



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
LANSING

DON KOIVISTO  
DIRECTOR

December 20, 2010

TO ALL MICHIGAN GRAIN DEALERS:

On December 14, 2010 Governor Jennifer Granholm signed Public Act 264 of 2010, updating the Michigan Grain Dealers Act (GDA), PA 141 of 1939, as amended, and on December 16, 2010 Governor Jennifer Granholm signed Public Act 300 of 2010, updating the Farm Produce Insurance Act (FPIA), PA 198 of 2003, as amended, both of these Public Acts went into immediate effect. For a copy of the legislation please go to [www.michigan.gov/graindealers](http://www.michigan.gov/graindealers) .

Key provisions of GDA Act legislation, which may impact your daily operations include:

- Section 8(4) would allow the Department to annually increase the license fee in proportion to the increase in the Detroit consumer price index not to exceed 5% and to be round to \$5 increments.
- Section 8 (5) would grant a warehouse receipt bond exemption for those grain dealers that file an audited financial statement which complies with Section 9 of the GDA and meet the following conditions:
  1. Current ratio (current assets/current liabilities) of 1.2 to 1.
  2. Equity ratio (equity/ (total liability + equity)) of .25 or greater.

If you are eligible for this annual exemption please have all required information submitted 30 days prior to licensure so that proper review and verification may occur. For companies that do not meet the current ratio and equity requirements or choose not to have an audited financial statement they will still be required to have a bond based on bailment capacity. Bond requirements for trucker, merchandisers, and deficiency bonds for net allowable asset requirements have not changed.

Key provisions of FPIA Act legislation, which may impact your daily operations include:

- Sec. 3(f), (j) and (y) would add the definitions of “cooperative association”, “facility” and “producer security activities”, respectively.
- Sec. 3(bb) would clarify that for a valid claim the farm produce must be delivered prior to the grain dealer failure, which would further clarify the ineligibility of forward contracts.
- Sec. 7(d) , Sec 9 (1)(e) and (2) would require that the board enter into a memorandum of understanding with the director for services performed by the department for the fund and allow for such reimbursement up to an amount of \$250,000, respectively.
- Sec. 15 (2) clarifies the conditions for which a producer is not eligible for a claim.
  - A. Where a producer has voluntarily given up his right to a claim by requesting a refund of premiums.
  - B. Where a producer is a member of closed cooperative and has a capital investment in the licensee rather than an arms length bargaining position.
  - C. Where the producer has at least 5% ownership interest in the licensee. \*
  - D. Where the producer has at least 5% ownership interest in the parent company. \*
  - E. Where the producer has transferred title of the farm produce to the grain dealer more than 2 years prior to making a claim.
  - F. Where the producer has failed to file a claim with in one year of public notice.

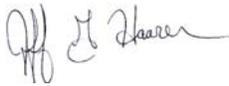
\*Please note that the amendments in Section 15(2) C and D impacts producers that have a 5% or greater ownership interest in a licensed grain dealer. Thus, those producers with greater than 5% ownership would not be eligible for claims against that specific grain dealer. However, those producers would be eligible for a return of assessments collected in error. This return of assessment would not affect the eligibility status of this producer for claims against other grain dealers in which they do not have at least a 5% ownership interest.

- Section 15 (7) (b) grants the authority flexibility in determining validity of claim by allowing the authority the ability to determine whether the claimants management practices are generally accepted management practices in this state.

- Section 15 (7) (e) would grant the authority flexibility in determining validity of claim by allowing the authority the ability to determine whether the claimant took reasonable actions to mitigate farm produce losses.
- Section 17 (1) allow the board to determine how to liquidate the fund rather than trying to disburse the fund to all producers based on licensee data not available after 3 years.

If you have any questions please contact me at [haarerj@michigan.gov](mailto:haarerj@michigan.gov) or (517) 241-2865. Our fax number has recently been changed to 517-335-4540.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeff G. Haarer".

Jeff G. Haarer, CPA, JD

Pesticide and Plant Pest Management Division