

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

### MR. SPEAKER:

I move that Engrossed Senate Bill 369 be amended to read as follows:

- 1 Page 7, line 27, strike "licensed" and insert "**qualifying for a**
- 2 **license or a certificate**".
- 3 Page 7, line 34, after "licensee" insert "**or certificate holder**".
- 4 Page 7, between lines 32 and 33, begin a new line block indented
- 5 and insert:
- 6 "**(5) "Certificate" refers to a certificate issued under this**
- 7 **chapter.**".
- 8 Page 7, line 33, strike "(5)" and insert "**(6)**".
- 9 Page 7, line 35, after "licensee" insert "**or certificate holder**".
- 10 Page 7, line 37, strike "(6)" and insert "**(7)**".
- 11 Page 7, line 38, after "grain" insert "**or seed**".
- 12 Page 7, line 40, after "grain" insert "**or seed**".
- 13 Page 7, line 42, strike "(7)" and insert "**(8)**".
- 14 Page 8, line 1, after "grain" insert "**or seed**".
- 15 Page 8, line 1, after "licensee" insert "**or certificate holder**".
- 16 Page 8, line 5, after "a licensee" insert "**or certificate holder**".
- 17 Page 8, line 5, after "grain" insert "**or seed**".
- 18 Page 8, line 5, delete ";" and insert "**or certificate holder;**".
- 19 Page 8, line 6, after "licensee" insert "**or certificate holder**".
- 20 Page 8, line 7, after "grain" insert "**or seed**".
- 21 Page 8, line 8, after "A licensee" insert "**or certificate holder**".

- 1 Page 8, line 8, after "grain" insert "**or seed**".
- 2 Page 8, line 8, after "the licensee" insert "**or certificate holder**".
- 3 Page 8, line 10, after "the licensee" insert "**or certificate holder**".
- 4 Page 8, line 10, delete "." and insert "**or certificate holder.**".
- 5 Page 8, line 11, strike "(8)" and insert "**(9)**".
- 6 Page 8, line 14, strike "(9)" and insert "**(10)**".
- 7 Page 8, line 15, delete "." and insert "**or seed buyer.**".
- 8 Page 8, line 16, strike "(10)" and insert "**(11)**".
- 9 Page 8, line 17, after "licensee" insert "**or certificate holder**".
- 10 Page 8, line 18, after "licensee's" insert "**or certificate holder's**".
- 11 Page 8, line 19, after "license," delete "," and insert "**or certificate**
- 12 **holder's certificate,**".
- 13 Page 8, line 20, after "licensee" insert "**or certificate holder**".
- 14 Page 8, line 21, after "licensee's" insert "**or certificate holder's**".
- 15 Page 8, line 23, delete "," and insert "**or certificate holder's**
- 16 **certificate,**".
- 17 Page 8, line 23, after "licensee" insert "**or certificate holder**".
- 18 Page 8, line 25, strike "(11)" and insert "**(12)**".
- 19 Page 8, line 32, strike "(12)" and insert "**(13)**".
- 20 Page 8, line 33, after "All grain" insert "**or seed**".
- 21 Page 8, line 33, delete "," and insert "**or certificate holder,**".
- 22 Page 8, line 33, after "including grain" insert "**or seed**".
- 23 Page 8, line 35, delete ";" and insert "**or certificate holder;**".
- 24 Page 8, line 38, after "licensee's" insert "**or certificate holder's**".
- 25 Page 8, line 38, delete "." and insert "**or seed.**".
- 26 Page 8, line 41, after "licensee" insert "**or certificate holder**".
- 27 Page 9, line 1, after "licensee" insert "**or certificate holder**".
- 28 Page 9, line 3, after "licensee" insert "**or certificate holder**".
- 29 Page 9, line 6, after "grain" insert "**or seed**".
- 30 Page 9, line 6, delete "." and insert "**or certificate holder.**".
- 31 Page 9, line 10, after "licensee" insert "**or certificate holder**".
- 32 Page 9, line 11, after "licensee" insert "**or certificate holder**".
- 33 Page 9, line 15, delete "." and insert "**or certificate holder.**".
- 34 Page 9, line 16, strike "(13)" and insert "**(14)**".
- 35 Page 9, line 19, strike "(14)" and insert "**(15)**".
- 36 Page 9, line 21, delete ":" and insert "**does any of the following:**".
- 37 Page 9, line 22, delete "buys" and insert "Buys".
- 38 Page 9, line 23, delete ";" and insert ".".
- 39 Page 9, line 23, strike "or".
- 40 Page 9, line 24, delete "buys" and insert "Buys".
- 41 Page 9, between lines 31 and 32, begin a new line double block
- 42 indented and insert:
- 43 "**(C) Buys grain predominately to be used as seed.**".
- 44 Page 9, line 32, strike "(15)" and insert "**(16)**".
- 45 Page 9, line 35, strike "(16)" and insert "**(17)**".
- 46 Page 9, line 36, strike "(17)" and insert "**(18)**".

- 1 Page 9, line 39, strike "(18)" and insert "**(19)**".
- 2 Page 9, line 41, strike "(19)" and insert "**(20)**".
- 3 Page 9, after line 42, begin a new line block indented and insert:
- 4 "**(21) "Seed" means grain set apart for the predominate**
- 5 **purpose to be used in the production of new plants.**
- 6 **(22) "Seed buyer", as used in this chapter only, means a**
- 7 **person who is engaged in the business of buying grain from**
- 8 **producers or contracting to grow, or contracting to purchase**
- 9 **the services of an independent producer for the predominant**
- 10 **purpose to grow seed. The term does not include a buyer of**
- 11 **seed who:**
- 12 **(A) buys less than fifty thousand (50,000) bushels of seed**
- 13 **annually; or**
- 14 **(B) does not offer storage for hire, deferred pricing,**
- 15 **delayed payments or contracts or other instruments that**
- 16 **are linked to the commodity futures or commodity**
- 17 **options market."**
- 18 Page 10, line 1, strike "(20)" and insert "**(23)**".
- 19 Page 10, line 3, after "grain" insert "**or seed**".
- 20 Page 10, line 4, strike "(21)" and insert "**(24)**".
- 21 Page 10, line 7, strike "(22)" and insert "**(25)**".
- 22 Page 10, between lines 10 and 11, begin a new paragraph and
- 23 insert:
- 24 "SECTION 8. IC 26-3-7-3, AS AMENDED BY P.L.125-1997,
- 25 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 1998]: Sec. 3. (a) The director may do the following:
- 27 (1) Require any reports that are necessary to administer this
- 28 chapter.
- 29 (2) Administer oaths, issue subpoenas, compel the attendance
- 30 and testimony of witnesses, and compel the production of
- 31 records in connection with any investigation or hearing under
- 32 this chapter.
- 33 (3) Prescribe all forms within the provisions of this chapter.
- 34 (4) Establish grain standards in accordance with the grain
- 35 standards act and federal regulations promulgated under that act
- 36 that must be used by warehouses.
- 37 (5) Investigate the activities required by this chapter including
- 38 the storage, shipping, marketing, and handling of grain **or seed**
- 39 and complaints with respect to the storage, shipping, marketing,
- 40 and handling of grain **or seed**.
- 41 (6) Inspect a facility, the grain **or seed** stored in a facility, and all
- 42 property and records pertaining to a facility.
- 43 (7) Determine whether a facility for which a license **or**
- 44 **certificate** has been applied for or has been issued is suitable for
- 45 the proper storage, shipping, and handling of the grain **or seed**
- 46 that is stored, shipped, or handled, or is expected to be stored,

- 1 shipped, or handled.
- 2 (8) Require a licensee **or certificate holder** to terminate storage,  
3 shipping, marketing, and handling agreements upon revocation  
4 of the person's license **or certificate**.
- 5 (9) Attend and preside over any investigation or hearing allowed  
6 or required under this chapter.
- 7 (10) Impose sanctions for violations of this article.
- 8 (11) Require a grain buyer and all persons purchasing grain for  
9 a grain buyer to do any of the following:
- 10 (A) Provide the agency with proof of registry with the  
11 commodity futures trading commission (CFTC) as a  
12 commodity trading adviser, a futures commission merchant,  
13 an introducing broker, or an associated person.
- 14 (B) Demonstrate passage of the series 3 examination  
15 administered by the National Association of Security  
16 Dealers.
- 17 (C) Annually attend six (6) hours of continuing education,  
18 approved by the director, focusing on the risks to a grain  
19 buyer and seller that are associated with grain marketing  
20 practices and the communication of risks to the producer.  
21 Additionally, as part of continuing education, require a  
22 grain buyer, and all persons purchasing grain for a grain  
23 buyer, to pass a test, approved and administered by the  
24 director, that reasonably measures the grain buyer's  
25 understanding of the risks to grain buyers and sellers  
26 associated with producer marketing strategies.
- 27 (12) Require all contracts executed after June 30, 1997, for the  
28 purchase of grain **or seed** from producers, except a flat price  
29 contract, to include the following notice immediately above the  
30 place on the contract where the seller of the grain **or seed** must  
31 sign:
- 32 "NOTICE ) SELLER IS CAUTIONED THAT  
33 CONTRACTING FOR THE SALE AND DELIVERY OF  
34 GRAIN INVOLVES RISKS. THESE RISKS MAY  
35 INCLUDE FUTURE PAYMENTS BY YOU TO  
36 MAINTAIN THIS CONTRACT, A LOWER SALES  
37 PRICE, AND OTHER RISKS NOT SPECIFIED.  
38 COVERAGE UNDER THE INDIANA GRAIN  
39 INDEMNITY PROGRAM IS LIMITED TO 100% OF A  
40 LOSS FOR STORED GRAIN AND 80% OF A LOSS FOR  
41 OTHER COVERED CONTRACTS.  
42 BE SURE YOU UNDERSTAND THE NATURE OF THIS  
43 CONTRACT AND THE ASSOCIATED RISKS."
- 44 (13) At any time, order an unannounced audit for compliance  
45 with this article.
- 46 (14) Adopt rules under IC 4-22-2 to carry out the purposes and

- 1 intent of this chapter.
- 2 (b) The director shall do the following:
- 3 (1) Establish standards to ensure that a grain **or seed** buyer has
- 4 a suitable financial position to conduct a business as a grain **or**
- 5 **seed** buyer.
- 6 (2) Require a person who conducts business as a grain **or seed**
- 7 buyer to first ~~be licensed by~~ **obtain a license or certificate from**
- 8 the agency.
- 9 (3) Require any person engaged in the business of advising
- 10 producers on grain marketing for hire to:
- 11 (A) register with the agency; and
- 12 (B) provide the agency with proof of registry with the
- 13 commodity futures trading commission (CFTC) as a
- 14 commodity trading advisor, a futures commission merchant,
- 15 an introducing broker, or an associated person.
- 16 (c) The director may designate an employee to act for the director
- 17 in the administration of this chapter. A designee may not:
- 18 (1) act in matters that require a public hearing or the temporary
- 19 suspension of a license **or certificate**;
- 20 (2) adopt rules; or
- 21 (3) act as the ultimate authority in the administration of this
- 22 chapter.
- 23 (d) The director may determine whether geographically separate
- 24 facilities constitute a single warehouse, ~~or~~ **a grain buyer, or seed a**
- 25 **buyer** and in making the determination may consider the following:
- 26 (1) The number of facilities involved.
- 27 (2) Whether full weighing equipment is present at the
- 28 geographically separate facilities.
- 29 (3) The method of bookkeeping employed by the separate
- 30 facilities.
- 31 (4) The hours of operation of the separate facilities.
- 32 (5) The personnel employed at the separate facilities.
- 33 (6) Other factors the director deems relevant."
- 34 Page 10, line 14, after "buyer" insert "**seed buyer,**".
- 35 Page 10, line 15, after "license" insert "**or certificate**".
- 36 Page 10, line 17, after "buyer" insert "**seed buyer,**".
- 37 Page 10, line 17, after "license" insert "**or certificate**".
- 38 Page 10, line 19, after "license" insert "**or certificate**".
- 39 Page 10, line 20, after "grain" insert "**or seed**".
- 40 Page 10, line 20, after "for" insert "**and obtain**".
- 41 Page 10, line 20, strike "and be licensed" and insert "**or**
- 42 **certificate**".
- 43 Page 10, line 22, after "buyer" insert "**or seed buyer**".
- 44 Page 10, line 22, strike "licensed" and insert "**issued a license or**
- 45 **a certificate**".
- 46 Page 10, line 23, after "license" insert "**or certificate**".

- 1 Page 10, line 24, after "license" insert "**or certificate**".
- 2 Page 10, line 25, after "license" insert "**or certificate**".
- 3 Page 10, line 26, after "grain" insert "**or seed**".
- 4 Page 10, line 27, after "licensee" insert "**or certificate holder**".
- 5 Page 10, line 27, after "grain" insert "**or seed**".
- 6 Page 10, line 28, after "licensee" insert "**or certificate holder**".
- 7 Page 10, line 29, delete "." and insert "**or certification**".
- 8 Page 10, line 29, after "licensee" insert "**or certificate holder**".
- 9 Page 10, line 30, after "licensee's" insert "**or certificate holder's**".
- 10 Page 10, line 31, after "licensee's" insert "**or certificate holder's**".
- 11 Page 10, line 34, after "licensee" insert "**or certificate holder**".
- 12 Page 10, line 36, after "licensee" insert "**or certificate holder**".
- 13 Page 10, line 37, after "licensed" insert "**or have a certificate**".
- 14 Page 10, line 38, after "grain" insert "**or seed**".
- 15 Page 10, line 38, after "for" insert "**and is issued**".
- 16 Page 10, line 38, strike "and is".
- 17 Page 10, line 39, strike "licensed" and insert "**or certificate**".
- 18 Page 10, line 39, after "licensed" insert "**or certified**".
- 19 Page 10, line 39, after "grain" insert "**or seed**".
- 20 Page 10, line 40, after "licensee" insert "**or certificate holder**".
- 21 Page 10, line 41, after "license" insert "**or certificate**".
- 22 Page 10, line 42, after "grain" insert "**or seed**".
- 23 Page 11, line 2, after "licensee" insert "**or certificate holder**".
- 24 Page 11, line 3, after "grain" insert "**or seed**".
- 25 Page 11, line 5, delete "." and insert "**or seed**".
- 26 Page 11, line 15, after "licensee" insert "**or certificate holder**".
- 27 Page 11, line 24, delete "." and insert "**or certificate holder**".
- 28 Page 11, line 25, after "grain" insert "**or seed**".
- 29 Page 11, line 28, after "licensee" insert "**or certificate holder**".
- 30 Page 11, line 29, after "license" insert "**or certificate**".
- 31 Page 11, line 33, delete ":" and insert "**or certificates**".
- 32 Page 12, line 12, delete "license" and insert "**certificate**".
- 33 Page 12, line 21, after "each license" insert "**or certificate**".
- 34 Page 12, line 21, after "a license" insert "**or certificate**".
- 35 Page 12, line 23, after "license" insert "**or certificate**".
- 36 Page 12, line 24, strike "license".
- 37 Page 13, line 7, after "license" insert "**or certificate**".
- 38 Page 13, line 9, after "licensee's" insert "**or certificate holder's**".
- 39 Page 13, line 10, delete "," and insert "**or certificate**".
- 40 Page 13, line 10, after "licensee" insert "**or certificate holder**".
- 41 Page 13, line 11, strike "license".
- 42 Page 13, line 13, after "licensee" insert "**or certificate holder**".
- 43 Page 13, line 13, after "license" insert "**or certificate**".
- 44 Page 13, line 14, delete "." and insert "**or better**".
- 45 Page 13, line 15, after "license" insert "**or certificate**".
- 46 Page 13, line 20, after "licensee's" insert "**or certificate holder's**".

- 1 Page 13, line 20, after "licensee" insert "**or certificate holder**".
- 2 Page 13, line 22, after "licensee's" insert "**or certificate holder's**".
- 3 Page 13, line 37, after "applicant" insert ",".
- 4 Page 13, line 37, after "applicant" strike "or".
- 5 Page 13, line 37, delete "." and insert "**or certificate holder**".
- 6 Page 14, between lines 11 and 12, begin a new paragraph and
- 7 insert:
- 8 "SECTION 11. IC 26-3-7-6.5, AS AMENDED BY P.L.125-1997,
- 9 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 1998]: Sec. 6.5. Unless in accordance with a judicial order,
- 11 the director, the agency, its counsel, auditors, or its other employees or
- 12 agents shall not divulge any information disclosed by the applications
- 13 or reports filed or inspections performed under the provisions of this
- 14 chapter, except to agents and employees of the agency or to any other
- 15 legal representative of the state or federal government otherwise
- 16 empowered to see or review the information. The director may disclose
- 17 the information only in the form of an information summary or profile,
- 18 or statistical study based upon data provided with respect to more than
- 19 one (1) warehouse, grain buyer, **seed buyer**, or buyer-warehouse that
- 20 does not identify the warehouse, grain buyer, **seed buyer** or
- 21 buyer-warehouse to which the information applies.
- 22 SECTION 12. IC 26-3-7-7, AS AMENDED BY P.L.125-1997,
- 23 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 24 JULY 1, 1998]: Sec. 7. (a) The director may issue or amend a license
- 25 **or certificate** after the director has:
- 26 (1) received and approved the required information and
- 27 documentation; and
- 28 (2) determined that:
- 29 (A) the facility or facilities covered by the application are
- 30 suitable for the proper storage or handling of the grain **or**
- 31 **seed** intended to be stored or handled in the facility or
- 32 facilities; and
- 33 (B) the applicant has complied with this chapter and the
- 34 rules adopted under this chapter.
- 35 (b) A person may not represent that the person is licensed **or holds**
- 36 **a certificate** under this chapter, and may not use a name or description
- 37 that conveys the impression that the person is licensed, **or holds a**
- 38 **certificate** in a receipt or otherwise, unless the person holds an
- 39 unsuspended and unrevoked license **or certificate** to conduct the
- 40 business indicated by the license **or certificate**.
- 41 (c) An applicant for a license **or certificate** under this chapter
- 42 must show that the applicant:
- 43 (1) has a good business reputation;
- 44 (2) has not been involved in improper manipulation of books and
- 45 records or other improper business practice;
- 46 (3) has the qualifications and background essential for the

- 1           conduct of the business to be licensed **or issued a certificate**;  
 2           (4) employs management and principal officers that have  
 3           suitable business reputations, background, and qualifications to  
 4           perform their duties;  
 5           (5) has not been found guilty of a crime that would affect the  
 6           licensee's **or certificate holder's** ability to conduct business  
 7           with integrity; and  
 8           (6) does not employ an officer, director, partner, or manager that  
 9           has been found guilty of a crime that would affect the licensee's  
 10          **or certificate holder's** ability to conduct business with integrity.

11          SECTION 13. IC 26-3-7-8, AS AMENDED BY P.L.125-1997,  
 12          SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13          JULY 1, 1998]: Sec. 8. Upon receipt of an application for a permanent  
 14          license **or certificate**, the director may issue a temporary license **or**  
 15          **certificate** to the applicant for a reasonable time, not to exceed ninety  
 16          (90) days, as the director deems necessary or advisable to enable the  
 17          applicant to comply with the further requirements for obtaining a  
 18          license **or certificate** under this chapter. A temporary license **or**  
 19          **certificate** entitles the temporary licensee **or certificate holder** to the  
 20          same rights and subjects the temporary licensee **or certificate holder**  
 21          to the same duties as if the temporary licensee **or certificate holder**  
 22          had a permanent license **or certificate**.

23          SECTION 14. IC 26-3-7-8.5, AS ADDED BY P.L.125-1997,  
 24          SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25          JULY 1, 1998]: Sec. 8.5. If the ownership of a facility or business  
 26          **licensed holding a license or a certificate** under this chapter passes to  
 27          a successor owner, the obligations under this chapter of the original  
 28          licensee **or certificate holder** do not cease until the successor owner  
 29          **is properly licensed has been issued a license or a certificate** and has  
 30          executed a successor's agreement with the agency.

31          SECTION 15. IC 26-3-7-9, AS AMENDED BY P.L.125-1997,  
 32          SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33          JULY 1, 1998]: Sec. 9. (a) Each applicant for a license **or certificate**  
 34          under this chapter shall, as a condition of ~~licensure~~, **issuance of the**  
 35          **license or certificate** file or have on file with the director:

- 36               (1) a cash deposit;  
 37               (2) an irrevocable letter of credit; or  
 38               (3) a bond;

39          as provided in section 10 of this chapter.

- 40               (b) A bond filed under this chapter shall:  
 41                   (1) be conditioned upon the faithful performance of all  
 42                   obligations of the licensee **or certificate holder** under this  
 43                   chapter and the rules adopted under this chapter from the  
 44                   effective date of the bond until the earlier of the date the license  
 45                   **or certificate** is revoked or the bond is canceled as provided in  
 46                   this chapter; and

1 (2) be further conditioned upon the faithful performance of all  
 2 obligations from the effective date of the bond and thereafter,  
 3 regardless of whether the licensee's **or certificate holder's**  
 4 facility or facilities exist on the effective date of the bond or are  
 5 thereafter assumed prior to the date the licensee's license **or**  
 6 **certificate holder's certificate** is revoked or the bond is  
 7 canceled as provided in this chapter.

8 (c) The bond must remain in effect during a violation, a temporary  
 9 suspension of the licensee's license **or certificate holder's certificate**,  
 10 or a period during which the licensee **or certificate holder** is subject  
 11 to a cease and desist order."

12 Page 14, line 15, after "licensee" insert "**or certificate holder**".

13 Page 15, line 6, after "license" insert "**or certificate**".

14 Page 15, line 9, after "capacity" insert "**of a licensee or certificate**  
 15 **holder**".

16 Page 15, line 10, after "grain" insert "**or seed**".

17 Page 15, line 10, after "licensee's" insert "**or certificate holder's**".

18 Page 15, line 20, strike "licensee's".

19 Page 15, line 20, delete "." and insert "**or certificate.**".

20 Page 15, line 23, after "licensee" insert "**or certificate holder**".

21 Page 15, line 24, after "licensee's" insert "**or certificate holder's**".

22 Page 15, line 26, strike "is licensed" and insert "**has received a**  
 23 **license or certificate**".

24 Page 15, line 26, after "licenses" insert "**or certificates**".

25 Page 15, line 31, after "licensee" insert "**or certificate holder**".

26 Page 15, line 33, after "licensee" insert "**or certificate holder**".

27 Page 15, line 36, after "licensee" insert "**or certificate holder**".

28 Page 16, line 22, after "licensee's" insert "**or certificate holder's**".

29 Page 16, line 26, after "licensee" insert "**or certificate holder**".

30 Page 16, between lines 28 and 29, begin a new paragraph and  
 31 insert:

32 "SECTION 17. IC 26-3-7-12, AS AMENDED BY P.L.125-1997,  
 33 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 1998]: Sec. 12. (a) Each applicant for a license **or certificate**  
 35 under this chapter shall, as a condition to the granting of the license **or**  
 36 **certificate**, file or have on file a certificate of insurance evidencing an  
 37 effective policy of insurance issued by an insurance company  
 38 authorized to do business in Indiana insuring in the name of the  
 39 applicant all grain **or seed** that is or may be in the licensee's **or**  
 40 **certificate holder's** facilities for its full market value against loss by  
 41 fire, internal explosion, lightning, and windstorm.

42 (b) In case fire, internal explosion, lightning, or wind-storm  
 43 destroys or damages any grain **or seed** in a ~~licensed~~ facility **of a**  
 44 **licensee or certificate holder**, the licensee **or certificate holder** shall,  
 45 upon demand by the depositor and upon being presented with the  
 46 receipt or other evidence of ownership, make settlement, after

1 deducting the licensee's **or certificate holder's** charges and advances,  
2 at the market value of the grain **or seed** based on the value at the  
3 average price paid for grain **or seed** of the same grade and quality on  
4 the date of the loss at the location of the facility. If a settlement is not  
5 made within sixty (60) days from the date of demand, the depositor is  
6 entitled to seek recovery from the insurance company.

7 SECTION 18. IC 26-3-7-13, AS AMENDED BY P.L.125-1997,  
8 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 1998]: Sec. 13. Whenever the director determines that a  
10 previously approved bond, letter of credit, cash deposit, or previously  
11 approved insurance is insufficient, the director shall require an  
12 additional bond, letter of credit, cash deposit, or insurance to be given  
13 by the licensee **or certificate holder** in the form and upon the terms  
14 and conditions required by this chapter and rules adopted under this  
15 chapter.

16 SECTION 19. IC 26-3-7-14, AS AMENDED BY P.L.125-1997,  
17 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 1998]: Sec. 14. (a) A licensee **or certificate holder** may not  
19 cancel an approved bond or approved insurance unless the director has  
20 given prior written approval for the cancellation and has received a  
21 substitute cash deposit or has approved a substitute bond or insurance.  
22 The surety on a bond may cancel a bond required by this chapter only  
23 after the expiration of ninety (90) days from the date the surety mailed  
24 a notice of intent to cancel, by registered or certified mail, to the  
25 director. An insurance company may cancel insurance required by this  
26 chapter only after the expiration of a thirty (30) day period from the  
27 mailing, by certified mail, of notice of intent to cancel, to the director.  
28 The surety and the insurance company shall, at the time of giving  
29 notice to the director, send a copy of the notice to the licensee **or**  
30 **certificate holder**.

31 (b) Notwithstanding any other provision of this chapter, the license  
32 **or certificate** of a licensee **or certificate holder** shall automatically be  
33 suspended for failure to:

- 34 (1) file a new bond, letter of credit, or cash deposit within the
- 35 ninety (90) day period as provided in this section;
- 36 (2) file new evidence of insurance within the thirty (30) day
- 37 period as provided in this section; or
- 38 (3) maintain at all times a bond or cash deposit and insurance as
- 39 provided in this chapter.

40 The suspension shall continue until the licensee **or certificate holder**  
41 complies with the bonding and insurance requirements of this chapter.

42 SECTION 20. IC 26-3-7-15, AS AMENDED BY P.L.125-1997,  
43 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
44 JULY 1, 1998]: Sec. 15. (a) A licensee **or certificate holder** shall  
45 maintain inventories of sufficient quantity and grade of grain **or seed**  
46 to meet the licensee's **or certificate holder's** storage obligations.

1 (b) Inventories representing grain **or seed** evidenced by  
 2 outstanding warehouse receipts shall be maintained in the warehouse  
 3 shown on the warehouse receipt issued by the warehouse in which the  
 4 grain **or seed** was originally deposited.

5 (c) Inventories representing storage obligations other than those  
 6 evidenced by warehouse receipts may be represented by:

7 (1) receipts for grain **or seed** stored in a facility ~~licensed that~~  
 8 **holds a license or a certificate** under this chapter;

9 (2) receipts in a warehouse licensed and bonded under the  
 10 warehouse act; or

11 (3) other warehouse receipts or tickets as approved by the  
 12 director."

13 Page 16, line 31, after "licensee" insert "**or certificate holder**".

14 Page 17, line 41, after "licensee" insert "**or certificate holder**".

15 Page 18, line 1, after "licensee" insert "**or certificate holder**".

16 Page 18, between lines 6 and 7, begin a new paragraph and insert:

17 "SECTION 22. IC 26-3-7-16.5, AS AMENDED BY P.L. 125-1997,  
 18 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 1998]: Sec. 16.5. (a) Upon learning of the possibility that a  
 20 shortage exists, either as a result of an inspection or a report or  
 21 complaint from a depositor, the agency, based on an on-premise  
 22 inspection, shall make a preliminary determination as to whether a  
 23 shortage exists. If a shortage is not discovered, the agency shall treat  
 24 the audit as it would any other audit.

25 (b) If it is determined that a shortage may exist, the director or ~~his~~  
 26 **the director's** designated representative shall hold a hearing as soon  
 27 as possible to confirm the existence of a shortage as indicated by the  
 28 licensee's **or certificate holder's** books and records and the grain **or**  
 29 **seed** on hand. Only the licensee **or certificate holder**, the surety  
 30 company named on the licensee's bond, the issuer of the irrevocable  
 31 letter of credit, and any grain **or seed** depositor who has made a claim  
 32 or complaint to the agency in conjunction with the shortage shall be  
 33 considered as interested parties for the purposes of that hearing, and  
 34 each shall be given notice of the hearing. At the hearing, the director  
 35 or the director's designated representative shall determine whether  
 36 there appears to be a reasonable probability that a shortage exists. If it  
 37 is determined that a reasonable probability exists and that the bond or  
 38 letter of credit proceeds or the cash deposit should be distributed, a  
 39 preliminary determination shall be entered to the effect that the  
 40 licensee **or certificate holder** has failed to meet its obligations under  
 41 this chapter or the rules adopted under this chapter. At the hearing, the  
 42 director or the director's designated representative may order that all  
 43 proceeds from grain **or seed** sales are to be held in the form in which  
 44 they are received and to be kept separate from all other funds held by  
 45 the licensee **or certificate holder**. The order may also provide for  
 46 informal conferences between agency representatives and persons who

1 have or who appear to have grain **or seed** deposited with the licensee  
 2 **or certificate holder**. The surety company shall be permitted to  
 3 participate in those conferences.

4 (c) In the event that the director determines that the bond or letter  
 5 of credit proceeds or cash deposit is to be distributed, the agency shall  
 6 hold a hearing on claims. Notice shall be given to the surety company  
 7 named on the licensee's **or the certificate holder's** bond, the issuer of  
 8 the irrevocable letter of credit, and to all persons shown by the  
 9 licensee's **or certificate holder's** books and records to have interests  
 10 in grain **or seed** deposited with the licensee **or certificate holder**. If  
 11 the agency has actual knowledge of any other depositor or person  
 12 claiming rights in the grain **or seed** deposited with the licensee **or**  
 13 **certificate holder**, the bond, the irrevocable letter of credit, or the cash  
 14 deposit, notice shall also be provided to that person. In addition, public  
 15 notice shall be provided in newspapers of general circulation that serve  
 16 the counties in which ~~licensed~~ **the licensee's or certificate holder's**  
 17 facilities are located, and notices shall be posted on the ~~licensed~~  
 18 premises. At the hearing on claims, the director may accept as evidence  
 19 of claims the report of agency representatives who in informal  
 20 conferences with depositors have concluded that a claim is directly and  
 21 precisely supported by the licensee's **or certificate holder's** books and  
 22 records. When there is disagreement between the claims of a depositor  
 23 and the licensee's **or certificate holder's** books and records, the  
 24 director or the director's designated representative shall hear oral  
 25 claims and receive written evidence of claims in order to determine the  
 26 validity of the claim.

27 (d) Following the hearing on claims, the director shall make a  
 28 determination as to the total proven storage obligation of the claimants  
 29 and the loss sustained by each depositor who has proven a claim.  
 30 Depositors found to have proven their claims shall be proven  
 31 claimants. In arriving at that loss, in accordance with section 19 of this  
 32 chapter, the director shall apply all grain **or seed** on hand or its  
 33 identifiable proceeds to meet the licensee's **or certificate holder's**  
 34 obligations to grain **or seed** depositors of grain **or seed** of that type.  
 35 Initial determinations of loss shall be made on a bushel loss basis.  
 36 Grain on hand, or identifiable proceeds, shall reduce the number of  
 37 bushels to which a depositor may have a proven claim. With respect to  
 38 the remaining unfulfilled obligations, the director shall, for the sole  
 39 purpose of establishing each depositor's claim under this chapter,  
 40 establish a date upon which the loss is discovered, shall price the grain  
 41 **or seed** as of that date, shall treat all outstanding grain **or seed** storage  
 42 obligations not covered by grain **or seed** on hand or identifiable  
 43 proceeds as being sold as of that date, and shall determine the extent of  
 44 each depositor's loss as being the actual loss sustained as of that date.  
 45 Grain **or seed** of a specific type on the premises of a licensee **or**  
 46 **certificate holder** must first be applied to meet the licensee's **or**

1 **certificate holder's** storage obligations with respect to that type of  
2 grain **or seed**. If there is insufficient grain **or seed** of a specific type on  
3 hand to meet all storage obligations with respect to that type of grain  
4 **or seed**, the grain **or seed** that is present shall be prorated in  
5 accordance with the procedures described in this section and section  
6 16.8 of this chapter.

7 (e) Upon the failure of the agency to begin an audit, which would  
8 serve as the basis for a preliminary administrative determination,  
9 within forty-five (45) days of the agency's receipt of a written claim by  
10 a depositor, a depositor shall have a right of action upon the bond,  
11 letter of credit, or cash deposit. A depositor bringing a civil action need  
12 not join other depositors. If the agency has undertaken an audit within  
13 the forty-five (45) day period, the exclusive remedy for recovery  
14 against the bond, letter of credit, or cash deposit shall be through the  
15 recovery procedure prescribed by this section.

16 (f) When the proven claims exceed the amount of the bond, letter  
17 of credit, or cash deposit, recoveries of proven claimants shall be  
18 prorated in the same manner as priorities are prorated under section  
19 16.8 of this chapter.

20 (g) The proceedings and hearings under this section may be  
21 undertaken without regard to, in combination with, or in addition to  
22 those undertaken in accordance with section 17.1 of this chapter.

23 (h) The findings of the director shall be final, conclusive, and  
24 binding on all parties.

25 (i) The director may adopt rules under IC 4-22-2 to determine how  
26 the agency may distribute the interest that may accrue from funds held  
27 by the agency for the payment of claims.

28 (j) A claim of a licensee **or certificate holder** for stored grain **or**  
29 **seed** may not be honored until the proven claims of all other claimants  
30 arising from the purchase, storage, and handling of the grain **or seed**  
31 have been paid in full.

32 SECTION 23. IC 26-3-7-16.6, AS AMENDED BY P.L.125-1997,  
33 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 1998]: Sec. 16.6. The procedures established by section 16.5  
35 of this chapter also apply when the director learns or has reason to  
36 believe that a person is doing business as a grain buyer, **a seed buyer**,  
37 operating a warehouse, or acting as a buyer-warehouse without the  
38 license **or certificate** required by this chapter.

39 SECTION 24. IC 26-3-7-16.8, AS ADDED BY P.L.125-1997,  
40 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 1998]: Sec. 16.8. (a) A lien against all grain **or seed** assets of  
42 a licensee **or certificate holder** attaches in favor of the following:

- 43 (1) A lender or other claimant that has a receipt for grain **or seed**  
44 owned or stored by the licensee **or certificate holder**.
- 45 (2) A claimant that has a ticket or written evidence, other than a  
46 receipt, of a storage obligation of the licensee **or certificate**

- 1           **holder.**  
2           (3) A claimant that surrendered a receipt as part of a grain **or**  
3           **seed** sales transaction if:  
4                (A) the claimant was not fully paid for the grain **or seed**  
5                sold; and  
6                (B) the licensee **or certificate holder** failed less than  
7                twenty-one (21) days after the surrender of the receipt.  
8           (4) A claimant that has other written evidence of a sale to the  
9           licensee **or certificate holder** of grain **or seed** for which the  
10           claimant has not been fully paid.  
11           (b) A lien under this section attaches and is effective at the earliest  
12           of the following:  
13                (1) the delivery of the grain **or seed** for sale, storage, or under a  
14                bailment;  
15                (2) the commencement of the storage obligation; or  
16                (3) the advancement of funds by a lender.  
17           (c) A lien under this section terminates when the licensee **or**  
18           **certificate holder** discharges the claim.  
19           (d) If a licensee **or certificate holder** fails, the lien that attaches  
20           under this section is assigned to the agency by operation of this section.  
21           If a failed licensee **or certificate holder** is liquidated, a lien under this  
22           section continues to attach as a claim against the assets or proceeds of  
23           the assets of the licensee **or certificate holder** that are received or  
24           liquidated by the agency.  
25           (e) Except as provided in subsection (g), if a licensee **or**  
26           **certificate holder** fails, the power to enforce the lien on the licensee's  
27           **or certificate holder's** grain **or seed** assets transfers by operation of  
28           this section to the director and rests exclusively with the director who  
29           shall allocate and prorate the proceeds of the grain **or seed** assets as  
30           provided in subsection (f).  
31           (f) The priority of a lien that attaches under this section is not  
32           determined by the date on which the claim arose. If a licensee fails, the  
33           director shall enforce lien claims and allocate grain **or seed** assets and  
34           the proceeds of grain **or seed** assets of the licensee in the following  
35           order of priority:  
36                (1) First priority is assigned to the following:  
37                    (A) A lender or other claimant that has a receipt for grain **or**  
38                    **seed** owned or stored by the licensee.  
39                    (B) A claimant that has a ticket or written evidence, other  
40                    than a receipt, of a storage obligation of the licensee.  
41                    (C) A claimant that surrendered a receipt as part of a grain  
42                    **or seed** sales transaction if:  
43                        (i) the claimant was not fully paid for the grain **or seed**  
44                        sold; and  
45                        (ii) the licensee failed less than twenty-one (21) days  
46                        after the surrender of the receipt.

- 1 If there are insufficient grain **or seed** assets to satisfy all first  
 2 priority claims, first priority claimants shall share pro rata in the  
 3 assets.
- 4 (2) Second priority is assigned to all claimants who have written  
 5 evidence of the sale of grain **or seed**, such as a ticket, a deferred  
 6 pricing agreement, or similar grain **or seed** delivery contract, and  
 7 who completed delivery less than thirty (30) days before the  
 8 licensee's **or certificate holder's** failure. Claimants under this  
 9 subdivision share pro rata in the remaining assets if all claimants  
 10 under subdivision (1) have been paid but insufficient assets  
 11 remain to fully satisfy all claimants under this subdivision.
- 12 (3) Third priority is assigned to all other claimants that have  
 13 written evidence of the sale of grain **or seed** to the failed  
 14 licensee **or certificate holder**. Claimants under this subdivision  
 15 share pro rata in the distribution of the remaining grain **or seed**  
 16 assets.
- 17 (g) If a claimant under this section brings an action to recover  
 18 grain **or seed** assets that are subject to a lien under this section and the  
 19 agency does not join the action, the director shall, upon request of the  
 20 claimant, assign the lien to the claimant in order to allow the claimant  
 21 to pursue the claim to the extent that the action does not delay the  
 22 resolution of the matter by the agency, the prompt liquidation of the  
 23 assets, or the ultimate distribution of assets to all claimants.
- 24 SECTION 25. IC 26-3-7-17.1, AS AMENDED BY P.L. 125-1997,  
 25 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 1998]: Sec. 17.1. (a) Whenever the director, as a result of an  
 27 inspection or otherwise, has reasonable cause to believe that a person  
 28 to which this chapter is or may be applicable:
- 29 (1) is conducting business contrary to this chapter or in an  
 30 unauthorized manner; or
- 31 (2) has failed, neglected, or refused to observe or comply with  
 32 any order, rule, or published policy statement of the agency;
- 33 then the director may undertake any one (1) of the actions prescribed  
 34 by this section.
- 35 (b) Upon learning of the possibility that a licensee **or certificate**  
 36 **holder** is acting as described in subsection (a), the director or the  
 37 director's designated representative may seek an informal meeting with  
 38 the licensee **or certificate holder**. At that meeting, which shall be held  
 39 at a time and place agreed to by the licensee **or certificate holder** and  
 40 the director, the director or the director's designated representative  
 41 shall discuss the possible violations and may enter into a consent  
 42 agreement with the licensee **or certificate holder** under which the  
 43 licensee **or certificate holder** agrees to undertake, or to cease, the  
 44 activities that were the subject of the meeting. The consent agreement  
 45 may provide for a time frame within which the licensee **or certificate**  
 46 **holder** must be in compliance.

1 (c) Upon learning of the possibility that a person is acting as  
 2 described in subsection (a), the director, except as otherwise provided  
 3 in this subsection, shall hold a hearing to determine whether a cease  
 4 and desist order should issue against a ~~licensee or an unlicensed~~ person  
 5 undertaking activities covered by this chapter. If the director  
 6 determines that the violation or the prohibited practice is likely to cause  
 7 immediate insolvency or irreparable harm to depositors, the director,  
 8 without notice, may issue a temporary cease and desist order requiring  
 9 the person to cease and desist from that violation or practice. The order  
 10 shall become effective upon service on the person and shall remain  
 11 effective and enforceable pending the completion of all administrative  
 12 proceedings.

13 (d) Upon a determination, after a hearing held by the director or  
 14 the director's designated representative, that a person is acting as  
 15 described in subsection (a), the director may suspend, revoke, or deny  
 16 a license **or certificate**. If the director suspends, revokes, or denies a  
 17 license **or certificate**, the director shall publish notice of the  
 18 suspension, revocation, or denial as provided in section 17.5 of this  
 19 chapter.

20 (e) If the director has reasonable cause to believe that a licensee  
 21 **or certificate holder** is acting as described in subsection (a) and  
 22 determines that immediate action without an opportunity for a hearing  
 23 is necessary in order to safeguard depositors, the director may suspend  
 24 a license **or certificate** temporarily without a hearing for a period not  
 25 to exceed twenty (20) days. When a license **or a certificate** is  
 26 suspended without a hearing, the director or the director's designated  
 27 representative shall grant an opportunity for a hearing as soon as  
 28 possible.

29 SECTION 26. IC 26-3-7-17.5, AS ADDED BY P.L.125-1997,  
 30 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 1998]: Sec. 17.5. (a) Whenever ~~the a~~ license of a ~~licensee or~~  
 32 **a certificate** is suspended or revoked, the director may:

33 (1) for each facility operated by the licensee **or certificate**  
 34 **holder** publish a public notice in a newspaper of general  
 35 circulation that serves the county in which the facility is located;  
 36 and

37 (2) cause notice of the suspension or revocation to be posted at  
 38 the facilities covered by the license **or certificate**.

39 (b) Whenever an application for ~~licensure a license or a~~  
 40 **certificate** under this chapter is denied, the director may:

41 (1) for each facility operated by the applicant, publish a public  
 42 notice in a newspaper of general circulation that serves the  
 43 county in which the facility is located; and

44 (2) cause notice of the denial to be posted at the applicant's  
 45 facilities.

46 (c) A notice posted under this section may not be removed without

1 the written permission of the director.

2 (d) The director shall adopt rules under IC 4-22-2 to determine the  
3 content of the notices required by this section.

4 SECTION 27. IC 26-3-7-18, AS AMENDED BY P.L.125-1997,  
5 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 1998]: Sec. 18. (a) When a license **or certificate** is revoked,  
7 the licensee **or certificate holder** shall terminate in the manner  
8 prescribed by the director all arrangements covering the grain **or seed**  
9 in the facility covered by the license **or certificate**, but shall be  
10 permitted, under the direction and supervision of the director or the  
11 director's designated representative, to deliver grain **or seed** previously  
12 received.

13 (b) During any suspension of a license **or certificate**, the licensee  
14 **or certificate holder** may, under the direction and supervision of the  
15 director or the director's designated representative, operate the facility,  
16 but shall not incur any additional obligations to producers.

17 SECTION 28. IC 26-3-7-19, AS AMENDED BY P.L.125-1997,  
18 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 1998]: Sec. 19. (a) A licensee **or certificate holder** shall issue  
20 a receipt or ticket for grain **or seed** received. Grain **or seed** received by  
21 a licensee **or certificate holder** shall be credited to the depositor on the  
22 books of the licensee **or certificate holder** within seven (7) days from  
23 the date of its delivery. If a ticket is issued on delivery of the grain **or**  
24 **seed** for storage, a receipt shall be issued on demand, but no receipt  
25 shall be issued on grain bank grain.

26 (b) The licensee **or certificate holder** is a bailee with respect to  
27 all stored grain **or seed**. The person whose name appears on a receipt  
28 or a ticket has title to the stored grain **or seed** evidenced by the receipt  
29 or ticket.

30 SECTION 29. IC 26-3-7-20, AS AMENDED BY P.L.125-1997,  
31 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 1998]: Sec. 20. A licensee **or certificate holder** may issue a  
33 receipt for grain **or seed** owned by the licensee **or certificate holder**  
34 in whole or in part, located in the licensee's **or certificate holder's**  
35 facility. The negotiation, transfer, sale, or pledge of the receipt shall not  
36 be defeated by reason of the licensee's **or certificate holder's**  
37 ownership.

38 SECTION 30. IC 26-3-7-22, AS AMENDED BY P.L.125-1997,  
39 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 1998]: Sec. 22. Different lots of the same type of grain **or**  
41 **seed** delivered to a licensee **or certificate holder** may be commingled  
42 by type of grain **or seed** unless the receipt or ticket states that the  
43 identity of the lot of grain **or seed** is to be preserved.

44 SECTION 31. IC 26-3-7-24, AS AMENDED BY P.L.125-1997,  
45 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
46 JULY 1, 1998]: Sec. 24. While a receipt or ticket issued under this

1 chapter is outstanding and uncanceled by the issuing licensee **or**  
 2 **certificate holder** no other receipt or ticket shall be issued for the grain  
 3 **or seed** or any part of the grain **or seed** that is covered by the receipt  
 4 or ticket. However, if a receipt or ticket is lost, stolen, or destroyed the  
 5 owner of the receipt or ticket is entitled to a new receipt that is a  
 6 duplicate of the missing receipt or a new ticket that is a substitute for  
 7 the missing ticket. The duplicate receipt or substitute ticket entitles the  
 8 owner to all rights appertaining to the document for which it was  
 9 issued, and shall state that it is in lieu of the former receipt or ticket and  
 10 give the number and date of the former receipt or ticket. If the missing  
 11 document was a negotiable receipt, the issuing licensee **or certificate**  
 12 **holder** shall require an indemnity bond of double the market value of  
 13 the grain **or seed** covered by the missing receipt in a form and with the  
 14 surety that the director may prescribe to fully protect all rights under  
 15 the missing receipt.

16 SECTION 32. IC 26-3-7-25, AS AMENDED BY P.L.125-1997,  
 17 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 1998]: Sec. 25. Every warehouse receipt issued shall embody  
 19 within its terms the following:

20 (1) The type, grade, and quantity of the grain stored as  
 21 established by the official grain standards of the United States,  
 22 unless:

23 (A) the identity of the grain is preserved in a special pile or  
 24 special bin or otherwise; and

25 (B) a mark identifying the preserved grain appears on the  
 26 face of the receipt.

27 (2) A statement that the receipt is issued subject to the Indiana  
 28 Grain Buyers and Warehouse Licensing and Bonding Law,  
 29 IC 26-3-7, and rules adopted under the Indiana Grain Buyers and  
 30 Warehouse Licensing and Bonding Law.

31 (3) A clause that reserves to the licensee **or certificate holder**  
 32 the right to terminate storage and collect outstanding charges  
 33 against any lot of grain that remains in storage after June 30  
 34 following the date of the receipt.

35 (4) A clause that reserves to the licensee **or certificate holder**  
 36 the right to terminate storage, shipping, and handling  
 37 arrangements and collect outstanding charges upon the  
 38 revocation of the licensee's license **or certificate holder's**  
 39 **certificate**.

40 (5) Other terms and conditions as provided in the Uniform  
 41 Warehouse Receipts Acts. However, nothing contained in the  
 42 Uniform Warehouse Receipts Act shall require a receipt issued  
 43 for grain to specifically state the variety of the grain by name.

44 (6) A clause that terminates storage on the date the license held  
 45 by the licensee **or the certificate held by the certificate holder**  
 46 when the receipt was issued expires and reserves to the licensee

1           **or certificate holder** the right to collect outstanding charges  
2           against any lot of grain **or seed**.

3           (7) Other provisions prescribed by the director.

4           SECTION 33. IC 26-3-7-26, AS AMENDED BY P.L.125-1997,  
5           SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6           JULY 1, 1998]: Sec. 26. Every ticket issued shall embody within its  
7           terms:

8           (1) the name of the licensee **or certificate holder** to whom the  
9           grain **or seed** was delivered;

10          (2) the date the grain **or seed** was delivered;

11          (3) exact information concerning the type, net weight, and grade  
12          factors of the grain **or seed** received;

13          (4) a statement that the grain **or seed** described in the ticket is to  
14          be taken into storage, is being delivered on contract, or is to be  
15          sold under other arrangements;

16          (5) the name of the owner of the grain **or seed**;

17          (6) a statement that tickets marked for storage are non-negotiable  
18          receipts; and

19          (7) other provisions prescribed by the director.

20          SECTION 34. IC 26-3-7-28, AS AMENDED BY P.L.125-1997,  
21          SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22          JULY 1, 1998]: Sec. 28. A licensee **or certificate holder** shall keep in  
23          a place of safety complete and correct records and accounts pertaining  
24          to the licensee's **or certificate holder's** grain **or seed** business. The  
25          licensee **or certificate holder** shall retain records and accounts for not  
26          less than six (6) years from the date of the final settlement of the  
27          transaction.

28          SECTION 35. IC 26-3-7-29, AS AMENDED BY P.L.125-1997,  
29          SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30          JULY 1, 1998]: Sec. 29. A licensee **or certificate holder** shall:

31          (1) conspicuously display the licensee's license **or certificate**  
32          **holder's certificate** in the licensee's **or certificate holder's**  
33          main office and at each facility included under the license **or**  
34          **certificate**;

35          (2) conspicuously display in each operational office the  
36          approved schedule of charges for services; and

37          (3) conspicuously display at each facility all charts and diagrams  
38          provided to the facility by the agency.

39          SECTION 36. IC 26-3-7-30 IS AMENDED TO READ AS  
40          FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 30. All receipt forms  
41          shall be supplied by the director except where the director, in writing,  
42          approves the form and gives permission to a warehouseman to have  
43          receipts printed. Requests for receipts shall be on forms furnished by  
44          the director and shall be accompanied by payment to cover the  
45          estimated cost of printing, packaging, and shipping, as determined by  
46          the director. Where privately printed, the printer shall furnish the

1 director an affidavit showing the amount of the receipts printed, and the  
2 serial numbers thereof. All receipts remaining unused shall be  
3 recovered by the director or ~~his~~ **the director's** designated  
4 representative if the license **or certificate** required by this chapter is  
5 terminated or suspended.

6 SECTION 37. IC 26-3-7-31, AS AMENDED BY P.L.125-1997,  
7 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 1998]: Sec. 31. (a) Whenever it appears to the satisfaction of  
9 the director that a licensee **or certificate holder** does not have in the  
10 licensee's **or certificate holder's** possession sufficient grain **or seed** to  
11 cover the outstanding receipts and tickets issued or assumed by the  
12 licensee **or certificate holder**, or when a licensee **or certificate holder**  
13 refuses to submit the licensee's **or certificate holder's** records or  
14 property to lawful inspection, the director may give notice to the  
15 licensee **or certificate holder** to do any of the following:

- 16 (1) Cover the shortage with grain **or seed** that is fully paid for.
- 17 (2) Give additional bond, letter of credit, or cash deposit as  
18 required by the director.
- 19 (3) Submit to inspection as the director may deem necessary.

20 (b) If the licensee **or certificate holder** fails to comply with the  
21 terms of the notice within five (5) business days from the date of its  
22 issuance, or within an extension of time that the director may allow, the  
23 director may petition the circuit court of the Indiana county where the  
24 licensee's **or certificate holder's** principal place of business is located  
25 seeking the appointment of a receiver. If the court determines in  
26 accordance with IC 34-1-12 that a receiver should be appointed, upon  
27 the request of the licensee **or certificate holder**, the court may appoint  
28 the agency or its representative to act as receiver. The agency or its  
29 representative shall not be appointed as receiver except upon the  
30 request of the licensee **or certificate holder**. If the agency or its  
31 representative is appointed, any person interested in an action as  
32 described in IC 34-1-12-2 may after twenty (20) days request that the  
33 agency or its representative be removed as receiver. If the agency or its  
34 representative is not serving as receiver, the receiver appointed shall  
35 meet and confer with representatives of the agency regarding the  
36 licensee's **or certificate holder's** grain **or seed** related obligations and,  
37 before taking any actions regarding those obligations, the receiver and  
38 the court shall consider the agency's views and comments.

39 SECTION 38. IC 26-3-7-32, AS AMENDED BY P.L.125-1997,  
40 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 1998]: Sec. 32. (a) The director may apply for, and the courts  
42 of this state are vested with jurisdiction to issue, a temporary or  
43 permanent injunction against the business operation of a licensee **or**  
44 **certificate holder** or the issuance of receipts or tickets without a  
45 license **or certificate** and against interference by any person with the  
46 director, the director's designated representative, or a receiver

1 appointed under section 31 of this chapter, in the performance of their  
2 duties and powers under this chapter.

3 (b) Upon a determination by the director that there is reasonable  
4 cause to believe that a licensee **or certificate holder** is unable to meet  
5 the licensee's **or certificate holder's** storage or other grain **or seed**  
6 obligations, and that the licensee **or certificate holder** is removing, or  
7 the director has reasonable cause to believe that the licensee **or**  
8 **certificate holder** may remove, grain **or seed** from the ~~licensed~~  
9 premises, the director may, under the conditions provided in, and in  
10 accordance with, the Indiana Rules of Trial Procedure, seek from the  
11 circuit court of the Indiana county in which the licensee **or certificate**  
12 **holder** has the licensee's **or certificate holder's** principal place of  
13 business a temporary restraining order preventing the further sale or  
14 movement of any grain **or seed** and requiring that proceeds from grain  
15 **or seed** sales received after the issuance of the temporary restraining  
16 order should be held in the form in which they are received by the  
17 licensee **or certificate holder** and kept separate from all other funds  
18 held by the licensee **or certificate holder**.

19 SECTION 39. IC 26-3-7-34, AS AMENDED BY P.L.125-1997,  
20 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 1998]: Sec. 34. (a) A person who knowingly or intentionally  
22 violates or fails to comply with this chapter commits a Class A  
23 misdemeanor. Each day a person violates this chapter constitutes a  
24 separate violation.

25 (b) A person who knowingly or intentionally issues a receipt or  
26 ticket, knowing that the grain **or seed** for which the receipt or ticket is  
27 issued has not been actually received at the licensed warehouse,  
28 commits a Class A misdemeanor. A person who issues a duplicate, or  
29 additional negotiable receipt for grain **or seed**, knowing that a former  
30 negotiable receipt for the same grain **or seed** or any part of the grain is  
31 outstanding and uncanceled, except in the case of a lost, stolen, or  
32 destroyed receipt, as provided in section 24 of this chapter, commits a  
33 Class A misdemeanor. A person who fraudulently represents, alters, or  
34 counterfeits any license **or certificate** provided for in this chapter  
35 commits a Class D felony.

36 (c) Except in case of sale or other disposition of the grain **or seed**  
37 in lawful enforcement of the lien on grain **or seed** that attaches under  
38 this chapter or on a licensee's **or certificate holder's** lawful  
39 termination of storage, shipping, or handling agreements, or except as  
40 permitted by the rules adopted by the director under IC 4-22-2 to  
41 effectuate the purposes of this chapter:

42 (1) a person who knowingly or intentionally delivers grain **or**  
43 **seed** out of a ~~licensed~~ facility **having a license or certificate**,  
44 knowing that a negotiable receipt, the negotiation of which  
45 would transfer the right of possession of the grain **or seed** is  
46 outstanding and uncanceled, without obtaining the possession

- 1 of the receipt at or before the time of delivery, commits a Class  
 2 D felony; and
- 3 (2) a person who knowingly or intentionally delivers grain **or**  
 4 **seed** out of a ~~licensed~~ facility **having a license or a certificate**,  
 5 knowing that a non-negotiable receipt or ticket is outstanding  
 6 and uncanceled, without the prior written approval of the person  
 7 lawfully entitled to delivery under the non-negotiable receipt or  
 8 ticket and without delivery being shown on the appropriate  
 9 records of the licensee **or certificate holder** commits a Class D  
 10 felony.
- 11 (d) A person who fraudulently issues a receipt, a ticket, or a weight  
 12 or grade certificate, knowing that it contains a false statement, or who  
 13 issues a receipt for grain **or seed** owned solely or jointly by the person  
 14 and does not state the fact of the person's ownership in the receipt,  
 15 commits a Class A misdemeanor.
- 16 (e) A person who recklessly changes a receipt or ticket subsequent  
 17 to issuance, except for notation by the licensee **or certificate holder**  
 18 of partial delivery, commits a Class B misdemeanor.
- 19 (f) A person who knowingly or intentionally deposits grain **or seed**  
 20 to which the person does not have title or upon which there is a lien or  
 21 mortgage and who accepts for the grain **or seed** a receipt or ticket,  
 22 without disclosing the lack of title or the existence of the lien or  
 23 mortgage, commits a Class D felony.
- 24 (g) A person commits a Class A misdemeanor who knowingly or  
 25 intentionally:
- 26 (1) engages in the business of being a grain buyer **or a seed**  
 27 **buyer** or operates a warehouse without a valid license issued by  
 28 the director;
- 29 (2) engages in the business of being a grain buyer **or a seed**  
 30 **buyer** or operates a warehouse without a sufficient cash deposit,  
 31 letter of credit, or surety bond on file with and in a form  
 32 approved by the director; or
- 33 (3) engages in the business of being a grain buyer **or a seed**  
 34 **buyer** or operates a warehouse while in violation of the rules  
 35 adopted by the director.
- 36 (h) A person commits a Class A misdemeanor who willfully makes  
 37 or causes to be made a false entry or statement of fact in an application  
 38 or report filed with the director.
- 39 (i) A person who is not in compliance with section 3(a)(11) of this  
 40 chapter may be subject to a fine imposed by the agency of not more  
 41 than twenty thousand dollars (\$20,000), or the suspension of the grain  
 42 buyer's license for not more than five (5) years, or both.
- 43 (j) The director may suspend or revoke the license of a licensee **or**  
 44 **certificate of a certificate holder** that uses ~~an unlicensed a~~ facility  
 45 **that does not have a license or a certificate** to store or handle grain  
 46 **or seed** or commits another violation of this chapter.

1           SECTION 34. IC 26-3-7-35, AS AMENDED BY P.L.125-1997,  
2           SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3           JULY 1, 1998]: Sec. 35. A person licensed **or a holder of a certificate**  
4           under the warehouse act must also have a valid grain buyer **or seed**  
5           **buyer license or certificate** to do business in Indiana as a grain buyer  
6           **or seed buyer."**

7           Renumber all SECTIONS consecutively.  
            (Reference is to ESB 369 as printed February 16, 1998.)

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Representative Grubb