

ACT No. 12

2016 Regular Session

HOUSE BILL NO. 592

BY REPRESENTATIVE ANDERS

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AN ACT

To amend and reenact R.S. 3:3412(G), (H), (I), (J), and (K) and 3412.1(I), (J), and (K) and to enact R.S. 3:3409(H)(4), 3412(L), and 3412.1(L), relative to the Agricultural Commodity Dealer and Warehouse Law; to provide guidelines for payment of claims under the agricultural commodity dealer and warehouse law; to provide guidelines for payments by the commission using the self-insurance fund; to provide guidelines for payments by the commission using grain and cotton indemnity funds; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:3412(G), (H), (I), (J), and (K) and 3412.1(I), (J), and (K) are hereby amended and reenacted and R.S. 3:3409(H)(4), 3412(L), and 3412.1(L) are hereby enacted to read as follows:

§3409. Security and provisional stock insurance required as a condition of license, time of filing; amount of security; approval; notice of cancellation; changes in licensed capacity; failure to maintain security and insurance in full force and effect

* * *

H. The commission shall be the sole owner of the security and shall be the sole party entitled to sue upon, recover, or enforce the security. Any other person or party, including, without limitation, any licensee, person, producer, cotton farmer or agent, or creditor who has a claim against a licensee, shall have no ownership or other interest in the security and shall have no right to sue upon, recover, or enforce the security, except pursuant to the commission's administrative procedures.

* * *

1 (4) Notwithstanding any other provision of law to the contrary, when paying
 2 any claim on the security under this Chapter, the commission shall make payments
 3 jointly payable to the claimant and to all other secured parties and lienholders that,
 4 ten days before the payment date, hold a security interest in or a lien on the crops,
 5 farm products, or agricultural commodities, perfected by the filing of a financing
 6 statement that:

7 (a) Identified those crops, farm products, or agricultural commodities as
 8 collateral.

9 (b) Was indexed under that producer's name as debtor.

10 (c) Was filed in the office designated for filing a financing statement against
 11 the producer covering that collateral.

12 * * *

13 §3412. Self-insurance fund

14 * * *

15 G. Notwithstanding any other provision of law to the contrary, if the
 16 commission pays a claim using self-insurance program funds, all payments shall be
 17 made jointly payable to the claimant and to all secured parties and lienholders that,
 18 ten days before the payment date, hold a security interest in or a lien on the crops,
 19 farm products, or agricultural commodities, perfected by the filing of a financing
 20 statement that:

21 (1) Identified those crops, farm products, or agricultural commodities as
 22 collateral.

23 (2) Was indexed under that producer's name as debtor.

24 (3) Was filed in the office designated for filing a financing statement against
 25 the producer covering that collateral.

26 G. H. Expenses incurred by the commission in administering the self-
 27 insurance program shall be reimbursable from the funds collected under the program.
 28 Administrative expenses shall be paid in priority to all other payments.

1 ~~H.~~ I. A licensee who knowingly or intentionally refuses or fails to pay into
2 the self-insurance program any funds due pursuant to this Chapter shall be subject
3 to civil penalties.

4 ~~F.~~ J. Money paid from the self-insurance program in satisfaction of a valid
5 claim shall constitute a debt obligation of the licensee against whom the claim was
6 made. The commission may take action on behalf of the self-insurance program
7 against such person to recover the amount of payment made plus reasonable costs,
8 including court costs, incurred by the commission in obtaining recovery, legal
9 interest from the date of payment of any claim, and reasonable attorney fees. As a
10 condition of payment of a claim from the self-insurance program, the claimant shall
11 subrogate his interest, if any, to the commission in a cause of action against all
12 parties, to the amount of the loss that the claimant was reimbursed by the self-
13 insurance program.

14 ~~F.~~ K. The commission may charge fees for participation in the program
15 established in this Section. The amount of the fees shall be fixed by rule adopted in
16 accordance with the Administrative Procedure Act.

17 ~~K.~~ L. The fees charged under this Section shall be subject to the following
18 provisions:

19 (1) All fees shall be deposited immediately upon receipt in the state treasury.

20 (2) After compliance with the requirements of Article VII, Section 9 of the
21 Constitution of Louisiana relative to the Bond Security and Redemption Fund, and
22 prior to monies being placed in the state general fund, an amount equal to that
23 deposited as required by Paragraph (1) of this Subsection shall be credited to a
24 special fund hereby created in the state treasury to be known as the Agricultural
25 Commodity Commission Self-Insurance Fund. The monies in this fund shall be used
26 solely as provided in Paragraph (3) of this Subsection and only in the amounts
27 appropriated by the legislature. All unexpended and unencumbered monies in this
28 fund at the end of each fiscal year shall remain in this fund. The monies in this fund
29 shall be invested by the state treasurer in the same manner as monies in the state
30 general fund, and interest earned on the investment of these monies shall be credited

1 to this fund, again, following compliance with the requirement of Article VII,
2 Section 9 relative to the Bond Security and Redemption Fund.

3 (3) The monies in the Agricultural Commodity Commission Self-Insurance
4 Fund shall be used solely for the administration and operation of the program of self
5 insurance provided for in this Section.

6 §3412.1. Grain and Cotton Indemnity Fund; creation; assessment; rules and
7 regulations; suspension of assessment; eligibility for reimbursement;
8 availability of money; prorated claims; reimbursement for administrative
9 expenses; failure to pay; subrogation

10 * * *

11 I. Notwithstanding any other provision of law to the contrary, if the
12 commission pays a claim using Grain and Cotton Indemnity Funds, all payments
13 shall be made jointly payable to the claimant and to all secured parties and
14 lienholders that, ten days before the payment date, hold a security interest in or a lien
15 on the crops, farm products, or agricultural commodities, perfected by the filing of
16 a financing statement that:

17 (1) Identified those crops, farm products, or agricultural commodities as
18 collateral.

19 (2) Was indexed under that producer's name as debtor.

20 (3) Was filed in the office designated for filing a financing statement against
21 the producer covering that collateral.

22 ~~F. J.~~ Expenses incurred by the commission in administrating the Grain and
23 Cotton Indemnity Fund shall be reimbursable from the fund. Administrative
24 expenses shall be paid in priority to all other payments.

25 ~~F. K.~~ Any licensee who knowingly or intentionally refuses or fails to collect
26 the assessment required under this Section or to submit any assessment collected
27 from producers to the commission for deposit in the Grain and Cotton Indemnity
28 Fund shall be subject to civil penalties.

29 ~~K. L.~~ Money paid from the Grain and Cotton Indemnity Fund in satisfaction
30 of a valid claim constitutes a debt obligation of the person against whom the claim

1 was made. The commission may take action on behalf of the fund against a person
 2 to recover the amount of payment made, plus reasonable costs, including court costs,
 3 incurred by the commission in obtaining recovery, legal interest from the date of
 4 payment of any claim, and reasonable attorney fees. As a condition of payment of
 5 a claim from the Grain and Cotton Indemnity Fund, the claimant shall subrogate its
 6 interest, if any, to the commission in a cause of action against all parties, to the
 7 amount of the loss that the claimant was reimbursed by the fund.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____