

1 AN ACT concerning grain.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (240 ILCS 40/5-30)

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10 repealed.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

14 (a) Subject to subsection (e) of this Section, a licensee
15 that is newly licensed after the effective date of this Code
16 shall pay an assessment into the Fund for 3 consecutive years.
17 These assessments are known as "newly licensed assessments".
18 Except as provided in item (6) of subsection (b) of this
19 Section, the first installment shall be paid at the time of or
20 before the issuance of a new license, the second installment
21 shall be paid on or before the first anniversary date of the
22 issuance of the new license, and the third installment shall be
23 paid on or before the second anniversary date of the issuance
24 of the new license. For a grain dealer, the payment of each of
25 the 3 installments shall be based upon the total estimated
26 value of grain purchases by the grain dealer for the applicable
27 year with the final installment amount determined as set forth
28 in item (6) of subsection (b) of this Section. After the
29 licensee has paid or was required to pay the last 3
30 installments of the newly licensed assessments, the licensee
31 shall be subject to subsequent assessments as set forth in
32 subsection (d) of this Section.

1 (b) Grain dealer newly licensed assessments.

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

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

8 (B) \$0.000255 multiplied by that portion of the
9 value of grain purchases for the grain dealer's first
10 fiscal year that exceeds the adjusted equity of the
11 licensee multiplied by 20, as shown on the final
12 financial statement for the licensee's first fiscal
13 year provided to the Department under Section 5-20.

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

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

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

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

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

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

34 (B) \$0.0001275 multiplied by that portion of the
35 value of grain purchases for the grain dealer's third
36 fiscal year that exceeds the adjusted equity of the

1 licensee multiplied by 20, as shown on the final
2 financial statement for the licensee's third fiscal
3 year.

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

7 (6) Each of the newly licensed assessments shall be
8 adjusted up or down based upon the actual annual grain
9 purchases for each year as shown in the final financial
10 statement for that year provided to the Department under
11 Section 5-20. The adjustments shall be determined by the
12 Department within 30 days of the date of approval of
13 renewal of a license. Refunds shall be paid out of the Fund
14 within 60 days after the Department's determination.
15 Additional amounts owed for any installment shall be paid
16 within 30 days after notification by the Department.

17 (7) For the purposes of grain dealer newly licensed
18 assessments under subsection (b) of this Section, the total
19 value of grain purchases shall be the total value of first
20 time grain purchases by Illinois locations from producers.

21 (8) The second and third installments shall be paid to
22 the Department within 60 days after the date posted on the
23 written notice of assessment. The Department shall
24 immediately deposit all paid installments into the Fund.

25 (c) Warehouseman newly licensed assessments.

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

28 (A) \$0.00085 multiplied by the total permanent
29 storage capacity of the warehouseman at the time of
30 license issuance; and

31 (B) \$0.00099 multiplied by that portion of the
32 permanent storage capacity of the warehouseman at the
33 time of license issuance that exceeds the adjusted
34 equity of the licensee multiplied by 5, all as shown on
35 the final financial statement for the licensee
36 provided to the Department under Section 5-10.

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

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

5 (A) \$0.000425 multiplied by the total permanent
6 storage capacity of the warehouseman at the time of
7 license issuance; and

8 (B) \$0.000495 multiplied by that portion of the
9 permanent licensed storage capacity of the
10 warehouseman at the time of license issuance that
11 exceeds the adjusted equity of the licensee multiplied
12 by 5, as shown on the final financial statement for the
13 licensee's last completed fiscal year provided to the
14 Department under Section 5-20.

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

18 (5) Every warehouseman shall pay an assessment when
19 increasing available permanent storage capacity in an
20 amount equal to \$0.001 multiplied by the total number of
21 bushels to be added to permanent storage capacity. The
22 minimum assessment on any increase in permanent storage
23 capacity shall be \$50 and the maximum assessment shall be
24 \$20,000. The assessment based upon an increase in permanent
25 storage capacity shall be paid at or before the time of
26 approval of the increase in permanent storage capacity.
27 This assessment on the increased permanent storage
28 capacity does not relieve the warehouseman of any
29 assessments as set forth in subsection (d) of this Section.

30 (6) Every warehouseman shall pay an assessment of
31 \$0.0005 per bushel when increasing available storage
32 capacity by use of temporary storage space. The minimum
33 assessment on temporary storage space shall be \$100. The
34 assessment based upon temporary storage space shall be paid
35 at or before the time of approval of the amount of the
36 temporary storage space. This assessment on the temporary

1 storage space capacity does not relieve the warehouseman of
2 any assessments as set forth in subsection (d) of this
3 Section.

4 (7) Every warehouseman shall pay an assessment of
5 \$0.001 per bushel of emergency storage space. The minimum
6 assessment on any emergency storage space shall be \$100.
7 The assessment based upon emergency storage space shall be
8 paid at or before the time of approval of the amount of the
9 emergency storage space. This assessment on the emergency
10 storage space does not relieve the warehouseman of any
11 assessments as set forth in subsection (d) of this Section.

12 (8) The second and third installments shall be paid to
13 the Department within 60 days after the date posted on the
14 written notice of assessment. The Department shall
15 immediately deposit all paid installments into the Fund.

16 (d) Grain dealer subsequent assessments; warehouseman
17 subsequent assessments.

18 (1) Subject to paragraph (4) of this subsection (d), if
19 on the first working day of a calendar quarter when a
20 licensee is not already subject to an assessment under this
21 subsection (d) (the assessment determination date), if the
22 equity in the Fund is less than \$6,000,000, every grain
23 dealer who has, or was required to have, already paid the
24 newly licensed assessments shall be assessed by the
25 Department in a total amount equal to:

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

31 (B) \$0.0001275 multiplied by that portion of the
32 value of grain purchases for the grain dealer's last
33 completed fiscal year prior to the assessment
34 determination date that exceeds the adjusted equity of
35 the licensee multiplied by 20, as shown on the final
36 financial statement for the licensee's last completed

1 fiscal year provided to the Department under Section
2 5-20.

3 The minimum total amount for the grain dealer's
4 subsequent assessment shall be \$250 per 12-month period and
5 the maximum amount shall be \$7,500 per 12-month period. For
6 the purposes of grain dealer assessments under this item
7 (1) of subsection (d) of this Section, the total value of
8 grain purchases shall be the total value of first time
9 grain purchases by Illinois locations from producers.

10 (2) Subject to paragraph (4) of this subsection (d), if
11 on the first working day of a calendar quarter when a
12 licensee is not subject to an assessment under this
13 subsection (d) (the assessment determination date), if the
14 equity in the Fund is less than \$6,000,000, every
15 warehouseman who has, or was required to have, already paid
16 the newly licensed assessments shall be assessed a
17 warehouseman subsequent assessment by the Department in a
18 total amount equal to:

19 (A) \$0.000425 multiplied by the total licensed
20 storage capacity of the warehouseman as of the first
21 day of September that immediately precedes the
22 assessment determination date; and

23 (B) \$0.000495 multiplied by that portion of the
24 licensed storage capacity of the warehouseman as of the
25 first day of September that immediately precedes the
26 assessment determination date that exceeds the
27 adjusted equity of the licensee multiplied by 5, as
28 shown on the final financial statement for the
29 licensee's last completed fiscal year provided to the
30 Department under Section 5-20.

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

34 (3) Subject to paragraph (4) of this subsection (d), if
35 the equity in the Fund is below \$6,000,000 on the first
36 working day of a calendar quarter when a licensee is not

1 already subject to an assessment under this subsection (d)
2 (the assessment determination date), every incidental
3 grain dealer who has, or was required to have, already paid
4 all 3 installments of the newly licensed assessments shall
5 be assessed by the Department in a total amount equal to
6 \$100. It shall be paid to the Department within 60 days
7 after the date posted on the written notification by the
8 Department, which shall be sent after the first day of the
9 calendar quarter immediately following the assessment
10 determination date.

11 (4) Following the payment of the final quarterly
12 installment by grain dealers and warehousemen, the next
13 assessment determination date can be no sooner than the
14 first working day of the sixth full calendar month
15 following the payment.

16 (5) All assessments under paragraphs (1) and (2) of
17 this subsection (d) shall be effective as of the first day
18 of the calendar quarter immediately following the
19 assessment determination date and shall be paid to the
20 Department by licensees in 4 equal installments by the
21 twentieth day of each consecutive calendar quarter
22 following notice by the Department of the assessment. The
23 Department shall give written notice to all licensees of
24 when the assessment is effective, and the rate of the
25 assessment, by mail within 20 days after the assessment
26 determination date.

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

32 (7) If the due date for the payment by a licensee of
33 the third assessment under subsections (b) and (c) of this
34 Section 5-30 is after the assessment determination date,
35 that licensee shall not be subject to any of the 4
36 installments of an assessment under paragraphs (1) and (2)

1 of this subsection (d).

2 (8) The Department shall immediately deposit all paid
3 assessments into the Fund.

4 (e) Newly licensed; exemptions.

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

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

11 (B) A licensee who has a lapse in licensing of more
12 than 30 days. A license shall not be considered to be
13 lapsed after its revocation or termination if an
14 administrative or judicial action is pending or if an
15 order from an administrative or judicial body
16 continues an existing license.

17 (C) A grain dealer that is a general partnership in
18 which there is a change in partnership interests and
19 that change is greater than 50% during the
20 partnership's fiscal year.

21 (D) A grain dealer that is a limited partnership in
22 which there is a change in the controlling interest of
23 a general partner and that change is greater than 50%
24 of the total controlling interest during the limited
25 partnership's fiscal year.

26 (E) A grain dealer that is a limited liability
27 company in which there is a change in membership
28 interests and that change is greater than 50% during
29 the limited liability company's fiscal year.

30 (F) A grain dealer that is the result of a
31 statutory consolidation if that person has adjusted
32 equity of less than 90% of the combined adjusted equity
33 of the predecessor persons who consolidated. For the
34 purposes of this paragraph, the adjusted equity of the
35 resulting person shall be determined from the approved
36 or certified financial statement submitted to the

1 Department for the first fiscal year of the resulting
2 person. For the purpose of this paragraph, the combined
3 adjusted equity of the predecessor persons shall be
4 determined by combining the adjusted equity of each
5 predecessor person as set forth in the most recent
6 approved or certified financial statement of each
7 predecessor person submitted to the Department.

8 (G) A grain dealer that is the result of a
9 statutory merger if that person has adjusted equity of
10 less than 90% of the combined adjusted equity of the
11 predecessor persons who merged. For the purposes of
12 this paragraph, the adjusted equity of the resulting
13 person shall be determined from the approved or
14 certified financial statement submitted to the
15 Department for the first fiscal year of the resulting
16 person ending after the merger. For the purposes of
17 this paragraph, the combined adjusted equity of the
18 predecessor persons shall be determined by combining
19 the adjusted equity of each predecessor person as set
20 forth in the most recent approved or certified
21 financial statement submitted to the Department for
22 the last fiscal year of each predecessor person ending
23 on the date of or before the merger.

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

1 or certified financial statement submitted to the
2 Department for the last fiscal year of the partnership
3 ending on the date of or before the change.

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

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

1 statement submitted to the Department for the last
2 fiscal year of the limited liability company ending on
3 the date of or before the change.

4 (K) A grain dealer that is the result of a
5 statutory consolidation or merger if one or more of the
6 predecessor persons that consolidated or merged into
7 the resulting grain dealer was not a licensee under
8 this Code at the time of the consolidation or merger.

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

14 (A) A person resulting solely from a name change of
15 a licensee.

16 (B) A warehouseman changing from a Class I
17 warehouseman to a Class II warehouseman or from a Class
18 II warehouseman to a Class I warehouseman under this
19 Code.

20 (C) A licensee that becomes a wholly owned
21 subsidiary of another licensee.

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

1 (E) Subject to item (e)(1)(K) of this Section, a
2 person that is the result of a statutory merger if that
3 person has adjusted equity greater than or equal to 90%
4 of the combined adjusted equity of the predecessor
5 persons who merged. For the purposes of this paragraph,
6 the adjusted equity of the resulting person shall be
7 determined from the approved or certified financial
8 statement submitted to the Department for the first
9 fiscal year of the resulting person ending after the
10 merger. For the purposes of this paragraph, the
11 combined adjusted equity of the predecessor persons
12 shall be determined by combining the adjusted equity of
13 each predecessor person as set forth in the most recent
14 approved or certified financial statement, submitted
15 to the Department for the last fiscal year of each
16 predecessor person ending on the date of or before the
17 merger.

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

34 (G) A limited partnership in which there is a
35 change in the controlling interest of a general partner
36 and that change is 50% or less of the total controlling

1 interest during the partnership's fiscal year and the
2 adjusted equity of the partnership after the change is
3 greater than or equal to 90% of the adjusted equity of
4 the partnership before the change. For the purposes of
5 this paragraph, the adjusted equity of the partnership
6 after the change shall be determined from the approved
7 or certified financial statement submitted to the
8 Department for the first fiscal year ending after the
9 change. For the purposes of this paragraph, the
10 adjusted equity of the partnership before the change
11 shall be determined from the approved or certified
12 financial statement submitted to the Department for
13 the last fiscal year of the partnership ending on the
14 date of or before the change.

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

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

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

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

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

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

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

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

1 calendar month following the end of the assessment period.

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

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

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

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

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

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

14 (g) Lender assessments.

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

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

36 (3) With respect to the second assessment period

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

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

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

26 (6) It is the responsibility of a licensee to inform
27 each of its lenders and other persons by virtue of whose
28 relationship with the licensee this subsection (g) will
29 apply as to the onset of an assessment for which that
30 person might be liable and the applicable lender assessment
31 multiplier, if any. The notification must be in writing
32 and, as to persons subject to assessment under this
33 subsection (g) on the assessment determination date, must
34 be sent no later than 20 days after the licensee receives
35 notice of an assessment from the Department. As to persons
36 not subject to assessment under this subsection (g) as of

1 the assessment determination date, the notice shall be sent
2 or given no later than the closing of any transaction
3 subsequent to the assessment determination date involving
4 the licensee and by virtue of which transaction the person
5 is made subject to assessment under this subsection (g).

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

21 (8) Each quarterly assessment shall be due and paid by
22 the lender or its designee to the Department within 20 days
23 after the end of the calendar quarter to which the
24 assessment pertains.

25 (9) Lenders shall not be penalized by reason of any
26 licensee's failure to comply with this subsection (g).
27 Failure of a licensee to comply with this subsection (g)
28 shall not relieve the lender from paying the assessment,
29 and the lender shall promptly remit the uncollected
30 assessments by the due date as set forth in the notice from
31 the licensee.

32 (10) This subsection (g) applies to any person who
33 holds a grain warehouse receipt issued by a licensee from
34 an Illinois location pursuant to any transaction,
35 regardless of its form, that creates a security interest in
36 the grain including, without limitation, the advancing of

1 money or other value to or for the benefit of a licensee
2 upon the licensee's issuance or negotiation of a grain
3 warehouse receipt and pursuant to or in connection with an
4 agreement between the licensee and a counter-party for the
5 repurchase of the grain by the licensee or designee of the
6 licensee. For purposes of this subsection (g), any such
7 transaction shall be treated as one in which grain is held
8 as security for a loan outstanding to a licensee within the
9 meaning of this subsection (g), and such a person shall be
10 treated as a lender.

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

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

26 (i) Notwithstanding the provisions of subsections (d)(4),
27 (f)(3), and (g)(4) of this Section or any other law to the
28 contrary, until the equity in the Fund reaches a level of
29 \$6,000,000 for the first time, assessment periods shall
30 continue without interruption, subject to the termination of
31 assessments on grain sellers provided in subsections (f)(2) and
32 (h) of this Section.

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

34 Section 99. Effective date. This Act takes effect upon
35 becoming law.