

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 3186
Version: As introduced

DATE: March 21, 2016

Authors: Swedzinski and others

Subject: Grain buyers; sales tax

Analyst: Colbey Sullivan (agriculture)
Pat Dalton (taxes)

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Overview

This bill increases the size of the bond required of certain licensed grain buyers. It also establishes a new program to provide indemnity payments to farmers who sell grain on credit if a grain buyer defaults on the credit contact. The indemnity program would be administered by the Minnesota Department of Agriculture (MDA), the agency that licenses grain buyers under current law.

The indemnity program would be funded initially by a series of transfers from the general fund that represent estimates of the amount of state sales tax collected on grain bin sales. Beginning in state fiscal year 2019, grain bins would no longer be subject to sales tax. After that time, if the balance in the indemnity account falls below a specified threshold, a new two percent gross receipts tax paid by grain bin retailers would be initiated and would remain in effect until program funds are replenished.

Section

- 1 Citation.** Technical. Expands the section range of the “Grain Buyers Act” to include the new indemnity program statute.
- 2 Applicability.** Technical. Expands the section range in which the Grain Buyers Act definitions apply to include the new indemnity program statute.
- 3 Bond.** Increases the size of the bond required of grain buyers with more than \$3,000,000 in gross annual grain purchases. Increases bond amounts for the four largest tiers.

Section

- 4** **Rules.** Expands the section range for Grain Buyers Act rulemaking purposes to include the new indemnity program statute.
- 5** **Indemnity payments; appropriation.** Establishes a new program to provide grants to eligible producers who sold grain to a licensed grain buyer or licensed public grain warehouse operator and deferred payment for the grain according to the terms of a voluntary extension of credit contract.

In current law, “voluntary extension of credit contract” is defined as “a contract for the purchase of a specific amount of grain from a producer in which the title to the grain passes to the grain buyer upon delivery, but the price is to be determined or payment for the grain is to be made at a date later than the date of delivery of the grain to the grain buyer. Voluntary extension of credit contracts include deferred or delayed payment contracts, unpriced sales, no price established contracts, average pricing contracts, and all other contractual arrangements with the exception of cash sales and grain storage agreements evidenced by a grain warehouse receipt.” (Minn. Stat. § 223.16, subd. 16)

In current law, “producer” is defined as “a person who grows grain on land owned or leased by the person.” (Minn. Stat. § 223.16, subd. 11)

Subdivision 1. Establishment. Establishes the program and requires MDA to administer it.

Subd. 2. Eligibility. Defines an eligible producer as one who was damaged by a grain buyer’s breach of a voluntary extension of credit contract.

Subd. 3. Application. Requires a producer to apply to MDA within 180 days of the grain buyer’s alleged breach of contract. Requires the producer to provide all information that MDA requires. Requires MDA to promptly determine a claim’s validity and to notify the producer accordingly. Allows an aggrieved applicant to appeal the commissioner’s decision via a standard administrative hearing process.

Subd. 4. Court Order. Authorizes MDA to pursue a district court order appointing a trustee or receiver to manage/supervise a grain buyer in default. Authorizes MDA to participate in any resulting court proceedings as an interested party.

Subd. 5. Payment limitation. Limits MDA’s payment for each breach of contract to the lesser of \$650,000 or 80 percent of the amount the grain buyer owes the producer. Authorizes MDA to prorate payments if sufficient program funds are not available to pay all producers fully. Requires MDA to make full payment to eligible producers once sufficient program funds become available.

Subd. 6. Debt obligation; subrogated claim. Provides that an indemnity payment made by MDA to a producer constitutes a debt of the grain buyer that MDA may seek to recoup – plus attorney’s fees, interest, and other reasonable costs – from the grain buyer. Requires a producer who receives payment from MDA to assign/subrogate their claim against the grain buyer to the MDA.

Section

Subd. 7. Account; appropriation. Establishes a new treasury account – the Grain Credit Contract Indemnity Account – for the program. Appropriates money in the account to MDA to pay valid claims and administer the program.

- 6 Grain bin gross receipts tax.** Establishes a new two percent gross receipts tax imposed on grain bin retailers in Minnesota. The Department of Revenue would deposit the proceeds in the Grain Credit Contract Indemnity Account. The tax could not take effect until July 1, 2018, at the earliest and would “click on” only when the balance in the Grain Credit Contract Indemnity Account falls below \$2,000,000. The Department of Revenue would notify retailers when the gross receipts tax must be collected and when it is scheduled to expire. The expiration date would be set at a future date when the Department of Revenue and Minnesota Management and Budget estimate that the Grain Credit Contract Indemnity Account balance will reach \$6,000,000. Establishes a two percent use tax to coincide with the gross receipts tax. Authorizes a credit against the use tax equal to the amount of sales or gross receipts tax the buyer paid to another state or jurisdiction. Establishes other standard requirements and procedures for the imposition and administration of a gross receipts tax.
- Effective date.** The grain bin gross receipts tax could not be imposed until July 1, 2018, at the earliest.
- 7 Farm machinery.** Exempts grain bins from the state sales tax.
- Effective date.** Grain bins would remain subject to the sales tax until June 30, 2018. (After that date, grain bins would no longer be subject to sales tax but could be subject to the new gross receipts tax.)
- 8 Deposit of revenues; grain contract indemnity account.** Requires the prompt deposit of \$2,500,000 of state sales tax revenue in the Grain Credit Contract Indemnity Account. \$2,500,000 is designated as a proxy for a portion of the sales tax revenue collected on grain bin sales in state fiscal year 2016. In both state fiscal year 2017 and 2018, up to an additional \$2,500,000 of grain bin sales tax revenues must be deposited in the Account until the balance reaches \$6,000,000.
- 9 Effective date.** All sections would be effective the day following final enactment unless otherwise specified. Indemnity payments would be available to producers with grain credit contracts in default on or after January 1, 2015. Despite the 180-day application window in section 5, subdivision 3, for contracts in default before enactment of this act the producer has 90 days from the date of enactment to apply to MDA for an indemnity payment.