## **ACT No. 151**

HOUSE BILL NO. 496

## BY REPRESENTATIVE RISER AND SENATOR WOMACK

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
21	commodities. The term does not include producers who purchase grain commodities

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1	for their own use as feed or seed any person who qualifies as a noncommercial grain
2	<u>buyer</u> .
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.
11	(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.

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1	$\frac{(19)}{(20)}$ "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
30	document used in the purchase of grain, including contracts and receipts, that they

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

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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

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1 Louisiana Agricultural Finance Authority reaches a level of six twelve million 2 dollars, the commission shall suspend collection of the assessment required by this 3 Section. If after suspension of collection the balance in the fund is less than three ten 4 million dollars, the commission shall require collection of the assessment. Any 5 assessments collected after the balance reaches twelve million dollars, but prior to 6 the suspension of collection, shall remain within the Louisiana Agricultural Finance 7 Authority. 8 F. A producer shall be eligible to receive indemnity payments from the Grain 9 and Cotton Indemnity Fund if: 10 (1) The licensed grain dealer becomes insolvent after January 1, 2008. 11 12 I. Notwithstanding any other provision of law to the contrary, if the 13 commission pays a claim using Grain and Cotton Indemnity Funds in accordance 14 with this Section, then all payments shall be made jointly payable to the claimant and 15 to all secured parties and lienholders that, ten days before the were included in the 16 most recent master listing of farm products within the central registry as provided in 17 R.S. 3:3654, or addendum thereto, published by the secretary of state prior to the 18 payment date, and hold a security interest in or a lien on the crops, farm products, or 19 agricultural commodities, perfected by the filing of a financing statement that: 20 21 Section 2. R.S. 3:3412.1(C)(4) is hereby repealed in its entirety. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_