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Requirements for Grain Dealers:

Florida



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A National Agricultural Law Center Research Publication
Requirements for Grain Dealers: Florida

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Current with chapters from the 2020 Second Regular Session of the 26th Legislature in effect through May 18, 2020.

604.001. Public policy with respect to agricultural production

The Legislature declares that:

(1) It is the public policy of this state and the purpose of this act to achieve and maintain the production of agricultural commodities for food and fiber as an essential element for the survival of mankind.

(2) The production of agricultural commodities in this state is a large and basic industry that is important to the health and welfare of the people and to the economy of the state.

(3) A sound agricultural industry in this state requires the efficient and profitable use of water and energy and many other natural, commercial, and industrial resources.

(4) The efficient and profitable use of energy and water resources in agricultural production in this state is often difficult to achieve because of problems that are not well known or fully understood by the people, such as weather, climatic changes, and market conditions.

(5) It is important to the health and welfare of the people of this state and to the economy of the state that additional problems are not created for growers and ranchers engaged in the Florida agricultural industry by laws and regulations that cause, or tend to cause, agricultural production to become inefficient or unprofitable.

(6) The laws and regulations that have caused problems for agricultural production in this state have been due primarily to a lack of adequate and informed consideration of the adverse impact such laws and regulations would have on efficient and profitable agricultural production in this state.

604.01. Statewide soil survey and mapping; declaration of policy

A thorough and careful survey and mapping of the soils of Florida is hereby declared as a matter of legislative policy, basic to:

(1) The development of intelligent research programs on the agricultural potentialities of the soils of the state;

(2) The organization of effective soil conservation and land use planning programs;

(3) Agricultural extension and home demonstration work;

(4) Highway and secondary road planning;

(5) Establishment of equitable land tax assessments;

(6) Agricultural teaching;

(7) The development of a sound body of helpful agricultural information for nationwide distribution to prospective landowners; and

(8) A number of other social and agricultural enterprises of broad public interest.

604.02. Costs of surveys, by whom payable

The cost of the survey shall be borne jointly by the state and county or any other local agency and by the federal government in a proportion to be determined by the availability of funds and of trained personnel for the purpose.

604.04. Administration of law

The agricultural experiment station of the University of Florida shall administer this law and shall be responsible for the general supervision of this cooperative enterprise between and among federal, state, county and local agencies, and that it be charged with the duty of developing an energetic soil survey program for the state accordingly as funds are made available for this purpose from federal, state, county, or other sources.

604.05. Standard procedure to be used; cooperation with federal and other agencies

The methods used in the survey shall be the standard procedures developed by the United States Department of Agriculture now in common use; all correlation work shall be carried out jointly by the regular soil survey inspectors of the United States Department of Agriculture in cooperation with representatives of the state agricultural experiment station.

604.06. Determination of soils to be surveyed

The successive selection of units to be surveyed shall be by type areas well distributed over the state, just as far as possible or practicable, especially during the early stages of the program, though determination shall naturally depend, too, on the feeling of need by the people in the area and the willingness of county or other local officials to cooperate.

604.07. Analyses of type materials

Suitable physical, chemical and other analyses of type materials associated with the work of the survey shall be carried out in the laboratories of the Florida Agricultural Experiment Station or of the proper bureau of the United States Department of Agriculture.

604.08. Reports; maps; publications

The preparation of soil survey reports and maps for such areas surveyed shall be a joint responsibility of state and federal workers, although publication shall be by the United States Department of Agriculture, especially for the purpose of full conformity with the many reports of this same type that are regularly being published for other states where survey work of this type is making notable advances.

604.09. Limited agricultural association; purpose of law

In order to promote, foster and encourage more efficient and progressive agriculture and to enable the farmers and growers of Florida to enjoy the manifold benefits of joint and collective effort without personal liability and without the expense and technical involvements incident to corporate structure, this chapter is enacted.

604.10. Limited agricultural association; powers, membership

Any three or more persons engaged in agricultural pursuits may form a limited agricultural association under the provisions of this law, and such association shall have and may exercise all the powers granted by the laws of this state to persons, partnerships and corporations for profit and not for profit, so far as the same may be applicable to agriculture or livestock in all its phases and the operations incident thereto and which are not inconsistent with the provisions of this law. Persons may become members of such association upon such terms as may be prescribed in its bylaws. No member shall be held personally liable for any of the claims against or the indebtedness and obligations of the association.

604.11. Limited agricultural association; formation, fees

(1) The articles of association shall be subscribed by the original members and acknowledged by one of them before an officer authorized by the laws of this state to take acknowledgments and administer oaths.

(2) Two copies of the proposed articles of association, together with a certificate of the Department of State to the effect that there is no other limited agricultural association within the state having the same name, shall be filed with the clerk of the circuit court in the county within which the principal place of business of the association is to be located. The said articles shall then be presented to a circuit judge of the circuit within which the principal place of business of the association is to be located, and, if such judge shall find that the proposed articles of association are for purposes authorized by law, she or he shall approve the same and endorse her or his approval thereon. The articles of association, with their endorsements, shall thereupon be recorded by the clerk of the circuit court, and thereafter the association and the subscribers shall be a limited agricultural association for profit. The clerk of the circuit court shall transmit a certified copy of the articles of association to the Department of State for filing. The original articles of association, or any certified copy thereof, shall be received as conclusive evidence of the contents thereof. The Department of State and the clerk of the circuit court shall each be entitled to a fee of \$5.25 for all services rendered by them in connection with the formation of the association.

604.12. Limited agricultural association; articles of association, name

(1) The articles of association shall be subscribed by three or more persons, and shall set forth:

(a) The name of the association and the location of the principal place of business.

(b) The purpose for which the association is formed.

(c) The term for which the association is to exist.

(d) By what officers the business, or businesses, of the association is to be conducted, and the names of the officers who are to conduct the business, or businesses, until their successors shall have qualified. Officers shall be members of the association.

(e) The number, to be not less than three, of the association's managing committee members. Managing committee members shall be members of the association.

(f) The fact that the members are not to be held personally liable for any of the claims against or the indebtedness and obligations of the association.

(2) The name of the proposed association shall be different from that of any other limited agricultural association in the state and shall include the words "Limited Agricultural Association," or the letters "LAA," to indicate that it is a limited agricultural association as distinguished from a natural person, firm, copartnership or corporation.

604.13. Limited agricultural association; bylaws

Each association organized hereunder shall, by a majority vote of its members, within 30 days after its organization, adopt for its government and management a code of bylaws, which shall be taken and deemed to be the law of the association. The bylaws shall provide for such matters as may be pertinent and necessary to the business, including the matter of the acceptance of memberships, the issuance of certificates of membership, the fixing of the voting and participation rights of the owners of such certificates, the assignability of such certificates, the election of a managing committee and the determination of its powers, the time and place of meetings of the association and the election, powers and duties of its officers.

604.14. Limited agricultural association; dissolution; conversion to a corporation not for profit

(1) A limited agricultural association may be dissolved upon the presentation by its members of a petition for dissolution to a circuit judge of the circuit in which the association's principal place of business is located. The judge may issue any orders necessary for preservation of the rights

of the members and creditors and the winding up of the affairs of the association. Notice of hearing on the petition for dissolution must be given as the judge deems proper.

604.15. Dealers in agricultural products; definitions

For the purpose of ss. 604.15-604.34, the following words and terms, when used, shall be construed to mean:

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

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

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

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

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

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

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

(b) Receiving grain for storage.

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

(8) "Net return basis" means the sale of agricultural products for the account of a producer, other than the seller, wherein the seller acts as the agent for the producer and pays the producer of such products the net proceeds after subtracting all authorized and allowable deductions.

(9) "Producer" means any grower of agricultural products produced in the state.

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

604.151. Purpose

The Legislature recognizes that the recovery of agricultural products is impractical because of the speed with which such products move through commerce and because of the difficulty of identification and that, because recovery is impractical, producers are subject to the possibility of serious economic harm in the event an agricultural products dealer defaults. Therefore, it is necessary in the interest of the public welfare to regulate agricultural products dealers in this state. However, restrictions shall be imposed only to the extent necessary to protect the public from significant and discernible harm or damage and not in a manner which will unreasonably affect the competitive market.

604.16. Exceptions to provisions of ss. 604.15-604.34

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

(1) Farmers or groups of farmers in the sale of agricultural products grown by themselves.

(2) A dealer in agricultural products who pays at the time of purchase with United States cash currency or a cash equivalent, such as a money order, cashier's check, wire transfer, electronic funds transfer, or PIN-based debit transaction, or who pays with a credit card as defined in s. 658.995(2)(a).

(3) A dealer in agricultural products who operates as a bonded licensee under the federal Packers and Stockyards Act.¹

(4) Dealers who purchase less than \$1,000 worth of agricultural products from Florida producers or their agents or representatives during the peak month of such purchases within the calendar year.

(5) A dealer in agricultural products to the extent that the dealer purchases agricultural products from a producer that is owned by the same person who owns the dealer, a producer that is owned solely by the dealer, or a producer that solely owns the dealer.

604.17. License required

It shall be unlawful for any dealer in agricultural products who comes within the terms of this law to engage in such business in this state without a state license issued by the department.

604.18. Application; form; contents

Every dealer in agricultural products desiring to transact business within the state directly with a Florida producer, a producer's agent or representative, or a negotiating broker shall, prior to transacting any business as such, file an application for such license with the department. The license shall be renewed annually on its anniversary date. The application shall be on a form furnished by the department and, together with such other information as the department shall require, shall state:

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

(2) The full name or title of the person, partnership, corporation, or other business entity and the name and mailing address of each owner, partner, officer, or managing agent.

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

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

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

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

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

604.19. License; fee; bond; certificate of deposit; penalty

Unless the department refuses the application on one or more of the grounds provided in this section, it shall issue to an applicant, upon the payment of required fees and the execution and delivery of a bond or certificate of deposit as provided in this section, a state license entitling the applicant to conduct business as a dealer in agricultural products for a 1-year period to coincide with the effective period of the bond or certificate of deposit furnished by the applicant. During the 1-year period covered by a license, if the supporting surety bond or certificate of deposit is canceled for any reason, the license shall automatically expire on the date the surety bond or certificate of deposit terminates, unless an acceptable replacement is in effect before the date of termination so that continual coverage occurs for the remaining period of the license. A surety company shall give the department a 30-day written notice of cancellation by certified mail in order to cancel a bond. Cancellation of a bond or certificate of deposit shall not relieve a surety company or financial institution of liability for purchases or sales occurring while the bond or certificate of deposit was in effect. The license fee, which must be paid for the principal place of business for a dealer in agricultural products, shall be based upon the amount of the dealer's surety bond or certificate of deposit furnished by each dealer under the provisions of s. 604.20 and may not exceed \$500. For each additional place in which the applicant desires to conduct business and which the applicant names in the application, the additional license fee must be paid but may not exceed \$100 annually. Should any dealer in agricultural products fail, refuse, or neglect to apply and qualify for the renewal of a license on or before the date of expiration

thereof, a penalty not to exceed \$100 shall apply to and be added to the original license fee and shall be paid by the applicant before the renewal license may be issued. The department by rule shall prescribe fee amounts sufficient to fund ss. 604.15-604.34.

604.20. Bond or certificate of deposit prerequisite; amount; form

(1) Before any license is issued, the applicant therefor shall make and deliver to the department a surety bond or certificate of deposit in the amount of at least \$5,000 or in such greater amount as the department may determine. No bond or certificate of deposit may be in an amount less than \$5,000. The penal sum of the bond or certificate of deposit to be furnished to the department by an applicant for license as a dealer in agricultural products shall be in an amount equal to twice the dollar amount of agricultural products handled for a Florida producer or a producer's agent or representative, by purchase or otherwise, during the month of maximum transaction in such products during the preceding 12-month period. An applicant for license who has not handled agricultural products for a Florida producer or a producer's agent or representative, by purchase or otherwise, during the preceding 12-month period shall furnish a bond or certificate of deposit in an amount equal to twice the estimated dollar amount of such agricultural products to be handled, by purchase or otherwise, during the month of maximum transaction during the next immediate 12 months. Such bond or certificate of deposit shall be provided or assigned in the exact name in which the dealer will conduct business subject to the provisions of ss. 604.15-604.34. Such bond must be executed by a surety company authorized to transact business in the state. For the purposes of ss. 604.19-604.21, the term "certificate of deposit" means a certificate of deposit at any recognized financial institution doing business in the United States. No certificate of deposit may be accepted in connection with an application for a dealer's license unless the issuing institution is properly insured by either the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Such bond or any certificate of deposit assignment or agreement shall be upon a form prescribed or approved by the department and shall be conditioned to secure the faithful accounting for and payment, in the manner prescribed by s. 604.21(9), to producers or their agents or representatives of the proceeds of all agricultural products handled or purchased by such dealer and to secure payment to dealers who sell agricultural products to such dealer. Such bond or certificate of deposit assignment or agreement shall include terms binding the instrument to the Commissioner of Agriculture. A certificate of deposit shall be presented with an assignment of applicant's rights in the certificate in favor of the Commissioner of Agriculture on a form prescribed by the department and with a letter from the issuing institution acknowledging that the assignment has been properly recorded on the books of the issuing institution and will be honored by the issuing institution. Such assignment shall be irrevocable while the dealer's license is in effect and for an additional period of 6 months after the termination or expiration of the dealer's license, provided no complaint is pending against the licensee. If a complaint is pending, the assignment shall remain in effect until all actions on the complaint have been finalized. The certificate of deposit may be released by the assignee of the financial institution to the licensee or the licensee's successors, assignee, or heirs if no claims are pending against the licensee before the department at the conclusion of 6 months after the last effective date of the license. No certificate of deposit shall be accepted that contains any provision that would give the issuing institution any prior rights or claim on the proceeds or principal of such certificate of deposit. The department shall determine by rule the maximum amount of bond or

certificate of deposit required of a dealer and whether an annual bond or certificate of deposit will be required.

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

(3) In order to effectuate the purposes of this section, the department or its agents may require from any applicant or licensee verified statements of the dollar amount of the applicant's or licensee's business or may review the applicant's or licensee's records at the applicant's or licensee's place of business during normal business hours to determine the actual dollar amount of agricultural products handled, by purchase or otherwise. The failure of a licensee to furnish such statement, to make such records available, or to make and deliver a new or additional bond or certificate of deposit shall be cause for suspension of the licensee's license. If the department finds such failure to be willful, the license may be revoked.

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

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

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

(c) A second bond or certificate of deposit in such an amount that, when the penal sum of the second bond or certificate of deposit is added to the penal sum of the first bond or certificate of deposit, the combined penal sum will equal twice the dollar amount of agricultural products handled for a Florida producer or a producer's agent or representative, by purchase or

otherwise, during the month of maximum transaction in such products during the preceding 12-month period.

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

604.21. Complaint; investigation; hearing

(1)(a) Any person, partnership, corporation, or other business entity claiming to be damaged by any breach of the conditions of a bond or certificate of deposit assignment or agreement given by a dealer in agricultural products as hereinbefore provided may enter complaint thereof against the dealer and against the surety company, if any, to the department, which complaint shall be a written statement of the facts constituting the complaint. Such complaint shall include all agricultural products defined in s. 604.15(1), as well as any additional charges necessary to effectuate the sale unless these additional charges are already included in the total delivered price. Such complaint shall be filed within 6 months from the date of sale in instances involving direct sales or from the date on which the agricultural product was received by the dealer in agricultural products, as agent, to be sold for the producer. No complaint shall be filed pursuant to this section unless the transactions involved total at least \$500 and occurred in a single license year. Before a complaint can be processed, the complainant must provide the department with a \$50 filing fee. In the event the complainant is successful in proving the claim, the dealer in agricultural products shall reimburse the complainant for the \$50 filing fee as part of the settlement of the claim.

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

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

(d) A person, partnership, corporation, or other business entity filing a complaint shall submit to the department the following documents: a completed complaint affidavit on a form provided by the department with an original signature of an owner, partner, general partner, or corporate officer and an original notarization. Attached to the complaint affidavit shall be copies of all documents to support the complaint. Supporting documents may be copies of invoices, bills of lading, packing or shipping documents, demand letters, or any other documentation to support the claim. In cases in which there are multiple invoices being claimed, a summary list of all claimed invoices must accompany the complaint.

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

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

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

(2) Upon the filing of a complaint pursuant to this section, the department shall investigate the matters complained of and if, in the opinion of the department, the facts contained in the complaint warrant such action, the department shall serve notice of the complaint to the dealer against whom the complaint has been filed at the last address of record. The notice shall be accompanied by a copy of the complaint. A copy of the notice and complaint shall also be served to the surety company, if any, that provided the bond for the dealer, which surety company shall become party to the action. The notice shall inform the dealer of a reasonable time within which to answer the complaint by advising the department in writing that the allegations in the complaint are admitted or denied or that the complaint has been satisfied. The notice shall also inform the dealer and the surety company or financial institution of a right to a hearing on the complaint, if requested.

(3) If the dealer files an answer admitting the allegations of the complaint and the department determines through inquiry of the complainant that the dealer has failed to satisfy same within 21 days after receipt of the notice of the filing of a complaint by any party whose substantial interests are determined by the department, the department shall thereupon order payment by the dealer of the amount found owed. In the event a party files a request that the complaint be held in abeyance pending a settlement agreement, the period of abeyance shall not exceed 6 months and successive periods of abeyance shall not be granted.

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

(5) Any order entered by the department pursuant to this section shall become final and effective on the date filed with the department's agency clerk.

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

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

(8) Upon the failure by a dealer to comply with an order of the department directing payment, the department shall, in instances involving bonds, call upon the surety company to pay over to the department out of the bond posted by the surety company for such dealer or, in instances involving certificates of deposit, call upon the financial institution issuing such certificate to pay over to the department out of the certificate under the conditions of the assignment or agreement, the amount called for in the order of the department, not exceeding the amount of the bond or the principal of the certificate of deposit. If the bond or the principal of the certificate of deposit is insufficient to pay in full the amount due each complainant as set forth in the order of the department, the department shall distribute the proceeds pro rata among such complainants. The proceeds from a bond or the principal from a certificate of deposit shall be paid directly to the department to be distributed by it to successful complainants, except the accrued interest on a certificate of deposit shall be paid to the dealer. Such funds shall be considered trust funds in the hands of the department for the exclusive purpose of satisfying duly established complaints. Payments made to the department pursuant to this section shall be considered payments made upon demand and may not be considered voluntary payments.

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

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

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

(12) Notwithstanding any provision of law to the contrary, the Commissioner of Agriculture or the commissioner's authorized designee may act as trustee on any bond or other form of security posted with the United States Department of Agriculture in compliance with the federal Packers and Stockyards Act. The commissioner may enter into agreements with the United States Department of Agriculture as necessary to carry out the purposes of the Packers and Stockyards Act.

604.211. Limitation on successive consignments

No licensee, while acting as an agent for a producer or in disposing of agricultural products received on consignment from a producer or her or his agent or representative, shall consign such products to another, use the services of a broker, or receive more than one commission or fee for making the sale thereof, unless by written consent of the producer or consignor. No charges or costs for acts prohibited by this section may be passed on to the producer or consignor.

604.22. Dealers to keep records; contents

(1)(a) Each licensee, while acting as agent for a producer, shall make and preserve for at least 1 year a record of each transaction, specifying the name and address of the producer for whom she or he acts as agent; the date of receipt; the kind, quality, and quantity of agricultural products received; the name and address of the purchaser of each package of agricultural products; the price for which each package was sold; the amount of any additional charges necessary to effectuate the sale; the amount and explanation of any adjustments given; and the net amount due from each purchaser.

(b) An account of sales shall be furnished to each producer within 48 hours after the sale of such agricultural products unless otherwise agreed to in a written contract or verifiable oral agreement. Such account of sales shall clearly show the sale price of each lot of agricultural products sold; all adjustments to the original price, along with an explanation of such adjustments; and an itemized showing of all marketing costs deducted by the licensee, along with the net amount due the producer.

(c) The licensee shall make the payment to the producer within 5 days after the licensee's receipt of payment unless otherwise agreed to in a written contract or verifiable oral agreement.

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

(b) A person who violates this section is subject to s. 604.30(2) and (3).

604.23. Examination of records, sales, accounts, books, and other documents

The department shall have power to investigate, upon complaint of any interested person or upon its own initiative, the record of any dealer in agricultural products or any transaction involving the solicitation, receipt, sale or attempted sale of agricultural products, the failure to make proper and true accounts and settlements at prompt and regular intervals, the making of false statements as to condition, quality or quantity of goods received or while in storage, the making of false statements as to market conditions with intent to deceive, or the failure to make payment for goods received, or other alleged injurious transactions. For such purposes the department or its agents may examine, at the place or places of business of the dealer in agricultural products, the ledgers, books of accounts, memoranda, and other documents which relate to the transaction involved, and may take testimony thereon under oath.

604.25. Refusal to grant, or suspension or revocation of, license

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

(a) Suffered a monetary judgment entered against the applicant or licensee upon which execution has been returned unsatisfied;

(b) Made false charges for handling or services rendered;

(c) Failed to account promptly and properly or to make settlements with any producer;

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

(e) Made any false or misleading statement or statements as to market conditions or service rendered;

(f) Been guilty of a fraud in the attempt to procure, or the procurement of, a license;

(g) Directly or indirectly sold agricultural products received on consignment or on a net return basis for her or his own account, without prior authority from the producer consigning the same, or without notifying such producer;

(h) Employed in a responsible position a person, or an officer of a corporation, who has failed to fully comply with an order of the department at any time within 1 year after issuance;

(i) Violated any statute or rule relating to the purchase or sale of any agricultural product, whether or not such transaction is subject to the provisions of this chapter; or

(j) Failed to submit to the department an application, appropriate license fees, and an acceptable surety bond or certificate of deposit.

(2) If a licensee fails or refuses to comply in full with an order of the department, her or his license may be suspended or revoked, in which case she or he shall not be eligible for license for a period of 1 year or until she or he has fully complied with the order of the department.

(3) No person, or officer of a corporation, whose license has been suspended or revoked for failure to comply with an order of the department may hold a responsible position with a licensee for a period of 1 year or until the order of the department has been fully complied with.

604.27. Rules

The department shall adopt rules deemed necessary to carry out the provisions of ss. 604.15-604.34 and enforce same.

604.28. Department may employ help

The department may employ all help and services necessary to carry out and enforce the provisions of ss. 604.15-604.34 and fix their compensation. All expenses and salaries shall be paid out of the General Inspection Trust Fund.

604.29. License fees; disposition

All moneys received as license fees under this law shall be placed in the General Inspection Trust Fund.

604.30. Penalties; injunctive relief; administrative fines

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

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

(3)(a) In addition to the penalties provided in this section, the department may, after notice and hearing, impose an administrative fine in the Class II category pursuant to s. 570.971, not to exceed \$2,500 for a violation of ss. 604.15-604.34 or the rules adopted thereunder against a dealer in agricultural products. Such fine, when imposed and paid, shall be deposited by the department into the General Inspection Trust Fund.

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

604.31. Renumbered and consolidated with 604.15 by Laws 1985, c. 85-36, § 3

604.32. Grain dealers to provide delivery tickets

Each grain dealer receiving grain shall issue and provide to the grain producer a delivery ticket within a reasonable time, not to exceed 24 hours, after delivery of the grain. The delivery ticket shall include, at least, the following information:

- (1) The grain dealer's name and address.
- (2) The grain producer's name and, when applicable, the producer's address.
- (3) The date.
- (4) The consecutive scale ticket number.
- (5) The type of grain.
- (6) The gross, tare, and net weights.
- (7) A statement whether the grain is inbound or outbound.

- (8) The truck or trailer identification.
- (9) The type of transaction, clearly indicating whether the grain is sold or stored.
- (10) The signature of the grain dealer or her or his agent, representative, or employee.
- (11) The base price per bushel, when applicable.
- (12) The grade factors, when applicable.
- (13) The deductions, when applicable.
- (14) The net price and total amount paid, when applicable.

604.33. Security requirements for grain dealers

Each grain dealer doing business in the state shall maintain liquid security, in the form of grain on hand, cash, certificates of deposit, or other nonvolatile security that can be liquidated in 10 days or less, or cash bonds, surety bonds, or letters of credit, that have been assigned to the department and that are conditioned to secure the faithful accounting for and payment to the producers for grain stored or purchased, in an amount equal to the value of grain which the grain dealer has received from grain producers for which the producers have not received payment. The bonds must be executed by the applicant as principal and by a surety corporation authorized to transact business in the state. The certificates of deposit and letters of credit must be from a recognized financial institution doing business in the United States. The department may make at least one spot check annually of each grain dealer to determine compliance with the requirements of this section.

604.34. When grain dealer required to pay for grain delivered

Each grain dealer shall, within 6 months of the date of the contract for sale of grain or, in lieu of a contract, within 6 months of the date of the first delivery for the marketing season, make payment to producers for the grain delivered to the dealer. This provision does not apply in cases when grain is held for storage.

604.40. Farm equipment

Notwithstanding any other law, ordinance, rule, or policy to the contrary, all power-drawn, power-driven, or self-propelled equipment used on a farm may be stored, maintained, or

repaired by the owner within the boundaries of the owner's farm and at least 50 feet away from any public road without limitation.

604.50. Nonresidential farm buildings; farm fences; farm signs

(1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may not be erected, used, operated, or maintained in a manner that violates any of the standards provided in s. 479.11(4), (5)(a), and (6)-(8).

(2) As used in this section, the term:

(a) "Bona fide agricultural purposes" has the same meaning as provided in s. 193.461(3)(b).

(b) "Farm" has the same meaning as provided in s. 823.14.

(c) "Farm sign" means a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm.

(d) "Nonresidential farm building" means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

604.60. Damage or destruction of agricultural products or agricultural production systems; civil action

(1) As used in this section, the term:

(a) "Agricultural product" means the natural products from a farm, nursery, grove, orchard, vineyard, garden, or apiary, including livestock, tobacco, and vegetables, and includes aquacultural, horticultural, viticultural, forestry, aquatic, dairy, livestock, poultry, bee, and any farm products.

(b) "Agricultural production system" means land, buildings, or equipment used in the production of any agricultural product as defined in paragraph (a).

(2) Any private, public, or commercial agricultural grower or producer who grows or produces any agricultural product for personal, research, or commercial purposes or for testing or research purposes in a product development program conducted in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency who suffers damages as a result of another person's willful and knowing damage or destruction of any such agricultural product or the agricultural production system of such grower or producer has a cause of action for damages equal to triple the amount of the value of the product or production system or portion thereof damaged or destroyed, including the cost of any experimental product replication, and for any other relief a court of competent jurisdiction deems appropriate, including, but not limited to, compensatory and punitive damages.

(3) In awarding damages under this section, the courts shall consider the market value of the product or production system prior to damage or destruction, and production, research, testing, replacement, and product development costs directly related to the product or production system that has been damaged or destroyed as part of the value of the product or production system. The prevailing party in any action brought pursuant to this section is entitled to an award of reasonable attorney's fees and court costs.

604.71. Local regulation of vegetable gardens

(1) The Legislature intends to encourage the development of sustainable cultivation of vegetables and fruits at all levels of production, including for personal consumption, as an important interest of the state.

(2) Except as otherwise provided by law, a county, municipality, or other political subdivision of this state may not regulate vegetable gardens on residential properties. Any such local ordinance or regulation regulating vegetable gardens on residential properties is void and unenforceable.

(3) This section does not preclude the adoption of a local ordinance or regulation of a general nature that does not specifically regulate vegetable gardens, including, but not limited to, regulations and ordinances relating to water use during drought conditions, fertilizer use, or control of invasive species.

(4) As used in this section, the term "vegetable garden" means a plot of ground where herbs, fruits, flowers, or vegetables are cultivated for human ingestion.

