

CHAMBER ACTION

1 The State Resources Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to dealers in agricultural products;
7 amending s. 604.15, F.S.; revising definitions; expanding
8 the list of products covered by the law; defining the
9 terms "negotiating broker" and "producer's agent";
10 amending s. 604.16, F.S.; revising exceptions to
11 provisions regulating dealers; amending s. 604.18, F.S.,
12 relating to applications for dealer licensure; requiring
13 dealers to provide mailing and location address
14 information; requiring dealers to provide certain
15 information relating to the dollar amount of business done
16 or to be done; amending s. 604.19, F.S.; providing
17 requirements relating to cancellation of a bond or
18 certificate of deposit; increasing license fees and
19 delinquent renewal penalties; amending s. 604.20, F.S.;
20 increasing the minimum amount of a bond or certificate of
21 deposit for licensure; providing a calculation for the
22 amount of a bond or certificate of deposit; adding
23 requirements relating to bond or certificate of deposit

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24 assignment or agreement; authorizing the Department of
25 Agriculture and Consumer Services to issue a conditional
26 license under certain conditions; amending s. 604.21,
27 F.S.; increasing the minimum claim amount and requiring a
28 complaint filing fee; providing requirements for
29 submission of a complaint and payment for multiple claims;
30 authorizing a dealer in agricultural products to file a
31 complaint against another dealer in agricultural products;
32 limiting the time a complaint may be held in abeyance;
33 authorizing review of a final order; clarifying
34 distribution of bond or certificate of deposit proceeds;
35 amending s. 604.22, F.S.; revising recordkeeping
36 requirements of licensees; clarifying application of
37 provisions; amending ss. 604.23 and 604.25, F.S.;
38 clarifying application of provisions; amending s. 604.30,
39 F.S.; clarifying that a violator of provisions regulating
40 dealers in agricultural products may be a person,
41 partnership, corporation, or other business entity;
42 increasing the maximum administrative fine and the fine
43 for continued violation of an administrative order;
44 providing an effective date.

45

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

47

48 Section 1. Section 604.15, Florida Statutes, is amended to
49 read:

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50 604.15 Dealers in agricultural products; definitions.--For
51 the purpose of ss. 604.15-604.34, the following words and terms,
52 when used, shall be construed to mean:

53 ~~(1)(3)~~ "Agricultural products" means the natural products
54 of the farm, nursery, grove, orchard, vineyard, garden, and
55 apiary (raw or manufactured); sod; tropical foliage;
56 horticulture; hay; livestock; milk and milk products; poultry
57 and poultry products; the fruit of the saw palmetto (meaning the
58 fruit of the *Serenoa repens*); ~~and~~ limes (meaning the fruit
59 *Citrus aurantifolia*, variety Persian, Tahiti, Bearss, or Florida
60 Key limes); and any other nonexempt agricultural products
61 produced in the state, except tobacco, ~~tropical foliage,~~
62 sugarcane, timber and timber by-products, forest products as
63 defined in s. 591.17, and citrus other than limes.

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

74 ~~(3)(6)~~ "Delivery ticket" means a document provided to a
75 grain producer by a grain dealer in conjunction with the
76 delivery of grain to the grain dealer.

77 ~~(4)(2)~~ "Department" means the Department of Agriculture
78 and Consumer Services.

79 ~~(5)(7)~~ "Grain" means any food or feed grains, which
80 include, but are not limited to, soybeans, corn, wheat, oats,
81 and rye.

82 ~~(6)(8)~~ "Grain dealer" means any person engaged in this
83 state in:

84 (a) Buying, receiving, selling, exchanging, negotiating,
85 or processing for resale, or soliciting the sale, resale,
86 exchange, or transfer of, grain purchased from the producer or
87 the producer's ~~her or his~~ agent or representative or received
88 from the producer to be handled on a net return basis; or

89 (b) Receiving grain for storage.

90 ~~(7)~~ "Negotiating broker" means any person in the state
91 engaged in the business of negotiating sales and purchases of
92 agricultural products with a dealer in agricultural products for
93 or on behalf of the producer or the producer's agent or
94 representative. The negotiating broker never takes title to the
95 agricultural product involved in the sale or purchase or handles
96 the proceeds therefrom.

97 ~~(8)(4)~~ "Net return basis" means the sale of agricultural
98 products for the account of a producer ~~person~~, other than the
99 seller, wherein the seller acts as the agent for the producer
100 ~~owner~~ and pays the producer ~~owner~~ of such products the net
101 proceeds after subtracting all authorized and allowable
102 deductions.

103 ~~(9)(5)~~ "Producer" means any grower ~~producer~~ of
104 agricultural products produced in the state.

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

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

117 604.16 Exceptions to provisions of ss. 604.15-
 118 604.34.--Except for s. 604.22(2), the provisions of ss. 604.15-
 119 604.34 do not apply to:

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

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

129 Section 3. Section 604.18, Florida Statutes, is amended to
 130 read:

131 604.18 Application; form; contents.--Every dealer in
 132 agricultural products, desiring to transact business within the

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133 | state directly with a Florida producer, a producer's agent or
 134 | representative, or a negotiating broker, shall, prior to
 135 | transacting any business as such, file an application for such
 136 | license with the department. License shall be renewed annually
 137 | on its anniversary date. The application shall be on a form
 138 | furnished by the department and, together with such other
 139 | information as the department shall require, shall state:

140 | (1) The kind or kinds of agricultural products the
 141 | applicant proposes to handle.;

142 | (2) The full name or title of the person, partnership,
 143 | corporation, or other business entity and applicant, ~~or if the~~
 144 | ~~applicant be an association or copartnership, the name of each~~
 145 | ~~member of such association or copartnership, or if the applicant~~
 146 | ~~be a corporation,~~ the name and mailing address of each owner,
 147 | partner, officer, or managing agent. ~~officer of the corporation;~~

148 | (3) The names of buyers or other local agents of the
 149 | applicant, if any.;

150 | (4) The cities and towns within which places of business
 151 | of the applicant will be located, together with the street or
 152 | mailing address of each.; ~~and~~

153 | (5) The federal employer's identification number of the
 154 | applicant, if any.

155 | (6) The primary mailing address and physical address for
 156 | each place of business. A dealer in agricultural products must
 157 | have on file with the department the address of the dealer's
 158 | primary place of business prior to engaging in business as a
 159 | dealer in agricultural products in this state. Prior to changing
 160 | the address of the primary place of business, the dealer must

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161 notify the department of the address of the new primary place of
162 business. All documents relating to the provisions of ss.
163 604.15-604.34 and chapter 120 shall be served to the last
164 address of record; to a corporation's registered agent or the
165 registered agent's substitute; in the absence of a registered
166 agent, to an owner, officer, partner, employee, or managing
167 agent of the business entity; or as designated by the applicant
168 in the applicant's application.

169 (7) The dollar amount of business done by a renewal
170 applicant with Florida producers and their agents or
171 representatives during the month in which the maximum dollar
172 amount of agricultural products was purchased or handled as a
173 dealer in agricultural products or the dollar amount of business
174 estimated to be done by a first-time applicant with Florida
175 producers and their agents or representatives during the month
176 in which the estimated maximum dollar amount of agricultural
177 products will be purchased or handled as a dealer in
178 agricultural products.

179 Section 4. Section 604.19, Florida Statutes, is amended to
180 read:

181 604.19 License; fee; bond; certificate of deposit;
182 penalty.--Unless the department refuses the application on one
183 or more of the grounds provided in this section, it shall issue
184 to an applicant, upon the payment of required ~~proper~~ fees and
185 the execution and delivery of a bond or certificate of deposit
186 as provided in this section, a state license entitling the
187 applicant to conduct business as a dealer in agricultural
188 products for a 1-year period to coincide with the effective

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189 | period of the bond or certificate of deposit furnished by the
 190 | applicant. During the 1-year period covered by a license, if the
 191 | supporting surety bond or certificate of deposit is canceled for
 192 | any reason, the license shall automatically expire on the date
 193 | the surety bond or certificate of deposit terminates, unless an
 194 | acceptable replacement is in effect before the date of
 195 | termination so that continual coverage occurs for the remaining
 196 | period of the license. A surety company shall give the
 197 | department a 30-day written notice of cancellation by certified
 198 | mail in order to cancel a bond. Cancellation of a bond or
 199 | certificate of deposit shall not relieve a surety company or
 200 | financial institution of liability for purchases or sales
 201 | occurring while the bond or certificate of deposit was in
 202 | effect. The license fee, which must be paid for the principal
 203 | place of business for a dealer in agricultural products, shall
 204 | be based upon the amount of the dealer's surety bond or
 205 | certificate of deposit furnished by each dealer under the
 206 | provisions of s. 604.20 and may not exceed \$500 ~~\$300~~. For each
 207 | additional place in which the applicant desires to conduct
 208 | business and which the applicant names in the application, the
 209 | additional license fee must be paid but may not exceed \$100 ~~\$50~~
 210 | annually. Should any dealer in agricultural products fail,
 211 | refuse, or neglect to apply and qualify for the renewal of a
 212 | license on or before the date of expiration thereof, a penalty
 213 | not to exceed \$100 ~~\$35~~ shall apply to and be added to the
 214 | original license fee and shall be paid by the applicant before
 215 | the renewal license may be issued. The department by rule shall
 216 | prescribe fee amounts sufficient to fund ss. 604.15-604.34.

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217 Section 5. Section 604.20, Florida Statutes, is amended to
218 read:

219 604.20 Bond or certificate of deposit prerequisite;
220 amount; form.--

221 (1) Before any license is issued, the applicant therefor
222 shall make and deliver to the department a surety bond or
223 certificate of deposit in the amount of at least \$5,000 ~~\$3,000~~
224 or in such greater amount as the department may determine, ~~not~~
225 ~~exceeding the maximum amount of business done or estimated to be~~
226 ~~done in any month by the applicant.~~ No bond or certificate of
227 deposit may be in an amount less than \$5,000. The penal sum of
228 the bond or certificate of deposit to be furnished to the
229 department by an applicant for license as a dealer in
230 agricultural products shall be in an amount equal to twice the
231 dollar amount of agricultural products handled for a Florida
232 producer or a producer's agent or representative, by purchase or
233 otherwise, during the month of maximum transaction in such
234 products during the preceding 12-month period. An applicant for
235 license who has not handled agricultural products for a Florida
236 producer or a producer's agent or representative, by purchase or
237 otherwise, during the preceding 12-month period shall furnish a
238 bond or certificate of deposit in an amount equal to twice the
239 estimated dollar amount of such agricultural products to be
240 handled, by purchase or otherwise, during the month of maximum
241 transaction during the next immediate 12 months. Such bond or
242 certificate of deposit shall be provided or assigned in the
243 exact name in which the dealer will conduct business subject to
244 the provisions of ss. 604.15-604.34. Such bond must be executed

245 | by a surety company ~~corporation~~ authorized to transact business
 246 | in the state. For the purposes of ss. 604.19-604.21, the term
 247 | "certificate of deposit" means a certificate of deposit at any
 248 | recognized financial institution doing business in the United
 249 | States. No certificate of deposit may be accepted in connection
 250 | with an application for a dealer's license unless the issuing
 251 | institution is properly insured by either the Federal Deposit
 252 | Insurance Corporation or the Federal Savings and Loan Insurance
 253 | Corporation. Such bond or any certificate of deposit assignment
 254 | or agreement shall be upon a form prescribed or approved by the
 255 | department and shall be conditioned to secure the faithful
 256 | accounting for and payment, in the manner prescribed by s.
 257 | 604.21(9), to producers or their agents or representatives of
 258 | the proceeds of all agricultural products handled or purchased
 259 | by such dealer and to secure payment to dealers who sell
 260 | agricultural products to such dealer. Such bond or certificate
 261 | of deposit assignment or agreement shall include terms binding
 262 | the instrument to the Commissioner of Agriculture. A certificate
 263 | of deposit shall be presented with an assignment of applicant's
 264 | rights in the certificate in favor of the Commissioner of
 265 | Agriculture on a form prescribed by the department and with a
 266 | letter from the issuing institution acknowledging that the
 267 | assignment has been properly recorded on the books of the
 268 | issuing institution and will be honored by the issuing
 269 | institution. Such assignment shall be irrevocable while the
 270 | dealer's license is in effect and for an additional period of 6
 271 | months after the termination or expiration of the dealer's
 272 | license provided no complaint is pending against the licensee.

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273 If a complaint is pending, the assignment shall remain in effect
 274 until all actions on the complaint have been finalized. The
 275 certificate of deposit may be released by the assignee of the
 276 financial institution to the licensee or the licensee's
 277 successors, assignee, or heirs if no claims are pending against
 278 the licensee before the department at the conclusion of 6 months
 279 after the last effective date of the license. No certificate of
 280 deposit shall be accepted that contains any provision that would
 281 give the issuing institution any prior rights or claim on the
 282 proceeds or principal of such certificate of deposit. The
 283 department shall determine by rule the maximum amount of bond or
 284 certificate of deposit required of a dealer and whether an
 285 annual ~~or continuous~~ bond or certificate of deposit will be
 286 required.

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

298 (3) In order to effectuate the purposes of this section,
 299 the department or its agents may require from any applicant or
 300 licensee verified statements of the dollar amount ~~volume~~ of the

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301 applicant's or licensee's ~~her or his~~ business or may review the
 302 applicant's ~~applicant~~ or licensee's records at the applicant's
 303 or licensee's ~~her or his~~ place of business during normal
 304 business hours to determine the actual dollar amount of
 305 agricultural products handled, by purchase of otherwise ~~for the~~
 306 ~~purpose of determining her or his volume of business.~~ The
 307 failure of a licensee to furnish such statement, to make such
 308 records available, or to make and deliver a new or additional
 309 bond or certificate of deposit shall be cause for suspension of
 310 the licensee's license. If the department finds such failure to
 311 be willful, the license may be revoked.

312 (4) The department may issue a conditional license to an
 313 applicant who is unable to provide a single bond or certificate
 314 of deposit in the full amount required by the calculation in
 315 subsection (1). The conditional license shall remain in effect
 316 for a 1-year period to coincide with the effective period of the
 317 bond or certificate of deposit furnished by the applicant. The
 318 applicant must provide at least the minimum \$5,000 bond or
 319 certificate of deposit as provided in subsection (1) together
 320 with one of the following:

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

325 (b) A notarized affidavit stating that any subject
 326 agricultural products, handled by purchase or otherwise,
 327 exceeding one-half of the amount of the bond or certificate of

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328 deposit will be handled under the exemption provisions set forth
 329 in s. 604.16(2); or

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

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

350 Section 6. Section 604.21, Florida Statutes, is amended to
 351 read:

352 604.21 Complaint; investigation; hearing.--

353 (1)(a) Any person, partnership, corporation, or other
 354 business entity claiming ~~herself or himself~~ to be damaged by any
 355 breach of the conditions of a bond or certificate of deposit

356 assignment or agreement given by a ~~licensed~~ dealer in
 357 agricultural products as hereinbefore provided may enter
 358 complaint thereof against the dealer and against the surety
 359 company, if any, to the department, which complaint shall be a
 360 written statement of the facts constituting the complaint. Such
 361 complaint shall include all agricultural products defined in s.
 362 604.15(1), as well as any additional charges necessary to
 363 effectuate the sale unless these additional charges are already
 364 included in the total delivered price. Such complaint shall be
 365 filed within 6 months from the date of sale in instances
 366 involving direct sales or from the date on which the
 367 agricultural product was received by the dealer in agricultural
 368 products, as agent, to be sold for the producer. No complaint
 369 shall be filed pursuant to this section unless the transactions
 370 involved total at least \$500 ~~\$250~~ and occurred in a single
 371 license year. Before a complaint can be processed, the
 372 complainant must provide the department with a \$50 filing fee.
 373 In the event the complainant is successful in proving the claim,
 374 the dealer in agricultural products shall reimburse the
 375 complainant for the \$50 filing fee as part of the settlement of
 376 the claim.

377 (b) To be considered timely filed, a complaint together
 378 with any required affidavits or notarizations must be received
 379 by the department within 6 months after the date of sale by
 380 electronic transmission, facsimile, regular mail, certified
 381 mail, or private delivery service. If the complaint is sent by a
 382 service other than electronic mail or facsimile, the mailing

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383 shall be postmarked or dated on or before the 6-month deadline
384 to be accepted as timely filed.

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

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

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

421 (g) The surety company or financial institution shall be
 422 responsible for payment of properly established complaints filed
 423 against a dealer, notwithstanding the dealer's filing of a
 424 bankruptcy proceeding.

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

439 | allegations in the complaint are admitted or denied or that the
 440 | complaint has been satisfied. Such notice shall also inform the
 441 | dealer and the surety company or financial institution, ~~if any~~,
 442 | of a right to a hearing on the complaint, if requested.

443 | (3) If the dealer files an answer admitting ~~admits~~ the
 444 | allegations of the complaint and the department determines
 445 | through inquiry of the complainant that the dealer has failed
 446 | ~~but fails~~ to satisfy same within 21 days after receipt of the
 447 | notice of the filing of a complaint by any party whose
 448 | substantial interests are determined ~~the time fixed~~ by the
 449 | department, the department shall thereupon order payment by the
 450 | dealer of the amount found owed. In the event a party files a
 451 | request that the complaint be held in abeyance pending a
 452 | settlement agreement, the period of abeyance shall not exceed 6
 453 | months and successive periods of abeyance shall not be granted.

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

466 (5) Any order entered by the department pursuant to this
 467 section shall become final and effective on the date filed with
 468 the department's agency clerk ~~14 days after issue if neither the~~
 469 ~~department nor a party whose material interest is affected by~~
 470 ~~the order requests a hearing on the order within 14 days~~
 471 ~~following the date of issue.~~

472 (6) Any party whose substantial ~~material~~ interest is
 473 affected by a proceeding pursuant to this section shall be
 474 granted a hearing upon request as provided by chapter 120. Such
 475 hearing shall be conducted pursuant to chapter 120. The final
 476 order of the department, when issued pursuant to the recommended
 477 order of an administrative law judge, shall be final and
 478 effective on the date filed with the department's agency clerk.
 479 Any party to these proceedings adversely affected by the final
 480 order is entitled to seek review of the final order pursuant to
 481 s. 120.68 and the Florida Rules of Appellate Procedure. Should a
 482 complaint forwarded by the department to the Division of
 483 Administrative Hearings be settled prior to a hearing pursuant
 484 to chapter 120, the department shall issue a notice closing the
 485 complaint file upon receipt of the administrative law judge's
 486 order closing the complaint file, and the matter before the
 487 department shall be closed accordingly ~~upon issuance.~~

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

491 (8) Upon the failure by a dealer to comply with an order
 492 of the department directing payment, the department shall, in
 493 instances involving bonds, call upon the surety company to pay

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494 over to the department out of the bond posted by the surety
 495 company for such dealer or, in instances involving certificates
 496 of deposit, call upon the financial institution issuing such
 497 certificate to pay over to the department out of the certificate
 498 under the conditions of the assignment or agreement, the amount
 499 called for in the order of the department, not exceeding the
 500 amount of the bond or the principal of the certificate of
 501 deposit. If the bond or the principal of the certificate of
 502 deposit is insufficient to pay in full the amount due each
 503 complainant as set forth in the order of the department, the
 504 department shall distribute the proceeds pro rata among such
 505 complainants. The proceeds from a bond or the principal from a
 506 certificate of deposit shall be paid directly to the department
 507 to be distributed by it to successful complainants, except the
 508 accrued interest on a certificate of deposit shall be paid to
 509 the dealer. Such funds shall be considered trust funds in the
 510 hands of the department for the exclusive purpose of satisfying
 511 duly established complaints. Payments made to the department
 512 pursuant to this section shall be considered payments made upon
 513 demand and may not be considered voluntary payments.

514 (9) Payments from a surety company or proceeds from a
 515 certificate of deposit shall be paid first to the producer or
 516 the producer's agent or representative in the amount of the
 517 producer's claims in full if such proceeds are sufficient for
 518 such purpose and, if not, then in pro rata shares to such
 519 producer or producer's agent or representative. If additional
 520 proceeds exist in the hands of the department after all claims
 521 of a producer and a producer's agent or representative have been

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522 paid in full, the balance of such proceeds shall be paid to
 523 claimants who are licensed dealers in agricultural products,
 524 either in whole or in pro rata portion, as the aggregate of
 525 their claims may bear to the amount of such additional proceeds.

526 ~~(10)(9)~~ Nothing in this section may be construed as
 527 relieving a surety company from responsibility for payment on
 528 properly established complaints against dealers involved in a
 529 federal bankruptcy proceeding and against whom the department is
 530 prohibited from entering an order.

531 ~~(11)(10)~~ Upon the failure of a surety company to comply
 532 with a demand for payment of the proceeds on a bond for a dealer
 533 in agricultural products, a complainant who is entitled to such
 534 proceeds, in total or in part, may, within a reasonable time,
 535 file in the circuit court a petition or complaint setting forth
 536 the administrative proceeding before the department and ask for
 537 final order of the court directing the surety company to pay the
 538 bond proceeds to the department for distribution to the
 539 complainants. If in such suit the complainant is successful and
 540 the court affirms the demand of the department for payment, the
 541 complainant shall be awarded all court costs incurred therein
 542 and also a reasonable attorney's fee to be fixed and collected
 543 as part of the costs of the suit. In lieu of such suit, the
 544 department may enforce its final agency action in the manner
 545 provided in s. 120.69.

546 Section 7. Section 604.22, Florida Statutes, is amended to
 547 read:

548 604.22 Dealers to keep records; contents.--

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549 (1) Each licensee, while acting as agent for a producer,
 550 shall make and preserve for at least 1 year a record of each
 551 transaction, specifying the name and address of the producer for
 552 whom she or he acts as agent; the date of receipt; the kind,
 553 quality, and quantity of agricultural products received; the
 554 name and address of the purchaser of each package of
 555 agricultural products; the price for which each package was
 556 sold; the amount of any additional charges necessary to
 557 effectuate the sale; the amount and explanation of any
 558 adjustments given; and the net amount due from each purchaser.
 559 An account of sales shall be furnished each producer within 48
 560 hours after the sale of such agricultural products unless
 561 otherwise agreed to in a written contract or verifiable oral
 562 agreement. Such account of sales shall clearly show the sale
 563 price of each lot of agricultural products sold; all adjustments
 564 to the original price, along with an explanation of such
 565 adjustments; and an itemized showing of all marketing costs
 566 deducted by the licensee, along with the net amount due the
 567 producer. The licensee shall make the payment to the producer
 568 within 5 days of the licensee's receipt of payment unless
 569 otherwise agreed to in a written contract or verifiable oral
 570 agreement.

571 (2)(a) The provisions of s. 604.16(2), (3), and (4)
 572 notwithstanding, any person, partnership, corporation, or other
 573 business entity, except a person described in s. 604.16(1), who
 574 possesses and offers for sale agricultural products is required
 575 to possess and display, upon the request of any department
 576 representative or state, county, or local law enforcement

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577 officer, an invoice, bill of sale, manifest, or other written
578 document showing the date of sale, the name and address of the
579 seller, and the kind and quantity of products for all such
580 agricultural products.

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

584 Section 8. Section 604.23, Florida Statutes, is amended to
585 read:

586 604.23 Examination of records, sales, accounts, books, and
587 other documents.--The department shall have power to
588 investigate, upon complaint of any interested person or upon its
589 own initiative, the record of any dealer in agricultural
590 products ~~applicant or licensee~~, or any transaction involving the
591 solicitation, receipt, sale or attempted sale of agricultural
592 products, the failure to make proper and true accounts and
593 settlements at prompt and regular intervals, the making of false
594 statements as to condition, quality or quantity of goods
595 received or while in storage, the making of false statements as
596 to market conditions with intent to deceive, or the failure to
597 make payment for goods received, or other alleged injurious
598 transactions. For such purposes the department or its agents may
599 examine, at the place or places of business of the dealer in
600 agricultural products, the ~~applicant or licensee, her or his~~
601 ledgers, books of accounts, memoranda, and other documents which
602 relate to the transaction involved, and may take testimony
603 thereon under oath.

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

606 604.25 Refusal to grant, or suspension or revocation of,
607 license.--

608 (1) The department may decline to grant a license or may
609 suspend or revoke a license already granted if the applicant or
610 licensee has:

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

614 (d) Made any false statement or statements as to
615 condition, quality, or quantity of goods received or held for
616 sale when ~~she or he could have ascertained~~ the true condition,
617 quality, or quantity could have been ascertained by reasonable
618 inspection;

619 Section 10. Section 604.30, Florida Statutes, is amended
620 to read:

621 604.30 Penalties; injunctive relief; administrative
622 fines.--

623 (1) Any dealer in agricultural products who violates the
624 provisions of ss. 604.15-604.34, or who interferes with an agent
625 of the department in the enforcement of ss. 604.15-604.34, is
626 guilty of a misdemeanor of the second degree, punishable as
627 provided in s. 775.082 or s. 775.083, and for a second or
628 subsequent offense is guilty of a misdemeanor of the first
629 degree, punishable as provided in s. 775.082 or s. 775.083.

630 (2) In addition to the remedies provided in this chapter
631 and notwithstanding the existence of any adequate remedy at law,

632 when the department has probable cause to believe that any
 633 person, partnership, corporation, or other business entity has
 634 violated any provision of this chapter or any rule adopted
 635 pursuant thereto, the department may issue and deliver to such
 636 person, partnership, corporation, or other business entity a
 637 notice to cease and desist from such violation. For the purpose
 638 of enforcing a cease and desist order, the department may file a
 639 proceeding in the name of the state seeking issuance of an
 640 injunction or writ of mandamus against any person, partnership,
 641 corporation, or other business entity who violates any
 642 provisions of such order, and such injunction shall be issued
 643 without bond.

644 (3)(a) In addition to the penalties provided in this
 645 section, the department may, after notice and hearing, impose a
 646 fine not exceeding \$2,500 ~~\$1,000~~ for the violation of any of the
 647 provisions of ss. 604.15-604.34 or the rules adopted thereunder
 648 against any dealer in agricultural products; such fine, when
 649 imposed and paid, shall be deposited by the department into the
 650 General Inspection Trust Fund.

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

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