
SENATE BILL No. 415

DIGEST OF INTRODUCED BILL

Citations Affected: IC 26-3-7.

Synopsis: Grain buyers and warehouse licensing. Makes various changes regarding the grain buyers and licensing warehouse agency (agency). Makes changes to the definition of a warehouse. Removes a requirement that certain grain buyers and purchasers of grain provide evidence to demonstrate that they have received training on the risks associated with grain marketing practices. Provides procedures for an annual renewal of an application. Allows the director of the agency to prorate certain annual licensing fees. Provides that the agency may disclose the names of grain buyers or warehouses and the county where they are located. Allows the agency to accept other forms of surety to show the net worth of a grain buyer or warehouse.

Effective: July 1, 2009.

Leising

January 12, 2009, read first time and referred to Committee on Agriculture and Small Business.

C
o
p
y



First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 415



A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 26-3-7-2, AS AMENDED BY P.L.2-2008,
2 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 2. The following definitions apply throughout this
4 chapter:

- 5 (1) "Agency" refers to the Indiana grain buyers and warehouse
6 licensing agency established under section 1 of this chapter.
- 7 (2) "Anniversary date" means the date that is ninety (90) calendar
8 days after the fiscal year end of a business licensed under this
9 chapter.
- 10 (3) "Bin" means a bin, tank, interstice, or other container in a
11 warehouse in which bulk grain may be stored.
- 12 (4) "Buyer-warehouse" means a person that operates both as a
13 warehouse licensed under this chapter and as a grain buyer.
- 14 (5) "Claimant" means a person that is unable to secure satisfaction
15 of the financial obligations due from a licensee under this chapter
16 for grain that has been delivered to the licensee for sale or for
17 storage under a bailment.



- 1 (6) "Deferred pricing" or "price later" means a purchase by a
- 2 buyer in which title to the grain passes to the buyer and the price
- 3 to be paid to the seller is not determined:
- 4 (A) at the time the grain is received by the buyer; or
- 5 (B) within ten (10) days of receipt.
- 6 (7) "Depositor" means any of the following:
- 7 (A) A person that delivers grain to a licensee under this
- 8 chapter for storage or sale.
- 9 (B) A person that:
- 10 (i) owns or is the legal holder of a ticket or receipt issued by
- 11 a licensee for grain received by the licensee; and
- 12 (ii) is the creditor of the issuing licensee for the value of the
- 13 grain received in return for the ticket or receipt.
- 14 (C) A licensee that stores grain that the licensee owns solely,
- 15 jointly, or in common with others in a warehouse owned or
- 16 controlled by the licensee or another licensee.
- 17 (8) "Designated representative" means the person or persons
- 18 designated by the director to act instead of the director in assisting
- 19 in the administration of this chapter.
- 20 (9) "Director" means the director of the Indiana grain buyers and
- 21 warehouse licensing agency appointed under section 1 of this
- 22 chapter.
- 23 (10) "Facility" means a location or one (1) of several locations in
- 24 Indiana that are operated as a warehouse or by a grain buyer.
- 25 (11) "Failure" means any of the following:
- 26 (A) The inability of a licensee to financially satisfy claimants.
- 27 (B) Public declaration of a licensee's insolvency.
- 28 (C) Revocation or suspension of a licensee's license, if the
- 29 licensee has outstanding indebtedness owed to claimants.
- 30 (D) Nonpayment of a licensee's debts in the ordinary course of
- 31 business, if there is not a good faith dispute.
- 32 (E) Voluntary surrender of a licensee's license, if the licensee
- 33 has outstanding indebtedness to claimants.
- 34 (12) "Grain" means corn for all uses, popcorn, wheat, oats, barley,
- 35 rye, sorghum, soybeans, oil seeds, other agricultural commodities
- 36 as approved by the agency, and seed as defined in this section.
- 37 The term does not include canning crops for processing, sweet
- 38 corn, or flint corn.
- 39 (13) "Grain assets" means any of the following:
- 40 (A) All grain owned or stored by a licensee, including grain
- 41 that:
- 42 (i) is in transit following shipment by a licensee; and

COPY



- 1 (ii) has not been paid for.
- 2 (B) All proceeds, due or to become due, from the sale of a
- 3 licensee's grain.
- 4 (C) Equity, less any secured financing directly associated with
- 5 the equity, in hedging or speculative margin accounts of a
- 6 licensee held by a commodity or security exchange, or a dealer
- 7 representing a commodity or security exchange, and any
- 8 money due the licensee from transactions on the exchange,
- 9 less any secured financing directly associated with the money
- 10 due the licensee from the transactions on the exchange.
- 11 (D) Any other unencumbered funds, property, or equity in
- 12 funds or property, wherever located, that can be directly traced
- 13 to the sale of grain by a licensee. However, funds, property, or
- 14 equity in funds or property may not be considered encumbered
- 15 unless:
- 16 (i) the encumbrance results from valuable consideration paid
- 17 to the licensee in good faith by a secured party; and
- 18 (ii) the encumbrance did not result from the licensee posting
- 19 the funds, property, or equity in funds or property as
- 20 additional collateral for an antecedent debt.
- 21 (E) Any other unencumbered funds, property, or equity in
- 22 assets of the licensee.
- 23 (14) "Grain bank grain" means grain owned by a depositor for use
- 24 in the formulation of feed and stored by the warehouse to be
- 25 returned to the depositor on demand.
- 26 (15) "Grain buyer" means a person who is engaged in the business
- 27 of buying grain from producers. The term does not include a
- 28 buyer of grain who:
- 29 (A) buys less than fifty thousand (50,000) bushels of grain
- 30 annually;
- 31 (B) buys grain for the sole purpose of feeding the person's own
- 32 livestock or poultry and derives a major portion of the person's
- 33 income from selling that livestock or poultry; or
- 34 (C) does not offer storage, deferred pricing, delayed payment,
- 35 or contracts or other instruments that are linked to the
- 36 commodity futures or commodity options market.
- 37 (16) "Grain standards act" means the United States Grain
- 38 Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C.
- 39 71-87 as amended).
- 40 (17) "License" means a license issued under this chapter.
- 41 (18) "Official grain standards of the United States" means the
- 42 standards of quality or condition for grain, fixed and established

COPY



1 by the secretary of agriculture under the grain standards act.

2 (19) "Person" means an individual, partnership, corporation,
3 association, or other form of business enterprise.

4 (20) "Receipt" means a warehouse receipt issued by a warehouse
5 licensed under this chapter.

6 (21) "Seed", notwithstanding IC 15-15-1, means grain set apart to
7 be used primarily for the purpose of producing new plants.

8 (22) "Ticket" means a scale weight ticket, a load slip, or other
9 evidence, other than a receipt, given to a depositor upon initial
10 delivery of grain to a facility.

11 (23) "Warehouse act" means the United States Warehouse Act,
12 approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273 as
13 amended).

14 (24) "Warehouse" means a person that operates a facility or group
15 of facilities in which grain is or may be stored for hire or which is
16 used for grain bank storage and which is operated under one (1)
17 ownership and run from a single office. **means any building or
18 other protected enclosure:**

19 (A) located in one (1) general location;

20 (B) licensed or required to be licensed under this chapter;
21 and

22 (C) operated under one (1) ownership and run from a
23 single office.

24 **The building or other protected enclosure must be one in
25 which grain is or may be stored for hire, used for grain bank
26 storage, or used to store company owned grain.**

27 (25) "Warehouseman" means a person that operates a facility
28 or group of facilities in which grain is or may be stored for
29 hire or which is used for grain bank storage and which is
30 operated under one (1) ownership and run from a single
31 office.

32 SECTION 2. IC 26-3-7-2.2 IS ADDED TO THE INDIANA CODE
33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
34 1, 2009]: **Sec. 2.2. For purposes of determining whether a building
35 or other protected enclosure constitutes a single warehouse under
36 section 2(24) of this chapter, the director may consider the
37 following:**

38 (1) **The presence of a full weighing facility at geographically
39 diverse warehouse facilities.**

40 (2) **The traditional method of record keeping with respect to
41 the separate facilities.**

42 (3) **The hours, number of personnel, and activities of the**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

separate facilities.

(4) Any other factor the director considers relevant.

In the absence of contradictory information, any warehouses owned and operated by the same person that are located within close proximity of each other are presumed to constitute a single warehouse.

SECTION 3. IC 26-3-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The director may do the following:

- (1) Require any reports that are necessary to administer this chapter.
- (2) Administer oaths, issue subpoenas, compel the attendance and testimony of witnesses, and compel the production of records in connection with any investigation or hearing under this chapter.
- (3) Prescribe all forms within the provisions of this chapter.
- (4) Establish grain standards in accordance with the grain standards act and federal regulations promulgated under that act that must be used by warehouses.
- (5) Investigate the activities required by this chapter including the storage, shipping, marketing, and handling of grain and complaints with respect to the storage, shipping, marketing, and handling of grain.
- (6) Inspect a facility, the grain stored in a facility, and all property and records pertaining to a facility. All inspections of an applicant or licensee under this chapter must take into consideration the proprietary nature of an applicant's or licensee's commercial information. The director may adopt rules under IC 4-22-2 regarding inspections permitted under this chapter, and the rules must take into consideration the proprietary nature of an applicant's or a licensee's commercial information. This chapter does not authorize the inspection of an applicant's or licensee's trade secret or intellectual property information.
- (7) Determine whether a facility for which a license has been applied for or has been issued is suitable for the proper storage, shipping, and handling of the grain that is stored, shipped, or handled, or is expected to be stored, shipped, or handled.
- (8) Require a licensee to terminate storage, shipping, marketing, and handling agreements upon revocation of the person's license.
- (9) Attend and preside over any investigation or hearing allowed or required under this chapter.
- (10) Impose sanctions for violations of this article.
- ~~(11) Require a grain buyer and all persons purchasing grain to~~

C
o
p
y



1 show evidence of training or licensing on the risks associated with
2 grain marketing practices only if a grain buyer engages in a risk
3 factor higher than a standard defined by the director. This training
4 or licensing may include requiring the grain buyer or person
5 purchasing grain to do any of the following:

6 (A) Provide the agency with proof of registry with the
7 commodity futures trading commission (CFTC) as a
8 commodity trading adviser, a futures commission merchant, an
9 introducing broker, or an associated person:

10 (B) Demonstrate passage of the series 3 examination
11 administered by the National Association of Security Dealers:

12 (C) Annually attend six (6) hours of continuing education;
13 approved by the director; focusing on the risks to a grain buyer
14 and seller that are associated with grain marketing practices
15 and the communication of risks to the producer. Additionally,
16 as part of continuing education; require a grain buyer; and all
17 persons purchasing grain for a grain buyer; to pass a test;
18 approved and administered by the director; that reasonably
19 measures the grain buyer's understanding of the risks to grain
20 buyers and sellers associated with producer marketing
21 strategies:

22 ~~(12)~~ (11) Require all contracts executed after June 30, 1997, for
23 the purchase of grain from producers, except a flat price contract
24 or a contract for the production of seed, to include the following
25 notice immediately above the place on the contract where the
26 seller of the grain must sign:

27 "NOTICE - SELLER IS CAUTIONED THAT
28 CONTRACTING FOR THE SALE AND DELIVERY OF
29 GRAIN INVOLVES RISKS. THESE RISKS MAY INCLUDE
30 FUTURE PAYMENTS BY YOU TO MAINTAIN THIS
31 CONTRACT, A LOWER SALES PRICE, AND OTHER
32 RISKS NOT SPECIFIED.

33 COVERAGE UNDER THE INDIANA GRAIN INDEMNITY
34 PROGRAM IS LIMITED TO 100% OF A LOSS FOR
35 STORED GRAIN AND 80% OF A LOSS FOR OTHER
36 COVERED CONTRACTS.

37 BE SURE YOU UNDERSTAND THE NATURE OF THIS
38 CONTRACT AND THE ASSOCIATED RISKS."

39 ~~(13)~~ (12) Require all contracts executed after January 1, 2000, for
40 the production of seed to include the following notice, in
41 conspicuous letters, immediately above the place on the contract
42 or an addendum where the seller of the seed must sign:

C
o
p
y



- 1 "NOTICE - IF THE TERMS OF THIS CONTRACT STATE
 2 THAT THE CONTRACTOR RETAINS OWNERSHIP OF
 3 THE SEED AND ITS PRODUCTS, YOU MAY NOT BE
 4 ELIGIBLE FOR PARTICIPATION IN THE INDIANA
 5 GRAIN INDEMNITY PROGRAM. TO BE ELIGIBLE TO
 6 PARTICIPATE IN THE INDIANA GRAIN INDEMNITY
 7 PROGRAM, FARMERS MUST OWN AND SELL GRAIN
 8 OR SEED. BE SURE YOU UNDERSTAND THE NATURE
 9 OF THIS CONTRACT AND THE ASSOCIATED RISKS.".
- 10 ~~(14)~~ (13) At any time, order an unannounced audit for compliance
 11 with this article.
- 12 ~~(15)~~ (14) Adopt rules under IC 4-22-2 to carry out the purposes
 13 and intent of this chapter.
- 14 (b) The director shall do the following:
- 15 (1) Establish standards to ensure that a grain buyer has a suitable
 16 financial position to conduct a business as a grain buyer.
- 17 (2) Require a person who conducts business as a grain buyer to
 18 first be licensed by the agency.
- 19 (3) Require any person engaged in the business of advising
 20 producers on grain marketing for hire to:
- 21 (A) register with the agency; and
- 22 (B) provide the agency with proof of registry with the
 23 commodity futures trading commission (CFTC) as a
 24 commodity trading advisor, a futures commission merchant, an
 25 introducing broker, or an associated person.
- 26 (c) The director may designate an employee to act for the director
 27 in the administration of this chapter. A designee may not:
- 28 (1) act in matters that require a public hearing or the temporary
 29 suspension of a license;
- 30 (2) adopt rules; or
- 31 (3) act as the ultimate authority in the administration of this
 32 chapter.
- 33 (d) The director may determine whether geographically separate
 34 facilities constitute a single warehouse or grain buyer and in making
 35 the determination may consider the following:
- 36 (1) The number of facilities involved.
- 37 (2) Whether full weighing equipment is present at the
 38 geographically separate facilities.
- 39 (3) The method of bookkeeping employed by the separate
 40 facilities.
- 41 (4) The hours of operation of the separate facilities.
- 42 (5) The personnel employed at the separate facilities.

C
 O
 P
 Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(6) Other factors the director deems relevant.
SECTION 4. IC 26-3-7-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.1. (a) The agency shall mail by first class mail a renewal application, which must include a listing of all the licensee's facilities, to each licensee before the expiration date of the licensee's license. The renewal application form must be completed and returned to the agency not later than ninety (90) days after the end of the licensee's fiscal year. The licensee shall forward to the agency, with the renewal application, the following:**

- (1) Current reviewed level financial statement.**
- (2) Updated financial profile form supplied by the agency.**
- (3) Appropriate license fee.**

(b) The renewal application must contain the information in section 4 of this chapter. The agency shall send an annual renewal license application form to persons licensed as the following:

- (1) A grain bank.**
- (2) A warehouse.**
- (3) A grain buyer.**
- (4) A buyer-warehouse.**

SECTION 5. IC 26-3-7-6, AS AMENDED BY P.L.207-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. (a) The agency may issue the following licenses:**

- (1) A grain bank license may be issued to a person that:**
 - (A) stores only grain bank grain;**
 - (B) has a storage capacity of not more than fifty thousand (50,000) bushels of grain; and**
 - (C) purchases less than fifty thousand (50,000) bushels of grain per year.**
- (2) A warehouse license may be issued to a person that:**
 - (A) stores grain for hire; and**
 - (B) purchases less than fifty thousand (50,000) bushels of grain per year.**
- (3) A grain buyer license may be issued to a person that:**
 - (A) purchases annually at least fifty thousand (50,000) bushels of grain that are not for the sole purpose of feeding the person's own livestock or poultry;**
 - (B) does not store grain for hire; and**
 - (C) offers deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with grain purchases.**

C
o
p
y



- 1 (4) A buyer-warehouse license may be issued to a person that
- 2 operates both as a warehouse and as a grain buyer.
- 3 (b) An applicant shall file with the director a separate application
- 4 for each license or amendment of a license at the times, on the forms,
- 5 and containing the information that the director prescribes.
- 6 (c) An initial application for a license must be accompanied by a
- 7 license fee as follows:
- 8 (1) For a grain bank or for a warehouse or buyer-warehouse with
- 9 a storage capacity of less than two hundred fifty thousand
- 10 (250,000) bushels, two hundred fifty dollars (\$250) for the first
- 11 facility and fifty dollars (\$50) for each additional facility.
- 12 (2) For a warehouse or a buyer-warehouse with a storage capacity
- 13 of at least two hundred fifty thousand (250,000) bushels but less
- 14 than one million (1,000,000) bushels, five hundred dollars (\$500)
- 15 for the first facility and fifty dollars (\$50) for each additional
- 16 facility.
- 17 (3) For a warehouse or a buyer-warehouse with a storage capacity
- 18 of at least one million (1,000,000) bushels but less than ten
- 19 million (10,000,000) bushels, seven hundred fifty dollars (\$750)
- 20 for the first facility and fifty dollars (\$50) for each additional
- 21 facility.
- 22 (4) For a warehouse or buyer-warehouse with a storage capacity
- 23 greater than ten million (10,000,000) bushels, one thousand
- 24 dollars (\$1,000) for the first facility and fifty dollars (\$50) for
- 25 each additional facility.
- 26 (5) For a grain buyer, including a grain buyer that is also licensed
- 27 as a warehouse under the warehouse act, five hundred dollars
- 28 (\$500) for the first facility and fifty dollars (\$50) for each
- 29 additional facility.
- 30 The director may prorate the initial application fee for a license that is
- 31 issued at least thirty (30) days after the anniversary date of the
- 32 licensee's business.
- 33 (d) Before the anniversary date of the license, the licensee shall pay
- 34 an annual fee in an amount equal to the amount required under
- 35 subsection (c). **The director may prorate the annual application fee**
- 36 **for a license that is modified at least thirty (30) days after the**
- 37 **anniversary date of the licensee's business.**
- 38 (e) A licensee or an applicant for an initial license must have a
- 39 minimum current asset to current liability ratio of one to one (1:1) or
- 40 better.
- 41 (f) An applicant for an initial license shall submit with the person's
- 42 application a review level financial statement or better financial

COPY



1 statement that reflects the applicant's financial situation on a date not
 2 more than fifteen (15) months before the date on which the application
 3 is submitted. ~~Not more than ninety (90) days after the end of a~~
 4 ~~licensee's fiscal year, the licensee shall file with the agency a current~~
 5 ~~review level financial statement or better financial statement that~~
 6 ~~reflects the licensee's financial situation for the fiscal year just ended:~~

7 ~~A financial statement submitted under this section must:~~

8 ~~(1) be prepared by an independent accountant certified under~~
 9 ~~IC 25-2-1;~~

10 ~~(2) comply with generally accepted accounting principles; and~~

11 ~~(3) contain:~~

12 ~~(A) an income statement;~~

13 ~~(B) a balance sheet;~~

14 ~~(C) a statement of cash flow;~~

15 ~~(D) a statement of retained earnings;~~

16 ~~(E) the preparer's notes; and~~

17 ~~(F) other information the agency may require.~~

18 The director may adopt rules under IC 4-22-2 to allow the agency to
 19 accept other substantial supporting documents instead of those listed
 20 to determine the financial solvency of the applicant if the director
 21 determines that providing the listed documents creates a financial or
 22 other hardship on the applicant or licensee.

23 (g) An application for a license implies a consent to be inspected.

24 (h) A person that:

25 (1) does not operate a facility used to store grain for hire;

26 (2) purchases:

27 (A) less than fifty thousand (50,000) bushels of grain per year;
 28 or

29 (B) only grain used for the production of the person's own
 30 livestock or poultry; and

31 (3) does not purchase grain by:

32 (A) offering deferred pricing;

33 (B) offering delayed payment; or

34 (C) offering other contracts;

35 that are linked to the commodity futures or commodity options
 36 market;

37 is not required to be licensed.

38 (i) Fees collected under this section shall be deposited in the grain
 39 buyers and warehouse licensing agency license fee fund established by
 40 section 6.3 of this chapter.

41 SECTION 6. IC 26-3-7-6.5 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. **The names and**

C
O
P
Y



1 **respective counties of licensees may be disclosed.** Unless in
 2 accordance with a judicial order, the director, the agency, its counsel,
 3 auditors, or its other employees or agents shall not divulge any **other**
 4 information disclosed by the applications or reports filed or inspections
 5 performed under the provisions of this chapter, except to agents and
 6 employees of the agency or to any other legal representative of the state
 7 or federal government otherwise empowered to see or review the
 8 information. The director may disclose the information only in the form
 9 of an information summary or profile, or statistical study based upon
 10 data provided with respect to more than one (1) warehouse, grain
 11 buyer, or buyer-warehouse that does not identify the warehouse, grain
 12 buyer, or buyer-warehouse to which the information applies.

13 SECTION 7. IC 26-3-7-10 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) The minimum
 15 amount of bond, letter of credit, or cash deposit required from a
 16 licensee is as follows:

- 17 (1) For a grain bank license or a warehouse license:
 18 (A) ten thousand dollars (\$10,000); and
 19 (B) ten cents (\$0.10) multiplied by the licensed bushel storage
 20 capacity of the grain bank or warehouse.
 21 (2) For a grain buyer, including a grain buyer that is also a
 22 licensee under the warehouse act:
 23 (A) ten thousand dollars (\$10,000); or
 24 (B) five-tenths percent (0.5%) of the total amount the grain
 25 buyer paid for grain purchased from producers during the
 26 grain buyer's most recent fiscal year;
 27 whichever is greater.
 28 (3) For a buyer-warehouse:
 29 (A) an amount equal to the sum of:
 30 (i) ten thousand dollars (\$10,000); and
 31 (ii) ten cents (\$0.10) multiplied by the licensed bushel
 32 storage capacity of the buyer-warehouse's facility; or
 33 (B) five-tenths percent (0.5%) of the total amount the
 34 buyer-warehouse paid for grain purchased from producers
 35 during the buyer-warehouse's most recent fiscal year;
 36 whichever is greater.

37 (b) Except as provided in subsections (g) and (h), the amount of
 38 bond, letter of credit, or cash deposit required by this chapter may not
 39 exceed one hundred thousand dollars (\$100,000) per license and may
 40 not exceed a total of five hundred thousand dollars (\$500,000) per
 41 person.

42 (c) The licensed bushel storage capacity is the maximum number of

C
o
p
y



1 bushels of grain that the licensee's facility could accommodate as
 2 determined by the director or the director's designated representative
 3 and shall be increased or reduced in accordance with the amount of
 4 space being used for storage from time to time.

5 (d) Instead of a bond or cash deposit, an irrevocable letter of credit
 6 in the prescribed amount may be provided with the director as the
 7 beneficiary. The director shall adopt rules under IC 4-22-2 to establish
 8 acceptable form, substance, terms, and conditions for letters of credit.
 9 The director may not release a party from the obligations of the letter
 10 of credit within eighteen (18) months of the termination of the
 11 licensee's license.

12 (e) The director shall adopt rules under IC 4-22-2 to provide for the
 13 receipt and retention of cash deposits. However, the director shall not
 14 return a cash deposit to a licensee until the director has taken
 15 reasonable precautions to assure that the licensee's obligations and
 16 liabilities have been or will be met.

17 (f) If a person is licensed or is applying for licenses to operate two
 18 (2) or more facilities in Indiana, the person may give a single bond,
 19 letter of credit, or cash deposit to satisfy the requirements of this
 20 chapter and the rules adopted under this chapter to cover all the
 21 person's facilities in Indiana.

22 (g) If a licensee has a deficiency in the minimum positive net worth
 23 required under section 16(a)(2)(B), 16(a)(3)(B), 16(a)(4)(B), or
 24 16(a)(5)(B) of this chapter, the licensee shall add to the amount of
 25 bond, letter of credit, or cash deposit determined under subsection (a)
 26 an amount equal to the deficiency **or provide another form of surety**
 27 **as approved by the director.**

28 (h) Except as provided in subsections (i) and (j), a licensee may not
 29 correct a deficiency in the minimum positive net worth required by
 30 section 16(a)(1), 16(a)(2)(A), 16(a)(3)(A), 16(a)(4)(A), or 16(a)(5)(A)
 31 of this chapter by adding to the amount of bond, letter of credit, or cash
 32 deposit required by subsection (a).

33 (i) A buyer-warehouse that has a bushel storage capacity of less than
 34 one million (1,000,000) bushels or purchases less than one million
 35 (1,000,000) bushels of grain per year may correct a deficiency in
 36 minimum positive net worth by adding to the amount of bond, letter of
 37 credit, or cash deposit determined under subsection (a) if the
 38 buyer-warehouse has a minimum positive net worth of at least fifteen
 39 thousand dollars (\$15,000), not including the amount added to the
 40 bond, letter of credit, or cash deposit.

41 (j) A buyer-warehouse that has a bushel storage capacity of at least
 42 one million (1,000,000) bushels, or purchases at least one million

C
o
p
y



1 (1,000,000) bushels of grain per year, may correct a deficiency in
 2 minimum positive net worth by adding to the amount of bond, letter of
 3 credit, or cash deposit determined under subsection (a) if the
 4 buyer-warehouse has a minimum positive net worth of at least fifty
 5 thousand dollars (\$50,000), not including the amount added to the
 6 bond, letter of credit, or cash deposit.

7 (k) If the director or the director's designated representative finds
 8 that conditions exist that warrant requiring additional bond or cash
 9 deposit, there shall be added to the amount of bond or cash deposit as
 10 determined under the other provisions of this section, a further amount
 11 to meet the conditions.

12 (l) The director may accept, instead of a single cash deposit, letter
 13 of credit, or bond, a deposit consisting of any combination of cash
 14 deposits, letters of credit, or bonds in an amount equal to the licensee's
 15 obligation under this chapter. The director shall adopt rules under
 16 IC 4-22-2 to establish standards for determining the order in which the
 17 forms of security on deposit must be used to pay proven claims if the
 18 licensee defaults.

19 (m) The director may require additional bonding that the director
 20 considers necessary.

21 SECTION 8. IC 26-3-7-16 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A licensee shall
 23 have and maintain a current asset to current liability ratio of one to one
 24 (1:1) and shall maintain, as evidenced by the financial statement
 25 required by section 6 of this chapter, the following minimum positive
 26 net worth:

27 (1) For a grain bank, minimum positive net worth is at least ten
 28 thousand dollars (\$10,000).

29 (2) For a warehouse, minimum positive net worth is at least equal
 30 to the sum of:

31 (A) fifteen thousand dollars (\$15,000); and

32 (B) ten cents (\$0.10) multiplied by the bushel storage capacity
 33 of the warehouse.

34 (3) For a grain buyer, minimum positive net worth is:

35 (A) ten thousand dollars (\$10,000); or

36 (B) five cents (\$0.05) multiplied by the total number of
 37 bushels of grain purchased by the grain buyer during the grain
 38 buyer's most recent fiscal year;

39 whichever is greater.

40 (4) For a buyer-warehouse that has a bushel storage capacity of
 41 less than one million (1,000,000) bushels or purchases less than
 42 one million (1,000,000) bushels of grain per year, minimum

C
O
P
Y



1 positive net worth is:
 2 (A) the sum of:
 3 (i) fifteen thousand dollars (\$15,000); and
 4 (ii) ten cents (\$0.10) multiplied by the bushel storage
 5 capacity of the buyer-warehouse; or
 6 (B) five cents (\$0.05) multiplied by the total number of
 7 bushels of grain purchased by the buyer-warehouse during the
 8 buyer-warehouse's most recent fiscal year;
 9 whichever is greater.
 10 (5) For a buyer-warehouse that has a bushel storage capacity of at
 11 least one million (1,000,000) bushels or purchases at least one
 12 million (1,000,000) bushels of grain per year, minimum positive
 13 net worth is:
 14 (A) the sum of:
 15 (i) fifty thousand dollars (\$50,000); and
 16 (ii) ten cents (\$0.10) multiplied by the bushel storage
 17 capacity of the buyer-warehouse; or
 18 (B) five cents (\$0.05) multiplied by the total number of
 19 bushels of grain purchased by the buyer-warehouse during the
 20 buyer-warehouse's most recent fiscal year;
 21 whichever is greater.
 22 (b) Except as provided in section 10 of this chapter, if a licensee is
 23 required to show additional net worth to comply with this section, the
 24 licensee may satisfy the requirement by adding to the amount of the
 25 bond, letter of credit, or cash deposit required under section 10 of this
 26 chapter an amount equal to the additional net worth required **or**
 27 **provide another form of surety as approved by the director.**
 28 (c) The director may adopt rules under IC 4-22-2 to provide that a
 29 narrative market appraisal that demonstrates assets sufficient to comply
 30 with this section may satisfy the minimum positive net worth
 31 requirement.

C
O
P
Y

