

2020 Regular Session

HOUSE BILL NO. 496

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

1 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)(introductory paragraph), to
4 enact R.S. 3:3402(20) and 3410.1(G), and to repeal R.S. 3:3412.1(C)(4), relative to
5 the agricultural dealer and warehouse law; to provide for definitions; to provide for
6 powers and duties of the commissioner of agriculture; to provide for exceptions to
7 licensure and notice applicable to noncommercial grain buyers or other unlicensed
8 grain dealers; to provide for changes in balance allocation, suspension of collections,
9 and claims under the Grain and Cotton Indemnity Fund; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 3:3402(10) and (12) through (19), 3406(A)(1) and (2), 3410.1(A),
13 and 3412.1(C)(1) and (2), (E), F(1), and (I)(introductory paragraph) are hereby amended and
14 reenacted and R.S. 3:3402(20) and 3410.1(G) are hereby enacted to read as follows:

15 §3402. Definitions

16 As used in this Chapter, the following terms shall have the meanings ascribed
17 below:

18 * * *

19 (10) "Grain dealer" means any person who purchases any agricultural
20 commodities from producers or represents producers in the sale of agricultural

1 commodities. The term does not include ~~producers who purchase grain commodities~~
2 ~~for their own use as feed or seed~~ any person who qualifies as a noncommercial grain
3 buyer.

4 * * *

5 (12) "Noncommercial grain buyer" means any person who purchases, or
6 contracts to purchase, less than ten thousand bushels of grain or five thousand
7 hundredweights of rice in a calendar year.

8 ~~(12)~~ (13) "Open" or "open position" means the grain dealer's contracts for
9 purchase or sale of agricultural commodities which are unhedged.

10 ~~(13)~~ (14) "Open storage" means any storage for which a warehouse receipt
11 has not been issued.

12 ~~(14)~~ (15) "Person" means any individual, partnership, company, firm,
13 association, cooperative association, corporation, or any other legal entity engaged
14 in any of the activities regulated under this Chapter.

15 ~~(15)~~ (16) "Producer" means the owner, tenant, lessee, or operator of land
16 within this state who has an interest in or receives all or any part of the proceeds
17 from the sale of agricultural commodities produced thereon.

18 ~~(16)~~ (17) "Risk position" means the loss potential to the grain dealer
19 resulting from bringing its open position to market.

20 ~~(17)~~ (18) "Security" means any financial instrument or document issued for
21 the benefit of or given to the commission by a licensee, or participation in any self-
22 insurance fund program authorized by this Chapter as assurance for the fulfillment
23 of the obligations imposed on the licensee by applicable law or regulations.

24 ~~(18)~~ (19) "Warehouse" means any building, structure, or any other protected
25 enclosure required to be licensed by the commission in which agricultural
26 commodities or other farm products are stored for the public for a fee. The term
27 includes facilities which commingle commodities belonging to different owners and
28 facilities which preserve the separate identities of different lots of agricultural
29 commodities.

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.

29 * * *

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

Present law provides for a list of definitions under the ag commodity and warehouse law.

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

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

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

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

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

Proposed law 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.

Present law 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.

Proposed law 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.

Present law 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.

Present law 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.

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

- (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 from \$6 million to \$12 million and for resumption of collection from \$3 million to \$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.

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

Proposed law modifies present law by removing the reference to Jan. 1, 2008.

Present law 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.

Proposed law modifies present law by changing the reference to the Grain and Cotton Indemnity Fund to claims in accordance with the law, and changes the time period in which parties holding a security interest or lien from 10 days prior to payment to based on the most recent master listing of farm products within the central registry provided for in present law, or addendum thereto, 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)(introductory paragraph); Adds R.S. 3:3402(20) and 3410.1(G); Repeals R.S. 3:3412.1(C)(4))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical changes.