

**Summary of Final Draft of Grain Licensing Legislation**  
**Interim Ag. & Transportation Committee 9/20**  
*Introduced as HB 1026-67<sup>th</sup> Legislative Assembly*

The sections listed are where significant changes to current law are made in this draft. The changes are summarized by the bullet points. I have highlighted items of particular interest.

**60-02-01 Definitions:**

- Adds definition for “deferred-payment contract”- *means a credit-sale contract for which the amount owed for the sale of grain has been established, but the payment is postponed until a later date*

**60-02-07 Public warehouse license-Fee:**

- Changes licensing period to yearly
- Changes basis for determining license fee from capacity to purchase value
- Increases licensing fees for larger elevators-new fees would be \$400, \$800, and \$1250

**Section 3 Adds New Section to Chapter 60-02--Public Warehouse License-Financial Criteria to be Met**

- Applicants submit financial documentation to Commissioner for verification of net worth & working capital.
- Requires balance sheets and income statements for be reported as follows:
  - Annually for those purchasing up to \$10,000,000 in grain
- Required to provide any financial record or bank verification release upon request.
- New Licensure Conditions:
  - a. Pass a criminal background check;
  - b. Have a satisfactory credit score, as determined by the commissioner; and
  - c. Be a responsible person with a good business reputation, as determined by the commissioner, who:
    - (1) Is in the public warehouse business;
    - (2) Has knowledge of, and experience with, generally accepted grain warehousing and handling practices;
    - (3) Is competent and willing to operate a public warehouse in accordance with state and federal regulations; and
    - (4) Has not committed fraud or a criminal offense indicating a lack of business integrity or honesty that undermines the person's responsibility as a warehouse operator.

**60-02-09 Bond Filed by Public Warehouseman**

- Increases minimum bond to \$100,000
- Changes bond determination from capacity to % of value of grain purchased
- Percentage determined by Commissioner in Admin. rules

### **60-02-11 Scale Tickets-Contents-Conversion**

- Reduces conversion time from 45 days to 30 days
- Removes waiver for conversion
- Adds penalty of removing Trust fund or credit-sale contract indemnity fund protection in the event of insolvency for those producers who don't convert scale tickets in required timeframe

### **60-02-12 Violations of Chapter-Criminal penalty-Civil penalty**

- Adds civil penalty of up to \$5000 for violators
- Allows adjudication for civil penalty

### **60-02-19.1 Credit Sale Contracts**

- Adds acceptance of electronic signatures for contracts under this section
- Adds requirement to warehouses using deferred-payment contracts to offer bond protection to producers

### **60-02-24 Reports Made by Grain Warehouseman**

- Adds ability of commissioner to request additional information related to a report or inspection and must supply information in five business days

### **60-02.1-01 Definitions**

- Adds definition for “deferred-payment contract”- *means a credit-sale contract for which the amount owed for the sale of grain has been established, but the payment is postponed until a later date*
- Adds definition for “grain processor”-includes grain processors throughout Chapter 60-02.1
- Adds definition for “grain broker”-includes grain brokers throughout Chapter 60-02.1
- Expands definition of “grain buyer” to include roving grain buyers, grain brokers, and grain processors
- Removes definition of “facility-based grain buyer”

### **60-02.1-07 Grain buyer license-How obtained-Fee**

- Changes license fee schedule for grain buyers to same fee basis and schedule as grain warehouses

### **Section 11 Adds a New Section to Chapter 60-02.1 Grain Buyer License-Financial Criteria to be Met**

- Applicants submit financial documentation to Commissioner for verification of net worth & working capital.

- Requires balance sheets and income statements for be reported as follows:
  - Annually for those purchasing up to \$10,000,000 in grain
- Required to provide any financial record or bank verification release upon request.
- New Licensure Conditions:
  - a. Pass a criminal background check;
  - b. Have a satisfactory credit score, as determined by the commissioner; and
  - c. Be a responsible person with a good business reputation, as determined by the commissioner, who:
    - (1) Is in the grain buying business;
    - (2) Has knowledge of, and experience with, generally accepted grain buying and handling practices;
    - (3) Is competent and willing to operate as a grain buyer in accordance with state and federal regulations; and
    - (4) Has not committed fraud or a criminal offense indicating a lack of business integrity or honesty that undermines the person's responsibility as a grain buyer.

#### **60-02.1-08 Bond Filed by Grain Buyer**

- Increases minimum bond to \$100,000
- Changes bond determination from capacity to value of grain purchased
- Removes reference to facility-based grain buyers
- Report purchases, solicitations, and merchandising agreements to commissioner monthly

#### **60-02.1-13 Violations of Chapter-Criminal penalty-Civil penalty**

- Adds civil penalty of up to \$5000 for violators
- Allows adjudication for civil penalty

#### **60-02.1-14 Credit Sale Contracts**

- Adds acceptance of electronic signatures for contracts under this section
- Adds requirement to grain buyers using deferred-payment contracts to offer bond protection to producers

#### **60-02.1-17 Reports Made by Grain Buyers-Penalty for Failure**

- Adds ability of commissioner to request additional information related to a report or inspection and must supply information in five business days

#### **Section 23 Adds a New Section to Chapter 60-02.1-- Joinder-Grain Broker**

- A licensed grain broker may be joined as a party to an insolvency proceeding if the commissioner determines the grain broker negotiated a grain transaction:
  1. With an insolvent grain buyer; or
  2. That was discriminatory, predatory, or in bad faith.

## **60-02.1 Multiple Various Throughout**

- Removes all references to “facility-based grain buyer”