as provided in section 203C.6, the department shall inspect every licensed warehouse and its contents once every twelve months. The department shall prioritize inspections based on the system provided in section 203C.40. The department may require the filing of reports relating to a warehouse or its operation.

a. A licensed warehouse operator operating a licensed warehouse shall provide for complete and correct recordkeeping. The records shall account for the storage and withdrawal of all agricultural products handled in each warehouse which the warehouse operator is licensed to operate. The records shall include all original and duplicate receipts issued by, returned to, and canceled by the warehouse operator. A licensed warehouse operator shall keep records for the previous six years. If the licensed warehouse operator's records are incomplete or inaccurate, the department may reconstruct the warehouse operator's records in order to determine whether the warehouse operator is in compliance with the provisions of this chapter. The department may charge the licensed warehouse operator the actual cost for reconstructing the warehouse operator's records.

b. If upon inspection of a warehouse a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouse operator's books and records according to official grain standards, the department may require an employee of the department to remain at the licensed warehouse and supervise all operations involving agricultural products stored there under this chapter until the deficiency is corrected. The charge for the cost of maintaining an employee of the department at a warehouse to supervise the correction of a deficiency is one hundred fifty dollars per day.

3. The department may make available to the United States government, or any of its agencies, including the commodity credit corporation, the results of inspections made and inspection reports submitted to it by employees of the department, upon payment to it of charges as determined by the department, but the charges shall not be less than the actual cost of services rendered, as determined by the department. The department may enter into contracts and agreements for such purpose and shall keep a record of all money thus received.

4. The department may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of a warehouse the only type or types and the quantity of agricultural products which may be stored in the warehouse. The department may prescribe, within the limitations of this chapter, the duties of licensed warehouse operators with respect to the care of and responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The department



may from time to time publish data in connection with the administration of this chapter as may be of public interest.

5. Moneys received by the department in administering this section shall be considered appropriated receipts as defined in section 8.2.

Iowa Code § 203C.3. Appointment of department as receiver.

1. The department in its discretion may, following summary suspension of a license under section 203C.10, or following a suspension or revocation of a license as otherwise provided in section 203C.10 or 203C.11, file a verified petition in the district court requesting that the department be appointed as a receiver to take custody of commodities stored in the licensee's warehouse and to provide for the disposition of those assets in the manner provided in this chapter and under the supervision of the court. The petition shall be filed in the county in which the warehouse is located. The district court shall appoint the department as receiver. Upon the filing of the petition the court shall issue ex parte such temporary orders as may be necessary to preserve or protect the assets in receivership, or the value thereof, and the rights of depositors, until a plan of disposition is approved.

2. A petition filed by the department under subsection 1 shall be accompanied by the department's plan for disposition of stored commodities. The plan may provide for the pro rata delivery of part or all of the stored commodities to depositors holding warehouse receipts or unpriced scale weight tickets, or may provide for the sale under the supervision of the department of part or all of the stored commodities for the benefit of those depositors, or may provide for any combination thereof, as the department in its discretion determines to be necessary to minimize losses.

3. When a petition is filed by the department under subsection 1 the clerk of court shall set a date for hearing on the department's proposed plan of disposition at a time not less than ten nor more than fifteen days after the date the petition is filed. Copies of the petition, the notice of hearing, and the department's plan of disposition shall be served upon the licensee and upon the issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 203C.6 in the manner required for service of an original notice. A delay in effecting service upon the licensee or issuer is not cause for denying the appointment of a receiver and is not grounds for invalidating any action or proceeding in connection with the appointment.

4. The department shall cause a copy of each of the documents served upon the licensee under subsection 3 to be mailed by ordinary mail to every person holding a warehouse receipt or unpriced scale weight ticket issued by the licensee, as determined by the records of the licensee or the records of the department. The failure of any person referred to in this subsection to receive the required notification shall not invalidate the proceedings on the petition for the appointment of a receiver or any portion thereof.



Persons referred to in this subsection are not parties to the action unless admitted by the court upon application therefor.

5. When appointed as a receiver under this chapter, the department shall cause notification of the appointment to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location, and in a newspaper of general circulation in this state.

6. The department may designate an employee of the department to appear on behalf of the department in any proceedings before the court with respect to the receivership, and to exercise the functions of the department as receiver under this section and section 203C.4, except that the department shall determine whether or not to petition for appointment as receiver, shall approve the proposed plan for disposition of stored commodities, shall approve the proposed plan for distribution of any cash proceeds, and shall approve the proposed final report.

7. The actions of the department in connection with petitioning for appointment as a receiver, and all actions pursuant to such appointment, shall not be subject to the provisions of the administrative procedure Act, chapter 17A.

8. A person employed or appointed by the department and carrying out the duties of the department acting as receiver under this chapter shall be deemed to be an employee of the state as defined in section 669.2. Chapter 669 is applicable to any claim as defined in section 669.2 against the person carrying out the duties of the department acting as receiver.

Iowa Code § 203C.4. Powers and duties of receiver.

1. When the department is appointed as receiver under this chapter the issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 203C.6 shall be joined as a party defendant by the department. If required by the court, the issuer shall pay the indemnification proceeds or so much thereof as the court finds necessary into the court, and when so paid the issuer shall be absolutely discharged from any further liability under the bond or irrevocable letter of credit to the extent of the payment.

2. When appointed as receiver under this chapter the department is authorized to give notice in the manner specified by the court to persons holding warehouse receipts or other evidence of deposit issued by the licensee to file their claims within one hundred twenty days after the date of appointment. Failure to timely file a claim shall defeat the claim with respect to the issuer of a deficiency bond or of an irrevocable letter of credit, grain depositors and sellers indemnity fund created in chapter 203D, and any commodities or proceeds from the sale of commodities, except to the extent of any excess commodities or proceeds of sale remaining after all timely claims are paid in full.



3. When the court approves the sale of commodities, the department shall employ a merchandiser to effect the sale of those commodities. A person employed or appointed as a merchandiser is deemed to be an employee of the state as defined in section 669.2 and chapter 669 is applicable to any claim as defined in section 669.2 against the person acting as a merchandiser. A person employed as a merchandiser must meet the following requirements:

a. The person shall be experienced or knowledgeable in the operation of warehouses licensed under this chapter; and if the person has ever held a license issued under this chapter, the person shall never have had that license suspended or revoked.

b. The person shall be experienced or knowledgeable in the marketing of agricultural products.

c. The person shall not be the holder of a warehouse receipt or scale weight ticket issued by the licensee, and shall not have a claim against the licensee whether as a secured or unsecured creditor, and otherwise shall not have any pecuniary interest in the licensee or the licensee's business. The merchandiser shall be entitled to reasonable compensation as determined by the department, payable out of funds appropriated for operating expenses of the department. A sale of commodities shall be made in a commercially reasonable manner and under the supervision of the warehouse bureau of the department. The department shall provide for the payment out of appropriations to the department of all expenses incurred in handling and disposing of commodities. The department shall have authority to sell the commodities, any provision of chapter 554 to the contrary notwithstanding, and any commodities so sold shall be free of all liens and other encumbrances.

4. The plan of disposition, as approved by the court, shall provide for the distribution of the stored commodities, or the proceeds from the sale of commodities, or the proceeds from any insurance policy, deficiency bond, or irrevocable letter of credit, less expenses incurred by the department in connection with the receivership, to depositors as their interests are determined. Distribution shall be without regard to any setoff, counterclaim, or storage lien or charge.

5. The department may, with the approval of the court, continue the operation of all or any part of the business of the licensee on a temporary basis and take any other course of action or procedure which will serve the interests of the depositors.

6. The department is entitled to reimbursement out of commodities or proceeds held in receivership for all expenses incurred as court costs or in handling and disposing of stored commodities, and for all other costs directly attributable to the receivership. The right of reimbursement of the department is prior to any claims against the



commodities or proceeds of sales of commodities, and constitutes a claim against a deficiency bond or irrevocable letter of credit.

7. If the approved plan of disposition requires a distribution of cash proceeds, the department shall submit to the court a proposed plan of distribution of those proceeds. Upon notice and hearing as required by the court, the court shall accept or modify the proposed plan. When the plan is approved by the court and executed by the department, the department shall be discharged and the receivership terminated.

8. At the termination of the receivership the department shall file a final report containing the details of its actions, together with such additional information as the court may require.

Iowa Code § 203C.5. Rules – documents and forms.

1. The department shall adopt rules as it deems necessary for the efficient administration of this chapter, and may designate an employee or officer of the department to act for the department in any details connected with administration, including the issuance of licenses and approval of deficiency bonds or irrevocable letters of credit in the name of the department, but not including matters requiring a public hearing or suspension or revocation of licenses.

2.

a. The department may adopt rules specifying the form, content, and use of documents issued by a warehouse operator under this chapter including but not limited to scale weight tickets, warehouse receipts, settlement sheets, and daily position records. The department may adopt rules for both printed and electronic documents, including rules for the transmission, receipt, authentication, and archiving of electronically generated or stored documents.

b. All scale weight ticket forms and warehouse receipt forms in the possession of a warehouse operator shall have been permanently and consecutively numbered at the time of printing. A warehouse operator shall maintain an accurate record of the numbers of these documents. The record shall include the disposition of each form, whether issued, destroyed, or otherwise disposed of. The department may by rule require this use of prenumbered forms and recording for documents other than scale weight tickets and warehouse receipts.

Iowa Code § 203C.6. Issuance of license and financial responsibility.

1. The department, upon application to it, may issue to a warehouse operator or to a person about to become a warehouse operator a license for the operation of a warehouse in accordance with this chapter and the rules adopted by the department under section 203C.5. A single license to



operate two or more warehouses located anywhere within the state may be issued.

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the storage capacity of a warehouse is more than one hundred thousand bushels.

b. A class 2 license is required for a warehouse that is not required to have a class 1 license.

3. An application for a warehouse license shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon written request, the department may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least twenty-five cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 warehouse operator if the person has a net worth of less than twenty-five thousand dollars.

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A



warehouse operator shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

5. In order to receive and maintain a class 2 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least twenty-five cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 2 warehouse operator if the person has a net worth of less than ten thousand dollars.

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A warehouse operator shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

6. The department may adopt rules governing the timing and form of financial statements to be submitted to it. The department may require additional information or verification with respect to the financial resources of the applicant or licensee and the applicant's or licensee's ability to maintain the quantity and quality of stored grain.

7. The department may deny a license to an applicant if the applicant has had a license issued under chapter 203 or this chapter revoked within the past three years, the applicant has been convicted of a felony



involving violations of chapter 203 or this chapter, or the applicant is owned or controlled by a person who has had a license so revoked or who has been so convicted.

8. The department may deny a license to an applicant if any of the following apply:

a. The applicant has caused liability to the grain depositors and sellers indemnity fund through operations under a license issued under this chapter or chapter 203, and the liability has not been discharged, settled, or satisfied.

b. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 203, and the liability has not been discharged, settled, or satisfied.

9. A deficiency bond or irrevocable letter of credit filed with the department pursuant to this section shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the department and the principal.

Iowa Code § 203C.7. Application for the issuance or renewal of a license.

1. Each application for the issuance of a license shall be in writing on a form prescribed by the department, subscribed and sworn to by the applicant or a duly authorized representative of the applicant. In addition to any other information required by rule of the department the application shall include all of the following:

a. The name of the person making the application, the names of all partners if the applicant is a partnership, and the names and titles of the principal officers or managers if the applicant is a legal entity including but not limited to a limited partnership, limited liability partnership, limited liability company, corporation, or cooperative association.

b. The principal office or place of business of the applicant.

c. A general description of each warehouse as to storage capacity, type of construction, mechanical equipment, if any, and condition.

d. The approximate location of each warehouse.

e. The type and quantity of agricultural product, or products intended to be stored in each warehouse.

f. A complete financial statement for use of the department in the administration of this chapter, as required by section 203C.6.

g. A tariff on a form to be prescribed by the department for storage, receiving, and loadout charges.



2. Each application for the renewal of a license shall be in writing and include information required by the department, including changes to information required in subsection 1.

Iowa Code § 203C.8. License to specify type and quantity of products which may be stored.

The department shall determine with respect to each application for a license whether the warehouse or warehouses described in the application is or are suitable for the proper and safe storage of the particular agricultural product or products intended to be stored therein in the quantities specified in the application, provided that no warehouse shall be found to be suitable and safe for the storage of bulk grain unless such warehouse is equipped with a fixed or portable mechanical device of a type in common use as an adjunct to the movement of bulk grain. Each license issued for the operation of a single warehouse shall specify the type or types and quantities of agricultural products which may be stored in such warehouse. Each license issued to a warehouse operator for the operation of two or more warehouses shall specify with respect to each warehouse the type or types and quantities of agricultural product which may be stored in such warehouse. It shall be unlawful for any licensed warehouse operator to accept for storage or to store in any licensed warehouse any agricultural product or products other than the type or types and quantities specified in the license for the operation of such warehouse.

Iowa Code § 203C.9. Amendment of license.

The department is authorized, upon its own motion, or upon receipt of written application, to amend any license previously issued by it, to change or modify the provisions as to the type and quantity of agricultural products which may be stored in the warehouse or warehouses in respect to which the license was originally issued. Application for amendments to licenses shall include the same information, except as to the financial condition of the applicant, as required by section 203C.7 to be included in an original application. Applications for amendments of licenses shall be considered by the department on the same basis as applications for original licenses, and except as otherwise provided in this chapter, a license when amended shall have the same status, as of the date of the amendment, as though originally issued as amended.

Iowa Code § 203C.10. Action affecting a license.

1. The cessation of a warehouse operator's license occurs from any of the following:
 - a. The revocation of the license by the department as provided in subsection 2.
 - b. The cancellation of the license as provided in section 203C.37.
 - c. The expiration of the license according to the terms of the license as provided in this chapter, including a rule adopted in



accordance with this chapter pursuant to chapter 17A.

2. The department may issue an order to suspend or revoke the license of a warehouse operator who violates a provision of this chapter, including a rule adopted in accordance with this chapter pursuant to chapter 17A.

3. The department may suspend or revoke the license of a warehouse operator for failing to consent to a departmental inspection or cooperate with the department during an inspection as provided by this chapter.

Iowa Code § 203C.11. Suspension or revocation for insufficient evidence of financial responsibility – notice.

1. The department shall proceed under section 203C.15 if it has cause to believe that a licensed warehouse operator does not provide for and carry an insurance policy as required in that section.

2. If the department determines that the net worth of a licensed warehouse operator is not in compliance with the requirements of section 203C.6, the department shall issue a notice to the warehouse operator and shall suspend the warehouse operator's license if the warehouse operator does not provide evidence of compliance within thirty days of the issuance of the notice. The department shall inspect the warehouse at the end of the thirty-day period. If evidence of compliance is not provided within sixty days of the issuance of the notice, the department shall revoke the warehouse operator's license, and shall again inspect the warehouse. If a license is revoked, the department shall give notice of the revocation to each holder of an outstanding warehouse receipt and to all known persons who have grain retained in open storage. The revocation notice shall state that the grain must be removed from the warehouse not later than the thirtieth day after the issuance of the revocation notice. The revocation notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection. The department shall conduct a final inspection of the warehouse at the end of the thirty-day period following the issuance of the revocation notice.

3. When the department receives notice that a deficiency bond or irrevocable letter of credit is being canceled by the issuer, and determines that upon the cancellation the warehouse operation will not be in compliance with section 203C.6, the department shall suspend the warehouse operator's license if a new deficiency bond or irrevocable letter of credit is not received by the department within sixty days of receipt by the department of the notice of cancellation. If a new deficiency bond or irrevocable letter of credit is not received by the department within thirty days following suspension, the warehouse operator's license shall be revoked. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation, and shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following



revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection.

Iowa Code § 203C.12. Participation in fund required.

A person licensed to operate a warehouse under this chapter shall participate in and comply with the grain depositors and sellers indemnity fund provided in chapter 203D.

Iowa Code § 203C.12A. Lien on warehouse operator assets.

1. A statutory lien is imposed on all warehouse operator assets in favor of depositors possessing warehouse receipts covering grain stored by the warehouse operator and depositors with written evidence of ownership other than warehouse receipts disclosing a storage obligation of a warehouse operator.
2. "Warehouse operator assets" includes proceeds received or due a warehouse operator upon the sale, including exchange, collection, or other disposition, of grain sold by the warehouse operator. As used in this section, "proceeds" means noncash and cash proceeds as defined in section 554.9102. "Warehouse operator assets" also includes storage payments received or due to a warehouse operator, grain owned by the warehouse operator, and any other funds or property of the warehouse operator which can be directly traced as being from the sale of grain by the warehouse operator, or which were utilized in the business operation of the warehouse operator. A court, upon petition by an affected party, may order that claimed warehouse operator assets are not warehouse operator assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not warehouse operator assets as defined in this section.
3. The lien shall arise at the commencement of the storage obligation, and shall terminate when the liability of the warehouse operator to the depositor has been discharged. The lien of all depositors is hereby assigned to the Iowa grain indemnity fund board, on behalf of the grain depositors and sellers indemnity fund.
4. To perfect the lien, the Iowa grain indemnity fund board must file a lien statement with the office of the secretary of state. The lien statement is valid only if filed on or after the date of suspension but not later than sixty days after the incurrence date as provided in section 203D.6. The lien statement shall disclose the name of the warehouse operator, the address of the warehouse operator's principal place of business, a description of identifiable warehouse operator assets, and the amount of the lien. The lien amount shall be the board's estimate of the final cost of reimbursing the grain depositors and sellers indemnity fund for the payment of claims made against the fund resulting from the breach of the warehouse operator's obligations. The board shall correct the amount not later than one hundred eighty days following the incurrence date. A court, upon petition by an affected



person, may correct the amount. The board shall have the burden of proving that the amount is an accurate estimate.

5. The Iowa grain indemnity fund board shall upon written demand of the warehouse operator file a termination statement with the secretary of state, if after one hundred eighty days from the date that the lien is perfected the warehouse operator's license has not ceased by revocation, cancellation, or expiration. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the warehouse operator.

6. The secretary of state shall note the filing of a lien statement under this section in a manner provided by chapter 554, the uniform commercial code. The secretary shall note the filing of a termination statement with the lien statement.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section 554.9322.

8. In the event the department is appointed as a receiver under section 203C.3, assets under the authority of the receiver are free from this statutory lien. However, if there are receivership assets in excess of those necessary to fully reimburse depositors, the perfected lien will attach to those excess assets.

9.

a. The Iowa grain indemnity fund board may enforce the lien in the manner provided in chapter 554, article 9, part 6, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the warehouse operator assets, the remaining assets shall be returned to the warehouse operator or, if there are competing claims to those remaining assets by other creditors, those assets shall be placed in the custody of the district court and the known creditors impleaded.

b. For purposes of enforcement of the lien, the board is deemed to be the secured party and the warehouse operator is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 6. If a right or duty under chapter 554, article 9, part 6, is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

10. Actions relating to this section shall be brought in the district court in the county in which the warehouse operator's primary place of business is located or in Polk county.



Iowa Code § 203C.13. Form and amount of evidence of financial responsibility.

1. A warehouse operator who stores only agricultural products other than bulk grain shall have and maintain a net worth of at least ten percent of the value of the warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be eligible for a license to store only agricultural products other than bulk grain if the person has a net worth of less than ten thousand dollars.

2. If the agricultural product or products intended to be stored by the warehouse operator, as specified in the application for a license or amended license, are other than bulk grain, the quantity of such product intended to be stored shall be valued at the fair market price on the date of filing the application, and the minimum amount of bond shall be determined with reference to such value as follows:

a. For intended storage of such products of a value less than twenty thousand dollars the minimum amount of the bond shall be three thousand dollars, plus one thousand dollars for each two thousand dollars, or fraction thereof, of value in excess of six thousand dollars up to twenty thousand dollars.

b. For intended storage of such products of a value not less than twenty thousand dollars and not more than fifty thousand dollars the minimum amount of the bond shall be ten thousand dollars plus one thousand dollars for each three thousand dollars, or fraction thereof, of value in excess of twenty thousand dollars up to fifty thousand dollars.

c. For intended storage of such products of a value not less than fifty thousand dollars the minimum amount of the bond shall be twenty thousand dollars plus one thousand dollars for each five thousand dollars, or fraction thereof, of value in excess of fifty thousand dollars.

3. A bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the department and the principal. When the department receives notice from an issuer that it has canceled the bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain of a warehouse operator, the department shall suspend the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain if a new bond, deficiency bond, or irrevocable letter of credit is not received by the department within sixty days of the issuance of the notice of cancellation. The department shall conduct an inspection of the licensee's warehouse immediately at the end of the sixty-day period. If a new bond, deficiency bond, or irrevocable letter of credit is not provided within ninety days of the issuance of the notice of



cancellation, the department shall revoke the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain. The department shall conduct a further inspection of the licensee's warehouse after the ninety-day period. When an authorization to store or accept for storage agricultural products other than bulk grain is revoked, the department shall give notice of the revocation to all known persons who have agricultural products other than bulk grain in storage, and shall notify them that the agricultural products other than bulk grain must be removed from the warehouse not later than one hundred twenty days after the issuance of the notice of cancellation. The revocation notice shall be sent by ordinary mail to the last known address of each person having agricultural products other than bulk grain in storage. The department shall cause a final inspection of the licensee's warehouse after the end of the one hundred twenty-day period.

Iowa Code § 203C.14. Suit – claims – notice of revocation.

1. A person injured by the breach of an obligation of a warehouse operator, for the performance of which a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit has been given under any of the provisions of this chapter, may sue on the bond on agricultural products other than bulk grain, deficiency bond, or irrevocable letter of credit in the person's own name in a court of competent jurisdiction to recover any damages the person has sustained by reason of the breach.

2.

a. Upon the cessation of a warehouse operator's license due to revocation, cancellation, or expiration, a claim against the warehouse operator arising under this chapter shall be made in writing with the warehouse operator, with the issuer of a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit, and, if the claim relates to bulk grain, with the department. The claim must be made within one hundred twenty days after the cessation of the license. The failure to make a timely claim relieves the issuer and, if the claim relates to bulk grain, the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant.

b. Upon revocation of a warehouse license, the department shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the warehouse operator and the effective date of revocation. The notice shall also state that any claims against the warehouse operator shall be made in writing and sent by ordinary mail to the warehouse operator, to the issuer of a bond on agricultural products other than bulk grain, deficiency bond, or



an irrevocable letter of credit, and to the department within one hundred twenty days after revocation, and the notice shall state that the failure to make a timely claim does not relieve the warehouse operator from liability to the claimant.

c. This subsection does not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the department prior to the expiration of one hundred twenty days after cessation of warehouse operator's license.

Iowa Code § 203C.15. Insurance required – exception.

1. A warehouse operator shall maintain insurance coverage as provided in this section. In order to maintain insurance coverage, all agricultural products in storage in a licensed warehouse and all agricultural products which have been deposited temporarily in a licensed warehouse pending storage or for purposes other than storage, shall be kept fully insured by the warehouse operator as provided in this section for the current value of the agricultural products against loss by fire, inherent explosion, windstorm, or any other similar catastrophe designated by rules which may be adopted by the department.

2. The insurance coverage required in subsection 1 shall be carried by one or more insurance companies. Such an insurance company must be all of the following:

a. Organized or operating under the laws of this state or authorized by the laws of this state to do business in this state.

b. An insurer of agricultural products in this state as provided in subsection 1.

3. Insurance coverage may be terminated by its expiration without renewal, or canceled by the insurance company on its own volition or as a result of an action or inaction by the insured licensed warehouse operator.

4. A licensed warehouse operator shall be responsible for providing the department with all of the following:

a. Evidence of insurance coverage as required in subsection 2 that is an insurance policy or other document approved by the department which evidences property and casualty insurance.

b. Proof of insurance which verifies that evidence of insurance coverage submitted by a licensed warehouse operator complies with subsection 1.

5. A warehouse operator must submit evidence of insurance coverage with the department as required by the department. The department must approve the evidence of insurance coverage before the department files it. A warehouse operator shall not be issued a license or retain a license unless evidence of insurance coverage is on file with the department.



6. The department may demand proof of insurance coverage by the licensed warehouse operator, regardless of whether the department has previously approved proof of insurance or approved or filed evidence of insurance coverage. The demand must be in writing and must explain the department's enforcement action resulting from the warehouse operator's noncompliance.

a. The licensed warehouse operator may comply with the demand by doing any of the following:

(1) Assuring the department that existing evidence of insurance coverage filed with the department complies with the requirements of this section.

(2) Obtaining additional or new insurance coverage. The licensed warehouse operator must submit and the department must approve and file the supplemental or new evidence of insurance coverage necessary to comply with the requirements of this section.

b. If the licensed warehouse operator fails to comply with the requirements of the demand letter as set out in paragraph "a", the department shall take enforcement action as follows:

(1) Thirty days after delivering the demand letter to the licensed warehouse operator, the department shall suspend the warehouse license.

(2) Forty days after delivering the demand letter to the licensed warehouse operator, the department shall revoke the warehouse license.

c. The department may inspect a licensed warehouse at any time.

d. The department shall terminate an enforcement action as provided in paragraph "b", if the licensed warehouse operator submits any proof of insurance or supplemental or new evidence of insurance which the department approves. However, this paragraph "d" applies only if the licensed warehouse operator submits the proof of insurance or evidence of insurance prior to the effective date of the revocation.

7. An insurance company shall not cancel insurance coverage unless any of the following applies:

a. The insurance company provides the department and the licensed warehouse operator with at least ninety days' notice of cancellation by mail.

b. The insurance coverage is renewed or replaced by the licensed warehouse operator, and the department has approved and filed the evidence of insurance coverage at the time that the



department would have received the mailed notice of cancellation.

8. The department shall take enforcement action against a licensed warehouse whose insurance coverage has been terminated by cancellation or expiration.

a. The department shall suspend the warehouse license. The suspension shall take effect on the date that the insurance coverage terminates. However, the department shall terminate the suspension if the licensed warehouse operator submits proof of insurance or any renewed or new evidence of insurance coverage to the department. In addition, all of the following requirements apply:

(1) The department must receive the proof of insurance or evidence of insurance coverage within ten days after the effective date of the suspension.

(2) The department must approve the proof of insurance or evidence of insurance coverage.

b. The department shall revoke the warehouse license. The revocation shall take effect eleven days after the effective date of the suspension, unless the suspension is terminated as provided in paragraph "a".

9. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The department shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection.

10. Claimants against the insurance have precedence in the following order:

a. Holders of warehouse receipts other than the warehouse operator and owners of bulk grain other than the warehouse operator.

b. Owners of all other agricultural products as their interests appear.

c. Warehouse operators who have warehouse receipts.

d. Warehouse operators who are the owners of bulk grain.

11. However, notwithstanding the insurance requirements set forth in this section, a licensed warehouse may exclude from the insurance coverage stored grain to which title is fully vested in the United States government or any of its subdivisions or agencies, provided that the licensed warehouse has on file with the United States government or any of its subdivisions or agencies a current and accepted uninsured storage rate under the provisions of their uniform grain storage agreement. The licensed warehouse shall file a copy of the current uninsured tariff rate with the department



immediately upon acceptance of the uninsured rate by the United States government or any of its subdivisions or agencies.

Iowa Code § 203C.16. License required for the storage of bulk grain.

A person other than a licensed warehouse operator shall not place in storage or accept for storage any bulk grain. A person shall not place bulk grain in storage in a warehouse other than a licensed warehouse. This section shall not apply to any of the following:

1. The acceptance and storage of bulk grain by a person bonded and licensed under the United States Warehouse Act.
2. The storage of bulk grain by a person who owns all the stored bulk grain.
3.
 - a. The storage of bulk grain by more than one person, if all of the following apply:
 - (1) The bulk grain was jointly produced by all persons storing the grain.
 - (2) The bulk grain is stored on the property owned or leased by one of the persons jointly producing the grain.
 - (3) No person other than persons jointly producing the grain owns the stored bulk grain.
 - b. As used in this subsection, "jointly produced" includes but is not limited to grain owned by a landlord who receives a share of agricultural products as rent.

Iowa Code § 203C.17. Receiving bulk grain at licensed and unlicensed warehouses.

1. Grain deposited with a licensed warehouse operator for which the actual sale price has not been fixed and either proper documentation has not been furnished or payment has not been made shall be considered stored grain and may be retained in open storage or placed under warehouse receipt. The licensed warehouse operator shall issue a warehouse receipt to the depositor upon request by the depositor. The warehouse operator's tariff shall apply to any grain that is retained in open storage or placed under warehouse receipt as provided in section 203C.18.
2. Bulk grain deposited with a licensed warehouse operator for processing, cleaning, drying, shipping for the account of the depositor, or any other purpose shall be removed within thirty days from the date of deposit or such grain shall be considered stored grain. The warehouse operator's tariff shall apply to the bulk grain as provided in section 203C.28.



3. Grain deposited and subject to a scale weight ticket that fails to have the price fixed and properly documented on the records of the licensed warehouse operator shall be retained in open storage.

4. All bulk grain whether retained in open storage and deposited subject to a scale weight ticket or placed under warehouse receipt is covered by the grain depositors and sellers indemnity fund as provided in chapter 203D.

5. An unlicensed warehouse operator shall not retain deposited bulk grain, if its actual sale price has not been fixed, and payment for the bulk grain has not been made within thirty days from its date of deposit, unless purchased by credit-sale contract. An unlicensed warehouse operator who retains deposited bulk grain under any other circumstance must either return the bulk grain to the depositor, or dispose of the bulk grain by order of the depositor, within thirty days from date of the deposit of the bulk grain.

6. If the depositor of bulk grain in an unlicensed warehouse fails to sell the grain or orders other disposition of the grain, the warehouse operator may purchase the grain, if otherwise allowed by law, on the thirtieth day after deposit at not less than the local market price at the close of business on the thirtieth day or return the grain to the depositor by the thirtieth day.

7. A licensed warehouse operator who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department shall not purchase grain on credit-sale contract to correct the shortage of grain. A licensed warehouse operator shall not issue a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased by credit-sale contract and is unpaid for by the warehouse operator.

8.

a. At least once each year, a licensed warehouse operator shall send a statement to each holder of a warehouse receipt covering grain stored at the licensed warehouse operator's licensed warehouse for more than one year. The statement shall be delivered in person or mailed to the holder's last known address. The statement shall show the amount of all grain stored pursuant to a warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouse operator against that grain.

b. The failure to prepare a statement required by this subsection is a simple misdemeanor.

c. A violation of this section shall not constitute grounds for the suspension or revocation of a warehouse operator's license.

Iowa Code § 203C.18. Warehouse receipts – issuance, printing, and electronic filing.



1. For all agricultural products that become storage in a licensed warehouse, warehouse receipts signed by the licensed warehouse operator or the operator's authorized agent shall be issued by the licensed warehouse operator. Such warehouse receipts shall be in the form required or permitted by uniform commercial code, sections 554.7202 and 554.7204, provided, however, that each receipt issued for agricultural products, in addition to the matters specified in uniform commercial code, section 554.7202, shall embody in its written or printed terms:

a. The receiving and loadout charges which will be made by the warehouse operator.

b. The grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made; provided that such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated; provided, further, that until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the secretary of agriculture of the United States.

c. A statement that the receipt is issued subject to this chapter.

d. Such other terms and conditions as may be required by rules of the department.

2. Warehouses that are not licensed pursuant to this chapter or by the United States government shall not issue warehouse receipts for agricultural products.

3. A form for a warehouse receipt shall only be printed by a person approved by the department. A form for a warehouse receipt shall be printed in accordance with specifications set forth by the department. A warehouse operator shall surrender to the department all forms for warehouse receipts that are unused at the time that the warehouse operator's license is suspended or ceases due to revocation, cancellation, or expiration. The warehouse operator shall surrender the warehouse receipts in a manner required by the department.

4. The department may adopt rules to allow for the issuance of electronic warehouse receipts by a provider who is a person approved by the department to maintain a secure electronic central filing system of electronic records including warehouse receipts and who is independent of an outside influence or bias in action or appearance.

Iowa Code § 203C.19. Rights and obligations with respect to warehouse receipts – lost receipts.



1. Insofar as not inconsistent with the provisions of this chapter, original or duplicate receipts issued by licensed warehouse operators shall be deemed to have been issued under the provisions of uniform commercial code, chapter 554, article 7.

2. Duplicates and releases for lost, destroyed, or stolen warehouse receipts may be issued only in accordance with the provisions of sections 554.7601 and 554.7601A.

Iowa Code § 203C.20. Receipt by warehouse operator to self.

A licensed warehouse operator may issue a warehouse receipt for agricultural products owned by the warehouse operator and dispose of the title to or interest in such products through the medium of such receipt. Such receipt shall be of the same standing as though it had been issued to a person other than the licensed warehouse operator upon a rightful deposit of the products by such other person. Sections 203C.18 and 203C.19 shall be applicable to any such receipt.

Iowa Code § 203C.21 and 203C.22. Reserved.

Iowa Code § 203C.23. Warehouse operator's obligation.

1. A warehouse operator shall maintain at all times sufficient quantity and quality of grain or other agricultural products to cover the warehouse operator's obligation. A warehouse operator shall not at any time have less grain or other agricultural products in the warehouse than the obligations to depositors, as determined by an investigation of the warehouse operator's records.

2. An incidental warehouse operator shall maintain at all times sufficient quantity and quality of grain to cover the incidental warehouse operator's obligation. An incidental warehouse operator shall not at any time have less grain in a warehouse than the obligations to depositors, as determined by an investigation of the incidental warehouse operator's records.

Iowa Code § 203C.24. Confidentiality of records.

Notwithstanding the provisions of chapter 22, all financial statements of warehouse operators under this chapter shall be kept confidential by the department and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 203.
3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.
4. When required by subpoena or other court orders.



5. Disclosure to law enforcement agencies in regards to the detection and prosecution of public offenses.
6. Where released to a bonding company approved by the department or to the United States department of agriculture or any of their divisions.
7. Where released at the request of the Iowa accountancy examining board for licensee review and discipline in accordance with chapters 272C and 542 and subject to the confidentiality requirements of section 272C.6.
8. [Deleted]

Iowa Code § 203C.25. Shrinkage adjustments – disclosures – penalties.

1. A person who, in connection with the receipt of grain for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain shall compute the amount of the adjustment by multiplying the scale weight of the grain by that factor which results in a rate of adjustment of one and eighteen hundredths percent of weight per one percent of moisture content. The person who uses any rate of weight adjustment for moisture content other than the one prescribed by this subsection commits a fraudulent practice as defined in section 714.8. The person shall post on the business premises in a conspicuous place notice of the rate of adjustment for moisture content as prescribed by this subsection. The person who fails to make this disclosure commits a simple misdemeanor.
2. A person who, in connection with the receipt of grain for storage, processing, or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. The person who fails to make this disclosure commits a simple misdemeanor.
3. A person who adjusts the scale weight of grain for moisture content and for handling, processing, or storage losses may combine the two adjustment factors into a single factor and may use this resulting factor to compute the amount of weight adjustment in connection with storage, processing, or sale transactions, provided that the person shall post on the business premises in a conspicuous place a notice that discloses the moisture shrinkage factor prescribed by subsection 1, the handling shrinkage factor to be imposed, and the single factor that results from combining these factors. The person who fails to make this disclosure commits a simple misdemeanor.

Iowa Code § 203C.26. Reserved.

Iowa Code § 203C.27. [Repealed].

Iowa Code § 203C.28. Tariff rates.

1. A warehouse operator shall, at the time of application for a license, file a tariff with the department which shall contain



rates to be charged for receiving, storage, and load-out of grain. The tariff shall be posted in a conspicuous place at the place of business of the licensee in a form prescribed by the department and shall become effective at the time the license becomes effective.

2. Storage charges shall commence on the date of delivery to the warehouse. Storage, receiving, or load-out charges other than those specified in the tariff may be made if the charge is required by the terms of a written contract with the United States government or any of its subdivisions or agencies.

3. Grain deposited with the warehouse for the sole purpose of processing and redelivery to the depositor is subject only to the charges listed under the grain bank section of the tariff. Drying and cleaning of grain shall not be construed as processing.

4. A tariff may be amended at any time and is effective immediately, except that grain in store on the effective date of a storage charge increase does not assume the increased rate until the subsequent anniversary date of deposit. Any decrease in storage rates shall be effective immediately and shall be applicable to all grain in store on the effective date of the decrease.

5. A warehouse operator may file with the department and publish the supplemental tariff applicable only to grain meeting special descriptive standards or characteristics as set forth in the supplemental tariff. A supplemental tariff shall be in a form prescribed by the department and be posted adjacent to the warehouse tariff.

6. All tariff charges shall be nondiscriminatory within classes.

Iowa Code § 203C.29. Reserved.

Iowa Code § 203C.30. Inspecting and grading.

Grain or any other fungible agricultural product stored in a warehouse licensed under this chapter for which no separate compartment is provided, and its identity preserved, shall be inspected and graded.

Iowa Code § 203C.31 and 203C.32. Reserved.

Iowa Code § 203C.33. Fees.

1. The department shall charge the following fees for deposit in the general fund:

a. For the issuance or renewal of a warehouse license, the fee shall be determined on the basis of the storage capacity in bushels of grain as follows:

(1) If the total storage capacity is one hundred thousand bushels or less, the fee is fifty-eight dollars.



(2) If the total storage capacity is more than one hundred thousand bushels, but not more than seven hundred fifty thousand bushels, the fee is one hundred twenty-five dollars.

(3) If the total storage capacity is more than seven hundred fifty thousand bushels, but not more than one million five hundred thousand bushels, the fee is one hundred ninety-one dollars.

(4) If the total storage capacity is more than one million five hundred thousand bushels, but not more than three million bushels, the fee is two hundred forty-nine dollars.

(5) If the total storage capacity is more than three million bushels, but not more than four million seven hundred fifty thousand bushels, the fee is three hundred seven dollars.

(6) If the total storage capacity is more than four million seven hundred fifty thousand bushels, but not more than nine million five hundred thousand bushels, the fee is three hundred seventy-four dollars.

(7) If the total storage capacity is more than nine million five hundred thousand bushels, the fee is four hundred forty dollars.

b. For the issuance or renewal of a warehouse license for the storage of products other than bulk grain, the fee shall be determined as follows:

(1) For intended storage of products of a value of one hundred thousand dollars or less, a fee of sixty dollars.

(2) For intended storage of products of a value greater than one hundred thousand dollars but not greater than three hundred thousand dollars, a fee of one hundred dollars.

(3) For intended storage of products of a value in excess of three hundred thousand dollars, a fee of two hundred dollars.

c. For each inspection of a warehouse or station for the purpose of licensing, a fee of twenty-five dollars, and for each additional warehouse or station under the same license, a fee of ten dollars.

d. For each amendment of a license, a fee of ten dollars.

e. For each amendment of a tariff, a fee of ten dollars.

f. For a duplicate license, a fee of five dollars.

g. For the reinstatement of a license, a fee of fifty dollars.

2. Fees for new licenses issued for less than a year shall be prorated from the date of application.

Iowa Code § 203C.34. Display of license.



Every warehouse operator's license issued under this chapter shall be conspicuously displayed in the office of the warehouse for the operation of which the license has been issued.

Iowa Code § 203C.35. [Repealed].

Iowa Code § 203C.36. Penalties – injunction.

1. A person who knowingly withholds information from or knowingly submits false information to the department or any of its employees in a record required to be maintained or submitted to the department under this chapter commits a fraudulent practice as provided in chapter 714.

2.

a. Except as provided in paragraph "b", a person commits a serious misdemeanor if the person does any of the following:

(1) Engages in business as a warehouse operator without a license as required in section 203C.6.

(2) Obstructs the inspection of the person's business premises or records required to be kept by a licensed warehouse operator pursuant to section 203C.2.

(3) Uses a scale weight ticket, warehouse receipt, or other document in violation of this chapter or requirements established by the department under this chapter.

b. A person who commits an offense specified in paragraph "a" after having been found guilty of the same offense commits an aggravated misdemeanor.

3. Except as provided in subsections 1 and 2, a person who violates any provision of this chapter commits a simple misdemeanor. With respect to a continuing violation, each day that the violation continues is a separate offense.

4. A person in violation of this chapter, or in violation of chapter 714 or 715A, which violation involves the business of a warehouse operator, is subject to prosecution by the county attorney in the county where the business is located. However, if the county attorney fails to initiate prosecution within thirty days, and upon request by the department, the attorney general may initiate and carry out the prosecution in cooperation, if possible, with the county attorney. The person in violation may be restrained by injunction in an action brought by the department or the attorney general upon request by the department.

Iowa Code § 203C.36A. Civil penalties.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed against a warehouse operator for a violation of this chapter.



2. The amount of a civil penalty shall not exceed one thousand five hundred dollars. Each day that a violation continues shall constitute a separate violation. Moneys collected in civil penalties by the department or the attorney general shall be deposited in the general fund of the state.

3. A civil penalty may be administratively assessed only after an opportunity for a contested case hearing under chapter 17A. The department may be represented in an administrative hearing or judicial proceeding by the attorney general. A civil penalty shall be paid within thirty days from the date that an order or judgment for the penalty becomes final. When a person against whom a civil penalty is administratively assessed under this section seeks timely judicial review of an order imposing the penalty as provided under chapter 17A, the order is not final until all judicial review processes are completed. When a person against whom a civil penalty is judicially assessed under this section seeks a timely appeal of judgment, the judgment is not final until the right of appeal is exhausted.

4. A person who fails to timely pay a civil penalty as provided in this section shall pay, in addition to the penalty, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

Iowa Code § 203C.37. Issuance of a license and payment of fees.

1.

a. Upon the filing of an application pursuant to section 203C.7 and compliance with the terms and conditions of this chapter including rules of the department, the department shall issue the applicant a warehouse operator's license. The license expires at the end of the third calendar month following the close of the warehouse operator's fiscal year. A warehouse operator's license may be renewed annually by the filing of a renewal application on a form prescribed by the department pursuant to section 203C.7. An application for renewal must be received by the department on or before the end of the third calendar month following the close of the warehouse operator's fiscal year.

b. The department shall not approve an application for the issuance or renewal of a warehouse operator's license unless the applicant pays all of the following fees:

(1) For the issuance of a license, all of the following:

(a) A license fee imposed under section 203C.33.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee imposed under a previous license as provided in that section.

(2) For the renewal of a license, all of the following:



- (a) A renewal fee imposed under section 203C.33.
 - (b) A participation fee imposed under section 203D.3A, and any delinquent participation fee as provided in that section.
- 2. The failure of a warehouse operator to file a renewal application and to pay a renewal fee as provided for in section 203C.33 and any delinquent participation fee as provided in section 203D.3A, on or before the end of the third calendar month following the close of the licensee's fiscal year shall cause a license to expire.
- 3. A warehouse license that has expired may be reinstated by the department upon receipt of a proper renewal application, the renewal fee and the reinstatement fee as provided for in section 203C.33, and any delinquent participation fee as provided in section 203D.3A. The applicant must file the renewal application and pay the fees to the department within thirty days from the date that the warehouse license expires.
- 4. The department may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.
- 5.
 - a. The department shall refund a fee paid by a person to the department under this section if the department does not issue the person a license or renew the person's license.
 - b. The department shall prorate a fee paid by a person to the department under this section for the issuance or renewal of a license for less than a full year.

Iowa Code § 203C.38. No obligation of state.

Nothing in this chapter shall be construed to imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees or officials, either elective or appointive, in respect of any agreement or undertaking to which the provisions of this chapter relate.

Iowa Code § 203C.39. Grain stored in another warehouse.

A licensed warehouse operator may store grain in an alternative warehouse located in Iowa or another state as provided in this section.

- 1.
 - a. The alternative warehouse located in Iowa must be another licensed warehouse or a warehouse licensed pursuant to the United States Warehouse Act.
 - b. The alternative warehouse located in another state must be licensed pursuant to the applicable laws of the state in which



the alternative warehouse is located or the United States Warehouse Act. A warehouse operator shall not store grain in an alternative warehouse located in another state, unless approved in writing by the department in a manner required by the department.

2. In storing grain in an alternative warehouse under subsection 1, all of the following requirements apply:

a. The warehouse operator must obtain from such warehouse operator a nonnegotiable warehouse receipt and such receipt must show clearly the following notation:

Held in trust for depositors of (name of original receiving warehouse).

b. When the licensed warehouse operator begins to use the alternative warehouse, the licensed warehouse operator must have sufficient net worth under section 203C.6 or provide a deficiency bond or an irrevocable letter of credit to cover the increase in the licensed warehouse operator's gross capacity.

3. A licensed warehouse operator may transfer grain for storage to another licensed warehouse operator while the warehouse operator receiving such grain has grain stored elsewhere under the provisions of this section.

Iowa Code § 203C.40. Prioritization of inspections of warehouse operators.

The department shall develop a system to prioritize the inspections of warehouse operators provided in section 203C.2. The system of prioritization shall be computed each year based on the risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator. The department shall compute the risk by utilizing an available statistical model to measure the financial condition of warehouse operators. Procedures for utilizing the statistical model shall be adopted by department rules. The statistical model shall be used to provide risk ratings. A risk rating shall be used as a factor by the department to prioritize its inspection schedule. The department may inspect a warehouse operator at any time based on a risk of loss to the fund according to the risk rating. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on the statistical model shall be good cause.

Iowa Code § 203D.1. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the Iowa grain indemnity fund board created in section 203D.4.
2. "Credit-sale contract" means the same as defined in section 203.1.
3. "Department" means the department of agriculture and land stewardship.



4. "Depositor" means a person who deposits grain in a licensed warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt issued by a licensed warehouse, or who is lawfully entitled to possession of the grain.
5. "First point of sale" means the initial transfer of title to grain from a person who has produced the grain or caused the grain to be produced to the first purchaser of the grain for consideration, conditional or otherwise, in any manner or by any means.
6. "Fund" means the grain depositors and sellers indemnity fund created in section 203D.3.
7. "Grain" means the same as defined in section 203.1.
8. "Grain dealer" means the same as defined in section 203.1.
9. "Licensed grain dealer" means a person who has obtained a license to engage in the business of a grain dealer pursuant to section 203.3.
10. "Licensed warehouse" means the same as defined in section 203C.1.
11. "Licensed warehouse operator" means the same as in section 203C.1.
12. "Licensee" means a licensed grain dealer or licensed warehouse operator.
13. "Loss" means the amount of a claim held by a seller or depositor against a grain dealer or warehouse operator which has not been recovered through other legal and equitable remedies including the liquidation of assets.
14.
 - a. "Purchased grain" means grain entered in the company-owned paid position as evidenced on the grain dealer's daily position record.
 - b. "Purchased grain" does not include grain that is subject to an exempt transaction based on documentation satisfactory to the department showing that the grain dealer did any of the following:
 - (1) Purchased the grain from the United States government or any of its subdivisions or agencies.
 - (2) Purchased the grain from a person licensed as a grain dealer in any jurisdiction.
 - (3) Purchased the grain under a credit-sale contract.
 - (4) Entered the grain in the company-owned paid position as a cancellation of a collateral warehouse receipt.
 - (5) Entered the grain in the company-owned paid position as an intra-company location transfer.



15. "Scale weight ticket" means the same as defined in section 203C.1.

16. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit-sale contract as a seller as provided in section 203.15. However, "Seller" does not include any of the following:

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

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

17. "Warehouse operator" means the same as defined in section 203C.1.

Iowa Code § 203D.2. Persons participating in fund.

All licensed grain dealers and licensed warehouse operators shall participate in the fund.

Iowa Code § 203D.3. Grain depositors and sellers indemnity fund.

1. The grain depositors and sellers indemnity fund is created in the state treasury as a separate account. The general fund of the state is not liable for claims presented against the fund under section 203D.6.

2. The fund consists of all of the following:

a. Participation fees paid to the department by licensed grain dealers and persons applying to be issued a grain dealer's license as provided in section 203D.3A.

b. Participation fees paid to the department by licensed warehouse operators and persons applying to be issued a warehouse operator's license as provided in section 203D.3A.

c. Per-bushel fees paid to the department by licensed grain dealers as provided in section 203D.3A.

d. Delinquency penalties.

e. Amounts collected by the state pursuant to legal action on behalf of the fund.

f. Interest, earnings on investments, property, or securities acquired through the use of moneys in the fund.

3. The assessment year of the fund begins September 1 and ends on August 31. Assessment quarters of the fund begin September 1, December 1, March 1, and June 1. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles.



4. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 203D.6 and to pay the administrative costs of this chapter.

5. All disbursements from the fund shall be paid by the treasurer of state pursuant to vouchers authorized by the department.

6. The administrative costs of this chapter shall be paid from the fund after approval of the costs by the board.

Iowa Code § 203D.4. Indemnity fund board.

1. The Iowa grain indemnity fund board is established to advise the department on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of agriculture or a designee who shall serve as president; the state treasurer or a designee who shall serve as treasurer; a representative of the banking industry appointed by the governor, who shall be selected from a list of three nominations made by the secretary of agriculture; and four representatives of the grain industry appointed by the governor, subject to confirmation by the senate, two of whom shall be representatives of producers and who shall be actively participating producers, and two of whom shall be representatives of licensed grain dealers and licensed warehouse operators and who shall be actively participating licensed grain dealers and licensed warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the banking industry representative and the grain industry representatives is three years, and the representatives are eligible for reappointment. However, of the grain industry representatives, only actively participating producers, and grain dealers and warehouse operators are eligible for reappointment. The banking industry representative and the grain industry representatives are entitled to a per diem as specified in section 7E.6 for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. Four members of the board constitute a quorum, and the affirmative vote of four members is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

2. The duties of the board include the review and determination of claims, and the review and approval of administrative costs of the fund. To carry out these duties, the board has the power to adopt rules regarding its organization and procedures for determining claims. Further, the board shall approve rules proposed by the department for the administration of the per-bushel fee prior to their adoption by the department. The board may provide comment and advice to the department in regard to the department's administration of chapters 203 and 203C where the department's policies and rules may affect the exposure of the fund to liability. However, the board shall not become actively involved in a determination by the department as to



whether disciplinary action is to be taken against a particular licensee. The board is not a forum for review or appeal in regard to any particular action taken by the department against a licensee.

3. The department through the grain warehouse bureau shall perform the administrative functions necessary for the operation of the board and the fund. Administrative costs approved by the board shall be paid from the fund. The rules of the department shall contain the rules of the board adopted for its organization and its procedures. The department shall adopt rules for the administration of the per-bushel fee upon the board's approval of the rules proposed by the department. The secretary of agriculture, as president of the board as well as head of the department of agriculture and land stewardship, shall administer the department so as to minimize the risk of loss to the fund while protecting interests of depositors and sellers of grain. Policies and rules for the administration of chapters 203 and 203C which, as determined by the secretary of agriculture, may affect the exposure of the fund, shall be presented to the board for comment prior to their adoption by the department. The department shall make reports to the board in regard to licensee investigations which may result in disciplinary action against a licensee and exposure of the fund. The reports may be discussed by the board in closed session pursuant to section 21.5, and are confidential. In making the report, the department shall make available to the board records of licensees which are otherwise confidential under section 22.7, 203.16, or 203C.24. However, a determination to take disciplinary action against a particular licensee shall be made exclusively by the department. A report to the board is not a prerequisite to disciplinary action against a licensee. Review of any action against a licensee, whether or not relating to the fund, shall be made exclusively through the department.

Iowa Code § 203D.5. Fees – imposition, adjustment, or waiver.

1. The board shall annually review the debits of and credits to the grain depositors and sellers indemnity fund created in section 203D.3 and shall determine whether to impose the participation fee and per-bushel fee as provided in section 203D.3A, make adjustments to the fees effective on the previous September 1, or waive the fees as necessary to comply with this section. The board shall make the determination not later than May 1 of each year. The board shall impose the fees or adjust the fees effective on the previous September 1 in accordance with chapter 17A. The imposition or adjustment of the fees shall become effective as follows:

- a. For the participation fee, on the following September 1. However, the licensee shall continue to pay the participation fee at the rate in effect on the prior September 1, until the licensee has paid the amount owing.
- b. For a per-bushel fee, on the following September 1.

2.



a. Except as provided in paragraph "b", the rate of a participation fee owed by a licensee shall be calculated as follows:

(1) For a licensed grain dealer, not more than fourteen thousandths of a cent per bushel assessed on all purchased grain during the grain dealer's last fiscal year at each location at which records are maintained for transactions of the grain dealer, as determined according to information submitted by the grain dealer to the department for the issuance or renewal of a license as provided in section 203.5.

(2) For a licensed warehouse operator, not more than fourteen thousandths of a cent per bushel of bulk grain storage capacity for each warehouse licensed pursuant to section 203C.8 or five hundred dollars, whichever is less. The participation fee shall be determined using information provided to the department by the warehouse operator applying for the issuance or renewal of a license as provided in sections 203C.7 and 203C.37.

b. A licensee shall pay a participation fee of at least fifty dollars.

3. The rate of the per-bushel fee shall not exceed one-quarter cent per bushel assessed on all purchased grain.

4. If on the last date of the fund's assessment year as provided in section 203D.3 the assets of the fund exceed eight million dollars, less any encumbered balances or pending or unsettled claims, all of the following apply:

a. The participation fee shall be waived and shall not be assessable or owing for the following assessment year of the fund. However, the licensee shall continue to pay any owing participation fee that was in effect on the prior September 1.

b. The per-bushel fee shall be waived and shall not be assessable or owing.

5. The board shall reinstate the fees as provided in this section if the assets of the fund, less any unencumbered balances or pending or unsettled claims, are three million dollars or less.

Iowa Code § 203D.5A. Lien on licensee's assets.

The board may enforce a lien attached to assets held by a licensee under chapter 203 or 203C. The lien shall be perfected and enforced pursuant to section 203.12A or 203C.12A.

Iowa Code § 203D.6. Claims against fund.

1. *Persons who may file claims.* A depositor or seller may file a claim with the department for indemnification of a loss from the grain depositors



and sellers indemnity fund. A claim shall be filed in the manner prescribed by the board.

2. Time of filing claim.

a. As used in this subsection, an incurrence date is when either of the following occurs:

(1) The cessation of the license of the grain dealer as described in section 203.10 or warehouse operator as described in section 203C.10.

(2) The filing of a petition in bankruptcy by a licensed grain dealer or licensed warehouse operator.

b. To be timely, a claim must be filed within a claim period beginning on either incurrence date and ending one hundred twenty days after that incurrence date, regardless of whether a previous claim period has expired.

3. *Notice.* The department shall cause notice of the opening of the claim period to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the licensee and the claim incurrence date. The notice shall also state that any claims against the fund on account of the licensee shall be sent by ordinary mail to the department within one hundred twenty days after the incurrence date, and that the failure to make a timely claim relieves the fund from liability to the claimant. This notice may be incorporated by the department with a notice required by section 203.12 or 203C.14.

4. *Determination of eligible claims.* The board shall determine a claim to be eligible for payment from the fund if the board finds all of the following:

a. That the claim was timely filed.

b. That the incurrence date was on or after May 15, 1986.

c. That the claimant qualifies as a depositor or seller.

d. That the claim derives from a covered transaction. For purposes of this paragraph, a claim derives from a covered transaction if the claimant is a seller who transferred title to the grain to a licensed grain dealer other than by credit-sale contract within six months of the incurrence date for a claim period as provided in subsection 2, or if the claimant is a depositor who delivered the grain to a licensed warehouse operator.

e. That there is adequate documentation to establish the existence of a claim and to determine the amount of the loss.

f. A claim has not been paid for the same loss.



5. *Value of loss - warehouse claims.* The board shall determine the dollar value of a claim incurred by a depositor holding a warehouse receipt or a scale weight ticket for grain that the depositor delivered for storage to the licensed warehouse operator. If the department has been appointed by the court as receiver of the grain assets of the warehouse operator, the value shall be presumed to be as stated in the plan of disposition approved by the court. If the warehouse operator has filed a petition in bankruptcy, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date the petition was filed. If there is neither a department receivership nor a bankruptcy filing, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date of license revocation or cancellation. If more than one date applies to a claim, the board may choose between the two. However, the board may accept an alternative valuation of a claim upon a showing of just cause by the depositor or department. All depositors filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at time of payment from the fund.

6. *Value of loss - grain dealer claims.* The dollar value of a claim incurred by a seller who has sold grain or delivered grain for sale or exchange and who is a creditor of the licensed grain dealer for all or part of the value of the grain shall be based on the amount stated on the obligation on the date of the sale. If the sold grain was unpriced, the value of a claim shall be presumed to be based upon the fair market price, free-on-board from the site of the grain dealer, being paid to producers for grain by the grain terminal operator nearest the grain dealer on the date of the license revocation or cancellation or the filing of a petition in bankruptcy. If more than one date applies to a claim, the board may choose between the two. However, the board may accept an alternative valuation of a claim upon a showing of just cause by the seller or department. All sellers filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at the time of payment from the fund.

7. *Procedure - appeal.* The board, through the department, shall provide for notice to each depositor and seller upon its determination of eligibility and value of loss. Within twenty days of the notice, the depositor or seller may request a hearing for the review of either determination. The request shall be made in the manner provided by the board. The hearing and any further appeal shall be conducted as a contested case subject to chapter 17A. A depositor or seller whose claim has been refused by the board may appeal the refusal to either the district court of Polk county or the district court of the county in which the depositor or seller resides.

8. *Payment of claims.* Upon a determination that the claim is eligible for payment, the board shall provide for payment of



ninety percent of the loss, as determined under subsection 5, but not more than three hundred thousand dollars per claimant. If at any time the board determines that there are insufficient funds to make payment of all claims, the board may order that payment be deferred on specified claims. The department, upon the board's instruction, shall hold those claims for payment until the board determines that the fund again contains sufficient assets.

9. *Subrogation of fund.* In the event of payment of a loss under this section, the fund is subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor or seller against any person regarding the loss. The depositor or seller shall render all necessary assistance to aid the department and the board in securing the rights granted in this section. No action or claim initiated by a depositor or seller and pending at the time of payment from the fund shall be compromised or settled without the consent of the board.

10. *Time limitation on claims.*

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

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

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

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

Iowa Code § 203D.7. No obligation of state.

This chapter does not imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees, or officials, either elective or appointive, in respect of any agreement or undertaking to which this chapter relates.

