

**Subject** Grain buyers and warehouses

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## Overview

This bill, as amended by the H0915DE1 amendment, modifies both the Grain Buyers Act and the Grain Storage Act. Both acts are administered by the Minnesota Department of Agriculture (MDA).

## Article 1: Grain Buyers

This article modifies the Grain Buyers Act. Among other things, the Grain Buyers Act requires a person to obtain a grain buyer license from MDA to buy grain for the purpose of reselling it or selling products made from the grain. Under the Grain Buyers Act, if a buyer becomes insolvent or is otherwise unable to pay, those farmers who sold grain to the buyer for cash (which is defined to include payment by check) are protected to some degree by the surety bond that the licensed grain buyer is required to maintain under the Act. Instead of receiving cash, a farmer may enter into a “voluntary extension of credit contract” with the grain buyer and defer payment to a later date. By law, these sales are not covered by the grain buyer’s bond.

This article modifies the definition of cash sales, requires grain buyers to pay an annual inspection fee and to be inspected at least once a year, specifies the level of attestation required for the financial statements that licensed grain buyers must submit to MDA each year, modifies requirements pertaining to voluntary extension of credit contracts, and exempts certain cash buyers from bonding and financial statement requirements.

Section	Description
1	<b>Applicability.</b> Extends applicability of an existing set of defined terms under the Grain Buyers Act to include a new section created at the end of this article.
2	<b>Cash sale.</b> Modifies the definition of “cash sale” for purposes of distinguishing between cash sales and voluntary extension of credit sales under the Grain Buyers Act.

<b>Section</b>	<b>Description</b>
3	<p><b>Cash.</b></p> <p>Defines the term “cash” for purposes of interpreting other defined terms such as “cash sale” and “cash buyer.”</p>
4	<p><b>Cash buyer.</b></p> <p>Defines “cash buyer” for purposes of an exemption from certain bonding and financial statement requirements as provided in subsequent sections.</p>
5	<p><b>Grain.</b></p> <p>Eliminates a reference to the Minnesota Board of Grain Standards in the definition of “grain.”</p>
6	<p><b>Grain buyers and storage account; fees.</b></p> <p>Establishes an annual examination fee to be paid by licensed grain buyers for each licensed location. This fee schedule would be based on capacity as measured in bushels. Authorizes MDA to charge a fee of \$55 per hour, per examiner, for any supplemental examination required by MDA. Appropriates interest earned on money in the Grain Buyers and Storage Account to MDA for purposes of the Grain Buyers Act.</p>
7	<p><b>Bond.</b></p> <p>Eliminates obsolete language. Eliminates a grain buyer’s option to provide certain other forms of financial assurance in place of a surety bond. Retains the option to deposit an equivalent irrevocable bank letter of credit with Minnesota Management and Budget in place of the bond. Exempts cash buyers, as defined in a previous section, from the requirement to submit a bond or irrevocable letter of credit.</p>
8	<p><b>Cash sales; manner of payment.</b></p> <p>Modifies requirements that pertain to grain buyers who purchase grain with cash, as defined in a previous section. Requires the grain buyer to pay in cash or check, or to wire or mail funds to the seller’s account as rapidly as possible after the sale.</p>
9	<p><b>Financial statements.</b></p> <p>Modifies requirements pertaining to the financial statements that grain buyers must submit to MDA each year. Requires a grain buyer purchasing less than \$2 million of grain annually to have the statements reviewed by a Certified Public Accountant, and to show that the statements are free from material misstatement. Requires a grain buyer purchasing \$2 million or more of grain annually to have the statements audited by a Certified Public Accountant, and to submit the Certified Public Accountant’s opinion statement to MDA. Exempts cash buyers, as defined above, from financial statement requirements altogether.</p>

Section	Description
10	<b>Oral contracts.</b> Extends the period of time that grain buyers have to provide a written confirmation to the buyer when the buyer and seller enter into an oral voluntary extension of credit contract.
11	<b>Contracts reduced to writing.</b> Extends the period of time that grain buyers have to reduce voluntary extension of credit contracts to writing.
12	<b>Rules.</b> Extends MDA’s existing rulemaking authority under the Grain Buyers Act to include the new examination requirement established in the next section.
13	<b>Annual examination required; supplemental examinations.</b> Subjects grain buyers to an annual inspection conducted by MDA or the United States Department of Agriculture. Qualifying examinations would include a measurement of all grain owned and maintained by the buyer. Authorizes MDA to require additional examinations as the agency deems necessary.

## Article 2: Grain Warehouses

This article modifies the Grain Storage Act. Among other things, this article would reduce from two to one the minimum number of times that a licensed public grain warehouse operator must be inspected each year and allow a licensee to maintain an irrevocable bank letter of credit in lieu of a surety bond.

Under the Grain Storage Act, a public grain warehouse operator is generally a person who accepts grain that belongs to another for storage or purchase.

Section	Description
1	<b>Grain.</b> Eliminates a reference to the Minnesota Board of Grain Standards in the Grain Storage Act’s definition of “grain.”
2	<b>Grain bank.</b> Defines “grain bank” for purposes of the Grain Storage Act. Specifies that grain assigned to a grain bank is to be considered stored grain, presumably for purposes of determining the size of the surety bond or irrevocable letter of credit that the licensee is required to provide.

Section	Description
3	<p><b>Fees; grain buyers and storage account.</b></p> <p>Specifies that any interest accrued on money in the Grain Buyers and Storage Account is appropriated to MDA for purposes of administering the Grain Storage Act. Provides that the fee a public grain warehouse operator must pay for a supplemental examination required by the commissioner is \$55 per hour, per examiner.</p>
4	<p><b>Bonding.</b></p> <p>Authorizes a licensed public grain warehouse operator to, in lieu of a surety bond, deposit with Minnesota Management and Budget an irrevocable bank letter of credit in the same amount as would otherwise be required for the bond.</p>
5	<p><b>Schedule of inspection, financial reports.</b></p> <p>Reduces the annual examination requirement for licensed public grain warehouse operators from twice per year, to once. Eliminates MDA's authority to provide by rule that a qualified nongovernmental unit may perform the examination. Authorizes MDA to require supplemental examinations of a public grain warehouse licensee as MDA deems necessary. Provides that the financial statements that a licensed public grain warehouse operator is required to submit to MDA must include a balance sheet, income statement, statement of retained earnings, and other specified reports.</p>



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