

1 A bill to be entitled
2 An act relating to dealers in agricultural products;
3 amending s. 604.15, F.S.; revising definitions; expanding
4 the list of products covered by the law; defining the
5 terms "negotiating broker" and "producer's agent";
6 amending s. 604.16, F.S.; revising exceptions to
7 provisions regulating dealers; amending s. 604.18, F.S.,
8 relating to applications for dealer licensure; requiring
9 dealers to provide mailing and location address
10 information; requiring dealers to provide certain
11 information relating to the dollar amount of business done
12 or to be done; amending s. 604.19, F.S.; providing
13 requirements relating to cancellation of a bond or
14 certificate of deposit; increasing license fees and
15 delinquent renewal penalties; amending s. 604.20, F.S.;
16 providing a calculation for the amount of a bond or
17 certificate of deposit; adding requirements relating to
18 bond or certificate of deposit assignment or agreement;
19 authorizing the Department of Agriculture and Consumer
20 Services to issue a conditional license under certain
21 conditions; amending s. 604.21, F.S.; increasing the
22 minimum claim amount and requiring a complaint filing fee;
23 providing requirements for submission of a complaint and
24 payment for multiple claims; authorizing a dealer in
25 agricultural products to file a complaint against another
26 dealer in agricultural products; limiting the time a
27 complaint may be held in abeyance; authorizing review of a
28 final order; clarifying distribution of bond or

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29 certificate of deposit proceeds; amending s. 604.22, F.S.;
 30 revising recordkeeping requirements of licensees;
 31 clarifying application of provisions; amending ss. 604.23
 32 and 604.25, F.S.; clarifying application of provisions;
 33 amending s. 604.30, F.S.; clarifying that a violator of
 34 provisions regulating dealers in agricultural products may
 35 be a person, partnership, corporation, or other business
 36 entity; increasing the maximum administrative fine and the
 37 fine for continued violation of an administrative order;
 38 providing an effective date.

39

40 Be It Enacted by the Legislature of the State of Florida:

41

42 Section 1. Section 604.15, Florida Statutes, is amended to
 43 read:

44 604.15 Dealers in agricultural products; definitions.--For
 45 the purpose of ss. 604.15-604.34, the following words and terms,
 46 when used, shall be construed to mean:

47 (1)(3) "Agricultural products" means the natural products
 48 of the farm, nursery, grove, orchard, vineyard, garden, and
 49 apiary (raw or manufactured); sod; tropical foliage;
 50 horticulture; hay; livestock; milk and milk products; poultry
 51 and poultry products; the fruit of the saw palmetto (meaning the
 52 fruit of the *Serenoa repens*); ~~and~~ limes (meaning the fruit
 53 *Citrus aurantifolia*, variety Persian, Tahiti, Bearss, or Florida
 54 Key limes); and any other nonexempt agricultural products
 55 produced in the state, except tobacco, ~~tropical foliage,~~

56 sugarcane, timber and timber by-products, forest products as
57 defined in s. 591.17, and citrus other than limes.

58 (2)(1) "Dealer in agricultural products" means any person,
59 partnership, corporation, or other business entity, whether
60 itinerant or domiciled within this state, engaged within this
61 state in the business of purchasing, receiving, or soliciting
62 agricultural products from the producer or the producer's ~~her or~~
63 ~~his~~ agent or representative for resale or processing for sale;
64 acting as an agent for such producer in the sale of agricultural
65 products for the account of the producer on a net return basis;
66 or acting as a negotiating broker between the producer or the
67 producer's ~~her or his~~ agent or representative and the buyer.

68 (3)(6) "Delivery ticket" means a document provided to a
69 grain producer by a grain dealer in conjunction with the
70 delivery of grain to the grain dealer.

71 (4)(2) "Department" means the Department of Agriculture
72 and Consumer Services.

73 (5)(7) "Grain" means any food or feed grains, which
74 include, but are not limited to, soybeans, corn, wheat, oats,
75 and rye.

76 (6)(8) "Grain dealer" means any person engaged in this
77 state in:

78 (a) Buying, receiving, selling, exchanging, negotiating,
79 or processing for resale, or soliciting the sale, resale,
80 exchange, or transfer of, grain purchased from the producer or
81 the producer's ~~her or his~~ agent or representative or received
82 from the producer to be handled on a net return basis; or

83 (b) Receiving grain for storage.

84 (7) "Negotiating broker" means any person in the state
 85 engaged in the business of negotiating sales and purchases of
 86 agricultural products with a dealer in agricultural products for
 87 or on behalf of the producer or the producer's agent or
 88 representative. The negotiating broker never takes title to the
 89 agricultural product involved in the sale or purchase or handles
 90 the proceeds therefrom.

91 ~~(8)(4)~~ "Net return basis" means the sale of agricultural
 92 products for the account of a producer ~~person~~, other than the
 93 seller, wherein the seller acts as the agent for the producer
 94 ~~owner~~ and pays the producer ~~owner~~ of such products the net
 95 proceeds after subtracting all authorized and allowable
 96 deductions.

97 ~~(9)(5)~~ "Producer" means any grower ~~producer~~ of
 98 agricultural products produced in the state.

99 (10) "Producer's agent" means the seller of agricultural
 100 products for the account of a producer or group of producers on
 101 a net return basis, wherein the producer's agent acts as the
 102 agent for the producer or group of producers and pays the
 103 producer of such products all of the net proceeds after
 104 subtracting all authorized and allowable deductions. Allowable
 105 deductions may include, but are not limited to: packing charges,
 106 shipping charges, boxes, crates, billing, commission fees,
 107 cooling charges, pallets, and other deductible charges or fees
 108 agreed upon by the producer and producer's agent.

109 Section 2. Subsections (2) and (4) of section 604.16,
 110 Florida Statutes, are amended to read:

111 604.16 Exceptions to provisions of ss. 604.15-
 112 604.34.--Except for s. 604.22(2), the provisions of ss. 604.15-
 113 604.34 do not apply to:

114 (2) A dealer in agricultural products ~~All persons~~ who pays
 115 ~~buy for cash and pay~~ at the time of purchase with United States
 116 cash currency or a cash equivalent, such as a money order,
 117 cashier's check, wire transfer, electronic funds transfer, or
 118 debit card.

119 (4) ~~Dealers who operate exclusively on a retail basis and~~
 120 who purchase less than \$1,000 worth of agricultural products
 121 from Florida producers or their agents or representatives during
 122 the peak month of such purchases within the calendar year.

123 Section 3. Section 604.18, Florida Statutes, is amended to
 124 read:

125 604.18 Application; form; contents.--Every dealer in
 126 agricultural products, ~~desiring to transact business within the~~
 127 state directly with a Florida producer, a producer's agent or
 128 representative, or a negotiating broker, shall, prior to
 129 transacting any business as such, file an application for such
 130 license with the department. License shall be renewed annually
 131 on its anniversary date. The application shall be on a form
 132 furnished by the department and, together with such other
 133 information as the department shall require, shall state:

134 (1) The kind or kinds of agricultural products the
 135 applicant proposes to handle. ~~;~~

136 (2) The full name or title of the person, partnership,
 137 corporation, or other business entity and applicant, ~~or if the~~
 138 ~~applicant be an association or copartnership, the name of each~~

139 ~~member of such association or copartnership, or if the applicant~~
 140 ~~be a corporation,~~ the name and mailing address of each owner,
 141 partner, officer, or managing agent. ~~officer of the corporation;~~

142 (3) The names of buyers or other local agents of the
 143 applicant, if any.;

144 (4) The cities and towns within which places of business
 145 of the applicant will be located, together with the street or
 146 mailing address of each.;

147 (5) The federal employer's identification number of the
 148 applicant, if any.

149 (6) The primary mailing address and physical address for
 150 each place of business. A dealer in agricultural products must
 151 have on file with the department the address of the dealer's
 152 primary place of business prior to engaging in business as a
 153 dealer in agricultural products in this state. Prior to changing
 154 the address of the primary place of business, the dealer must
 155 notify the department of the address of the new primary place of
 156 business. All documents relating to the provisions of ss.
 157 604.15-604.34 and chapter 120 shall be served to the last
 158 address of record; to a corporation's registered agent or the
 159 registered agent's substitute; in the absence of a registered
 160 agent, to an owner, officer, partner, employee, or managing
 161 agent of the business entity; or as designated by the applicant
 162 in the applicant's application.

163 (7) The dollar amount of business done by a renewal
 164 applicant with Florida producers and their agents or
 165 representatives during the month in which the maximum dollar
 166 amount of agricultural products was purchased or handled as a

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167 dealer in agricultural products or the dollar amount of business
168 estimated to be done by a first-time applicant with Florida
169 producers and their agents or representatives during the month
170 in which the estimated maximum dollar amount of agricultural
171 products will be purchased or handled as a dealer in
172 agricultural products.

173 Section 4. Section 604.19, Florida Statutes, is amended to
174 read:

175 604.19 License; fee; bond; certificate of deposit;
176 penalty.--Unless the department refuses the application on one
177 or more of the grounds provided in this section, it shall issue
178 to an applicant, upon the payment of required ~~proper~~ fees and
179 the execution and delivery of a bond or certificate of deposit
180 as provided in this section, a state license entitling the
181 applicant to conduct business as a dealer in agricultural
182 products for a 1-year period to coincide with the effective
183 period of the bond or certificate of deposit furnished by the
184 applicant. During the 1-year period covered by a license, if the
185 supporting surety bond or certificate of deposit is canceled for
186 any reason, the license shall automatically expire on the date
187 the surety bond or certificate of deposit terminates, unless an
188 acceptable replacement is in effect before the date of
189 termination so that continual coverage occurs for the remaining
190 period of the license. A surety company shall give the
191 department a 30-day written notice of cancellation by certified
192 mail in order to cancel a bond. Cancellation of a bond or
193 certificate of deposit shall not relieve a surety company or
194 financial institution of liability for purchases or sales

195 occurring while the bond or certificate of deposit was in
 196 effect. The license fee, which must be paid for the principal
 197 place of business for a dealer in agricultural products, shall
 198 be based upon the amount of the dealer's surety bond or
 199 certificate of deposit furnished by each dealer under the
 200 provisions of s. 604.20 and may not exceed \$500 ~~\$300~~. For each
 201 additional place in which the applicant desires to conduct
 202 business and which the applicant names in the application, the
 203 additional license fee must be paid but may not exceed \$100 ~~\$50~~
 204 annually. Should any dealer in agricultural products fail,
 205 refuse, or neglect to apply and qualify for the renewal of a
 206 license on or before the date of expiration thereof, a penalty
 207 not to exceed \$100 ~~\$35~~ shall apply to and be added to the
 208 original license fee and shall be paid by the applicant before
 209 the renewal license may be issued. The department by rule shall
 210 prescribe fee amounts sufficient to fund ss. 604.15-604.34.

211 Section 5. Section 604.20, Florida Statutes, is amended to
 212 read:

213 604.20 Bond or certificate of deposit prerequisite;
 214 amount; form.--

215 (1) Before any license is issued, the applicant therefor
 216 shall make and deliver to the department a surety bond or
 217 certificate of deposit in the amount of at least \$3,000 or in
 218 such greater amount as the department may determine, ~~not~~
 219 ~~exceeding the maximum amount of business done or estimated to be~~
 220 ~~done in any month by the applicant.~~ No bond or certificate of
 221 deposit may be in an amount less than \$3,000. The penal sum of
 222 the bond or certificate of deposit to be furnished to the

223 department by an applicant for license as a dealer in
 224 agricultural products shall be in an amount equal to twice the
 225 dollar amount of agricultural products handled for a Florida
 226 producer or a producer's agent or representative, by purchase or
 227 otherwise, during the month of maximum transaction in such
 228 products during the preceding 12-month period. An applicant for
 229 license who has not handled agricultural products for a Florida
 230 producer or a producer's agent or representative, by purchase or
 231 otherwise, during the preceding 12-month period shall furnish a
 232 bond or certificate of deposit in an amount equal to twice the
 233 estimated dollar amount of such agricultural products to be
 234 handled, by purchase or otherwise, during the month of maximum
 235 transaction during the next immediate 12 months. Such bond or
 236 certificate of deposit shall be provided or assigned in the
 237 exact name in which the dealer will conduct business subject to
 238 the provisions of ss. 604.15-604.34. Such bond must be executed
 239 by a surety company ~~corporation~~ authorized to transact business
 240 in the state. For the purposes of ss. 604.19-604.21, the term
 241 "certificate of deposit" means a certificate of deposit at any
 242 recognized financial institution doing business in the United
 243 States. No certificate of deposit may be accepted in connection
 244 with an application for a dealer's license unless the issuing
 245 institution is properly insured by either the Federal Deposit
 246 Insurance Corporation or the Federal Savings and Loan Insurance
 247 Corporation. Such bond or any certificate of deposit assignment
 248 or agreement shall be upon a form prescribed or approved by the
 249 department and shall be conditioned to secure the faithful
 250 accounting for and payment, in the manner prescribed by s.

251 604.21(9), to producers or their agents or representatives of
 252 the proceeds of all agricultural products handled or purchased
 253 by such dealer and to secure payment to dealers who sell
 254 agricultural products to such dealer. Such bond or certificate
 255 of deposit assignment or agreement shall include terms binding
 256 the instrument to the Commissioner of Agriculture. A certificate
 257 of deposit shall be presented with an assignment of applicant's
 258 rights in the certificate in favor of the Commissioner of
 259 Agriculture on a form prescribed by the department and with a
 260 letter from the issuing institution acknowledging that the
 261 assignment has been properly recorded on the books of the
 262 issuing institution and will be honored by the issuing
 263 institution. Such assignment shall be irrevocable while the
 264 dealer's license is in effect and for an additional period of 6
 265 months after the termination or expiration of the dealer's
 266 license provided no complaint is pending against the licensee.
 267 If a complaint is pending, the assignment shall remain in effect
 268 until all actions on the complaint have been finalized. The
 269 certificate of deposit may be released by the assignee of the
 270 financial institution to the licensee or the licensee's
 271 successors, assignee, or heirs if no claims are pending against
 272 the licensee before the department at the conclusion of 6 months
 273 after the last effective date of the license. No certificate of
 274 deposit shall be accepted that contains any provision that would
 275 give the issuing institution any prior rights or claim on the
 276 proceeds or principal of such certificate of deposit. The
 277 department shall determine by rule the maximum amount of bond or
 278 certificate of deposit required of a dealer and whether an

279 annual ~~or continuous~~ bond or certificate of deposit will be
 280 required.

281 (2) The amount of such bond or certificate of deposit
 282 shall, upon the order of the department at any time, be
 283 increased, if in its discretion the department finds such
 284 increase to be warranted by the dollar amount volume of
 285 agricultural products being handled, by purchase or otherwise,
 286 by the licensee. In the same manner, the amount of such bond or
 287 certificate of deposit may be decreased when a decrease in the
 288 dollar amount volume of products handled, by purchase or
 289 otherwise, warrants such decrease. These provisions apply to any
 290 bond or certificate of deposit, regardless of the anniversary
 291 date of its issuance, expiration, cancellation, or renewal.

292 (3) In order to effectuate the purposes of this section,
 293 the department or its agents may require from any applicant or
 294 licensee verified statements of the dollar amount volume of the
 295 applicant's or licensee's ~~her or his~~ business or may review the
 296 applicant's ~~applicant~~ or licensee's records at the applicant's
 297 or licensee's ~~her or his~~ place of business during normal
 298 business hours to determine the actual dollar amount of
 299 agricultural products handled, by purchase or otherwise ~~for the~~
 300 ~~purpose of determining her or his volume of business.~~ The
 301 failure of a licensee to furnish such statement, to make such
 302 records available, or to make and deliver a new or additional
 303 bond or certificate of deposit shall be cause for suspension of
 304 the licensee's license. If the department finds such failure to
 305 be willful, the license may be revoked.

306 (4) The department may issue a conditional license to an
307 applicant who is unable to provide a single bond or certificate
308 of deposit in the full amount required by the calculation in
309 subsection (1). The conditional license shall remain in effect
310 for a 1-year period to coincide with the effective period of the
311 bond or certificate of deposit furnished by the applicant. The
312 applicant must provide at least the minimum \$3,000 bond or
313 certificate of deposit as provided in subsection (1) together
314 with one of the following:

315 (a) A notarized affidavit limiting the handling of
316 agricultural products, by purchase or otherwise, during their
317 largest month to a minimum of one-half the amount of the bond or
318 certificate of deposit provided by the applicant;

319 (b) A notarized affidavit stating that any subject
320 agricultural products, handled by purchase or otherwise,
321 exceeding one-half of the amount of the bond or certificate of
322 deposit will be handled under the exemption provisions set forth
323 in s. 604.16(2); or

324 (c) A second bond or certificate of deposit in such an
325 amount that, when the penal sum of the second bond or
326 certificate of deposit is added to the penal sum of the first
327 bond or certificate of deposit, the combined penal sum will
328 equal twice the dollar amount of agricultural products handled
329 for a Florida producer or a producer's agent or representative,
330 by purchase or otherwise, during the month of maximum
331 transaction in such products during the preceding 12-month
332 period.

333

334 The department or its agents may require from any licensee who
 335 is issued a conditional license verified statements of the
 336 volume of the licensee's business or may review the licensee's
 337 records at the licensee's place of business during normal
 338 business hours to determine the licensee's adherence to the
 339 conditions of the license. The failure of a licensee to furnish
 340 such statement or to make such records available shall be cause
 341 for suspension of the licensee's conditional license. If the
 342 department finds such failure to be willful, the conditional
 343 license may be revoked.

344 Section 6. Section 604.21, Florida Statutes, is amended to
 345 read:

346 604.21 Complaint; investigation; hearing.--

347 (1)(a) Any person, partnership, corporation, or other
 348 business entity claiming herself or himself to be damaged by any
 349 breach of the conditions of a bond or certificate of deposit
 350 assignment or agreement given by a licensed dealer in
 351 agricultural products as hereinbefore provided may enter
 352 complaint thereof against the dealer and against the surety
 353 company, if any, to the department, which complaint shall be a
 354 written statement of the facts constituting the complaint. Such
 355 complaint shall include all agricultural products defined in s.
 356 604.15(1), as well as any additional charges necessary to
 357 effectuate the sale unless these additional charges are already
 358 included in the total delivered price. Such complaint shall be
 359 filed within 6 months from the date of sale in instances
 360 involving direct sales or from the date on which the
 361 agricultural product was received by the dealer in agricultural

362 products, as agent, to be sold for the producer. No complaint
 363 shall be filed pursuant to this section unless the transactions
 364 involved total at least \$500 ~~\$250~~ and occurred in a single
 365 license year. Before a complaint can be processed, the
 366 complainant must provide the department with a \$50 filing fee.
 367 In the event the complainant is successful in proving the claim,
 368 the dealer in agricultural products shall reimburse the
 369 complainant for the \$50 filing fee as part of the settlement of
 370 the claim.

371 (b) To be considered timely filed, a complaint together
 372 with any required affidavits or notarizations must be received
 373 by the department within 6 months after the date of sale by
 374 electronic transmission, facsimile, regular mail, certified
 375 mail, or private delivery service. If the complaint is sent by a
 376 service other than electronic mail or facsimile, the mailing
 377 shall be postmarked or dated on or before the 6-month deadline
 378 to be accepted as timely filed.

379 (c) When multiple claims exist by a producer, a producer's
 380 agent or representative, or a dealer and the combined
 381 adjudicated amounts exceed the total amount of any bond and
 382 certificate of deposit, sales occurring 120 or more days after
 383 the oldest sale stated in any complaint filed by the same
 384 producer, producer's agent or representative, or dealer shall
 385 not be considered for payment from the proceeds of the bond or
 386 certificate of deposit in the event that the surety company or
 387 financial institution is called on to make payment.

388 (d) A person, partnership, corporation, or other business
 389 entity filing a complaint shall submit to the department the

390 following documents: three completed complaint affidavits on a
391 form provided by the department with an original signature of an
392 owner, partner, general partner, or corporate officer and an
393 original notarization on each affidavit. If the complaint is
394 filed by electronic transmission or facsimile, the original
395 affidavits and original notarizations shall be filed with the
396 department not later than the close of business of the tenth
397 business day following the electronic transmission or facsimile
398 filing. Attached to each complaint affidavit shall be copies of
399 all documents to support the complaint. Supporting documents may
400 be copies of invoices, bills of lading, packing or shipping
401 documents, demand letters, or any other documentation to support
402 the claim. In cases in which there are multiple invoices being
403 claimed, a summary list of all claimed invoices must accompany
404 the complaint.

405 (e) A dealer in agricultural products who is in compliance
406 with ss. 604.15-604.34 may file a complaint with the department
407 against another licensed dealer in agricultural products.
408 However, payment from a bond or certificate of deposit to a
409 dealer shall occur only after all claims of producers or
410 producers' agents or representatives have been paid in full
411 except as provided pursuant to paragraph (c).

412 (f) Filing a complaint with the department does not
413 constitute an election of remedies when the same or similar
414 complaint is filed in another venue.

415 (g) The surety company or financial institution shall be
416 responsible for payment of properly established complaints filed

417 against a dealer, notwithstanding the dealer's filing of a
 418 bankruptcy proceeding.

419 (2) Upon the filing of such complaint in the manner herein
 420 provided, the department shall investigate the matters
 421 complained of; whereupon, if, in the opinion of the department,
 422 the facts contained in the complaint warrant such action, the
 423 department shall serve notice of the filing of complaint ~~send~~ to
 424 the dealer against whom the complaint has been filed at the last
 425 address of record in question, by certified mail, notice of the
 426 filing of the complaint. Such notice shall be accompanied by a
 427 true copy of the complaint. A copy of such notice and complaint
 428 shall also be served ~~sent~~ to the surety company, if any, that
 429 provided the bond for the dealer, which surety company shall
 430 become party to the action. Such notice of the complaint shall
 431 inform the dealer of a reasonable time within which to answer
 432 the complaint by advising the department in writing that the
 433 allegations in the complaint are admitted or denied or that the
 434 complaint has been satisfied. Such notice shall also inform the
 435 dealer and the surety company or financial institution, ~~if any,~~
 436 of a right to a hearing on the complaint, if requested.

437 (3) If the dealer files an answer admitting ~~admits~~ the
 438 allegations of the complaint and the department determines
 439 through inquiry of the complainant that the dealer has failed
 440 but fails to satisfy same within 21 days after receipt of the
 441 notice of the filing of a complaint by any party whose
 442 substantial interests are determined ~~the time fixed~~ by the
 443 department, the department shall thereupon order payment by the
 444 dealer of the amount found owed. In the event a party files a

445 request that the complaint be held in abeyance pending a
 446 settlement agreement, the period of abeyance shall not exceed 6
 447 months and successive periods of abeyance shall not be granted.

448 (4) If the dealer files an answer and ~~, in her or his~~
 449 ~~answer,~~ denies the allegations of the complaint and waives a
 450 hearing, the department may order a hearing or enter an order
 451 based on the facts and circumstances set forth in the complaint
 452 and the respondent's answer thereto. If the department
 453 determines the complaint has not been established or fails to
 454 meet the provisions of this section, the order shall, among
 455 other things, dismiss the proceedings. If the department
 456 determines that the allegations of the complaint have been
 457 established, it shall enter its findings of fact accordingly and
 458 thereupon enter its order adjudicating the amount of
 459 indebtedness due to be paid by the dealer to the complainant.

460 (5) Any order entered by the department pursuant to this
 461 section shall become final and effective on the date filed with
 462 the department's agency clerk ~~14 days after issue if neither the~~
 463 ~~department nor a party whose material interest is affected by~~
 464 ~~the order requests a hearing on the order within 14 days~~
 465 ~~following the date of issue.~~

466 (6) Any party whose substantial ~~material~~ interest is
 467 affected by a proceeding pursuant to this section shall be
 468 granted a hearing upon request as provided by chapter 120. Such
 469 hearing shall be conducted pursuant to chapter 120. The final
 470 order of the department, when issued pursuant to the recommended
 471 order of an administrative law judge, shall be final and
 472 effective on the date filed with the department's agency clerk.

473 Any party to these proceedings adversely affected by the final
 474 order is entitled to seek review of the final order pursuant to
 475 s. 120.68 and the Florida Rules of Appellate Procedure. Should a
 476 complaint forwarded by the department to the Division of
 477 Administrative Hearings be settled prior to a hearing pursuant
 478 to chapter 120, the department shall issue a notice closing the
 479 complaint file upon receipt of the administrative law judge's
 480 order closing the complaint file, and the matter before the
 481 department shall be closed accordingly ~~upon issuance.~~

482 (7) Any indebtedness set forth in a departmental order
 483 against a dealer shall be paid by the dealer within 15 days
 484 after such order becomes final.

485 (8) Upon the failure by a dealer to comply with an order
 486 of the department directing payment, the department shall, in
 487 instances involving bonds, call upon the surety company to pay
 488 over to the department out of the bond posted by the surety
 489 company for such dealer or, in instances involving certificates
 490 of deposit, call upon the financial institution issuing such
 491 certificate to pay over to the department out of the certificate
 492 under the conditions of the assignment or agreement, the amount
 493 called for in the order of the department, not exceeding the
 494 amount of the bond or the principal of the certificate of
 495 deposit. If the bond or the principal of the certificate of
 496 deposit is insufficient to pay in full the amount due each
 497 complainant as set forth in the order of the department, the
 498 department shall distribute the proceeds pro rata among such
 499 complainants. The proceeds from a bond or the principal from a
 500 certificate of deposit shall be paid directly to the department

501 to be distributed by it to successful complainants, except the
 502 accrued interest on a certificate of deposit shall be paid to
 503 the dealer. Such funds shall be considered trust funds in the
 504 hands of the department for the exclusive purpose of satisfying
 505 duly established complaints. Payments made to the department
 506 pursuant to this section shall be considered payments made upon
 507 demand and may not be considered voluntary payments.

508 (9) Payments from a surety company or proceeds from a
 509 certificate of deposit shall be paid first to the producer or
 510 the producer's agent or representative in the amount of the
 511 producer's claims in full if such proceeds are sufficient for
 512 such purpose and, if not, then in pro rata shares to such
 513 producer or producer's agent or representative. If additional
 514 proceeds exist in the hands of the department after all claims
 515 of a producer and a producer's agent or representative have been
 516 paid in full, the balance of such proceeds shall be paid to
 517 claimants who are licensed dealers in agricultural products,
 518 either in whole or in pro rata portion, as the aggregate of
 519 their claims may bear to the amount of such additional proceeds.

520 ~~(10)(9)~~ Nothing in this section may be construed as
 521 relieving a surety company from responsibility for payment on
 522 properly established complaints against dealers involved in a
 523 federal bankruptcy proceeding and against whom the department is
 524 prohibited from entering an order.

525 ~~(11)(10)~~ Upon the failure of a surety company to comply
 526 with a demand for payment of the proceeds on a bond for a dealer
 527 in agricultural products, a complainant who is entitled to such
 528 proceeds, in total or in part, may, within a reasonable time,

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529 file in the circuit court a petition or complaint setting forth
 530 the administrative proceeding before the department and ask for
 531 final order of the court directing the surety company to pay the
 532 bond proceeds to the department for distribution to the
 533 complainants. If in such suit the complainant is successful and
 534 the court affirms the demand of the department for payment, the
 535 complainant shall be awarded all court costs incurred therein
 536 and also a reasonable attorney's fee to be fixed and collected
 537 as part of the costs of the suit. In lieu of such suit, the
 538 department may enforce its final agency action in the manner
 539 provided in s. 120.69.

540 Section 7. Section 604.22, Florida Statutes, is amended to
 541 read:

542 604.22 Dealers to keep records; contents.--

543 (1) Each licensee, while acting as agent for a producer,
 544 shall make and preserve for at least 1 year a record of each
 545 transaction, specifying the name and address of the producer for
 546 whom she or he acts as agent; the date of receipt; the kind,
 547 quality, and quantity of agricultural products received; the
 548 name and address of the purchaser of each package of
 549 agricultural products; the price for which each package was
 550 sold; the amount of any additional charges necessary to
 551 effectuate the sale; the amount and explanation of any
 552 adjustments given; and the net amount due from each purchaser.
 553 An account of sales shall be furnished each producer within 48
 554 hours after the sale of such agricultural products unless
 555 otherwise agreed to in a written contract or verifiable oral
 556 agreement. Such account of sales shall clearly show the sale

557 price of each lot of agricultural products sold; all adjustments
 558 to the original price, along with an explanation of such
 559 adjustments; and an itemized showing of all marketing costs
 560 deducted by the licensee, along with the net amount due the
 561 producer. The licensee shall make the payment to the producer
 562 within 5 days of the licensee's receipt of payment unless
 563 otherwise agreed to in a written contract or verifiable oral
 564 agreement.

565 (2)(a) The provisions of s. 604.16(2), (3), and (4)
 566 notwithstanding, any person, partnership, corporation, or other
 567 business entity, except a person described in s. 604.16(1), who
 568 possesses and offers for sale agricultural products is required
 569 to possess and display, upon the request of any department
 570 representative or state, county, or local law enforcement
 571 officer, an invoice, bill of sale, manifest, or other written
 572 document showing the date of sale, the name and address of the
 573 seller, and the kind and quantity of products for all such
 574 agricultural products.

575 (b) Any person who violates the provisions of this
 576 subsection is guilty of a misdemeanor of the second degree,
 577 punishable as provided in s. 775.082 or s. 775.083.

578 Section 8. Section 604.23, Florida Statutes, is amended to
 579 read:

580 604.23 Examination of records, sales, accounts, books, and
 581 other documents.--The department shall have power to
 582 investigate, upon complaint of any interested person or upon its
 583 own initiative, the record of any dealer in agricultural
 584 products ~~applicant or licensee~~, or any transaction involving the

585 solicitation, receipt, sale or attempted sale of agricultural
 586 products, the failure to make proper and true accounts and
 587 settlements at prompt and regular intervals, the making of false
 588 statements as to condition, quality or quantity of goods
 589 received or while in storage, the making of false statements as
 590 to market conditions with intent to deceive, or the failure to
 591 make payment for goods received, or other alleged injurious
 592 transactions. For such purposes the department or its agents may
 593 examine, at the place or places of business of the dealer in
 594 agricultural products, the applicant or licensee, her or his
 595 ledgers, books of accounts, memoranda, and other documents which
 596 relate to the transaction involved, and may take testimony
 597 thereon under oath.

598 Section 9. Paragraphs (a) and (d) of subsection (1) of
 599 section 604.25, Florida Statutes, are amended to read:

600 604.25 Refusal to grant, or suspension or revocation of,
 601 license.--

602 (1) The department may decline to grant a license or may
 603 suspend or revoke a license already granted if the applicant or
 604 licensee has:

605 (a) Suffered a monetary ~~money~~ judgment ~~to be~~ entered
 606 against the applicant or licensee ~~her or him~~ upon which
 607 execution has been returned unsatisfied;

608 (d) Made any false statement or statements as to
 609 condition, quality, or quantity of goods received or held for
 610 sale when ~~she or he could have ascertained~~ the true condition,
 611 quality, or quantity could have been ascertained by reasonable
 612 inspection;

613 Section 10. Section 604.30, Florida Statutes, is amended
 614 to read:

615 604.30 Penalties; injunctive relief; administrative
 616 fines.--

617 (1) Any dealer in agricultural products who violates the
 618 provisions of ss. 604.15-604.34, or who interferes with an agent
 619 of the department in the enforcement of ss. 604.15-604.34, is
 620 guilty of a misdemeanor of the second degree, punishable as
 621 provided in s. 775.082 or s. 775.083, and for a second or
 622 subsequent offense is guilty of a misdemeanor of the first
 623 degree, punishable as provided in s. 775.082 or s. 775.083.

624 (2) In addition to the remedies provided in this chapter
 625 and notwithstanding the existence of any adequate remedy at law,
 626 when the department has probable cause to believe that any
 627 person, partnership, corporation, or other business entity has
 628 violated any provision of this chapter or any rule adopted
 629 pursuant thereto, the department may issue and deliver to such
 630 person, partnership, corporation, or other business entity a
 631 notice to cease and desist from such violation. For the purpose
 632 of enforcing a cease and desist order, the department may file a
 633 proceeding in the name of the state seeking issuance of an
 634 injunction or writ of mandamus against any person, partnership,
 635 corporation, or other business entity who violates any
 636 provisions of such order, and such injunction shall be issued
 637 without bond.

638 (3)(a) In addition to the penalties provided in this
 639 section, the department may, after notice and hearing, impose a
 640 fine not exceeding \$2,500 ~~\$1,000~~ for the violation of any of the

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641 provisions of ss. 604.15-604.34 or the rules adopted thereunder
642 against any dealer in agricultural products; such fine, when
643 imposed and paid, shall be deposited by the department into the
644 General Inspection Trust Fund.

645 (b) Whenever any administrative order has been made and
646 entered by the department imposing a fine pursuant to this
647 subsection, the order shall specify the amount of the fine and a
648 time limit of no more than 15 days for the payment thereof. Upon
649 the failure of the dealer involved to pay the fine within that
650 time, the dealer's license as dealer in agricultural products
651 shall be subject to suspension or revocation and a fine not to
652 exceed \$100 ~~of \$50~~ a day shall be imposed on the dealer while
653 the dealer ~~she or he~~ is in violation of such order.

654 Section 11. This act shall take effect October 1, 2005.