

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          increasing the minimum amount of a bond or certificate of  
17          deposit for licensure; providing a calculation for the  
18          amount of a bond or certificate of deposit; adding  
19          requirements relating to bond or certificate of deposit  
20          assignment or agreement; authorizing the Department of  
21          Agriculture and Consumer Services to issue a conditional  
22          license under certain conditions; amending s. 604.21,  
23          F.S.; increasing the minimum claim amount and requiring a  
24          complaint filing fee; providing requirements for  
25          submission of a complaint and payment for multiple claims;  
26          authorizing a dealer in agricultural products to file a  
27          complaint against another dealer in agricultural products;  
28          limiting the time a complaint may be held in abeyance;

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

43 | Be It Enacted by the Legislature of the State of Florida:

45 | Section 1. Section 604.15, Florida Statutes, is amended to  
 46 | read:

47 | 604.15 Dealers in agricultural products; definitions.--For  
 48 | the purpose of ss. 604.15-604.34, the following words and terms,  
 49 | when used, shall be construed to mean:

50 | (1)~~(3)~~ "Agricultural products" means the natural products  
 51 | of the farm, nursery, grove, orchard, vineyard, garden, and  
 52 | apiary (raw or manufactured); sod; tropical foliage;  
 53 | horticulture; hay; livestock; milk and milk products; poultry  
 54 | and poultry products; the fruit of the saw palmetto (meaning the  
 55 | fruit of the Serenoa repens); ~~and~~ limes (meaning the fruit  
 56 | Citrus aurantifolia, variety Persian, Tahiti, Bearss, or Florida

57 | Key limes); and any other nonexempt agricultural products  
58 | produced in the state, except tobacco, ~~tropical foliage,~~  
59 | sugarcane, timber and timber by-products, forest products as  
60 | defined in s. 591.17, and citrus other than limes.

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

71 | (3)~~(6)~~ "Delivery ticket" means a document provided to a  
72 | grain producer by a grain dealer in conjunction with the  
73 | delivery of grain to the grain dealer.

74 | (4)~~(2)~~ "Department" means the Department of Agriculture  
75 | and Consumer Services.

76 | (5)~~(7)~~ "Grain" means any food or feed grains, which  
77 | include, but are not limited to, soybeans, corn, wheat, oats,  
78 | and rye.

79 | (6)~~(8)~~ "Grain dealer" means any person engaged in this  
80 | state in:

81 | (a) Buying, receiving, selling, exchanging, negotiating,  
82 | or processing for resale, or soliciting the sale, resale,  
83 | exchange, or transfer of, grain purchased from the producer or

84 the producer's ~~her or his~~ agent or representative or received  
 85 from the producer to be handled on a net return basis; or

86 (b) Receiving grain for storage.

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

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

100 (9)-(5) "Producer" means any grower ~~producer~~ of  
 101 agricultural products produced in the state.

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

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

114 604.16 Exceptions to provisions of ss. 604.15-  
 115 604.34.--Except for s. 604.22(2), the provisions of ss. 604.15-  
 116 604.34 do not apply to:

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

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

126 Section 3. Section 604.18, Florida Statutes, is amended to  
 127 read:

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

137 (1) The kind or kinds of agricultural products the  
 138 applicant proposes to handle. ~~+~~

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

145           (3) The names of buyers or other local agents of the  
146 applicant, if any. ~~†~~

147           (4) The cities and towns within which places of business  
148 of the applicant will be located, together with the street or  
149 mailing address of each. ~~† and~~

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

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

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

176        Section 4. Section 604.19, Florida Statutes, is amended to  
177 read:

178        604.19 License; fee; bond; certificate of deposit;  
179 penalty.--Unless the department refuses the application on one  
180 or more of the grounds provided in this section, it shall issue  
181 to an applicant, upon the payment of required ~~proper~~ fees and  
182 the execution and delivery of a bond or certificate of deposit  
183 as provided in this section, a state license entitling the  
184 applicant to conduct business as a dealer in agricultural  
185 products for a 1-year period to coincide with the effective  
186 period of the bond or certificate of deposit furnished by the  
187 applicant. During the 1-year period covered by a license, if the  
188 supporting surety bond or certificate of deposit is canceled for  
189 any reason, the license shall automatically expire on the date  
190 the surety bond or certificate of deposit terminates, unless an  
191 acceptable replacement is in effect before the date of  
192 termination so that continual coverage occurs for the remaining  
193 period of the license. A surety company shall give the

194 department a 30-day written notice of cancellation by certified  
 195 mail in order to cancel a bond. Cancellation of a bond or  
 196 certificate of deposit shall not relieve a surety company or  
 197 financial institution of liability for purchases or sales  
 198 occurring while the bond or certificate of deposit was in  
 199 effect. The license fee, which must be paid for the principal  
 200 place of business for a dealer in agricultural products, shall  
 201 be based upon the amount of the dealer's surety bond or  
 202 certificate of deposit furnished by each dealer under the  
 203 provisions of s. 604.20 and may not exceed \$500 ~~\$300~~. For each  
 204 additional place in which the applicant desires to conduct  
 205 business and which the applicant names in the application, the  
 206 additional license fee must be paid but may not exceed \$100 ~~\$50~~  
 207 annually. Should any dealer in agricultural products fail,  
 208 refuse, or neglect to apply and qualify for the renewal of a  
 209 license on or before the date of expiration thereof, a penalty  
 210 not to exceed \$100 ~~\$35~~ shall apply to and be added to the  
 211 original license fee and shall be paid by the applicant before  
 212 the renewal license may be issued. The department by rule shall  
 213 prescribe fee amounts sufficient to fund ss. 604.15-604.34.

214 Section 5. Section 604.20, Florida Statutes, is amended to  
 215 read:

216 604.20 Bond or certificate of deposit prerequisite;  
 217 amount; form.--

218 (1) Before any license is issued, the applicant therefor  
 219 shall make and deliver to the department a surety bond or  
 220 certificate of deposit in the amount of at least \$5,000 ~~\$3,000~~  
 221 or in such greater amount as the department may determine, ~~not~~



222 ~~exceeding the maximum amount of business done or estimated to be~~  
223 ~~done in any month by the applicant.~~ No bond or certificate of  
224 deposit may be in an amount less than \$5,000. The penal sum of  
225 the bond or certificate of deposit to be furnished to the  
226 department by an applicant for license as a dealer in  
227 agricultural products shall be in an amount equal to twice the  
228 dollar amount of agricultural products handled for a Florida  
229 producer or a producer's agent or representative, by purchase or  
230 otherwise, during the month of maximum transaction in such  
231 products during the preceding 12-month period. An applicant for  
232 license who has not handled agricultural products for a Florida  
233 producer or a producer's agent or representative, by purchase or  
234 otherwise, during the preceding 12-month period shall furnish a  
235 bond or certificate of deposit in an amount equal to twice the  
236 estimated dollar amount of such agricultural products to be  
237 handled, by purchase or otherwise, during the month of maximum  
238 transaction during the next immediate 12 months. Such bond or  
239 certificate of deposit shall be provided or assigned in the  
240 exact name in which the dealer will conduct business subject to  
241 the provisions of ss. 604.15-604.34. Such bond must be executed  
242 by a surety company ~~corporation~~ authorized to transact business  
243 in the state. For the purposes of ss. 604.19-604.21, the term  
244 "certificate of deposit" means a certificate of deposit at any  
245 recognized financial institution doing business in the United  
246 States. No certificate of deposit may be accepted in connection  
247 with an application for a dealer's license unless the issuing  
248 institution is properly insured by either the Federal Deposit  
249 Insurance Corporation or the Federal Savings and Loan Insurance

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

278 | give the issuing institution any prior rights or claim on the  
 279 | proceeds or principal of such certificate of deposit. The  
 280 | department shall determine by rule the maximum amount of bond or  
 281 | certificate of deposit required of a dealer and whether an  
 282 | annual ~~or continuous~~ bond or certificate of deposit will be  
 283 | required.

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

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

306 bond or certificate of deposit shall be cause for suspension of  
307 the licensee's license. If the department finds such failure to  
308 be willful, the license may be revoked.

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

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

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

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

334 transaction in such products during the preceding 12-month  
 335 period.

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

347 Section 6. Section 604.21, Florida Statutes, is amended to  
 348 read:

349 604.21 Complaint; investigation; hearing.--

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

362 filed within 6 months from the date of sale in instances  
 363 involving direct sales or from the date on which the  
 364 agricultural product was received by the dealer in agricultural  
 365 products, as agent, to be sold for the producer. No complaint  
 366 shall be filed pursuant to this section unless the transactions  
 367 involved total at least \$500 ~~\$250~~ and occurred in a single  
 368 license year. Before a complaint can be processed, the  
 369 complainant must provide the department with a \$50 filing fee.  
 370 In the event the complainant is successful in proving the claim,  
 371 the dealer in agricultural products shall reimburse the  
 372 complainant for the \$50 filing fee as part of the settlement of  
 373 the claim.

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

382 (c) When multiple claims exist by a producer, a producer's  
 383 agent or representative, or a dealer and the combined  
 384 adjudicated amounts exceed the total amount of any bond and  
 385 certificate of deposit, sales occurring 120 or more days after  
 386 the oldest sale stated in any complaint filed by the same  
 387 producer, producer's agent or representative, or dealer shall  
 388 not be considered for payment from the proceeds of the bond or

389 certificate of deposit in the event that the surety company or  
390 financial institution is called on to make payment.

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

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

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

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

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

440        (3) If the dealer files an answer admitting ~~admits~~ the  
441 allegations of the complaint and the department determines  
442 through inquiry of the complainant that the dealer has failed



443 ~~but fails~~ to satisfy same within 21 days after receipt of the  
444 notice of the filing of a complaint by any party whose  
445 substantial interests are determined ~~the time fixed~~ by the  
446 department, the department shall thereupon order payment by the  
447 dealer of the amount found owed. In the event a party files a  
448 request that the complaint be held in abeyance pending a  
449 settlement agreement, the period of abeyance shall not exceed 6  
450 months and successive periods of abeyance shall not be granted.

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

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

469 (6) Any party whose substantial ~~material~~ interest is  
470 affected by a proceeding pursuant to this section shall be

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

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

488 (8) Upon the failure by a dealer to comply with an order  
489 of the department directing payment, the department shall, in  
490 instances involving bonds, call upon the surety company to pay  
491 over to the department out of the bond posted by the surety  
492 company for such dealer or, in instances involving certificates  
493 of deposit, call upon the financial institution issuing such  
494 certificate to pay over to the department out of the certificate  
495 under the conditions of the assignment or agreement, the amount  
496 called for in the order of the department, not exceeding the  
497 amount of the bond or the principal of the certificate of  
498 deposit. If the bond or the principal of the certificate of

499 deposit is insufficient to pay in full the amount due each  
500 complainant as set forth in the order of the department, the  
501 department shall distribute the proceeds pro rata among such  
502 complainants. The proceeds from a bond or the principal from a  
503 certificate of deposit shall be paid directly to the department  
504 to be distributed by it to successful complainants, except the  
505 accrued interest on a certificate of deposit shall be paid to  
506 the dealer. Such funds shall be considered trust funds in the  
507 hands of the department for the exclusive purpose of satisfying  
508 duly established complaints. Payments made to the department  
509 pursuant to this section shall be considered payments made upon  
510 demand and may not be considered voluntary payments.

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

523 (10)~~(9)~~ Nothing in this section may be construed as  
524 relieving a surety company from responsibility for payment on  
525 properly established complaints against dealers involved in a

526 federal bankruptcy proceeding and against whom the department is  
527 prohibited from entering an order.

528 (11)~~(10)~~ Upon the failure of a surety company to comply  
529 with a demand for payment of the proceeds on a bond for a dealer  
530 in agricultural products, a complainant who is entitled to such  
531 proceeds, in total or in part, may, within a reasonable time,  
532 file in the circuit court a petition or complaint setting forth  
533 the administrative proceeding before the department and ask for  
534 final order of the court directing the surety company to pay the  
535 bond proceeds to the department for distribution to the  
536 complainants. If in such suit the complainant is successful and  
537 the court affirms the demand of the department for payment, the  
538 complainant shall be awarded all court costs incurred therein  
539 and also a reasonable attorney's fee to be fixed and collected  
540 as part of the costs of the suit. In lieu of such suit, the  
541 department may enforce its final agency action in the manner  
542 provided in s. 120.69.

543 Section 7. Section 604.22, Florida Statutes, is amended to  
544 read:

545 604.22 Dealers to keep records; contents.--

546 (1) Each licensee, while acting as agent for a producer,  
547 shall make and preserve for at least 1 year a record of each  
548 transaction, specifying the name and address of the producer for  
549 whom she or he acts as agent; the date of receipt; the kind,  
550 quality, and quantity of agricultural products received; the  
551 name and address of the purchaser of each package of  
552 agricultural products; the price for which each package was  
553 sold; the amount of any additional charges necessary to

554 effectuate the sale; the amount and explanation of any  
 555 adjustments given; and the net amount due from each purchaser.  
 556 An account of sales shall be furnished each producer within 48  
 557 hours after the sale of such agricultural products unless  
 558 otherwise agreed to in a written contract or verifiable oral  
 559 agreement. Such account of sales shall clearly show the sale  
 560 price of each lot of agricultural products sold; all adjustments  
 561 to the original price, along with an explanation of such  
 562 adjustments; and an itemized showing of all marketing costs  
 563 deducted by the licensee, along with the net amount due the  
 564 producer. The licensee shall make the payment to the producer  
 565 within 5 days of the licensee's receipt of payment unless  
 566 otherwise agreed to in a written contract or verifiable oral  
 567 agreement.

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

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

581 Section 8. Section 604.23, Florida Statutes, is amended to  
 582 read:

583 604.23 Examination of records, sales, accounts, books, and  
 584 other documents.--The department shall have power to  
 585 investigate, upon complaint of any interested person or upon its  
 586 own initiative, the record of any dealer in agricultural  
 587 products ~~applicant or licensee~~, or any transaction involving the  
 588 solicitation, receipt, sale or attempted sale of agricultural  
 589 products, the failure to make proper and true accounts and  
 590 settlements at prompt and regular intervals, the making of false  
 591 statements as to condition, quality or quantity of goods  
 592 received or while in storage, the making of false statements as  
 593 to market conditions with intent to deceive, or the failure to  
 594 make payment for goods received, or other alleged injurious  
 595 transactions. For such purposes the department or its agents may  
 596 examine, at the place or places of business of the dealer in  
 597 agricultural products, the ~~applicant or licensee, her or his~~  
 598 ledgers, books of accounts, memoranda, and other documents which  
 599 relate to the transaction involved, and may take testimony  
 600 thereon under oath.

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

603 604.25 Refusal to grant, or suspension or revocation of,  
 604 license.--

605 (1) The department may decline to grant a license or may  
 606 suspend or revoke a license already granted if the applicant or  
 607 licensee has:

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

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

616 Section 10. Section 604.30, Florida Statutes, is amended  
 617 to read:

618 604.30 Penalties; injunctive relief; administrative  
 619 fines.--

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

627 (2) In addition to the remedies provided in this chapter  
 628 and notwithstanding the existence of any adequate remedy at law,  
 629 when the department has probable cause to believe that any  
 630 person, partnership, corporation, or other business entity has  
 631 violated any provision of this chapter or any rule adopted  
 632 pursuant thereto, the department may issue and deliver to such  
 633 person, partnership, corporation, or other business entity a  
 634 notice to cease and desist from such violation. For the purpose  
 635 of enforcing a cease and desist order, the department may file a

636 proceeding in the name of the state seeking issuance of an  
 637 injunction or writ of mandamus against any person, partnership,  
 638 corporation, or other business entity who violates any  
 639 provisions of such order, and such injunction shall be issued  
 640 without bond.

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

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

657 Section 11. The sum of \$285,000 is appropriated from the  
 658 General Inspection Trust Fund to the Department of Agriculture  
 659 and Consumer Services, and four additional full-time equivalent  
 660 positions are authorized, for the purpose of implementing this  
 661 act during the 2005-2006 fiscal year.

662 Section 12. This act shall take effect October 1, 2005.