HLS 20RS-496 ORIGINAL

2020 Regular Session

HOUSE BILL NO. 496

1

BY REPRESENTATIVE RISER AND SENATOR WOMACK

AGRICULTURE/GRAIN: Provides relative to grain buyers within the agricultural commodity dealer and warehouse law and to the Grain and Cotton Indemnity Fund

AN ACT

2	To amend and reenact R.S. 3:3402(10) and (12) through (19), 3406(A)(1) and (2),
3	3410.1(A), and 3412.1(C)(1) and (2), (E), (F)(1), and (I), to enact R.S. 3:3402(20)
4	and 3410.1(G), and to repeal R.S. 3:3412.1(C)(4), relative to the agricultural dealer
5	and warehouse law; to provide for definitions; to provide for powers and duties of
6	the commissioner of agriculture; to provide for exceptions to licensure and notice
7	applicable to noncommercial grain buyers or other unlicensed grain dealers; to
8	provide for changes in balance allocation, suspension of collections, and claims
9	under the Grain and Cotton Indemnity Fund; and to provide for related matters.
0	Be it enacted by the Legislature of Louisiana:
1	Section 1. R.S. 3:3402(10) and (12) through (19), 3406(A)(1) and (2), 3410.1(A),
12	and 3412.1(C)(1) and (2), (E), F(1), and (I) are hereby amended and reenacted and R.S.
13	3:3402(20) and 3410.1(G) are hereby enacted to read as follows:
4	§3402. Definitions
15	As used in this Chapter, the following terms shall have the meanings ascribed
16	below:
17	* * *
18	(10) "Grain dealer" means any person who purchases any agricultural
19	commodities from producers or represents producers in the sale of agricultural
20	commodities. The term does not include producers who purchase grain commodities

Page 1 of 7

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	for their own use as feed or seed any person who qualifies as a noncommercial grain
2	buyer.
3	* * *
4	(12) "Noncommercial grain buyer" means any person who purchases, or
5	contracts to purchase, less than ten thousand bushels of grain or five thousand
6	hundredweights of rice in a calendar year.
7	(12) (13) "Open" or "open position" means the grain dealer's contracts for
8	purchase or sale of agricultural commodities which are unhedged.
9	(13) (14) "Open storage" means any storage for which a warehouse receipt
10	has not been issued.
1	(14) (15) "Person" means any individual, partnership, company, firm,
12	association, cooperative association, corporation, or any other legal entity engaged
13	in any of the activities regulated under this Chapter.
14	(15) (16) "Producer" means the owner, tenant, lessee, or operator of land
15	within this state who has an interest in or receives all or any part of the proceeds
16	from the sale of agricultural commodities produced thereon.
17	(16) (17) "Risk position" means the loss potential to the grain dealer
18	resulting from bringing its open position to market.
19	(17) (18) "Security" means any financial instrument or document issued for
20	the benefit of or given to the commission by a licensee, or participation in any self-
21	insurance fund program authorized by this Chapter as assurance for the fulfillment
22	of the obligations imposed on the licensee by applicable law or regulations.
23	(18) (19) "Warehouse" means any building, structure, or any other protected
24	enclosure required to be licensed by the commission in which agricultural
25	commodities or other farm products are stored for the public for a fee. The term
26	includes facilities which commingle commodities belonging to different owners and
27	facilities which preserve the separate identities of different lots of agricultural
28	commodities.

1	(19) (20) "Warehouseman" means any person or other entity operating a
2	warehouse.
3	* * *
4	§3406. Powers and duties of the commissioner
5	A. The commissioner shall administer and enforce this Chapter in
6	accordance with the rules and regulations promulgated by the commission. In the
7	administration and enforcement of this Chapter, the commissioner and his duly
8	constituted representatives are specifically authorized to do the following:
9	(1) Enter the premises of any warehouse, cotton merchant, or cotton agent,
10	or grain dealer required to be licensed under this Chapter, or those of any person
11	purchasing grain from Louisiana producers, at any reasonable time during normal
12	working hours, for the purpose of making any examination or any inspection of the
13	premises and the contents thereof as may be necessary.
14	(2) Examine, copy, and audit the accounts, books, and records, including
15	stock records, position records, balance sheets, scale tickets, and warehouse receipts
16	of any warehouse, cotton merchant, or cotton agent, or grain dealer required to be
17	licensed under this Chapter, or those of any person purchasing grain from Louisiana
18	producers, including all warehouses or grain dealers, or both, licensed under the
19	United States Warehouse Act, as amended, and any applicant for licensure under this
20	Chapter, or as otherwise permitted under this Chapter.
21	* * *
22	§3410.1. License to buy or sell agricultural commodities; posting requirements for
23	grain dealers; duration of license
24	A. No person shall engage in the business of buying or selling agricultural
25	commodities from producers unless licensed by the commission, except a person that
26	qualifies as a noncommercial grain buyer.
27	* * *
28	G. Any noncommercial grain buyer, or other person not licensed as a grain
29	dealer, shall post notification in a conspicuous area on their premises, and on any

29

1	document used in the purchase of grain, including contracts and receipts, that they
2	are not a licensed grain dealer, and any producer selling grain to an unlicensed
3	person is not eligible to make a claim with the Grain and Cotton Indemnity Fund.
4	* * *
5	§3412.1. Grain and Cotton Indemnity Fund; creation; assessment; rules and
6	regulations; suspension of assessment; eligibility for reimbursement;
7	availability of money; prorated claims; reimbursement for administrative
8	expenses; failure to pay; subrogation
9	* * *
10	C. The assessments charged under this Section shall be subject to the
11	following provisions:
12	(1) All assessments collected received pursuant to this Section shall be
13	deposited immediately upon receipt in the state treasury.
14	(2) After compliance with the requirements of Article VII, Section 9 of the
15	Constitution of Louisiana relative to the Bond Security and Redemption Fund, and
16	prior to monies being placed in the state general fund, an amount equal to that
17	deposited as required by Paragraph (1) of this Subsection shall be credited to a
18	special fund hereby created in the state treasury to be known as the Grain and Cotton
19	Indemnity Fund. The monies in this fund shall be used solely as provided in
20	Paragraph (3) of this Subsection and only in the amounts appropriated by the
21	legislature. All unexpended and unencumbered monies in this fund at the end of
22	each fiscal year shall remain in this fund be transferred to the Louisiana Agricultural
23	Finance Authority to provide solely for the administration and operation of the fund
24	provided for in this Section. The monies in this fund shall be invested by the state
25	treasurer in the same manner as monies in the state general fund, and interest earned
26	on the investment of these monies shall be credited to this fund, again, following
27	compliance with the requirement of Article VII, Section 9 of the Constitution of
28	Louisiana relative to the Bond Security and Redemption Fund.

E. At the end of the calendar quarter Beginning on July 1st following the
fiscal year in which the Grain and Cotton Indemnity Fund balance within the
Louisiana Agricultural Finance Authority reaches a level of six twelve million
dollars, the commission shall suspend collection of the assessment required by this
Section. If after suspension of collection the balance in the fund is less than three ter
million dollars, the commission shall require collection of the assessment. Any
assessments collected after the balance reaches twelve million dollars, but prior to
the suspension of collection, shall remain within the Louisiana Agricultural Finance
Authority.
F. A producer shall be eligible to receive indemnity payments from the Grain
and Cotton Indemnity Fund if:
(1) The licensed grain dealer becomes insolvent after January 1, 2008.
* * *
I. Notwithstanding any other provision of law to the contrary, if the
commission pays a claim using Grain and Cotton Indemnity Funds in accordance
with this Section, then all payments shall be made jointly payable to the claimant and
to all secured parties and lienholders that, ten days before the were included in the
most recent master listing of farm products within the central registry as provided in
R.S. 3:3654, or addendum to, published by the secretary of state prior to the payment
date, and hold a security interest in or a lien on the crops, farm products, or
agricultural commodities, perfected by the filing of a financing statement that:
* * *
Section 2. R.S. 3:3412.1(C)(4) is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 496 Original

2020 Regular Session

Riser

Abstract: Adds the definition and notice requirements for noncommercial grain buyers and unlicensed grain dealers to the agricultural (ag) commodity and warehouse law. Allocates year end balances in the Grain and Cotton Indemnity Fund to the La. Ag

Page 5 of 7

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

Finance Authority, changes balance triggers for the suspension and resumption of collections to the fund, and clarifies claims made under it.

<u>Present law</u> provides for a list of definitions under the ag commodity and warehouse law.

<u>Proposed law</u> retains <u>present law</u> and adds the term "noncommercial grain buyer" to the list of definitions and changes the term "grain dealer" to not include noncommercial grain buyers.

<u>Present law</u> authorizes the commissioner of agriculture to enter the premises of grain dealers, among other entities, licensed under this Chapter of law for the purposes of examining and inspecting the premises and contents to include various financial records and documents.

<u>Proposed law</u> modifies <u>present law</u> by removing the official term "grain dealer" to add any person purchasing grain from La. producers.

<u>Present law</u> provides that no person or business buying or selling ag commodities from producers may do so without a license.

<u>Proposed law</u> creates an exception to <u>present law</u> by exempting those that qualify as a noncommercial grain buyer.

<u>Proposed law</u> requires persons not licensed as a grain dealer to post notification that they are not licensed on their premises and any purchase documents and prevents producers from making a claim under the Grain and Cotton Indemnity Fund for any transactions made with an unlicensed person or business.

<u>Present law</u> requires that all monies in the Grain and Cotton Indemnity Fund not spent or encumbered at the end of the fiscal year to remain in the fund.

<u>Proposed law</u> requires transfer of these monies to the La. Ag Finance Authority at the end of the fiscal year instead of remaining in the Grain and Cotton Indemnity Fund.

<u>Present law</u> requires assessments made under the Grain and Cotton Indemnity Fund not apply to grain or cotton purchased or contracted prior to Aug. 15, 2008.

Proposed law repeals present law.

<u>Present law</u> requires the La. Ag Commodities Commission at the end of the calendar quarter to suspend collections of the assessments under the Grain and Cotton Indemnity Fund when the fund reaches a level of \$6 million and to resume collection when the balance in the fund is less than \$3 million.

<u>Proposed law provides for a comprehensive revision to present law provisions, including the following major changes:</u>

- (1) Changes time period from end of the calendar quarter to beginning July 1st following the fiscal year.
- (2) Changes reference to fund balance from the Grain and Cotton Indemnity Fund to the La. Ag Finance Authority.
- (3) Changes balance triggers for suspension of collection <u>from</u> \$6 million <u>to</u> \$12 million and for resumption of collection <u>from</u> \$3 million <u>to</u> \$10 million.
- (4) Adds a requirement that any assessments collected after the balance reaches \$12 million, but prior to suspension, remain within the La. Ag Finance Authority.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Present law</u> requires that a producer is eligible to receive indemnity payments if a licensed dealer becomes insolvent after Jan. 1, 2008.

<u>Proposed law</u> modifies <u>present law</u> by removing the reference to Jan. 1, 2008.

<u>Present law</u> requires the La. Ag Commodities Commission to make all claim payments using Grain and Cotton Indemnity Funds to both the person making the claim and all parties holding a security interest or lien perfected by a filed financing statement at least 10 days prior to the payment.

<u>Proposed law</u> modifies <u>present law</u> by changing the reference to the Grain and Cotton Indemnity Fund to claims in accordance with this Section of law, and changes the time period in which parties holding a security interest or lien <u>from</u> 10 days prior to payment <u>to</u> based on the most recent master listing of farm products within the central registry provided for in <u>present law</u>, or addendum to, published by the secretary of state.

(Amends R.S. 3:3402(10) and (12) through (19), 3406(A)(1) and (2), 3410.1(A), and 3412.1(C)(1) and (2), (E), (F)(1), and (I); Adds R.S. 3:3402(20) and 3410.1(G); Repeals R.S. 3:3412.1(C)(4))