

**34-2,111. Grain purchase contracts with delayed payment or delayed pricing; required provisions; standby letter of credit, posted notice.** (a) Whenever a public warehouseman offers to purchase grain pursuant to a grain purchase contract which includes provision for deferred payment or delayed pricing of the grain, the public warehouseman shall inform the seller that such grain purchase contract is a voluntary extension of credit and is not protected by the surety bond or letter of credit, pursuant to K.S.A. 34-229, and amendments thereto, of the public warehouseman.

(b) Each grain purchase contract which contains a provision for deferred payment or delayed pricing, or both such provisions, shall be in writing and shall include the following statement: "THIS CONTRACT CONSTITUTES A VOLUNTARY EXTENSION OF CREDIT BY THE SELLER TO THE PUBLIC WAREHOUSEMAN AND IS NOT PROTECTED BY THE SURETY BOND OR LETTER OF CREDIT OF THE PUBLIC WAREHOUSEMAN." The statement shall be prominently displayed in capital letters which are at least as large as 10-point type and shall be followed by a signature line which has the following statement in parentheses under the line: "Must be signed by seller." Such statements and signature line shall be framed in a box and placed on the first page of the grain purchase contract as a part thereof so that it stands out from the other provisions of the grain purchase contract.

(c) If a public warehouseman has entered into a written grain purchase contract with a seller that produced the grain and if such grain purchase contract provides for either deferred payment or delayed pricing, or both, then, upon demand of the seller made after delivery of such grain to the public warehouseman, the public warehouseman shall cause a financial institution to issue to the seller a standby letter of credit in the amount of the unpaid balance under the grain purchase contract at the time such demand is made. Each public warehouseman who offers to enter into such a grain purchase contract with any seller that produced the grain shall post a sign providing public notice of the availability of such standby letter of credit.

(d) As used in this section:

(1) "Deferred payment" means any payment to be made under the terms of a grain purchase contract after delivery of the grain to the public warehouseman;

(2) "delayed pricing" means any method of pricing grain under the terms of a grain purchase contract after such grain has been delivered to the public warehouseman;

(3) "financial institution" means any institution whose deposits, shares or accounts are insured by a federal agency or banks for cooperatives created under title III of the farm credit act of 1971;

(4) "standby letter of credit" means a letter of credit within the meaning of K.S.A. 84-5-103(1)(a), and amendments thereto, which, by its terms:

(A) Is irrevocable;

(B) is nontransferable;

(C) names the seller that produced the grain as beneficiary;

(D) shall not expire earlier than 60 days after the final payment is due under the terms of the underlying grain purchase contract; and

(E) cannot be drawn upon by the beneficiary in the absence of a default in payment under the terms of the underlying grain purchase contract;

(5) "unpaid balance" means that portion of the purchase price, together with interest thereon, if any, remaining unpaid to the seller under the terms of a grain purchase contract at the time the seller makes demand as provided in this section. Where the grain purchase contract provides for delayed pricing and the price has not been established at the time demand is made by the seller, then, for the purposes of this section only, the unpaid balance shall be determined as though the price had been established at the time of the closing of the relevant futures market on the last trading day before demand is made by the seller under this section.

(e) As used in this section, the words and phrases defined in K.S.A. 34-223, and amendments thereto, shall have the meanings ascribed to them in that statute.

(f) This section shall be construed as supplemental to the statutes contained in article 2 of chapter 34 of the Kansas Statutes Annotated, and amendments thereto.

**History:** L. 1985, ch. 137, § 1; L. 1985, ch. 138, § 1; L. 1986, ch. 154, § 1; L. 2000, ch. 30, § 8; Mar. 30.