



January 21, 2010

HOUSE BILL No. 1230

DIGEST OF HB 1230 (Updated January 19, 2010 2:20 pm - DI 77)

Citations Affected: IC 26-3; IC 26-4.

Synopsis: Grain buyers and grain indemnity program. Makes certain changes in the grain buyers and warehouse licensing and bonding law, including the following: (1) Eliminates an exception under which a person who buys less than 50,000 bushels of grain annually or who buys grain for the sole purpose of feeding the person's own livestock or poultry and derives a major portion of the person's income from selling that livestock or poultry is not subject to the requirements of the law for grain buyers. (2) Authorizes the director of the grain buyers and warehouse licensing agency (agency) to require a grain buyer offering deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with a grain purchase to document the agreement in writing not more than 21 days after delivery. (3) Requires the director of the grain buyers and warehouse licensing agency to be a member of national grain regulatory organizations. (4) Eliminates an exception under which a person is not required to be licensed if the person does not operate a facility used to store grain for hire, purchases less than 50,000 bushels of grain per year or uses all grain purchased for the production of the person's own livestock or poultry, and does not purchase grain by offering deferred pricing, delayed payment, or contracts that are linked to the commodity futures or commodity options market. (5) Provides that a depositor who does not present a claim at the hearing held by the

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Effective: July 1, 2010.

Pearson, Friend, Grubb, Knollman

January 11, 2010, read first time and referred to Committee on Agriculture and Rural Development.
January 20, 2010, amended, reported — Do Pass.

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Digest Continued

director of the agency concerning a possible shortage may bring a claim to the agency within 15 days after the conclusion of the hearing. Makes certain changes in the grain indemnity program law, including the following: (1) Alters the definitions of the terms "claimant", "deferred pricing", "failure", "grain buyer", "warehouse", and "warehouse operator". (2) Provides that, in determining the amount of compensation to which a claimant who incurred a financial loss due to the failure of a grain buyer is entitled, the compensable part of the claimant's loss is to be reduced by all credits and offsets and any producer premium that should have been due on the sale of the grain. Repeals provisions: (1) defining a "valid claim"; (2) concerning a grain buyer's registration with the board of the grain indemnity corporation; (3) authorizing inspection of the books and records of a registered grain buyer to confirm compliance with the law; (4) excluding a producer from protection under the grain indemnity program under certain circumstances; and (5) providing that the claim of a claimant who incurred a storage loss due to the failure of a warehouse operator is valid only if brought within one year after publication of notice of the grain buyer's failure.

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January 21, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1230

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.64-2009,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: 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 **within the twelve (12) months following delivery** of the

HB 1230—LS 6697/DI 14+



1 financial obligations due from a licensee under this chapter for
 2 grain that has been delivered to the licensee for sale or for storage
 3 under a bailment.
 4 (6) "Deferred pricing" or "price later" means a purchase by a
 5 buyer in which title to the grain passes to the buyer and the price
 6 to be paid to the seller is not determined:
 7 (A) at the time the grain is received by the buyer; or
 8 (B) ~~within ten (10)~~ **less than twenty-one (21) days of receipt**
 9 **after delivery.**
 10 (7) **"Delayed payment" means a purchase by a buyer in which**
 11 **title to the grain passes to the buyer at a determined price and**
 12 **payment to the seller is not made in less than twenty-one (21)**
 13 **days after delivery.**
 14 ~~(7)~~ (8) "Depositor" means any of the following:
 15 (A) A person that delivers grain to a licensee under this
 16 chapter for storage or sale.
 17 (B) A person that:
 18 (i) owns or is the legal holder of a ticket or receipt issued by
 19 a licensee for grain received by the licensee; and
 20 (ii) is the creditor of the issuing licensee for the value of the
 21 grain received in return for the ticket or receipt.
 22 (C) A licensee that stores grain that the licensee owns solely,
 23 jointly, or in common with others in a warehouse owned or
 24 controlled by the licensee or another licensee.
 25 ~~(8)~~ (9) "Designated representative" means the person or persons
 26 designated by the director to act instead of the director in assisting
 27 in the administration of this chapter.
 28 ~~(9)~~ (10) "Director" means the director of the Indiana grain buyers
 29 and warehouse licensing agency appointed under section 1 of this
 30 chapter.
 31 ~~(10)~~ (11) "Facility" means a location or one (1) of several
 32 locations in Indiana that are operated as a warehouse or by a grain
 33 buyer.
 34 ~~(11)~~ (12) **"Failure" "Failed" or "failure"** means any of the
 35 following:
 36 (A) The inability of a licensee to financially satisfy **fully all**
 37 **obligations due to** claimants.
 38 (B) Public declaration of a licensee's insolvency.
 39 (C) Revocation or suspension of a licensee's license, if the
 40 licensee has outstanding indebtedness owed to claimants.
 41 (D) Nonpayment of a licensee's debts in the ordinary course of
 42 business, if there is not a good faith dispute.

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(E) Voluntary surrender of a licensee's license, if the licensee has outstanding indebtedness to claimants.

(F) Involuntary or voluntary bankruptcy of a licensee.

~~(12)~~ **(13)** "Grain" means corn for all uses, popcorn, wheat, oats, barley, rye, sorghum, soybeans, oil seeds, other agricultural commodities as approved by the agency, and seed as defined in this section. The term does not include canning crops for processing, sweet corn, or flint corn.

~~(13)~~ **(14)** "Grain assets" means any of the following:

(A) All grain owned or stored by a licensee, including grain that:

- (i) is in transit following shipment by a licensee; and
- (ii) has not been paid for.

(B) All proceeds, due or to become due, from the sale of a licensee's grain.

(C) Equity, less any secured financing directly associated with the equity, in hedging or speculative margin accounts of a licensee held by a commodity or security exchange, or a dealer representing a commodity or security exchange, and any money due the licensee from transactions on the exchange, less any secured financing directly associated with the money due the licensee from the transactions on the exchange.

(D) Any other unencumbered funds, property, or equity in funds or property, wherever located, that can be directly traced to the sale of grain by a licensee. However, funds, property, or equity in funds or property may not be considered encumbered unless:

- (i) the encumbrance results from valuable consideration paid to the licensee in good faith by a secured party; and
- (ii) the encumbrance did not result from the licensee posting the funds, property, or equity in funds or property as additional collateral for an antecedent debt.

(E) Any other unencumbered funds, property, or equity in assets of the licensee.

~~(14)~~ **(15)** "Grain bank grain" means grain owned by a depositor for use in the formulation of feed and stored by the warehouse to be returned to the depositor on demand.

~~(15)~~ **(16)** "Grain buyer" means a person who is engaged in the business of buying grain from producers. ~~The term does not include a buyer of grain who:~~

~~(A) buys less than fifty thousand (50,000) bushels of grain annually;~~

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1 ~~(B)~~ buys grain for the sole purpose of feeding the person's own
2 livestock or poultry and derives a major portion of the person's
3 income from selling that livestock or poultry; or
4 ~~(C)~~ does not offer storage; deferred pricing; delayed payment;
5 or contracts or other instruments that are linked to the
6 commodity futures or commodity options market.

7 ~~(16)~~ **(17)** "Grain standards act" means the United States Grain
8 Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C.
9 71-87 as amended).

10 ~~(17)~~ **(18)** "License" means a license issued under this chapter.

11 ~~(18)~~ **(19)** "Official grain standards of the United States" means the
12 standards of quality or condition for grain, fixed and established
13 by the secretary of agriculture under the grain standards act.

14 ~~(19)~~ **(20)** "Person" means an individual, partnership, corporation,
15 association, or other form of business enterprise.

16 ~~(20)~~ **(21)** "Receipt" means a warehouse receipt issued by a
17 warehouse licensed under this chapter.

18 ~~(21)~~ **(22)** "Seed", notwithstanding IC 15-15-1, means grain set
19 apart to be used primarily for the purpose of producing new
20 plants.

21 ~~(22)~~ **(23)** "Ticket" means a scale weight ticket, a load slip, or
22 other evidence, other than a receipt, given to a depositor upon
23 initial delivery of grain to a facility.

24 ~~(23)~~ **(24)** "Warehouse act" means the United States Warehouse
25 Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273
26 as amended).

27 ~~(24)~~ **(25)** "Warehouse" means any building or other protected
28 enclosure in one (1) general location licensed or required to be
29 licensed under this chapter in which grain is or may be:
30 (A) stored for hire;
31 (B) used for grain bank storage; or
32 (C) used to store company owned grain;
33 and the building or other protected enclosure is operated under
34 one (1) ownership and run from a single office.

35 ~~(25)~~ **(26)** "Warehouse operator" means a person that operates a
36 facility or group of facilities in which grain is or may be stored for
37 hire or which is used for grain bank storage and which is operated
38 under one (1) ownership and run from a single office.

39 SECTION 2. IC 26-3-7-3 IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The director may do the
41 following:
42 (1) Require any reports that are necessary to administer this

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- 1 chapter.
- 2 (2) Administer oaths, issue subpoenas, compel the attendance and
3 testimony of witnesses, and compel the production of records in
4 connection with any investigation or hearing under this chapter.
- 5 (3) Prescribe all forms within the provisions of this chapter.
- 6 (4) Establish grain standards in accordance with the grain
7 standards act and federal regulations promulgated under that act
8 that must be used by warehouses.
- 9 (5) Investigate the activities required by this chapter including the
10 storage, shipping, marketing, and handling of grain and
11 complaints with respect to the storage, shipping, marketing, and
12 handling of grain.
- 13 (6) Inspect a facility, the grain stored in a facility, and all property
14 and records pertaining to a facility. All inspections of an applicant
15 or licensee under this chapter must take into consideration the
16 proprietary nature of an applicant's or licensee's commercial
17 information. The director may adopt rules under IC 4-22-2
18 regarding inspections permitted under this chapter, and the rules
19 must take into consideration the proprietary nature of an
20 applicant's or a licensee's commercial information. This chapter
21 does not authorize the inspection of an applicant's or licensee's
22 trade secret or intellectual property information.
- 23 (7) Determine whether a facility for which a license has been
24 applied for or has been issued is suitable for the proper storage,
25 shipping, and handling of the grain that is stored, shipped, or
26 handled, or is expected to be stored, shipped, or handled.
- 27 (8) Require a licensee to terminate storage, shipping, marketing,
28 and handling agreements upon revocation of the person's license.
- 29 (9) Attend and preside over any investigation or hearing allowed
30 or required under this chapter.
- 31 (10) Impose sanctions for violations of this article.
- 32 (11) Require a grain buyer and all persons purchasing grain to
33 show evidence of training or licensing on the risks associated with
34 grain marketing practices only if a grain buyer engages in a risk
35 factor higher than a standard defined by the director. This training
36 or licensing may include requiring the grain buyer or person
37 purchasing grain to do any of the following:
- 38 (A) Provide the agency with proof of registry with the
39 commodity futures trading commission (CFTC) as a
40 commodity trading adviser, a futures commission merchant, an
41 introducing broker, or an associated person.
- 42 (B) Demonstrate passage of the series 3 examination

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1 administered by the National Association of Security Dealers.
 2 (C) Annually attend six (6) hours of continuing education,
 3 approved by the director, focusing on the risks to a grain buyer
 4 and seller that are associated with grain marketing practices
 5 and the communication of risks to the producer. Additionally,
 6 as part of continuing education, require a grain buyer, and all
 7 persons purchasing grain for a grain buyer, to pass a test,
 8 approved and administered by the director, that reasonably
 9 measures the grain buyer's understanding of the risks to grain
 10 buyers and sellers associated with producer marketing
 11 strategies.

12 (12) Require all contracts executed after June 30, 1997, for the
 13 purchase of grain from producers, except a flat price contract or
 14 a contract for the production of seed, to include the following
 15 notice immediately above the place on the contract where the
 16 seller of the grain must sign:

17 "NOTICE - SELLER IS CAUTIONED THAT
 18 CONTRACTING FOR THE SALE AND DELIVERY OF
 19 GRAIN INVOLVES RISKS. THESE RISKS MAY INCLUDE
 20 FUTURE PAYMENTS BY YOU TO MAINTAIN THIS
 21 CONTRACT, A LOWER SALES PRICE, AND OTHER
 22 RISKS NOT SPECIFIED.

23 COVERAGE UNDER THE INDIANA GRAIN INDEMNITY
 24 PROGRAM IS LIMITED TO 100% OF A LOSS FOR
 25 STORED GRAIN AND 80% OF A LOSS FOR OTHER
 26 COVERED CONTRACTS.

27 BE SURE YOU UNDERSTAND THE NATURE OF THIS
 28 CONTRACT AND THE ASSOCIATED RISKS."

29 (13) Require all contracts executed after January 1, 2000, for the
 30 production of seed to include the following notice, in conspicuous
 31 letters, immediately above the place on the contract or an
 32 addendum where the seller of the seed must sign:

33 "NOTICE - IF THE TERMS OF THIS CONTRACT STATE
 34 THAT THE CONTRACTOR RETAINS OWNERSHIP OF
 35 THE SEED AND ITS PRODUCTS, YOU MAY NOT BE
 36 ELIGIBLE FOR PARTICIPATION IN THE INDIANA
 37 GRAIN INDEMNITY PROGRAM. TO BE ELIGIBLE TO
 38 PARTICIPATE IN THE INDIANA GRAIN INDEMNITY
 39 PROGRAM, FARMERS MUST OWN AND SELL GRAIN
 40 OR SEED. BE SURE YOU UNDERSTAND THE NATURE
 41 OF THIS CONTRACT AND THE ASSOCIATED RISKS."

42 (14) At any time, order an unannounced audit for compliance with

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- 1 this article.
- 2 (15) Adopt rules under IC 4-22-2 to carry out the purposes and
- 3 intent of this chapter.
- 4 **(16) Require all grain buyers offering deferred pricing,**
- 5 **delayed payments, or contracts linked to the commodity**
- 6 **futures or commodity options market in connection with a**
- 7 **grain purchase to document the agreement in writing not**
- 8 **more than twenty-one (21) days after delivery.**
- 9 (b) The director shall do the following:
 - 10 (1) Establish standards to ensure that a grain buyer has a suitable
 - 11 financial position to conduct a business as a grain buyer.
 - 12 (2) Require a person who conducts business as a grain buyer to
 - 13 first be licensed by the agency.
 - 14 (3) Require any person engaged in the business of advising
 - 15 producers on grain marketing for hire to:
 - 16 (A) register with the agency; and
 - 17 (B) provide the agency with proof of registry with the
 - 18 commodity futures trading commission (CFTC) as a
 - 19 commodity trading advisor, a futures commission merchant, an
 - 20 introducing broker, or an associated person.
 - 21 (c) The director may designate an employee to act for the director
 - 22 in the administration of this chapter. A designee may not:
 - 23 (1) act in matters that require a public hearing or the temporary
 - 24 suspension of a license;
 - 25 (2) adopt rules; or
 - 26 (3) act as the ultimate authority in the administration of this
 - 27 chapter.
 - 28 (d) The director may determine whether geographically separate
 - 29 facilities constitute a single warehouse or grain buyer and in making
 - 30 the determination may consider the following:
 - 31 (1) The number of facilities involved.
 - 32 (2) Whether full weighing equipment is present at the
 - 33 geographically separate facilities.
 - 34 (3) The method of bookkeeping employed by the separate
 - 35 facilities.
 - 36 (4) The hours of operation of the separate facilities.
 - 37 (5) The personnel employed at the separate facilities.
 - 38 (6) Other factors the director deems relevant.
 - 39 **(e) The director and the director's designees shall become**
 - 40 **members of the national grain regulatory organization and shall:**
 - 41 **(1) work in partnership with other state grain regulatory**
 - 42 **officials;**

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(2) participate in national grain regulatory meetings; and
(3) provide expertise and education at national meetings.

SECTION 3. IC 26-3-7-6, AS AMENDED BY P.L.64-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The agency ~~may~~ **shall** 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; chooses to obtain a grain buyer's license; and or~~
- (C) offers deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with grain purchases.

(4) A buyer-warehouse license may be issued to a person that operates both as a warehouse and as a grain buyer.

(b) An applicant shall file with the director a separate application for each license or amendment of a license at the times, on the forms, and containing the information that the director prescribes.

(c) An initial application for a license must be accompanied by a license fee as follows:

- (1) For a grain bank or for a warehouse or buyer-warehouse with a storage capacity of less than two hundred fifty thousand (250,000) bushels, two hundred fifty dollars (\$250) for the first facility and fifty dollars (\$50) for each additional facility.
- (2) For a warehouse or a buyer-warehouse with a storage capacity of at least two hundred fifty thousand (250,000) bushels but less than one million (1,000,000) bushels, five hundred dollars (\$500) for the first facility and fifty dollars (\$50) for each additional facility.
- (3) For a warehouse or a buyer-warehouse with a storage capacity

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1 of at least one million (1,000,000) bushels but less than ten
2 million (10,000,000) bushels, seven hundred fifty dollars (\$750)
3 for the first facility and fifty dollars (\$50) for each additional
4 facility.

5 (4) For a warehouse or buyer-warehouse with a storage capacity
6 greater than ten million (10,000,000) bushels, one thousand
7 dollars (\$1,000) for the first facility and fifty dollars (\$50) for
8 each additional facility.

9 (5) For a grain buyer, including a grain buyer that is also licensed
10 as a warehouse under the warehouse act, five hundred dollars
11 (\$500) for the first facility and fifty dollars (\$50) for each
12 additional facility.

13 The director may prorate the initial application fee for a license that is
14 issued at least thirty (30) days after the anniversary date of the
15 licensee's business.

16 (d) Before the anniversary date of the license, the licensee shall pay
17 an annual fee in an amount equal to the amount required under
18 subsection (c). The director may prorate the annual application fee for
19 a license that is modified at least thirty (30) days after the anniversary
20 date of the licensee's license.

21 (e) A licensee or an applicant for an initial license must have a
22 minimum current asset to current liability ratio of one to one (1:1) or
23 better.

24 (f) An applicant for an initial license shall submit with the person's
25 application a review level financial statement or better financial
26 statement that reflects the applicant's financial situation on a date not
27 more than fifteen (15) months before the date on which the application
28 is submitted. A financial statement submitted under this section must:

- 29 (1) be prepared by an independent accountant certified under
- 30 IC 25-2.1;
- 31 (2) comply with generally accepted accounting principles; and
- 32 (3) contain:
 - 33 (A) an income statement;
 - 34 (B) a balance sheet;
 - 35 (C) a statement of cash flow;
 - 36 (D) a statement of retained earnings;
 - 37 (E) the preparer's notes; and
 - 38 (F) other information the agency may require.

39 The director may adopt rules under IC 4-22-2 to allow the agency to
40 accept other substantial supporting documents instead of those listed
41 to determine the financial solvency of the applicant if the director
42 determines that providing the listed documents creates a financial or

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1 other hardship on the applicant or licensee.

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

3 (h) A person that:

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

5 (2) purchases:

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

7 or

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

10 (3) does not purchase grain by:

11 (A) offering deferred pricing;

12 (B) offering delayed payment; or

13 (C) offering other contracts;

14 that are linked to the commodity futures or commodity options
15 market;

16 is not required to be licensed:

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

20 SECTION 4. IC 26-3-7-16.5 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16.5. (a) Upon learning
22 of the possibility that a shortage exists, either as a result of an
23 inspection or a report or complaint from a depositor, the agency, based
24 on an on-premise inspection, shall make a preliminary determination
25 as to whether a shortage exists. If a shortage is not discovered, the
26 agency shall treat the audit as it would any other audit.

27 (b) If it is determined that a shortage may exist, the director or the
28 director's designated representative shall hold a hearing as soon as
29 possible to confirm the existence of a shortage as indicated by the
30 licensee's books and records and the grain on hand. Only the licensee,
31 the surety company named on the licensee's bond, the issuer of the
32 irrevocable letter of credit, and any grain depositor who has made a
33 claim or complaint to the agency in conjunction with the shortage shall
34 be considered as interested parties for the purposes of that hearing, and
35 each shall be given notice of the hearing. At the hearing, the director
36 or the director's designated representative shall determine whether
37 there appears to be a reasonable probability that a shortage exists. If it
38 is determined that a reasonable probability exists and that the bond or
39 letter of credit proceeds or the cash deposit should be distributed, a
40 preliminary determination shall be entered to the effect that the
41 licensee has failed to meet its obligations under this chapter or the rules
42 adopted under this chapter. At the hearing, the director or the director's

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1 designated representative may order that all proceeds from grain sales
2 are to be held in the form in which they are received and to be kept
3 separate from all other funds held by the licensee. The order may also
4 provide for informal conferences between agency representatives and
5 persons who have or who appear to have grain deposited with the
6 licensee. The surety company shall be permitted to participate in those
7 conferences.

8 (c) In the event that the director determines that the bond or letter
9 of credit proceeds or cash deposit is to be distributed, the agency shall
10 hold a hearing on claims. Notice shall be given to the surety company
11 named on the licensee's bond, the issuer of the irrevocable letter of
12 credit, and to all persons shown by the licensee's books and records to
13 have interests in grain deposited with the licensee. If the agency has
14 actual knowledge of any other depositor or person claiming rights in
15 the grain deposited with the licensee, the bond, the irrevocable letter of
16 credit, or the cash deposit, notice shall also be provided to that person.
17 In addition, public notice shall be provided in newspapers of general
18 circulation that serve the counties in which licensed facilities are
19 located, and notices shall be posted on the licensed premises. At the
20 hearing on claims, the director may accept as evidence of claims the
21 report of agency representatives who in informal conferences with
22 depositors have concluded that a claim is directly and precisely
23 supported by the licensee's books and records. When there is
24 disagreement between the claims of a depositor and the licensee's
25 books and records, the director or the director's designated
26 representative shall hear oral claims and receive written evidence of
27 claims in order to determine the validity of the claim.

28 **(d) Any depositor who does not present a claim at the hearing**
29 **may bring the claim to the agency within fifteen (15) days after the**
30 **conclusion of the hearing.**

31 ~~(d)~~ (e) Following the hearing on claims, the director shall make a
32 determination as to the total proven storage obligation of the claimants
33 and the loss sustained by each depositor who has proven a claim.
34 Depositors found to have proven their claims shall be proven
35 claimants. In arriving at that loss, in accordance with section 19 of this
36 chapter, the director shall apply all grain on hand or its identifiable
37 proceeds to meet the licensee's obligations to grain depositors of grain
38 of that type. Initial determinations of loss shall be made on the amount
39 of grain on hand, or identifiable proceeds, and shall reduce the amount
40 to which a depositor may have a proven claim. With respect to the
41 remaining unfulfilled obligations, the director shall, for the sole
42 purpose of establishing each depositor's claim under this chapter,

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1 establish a date upon which the loss is discovered, shall price the grain
 2 as of that date, shall treat all outstanding grain storage obligations not
 3 covered by grain on hand or identifiable proceeds as being sold as of
 4 that date, and shall determine the extent of each depositor's loss as
 5 being the actual loss sustained as of that date. Grain of a specific type
 6 on the premises of a licensee must first be applied to meet the licensee's
 7 storage obligations with respect to that type of grain. If there is
 8 insufficient grain of a specific type on hand to meet all storage
 9 obligations with respect to that type of grain, the grain that is present
 10 shall be prorated in accordance with the procedures described in this
 11 section and section 16.8 of this chapter.

12 ~~(e)~~ (f) Upon the failure of the agency to begin an audit, which would
 13 serve as the basis for a preliminary administrative determination,
 14 within forty-five (45) days of the agency's receipt of a written claim by
 15 a depositor, a depositor shall have a right of action upon the bond,
 16 letter of credit, or cash deposit. A depositor bringing a civil action need
 17 not join other depositors. If the agency has undertaken an audit within
 18 the forty-five (45) day period, the exclusive remedy for recovery
 19 against the bond, letter of credit, or cash deposit shall be through the
 20 recovery procedure prescribed by this section.

21 ~~(f)~~ (g) When the proven claims exceed the amount of the bond,
 22 letter of credit, or cash deposit, recoveries of proven claimants shall be
 23 prorated in the same manner as priorities are prorated under section
 24 16.8 of this chapter.

25 ~~(g)~~ (h) The proceedings and hearings under this section may be
 26 undertaken without regard to, in combination with, or in addition to
 27 those undertaken in accordance with section 17.1 of this chapter.

28 ~~(h)~~ (i) The findings of the director shall be final, conclusive, and
 29 binding on all parties.

30 ~~(i)~~ (j) The director may adopt rules under IC 4-22-2 to determine
 31 how the agency may distribute the interest that may accrue from funds
 32 held by the agency for the payment of claims.

33 ~~(j)~~ (k) A claim of a licensee for stored grain may not be honored
 34 until the proven claims of all other claimants arising from the purchase,
 35 storage, and handling of the grain have been paid in full.

36 SECTION 5. IC 26-3-7-16.8 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16.8. (a) A lien against
 38 all grain assets of a licensee or a person who is required to be licensed
 39 under this chapter attaches in favor of the following:

- 40 (1) A lender or other claimant that has a receipt for grain owned
 41 or stored by the licensee.
 42 (2) A claimant that has a ticket or written evidence, other than a

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1 receipt, of a storage obligation of the licensee.
 2 (3) A claimant that surrendered a receipt as part of a grain sales
 3 transaction if:
 4 (A) the claimant was not fully paid for the grain sold; and
 5 (B) the licensee failed less than twenty-one (21) days after the
 6 surrender of the receipt.
 7 (4) A claimant that has other written evidence of a sale to the
 8 licensee of grain for which the claimant has not been fully paid.
 9 (b) A lien under this section attaches and is effective at the earliest
 10 of the following:
 11 (1) the delivery of the grain for sale, storage, or under a bailment;
 12 (2) the commencement of the storage obligation; or
 13 (3) the advancement of funds by a lender.
 14 (c) A lien under this section terminates when the licensee discharges
 15 the claim.
 16 (d) If a licensee ~~fails~~, **has failed**, the lien that attaches under this
 17 section is assigned to the agency by operation of this section. If a failed
 18 licensee is liquidated, a lien under this section continues to attach as a
 19 claim against the assets or proceeds of the assets of the licensee that are
 20 received or liquidated by the agency.
 21 (e) Except as provided in subsection (g), if a licensee ~~fails~~, **has**
 22 **failed**, the power to enforce the lien on the licensee's grain assets
 23 transfers by operation of this section to the director and rests
 24 exclusively with the director who shall allocate and prorate the
 25 proceeds of the grain assets as provided in subsections (f) and (h).
 26 (f) The priority of a lien that attaches under this section is not
 27 determined by the date on which the claim arose. If a licensee ~~fails~~, **has**
 28 **failed**, the director shall enforce lien claims and allocate grain assets
 29 and the proceeds of grain assets of the licensee in the following order
 30 of priority:
 31 (1) First priority is assigned to the following:
 32 (A) A lender or other claimant that has a receipt for grain
 33 owned or stored by the licensee.
 34 (B) A claimant that has a ticket or written evidence, other than
 35 a receipt, of a storage obligation of the licensee.
 36 (C) A claimant that surrendered a receipt as part of a grain
 37 sales transaction if:
 38 (i) the claimant was not fully paid for the grain sold; and
 39 (ii) the licensee failed less than twenty-one (21) days after
 40 the surrender of the receipt.
 41 If there are insufficient grain assets to satisfy all first priority
 42 claims, first priority claimants shall share pro rata in the assets.

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1 (2) Second priority is assigned to all claimants who have written
2 evidence of the sale of grain, such as a ticket, a deferred pricing
3 agreement, or similar grain delivery contract, and who completed
4 delivery less than thirty (30) days before the licensee's failure.
5 Claimants under this subdivision share pro rata in the remaining
6 assets if all claimants under subdivision (1) have been paid but
7 insufficient assets remain to fully satisfy all claimants under this
8 subdivision.

9 (3) Third priority is assigned to all other claimants that have
10 written evidence of the sale of grain to the failed licensee.
11 Claimants under this subdivision share pro rata in the distribution
12 of the remaining grain assets.

13 (g) If a claimant under this section brings an action to recover grain
14 assets that are subject to a lien under this section and the agency does
15 not join the action, the director shall, upon request of the claimant,
16 assign the lien to the claimant in order to allow the claimant to pursue
17 the claim to the extent that the action does not delay the resolution of
18 the matter by the agency, the prompt liquidation of the assets, or the
19 ultimate distribution of assets to all claimants.

20 (h) If:
21 (1) a claimant engaged in farming operations granted to one (1)
22 or more secured parties one (1) or more security interests in the
23 grain related to the claimant's claim under this section; and
24 (2) one (1) or more secured parties described in subdivision (1)
25 have given to:
26 (A) the licensee prior written notice of the security interest
27 under IC 26-1-9.1-320(a)(1) or IC 26-1-9-307(1)(a) before its
28 repeal; and
29 (B) the director prior written notice of the security interest
30 with respect to the grain described in subdivision (1) sufficient
31 to give the director a reasonable opportunity to cause the
32 issuance of a joint check under this subsection;

33 the director shall pay the claimant described in subdivision (1) the
34 portion of the proceeds of grain assets under subsection (e) to which
35 the claimant is entitled under this section by issuance of a check
36 payable jointly to the order of the claimant and any secured party
37 described in subdivision (1) who has given the notices described in
38 subdivision (2). If only one (1) secured party described in subdivision
39 (1) is a payee, the rights of the secured party in the check shall be to the
40 extent of the indebtedness of the claimant to the secured party. If two
41 (2) or more secured parties described in subdivision (1) are payees, the
42 nature, extent, and priority of their respective rights in the check are

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1 determined in the same manner as the nature, extent, and priority of
2 their respective security interest under IC 26-1-9.1.

3 SECTION 6. IC 26-4-1-5 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2010]: Sec. 5. "Claimant" means a producer
5 that:

6 (1) is a participant in the grain indemnity program; and satisfies
7 any of the following conditions:

8 (1) Possesses written evidence of ownership of grain, including;
9 but not limited to:

10 (A) warehouse receipts;

11 (B) scale tickets;

12 (C) settlement sheets; and

13 (D) ledger cards;

14 that disclose a storage obligation of a licensed warehouseman that
15 has failed.

16 (2) Has surrendered warehouse receipts as part of a sale of grain
17 with a licensed warehouseman who failed not more than
18 twenty-one (21) days after the surrender of the receipts and the
19 person surrendering the warehouse receipts was not fully paid for
20 the grain.

21 (3) Possesses written evidence of the delivery and sale of grain or
22 transfer of deferred pricing grain to a failed Indiana grain buyer
23 or licensed warehouseman, including; but not limited to:

24 (A) scale tickets;

25 (B) settlement sheets;

26 (C) deferred pricing contracts;

27 (D) basis contracts; or

28 (E) similar grain delivery contracts;

29 but did not get fully paid for the sale or transfer.

30 (2) possesses a claim resulting from a failure of a licensed
31 grain buyer or warehouse; and

32 (3) has a claim that has been adjudicated by the agency under
33 IC 26-3-7-16.5.

34 SECTION 7. IC 26-4-1-8 IS AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2010]: Sec. 8. "Deferred pricing" means a

36 purchase by a buyer where title to the grain passes to the buyer, in
37 which the actual dollar price to be paid to the seller is not to be
38 determined at the time the grain is received by the buyer or within ten
39 (10) less than twenty-one (21) days of that receipt.

40 SECTION 8. IC 26-4-1-10 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. "Failed" or "failure"
42 means any of the following:

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- 1 (1) An inability ~~to~~ **of a licensee to financially** satisfy **fully all**
- 2 **obligations due** a claimant. in accordance with applicable statutes
- 3 or rules and the time limits provided in the statutes or rules.
- 4 (2) A **public** declaration of a **licensee's** insolvency.
- 5 (3) ~~A failure to pay claimants~~ **The nonpayment of a licensee's**
- 6 **debts** in the ordinary course of business where a bona fide dispute
- 7 does not exist between a grain buyer and a customer: **if there is**
- 8 **not a good faith dispute.**
- 9 (4) **Revocation of suspension of a licensee's license, if the**
- 10 **licensee has outstanding indebtedness owed to claimants.**
- 11 (5) **Voluntary surrender of a licensee's license, if the licensee**
- 12 **has outstanding indebtedness to claimants.**
- 13 (6) **Involuntary or voluntary bankruptcy of a licensee.**

14 SECTION 9. IC 26-4-1-13, AS AMENDED BY P.L.1-2006,
 15 SECTION 484, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2010]: Sec. 13. "Grain" means corn for all uses,
 17 popcorn, wheat, oats, rye, soybeans, barley, sorghum, oil seeds, other
 18 agricultural commodities as approved by the agency, and seed (as
 19 defined in ~~IC 26-3-7-2(21))~~. **IC 26-3-7-2(22)**). The term does not
 20 include canning crops for processing, sweet corn, or flint corn.

21 SECTION 10. IC 26-4-1-14 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. ~~(a)~~ "Grain buyer"
 23 means a person **licensed under IC 26-3-7** who is engaged in Indiana
 24 in the business of buying grain from producers.

25 ~~(b) The term does not include a buyer of grain who buys less than~~
 26 ~~fifty thousand (50,000) bushels of grain annually for the buyer's own~~
 27 ~~use as seed or feed.~~

28 SECTION 11. IC 26-4-1-20 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. "Storage loss"
 30 means a loss to a storage depositor resulting from a failed
 31 ~~warehouseman~~ **warehouse operator** not fully satisfying the
 32 ~~warehouseman's~~ **warehouse operator's** storage obligation to the
 33 depositor, net of any outstanding charges against the grain.

34 SECTION 12. IC 26-4-1-23 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. "Warehouse"
 36 means:

- 37 ~~(1) any building or buildings or other protected enclosures in one~~
- 38 ~~(1) general location licensed under IC 26-3-7 in which grain:~~
- 39 ~~(A) may be stored for hire; or~~
- 40 ~~(B) is used for grain bank storage; and~~
- 41 ~~that is operated under one (1) ownership and run from a single~~
- 42 ~~office; or~~

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1 (2) any facility licensed under the United States Warehouse Act.
2 means any building or other protected enclosure in one (1) general
3 location that is licensed or required to be licensed under IC 26-3-7
4 in which grain is or may be:

- 5 (1) stored for hire;
- 6 (2) used for grain bank storage; or
- 7 (3) used to store company owned grain;

8 and the building or other protected enclosure is operated under
9 one (1) ownership and run from a single office.

10 SECTION 13. IC 26-4-1-24 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. "~~Warehouseman~~"
12 means a person engaged in the business of operating a warehouse for
13 storing, shipping, or handling grain for hire that holds a valid
14 warehouseman's license under ~~IC 26-3-7~~ or the United States
15 Warehouse Act. "Warehouse operator" means a person who
16 operates a facility or group of facilities:

- 17 (1) in which grain is or may be stored for hire; or
- 18 (2) that is used for grain bank storage;

19 and that is operated under one (1) ownership and run from a single
20 office that holds a valid license under IC 26-3-7 or the United
21 States Warehouse Act.

22 SECTION 14. IC 26-4-4-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) The Indiana grain
24 indemnity fund is established for the purpose of providing money to
25 pay producers for losses incurred due to the failure of a grain buyer or
26 warehouseman: **warehouse operator licensed under IC 26-3-7.** The
27 fund shall be administered by the board of the corporation.

28 (b) The fund shall operate on a fiscal year of July 1 to June 30.

29 SECTION 15. IC 26-4-4-5 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. ~~Before July 1, 1996;~~
31 ~~the~~ **The** agency shall notify each grain buyer ~~registered~~ **licensed** under
32 ~~IC 26-4-2~~ **IC 26-3-7** that producer premiums described in section 4 of
33 this chapter shall be deducted from the purchase price of the grain on
34 and after the date specified in the notice. The notice must be sent by
35 first class mail.

36 SECTION 16. IC 26-4-6-1 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as
38 provided in section 2 of this chapter, the money in the fund:

- 39 (1) is not available for any purpose other than the payment of
40 ~~valid~~ **claims approved by the board** or refunds to producers who
41 do not want to participate in the fund; and
- 42 (2) may not be transferred to any other fund.

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1 (b) The limiting and nontransferability provision of subsection (a)
2 is declared to be nonseverable from the whole of this article. If
3 subsection (a) is held to be invalid, repealed, or substantially amended,
4 this article shall immediately become invalid and the money remaining
5 in the fund shall be distributed to participants in the fund in a manner
6 that is proportional to the amount of producer premiums each producer
7 paid to the fund.

8 SECTION 17. IC 26-4-6-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Except as
10 provided in subsection (b), within ninety (90) days of the board's
11 approval of a ~~valid~~ claim, the board shall compensate from the fund, in
12 an amount described in section 4 of this chapter and in the manner
13 described in subsection (c), a claimant who has incurred a financial
14 loss or storage loss due to a failure of a grain buyer or ~~warehouseman~~
15 **warehouse operator licensed under IC 26-3-7.**

16 (b) The time for payment may be extended if the board and claimant
17 mutually agree and put the terms of the payment in writing.

18 (c) If:
19 (1) a claimant engaged in farming operations granted to one (1)
20 or more secured parties one (1) or more security interests in the
21 grain related to the claimant's claim under this section; and
22 (2) one (1) or more secured parties described in subdivision (1)
23 have given to:

24 (A) the licensee prior written notice of the security interest
25 under IC 26-1-9.1-320(a)(1) or IC 26-1-9-307(1)(a) before its
26 repeal; and

27 (B) the board prior written notice of the security interest with
28 respect to the grain described in subdivision (1) sufficient to
29 give the board a reasonable opportunity to cause the issuance
30 of a joint check under this subsection;

31 the board may compensate the claimant described in subdivision (1) in
32 the amount to which the claimant is entitled under section 4 of this
33 chapter by causing the issuance of a check payable jointly to the order
34 of the claimant and any secured party described in subdivision (1) who
35 has given the notices described in subdivision (2). If only one (1)
36 secured party described in subdivision (1) is a payee, the rights of the
37 secured party in the check shall be to the extent of the indebtedness of
38 the claimant to the secured party. If two (2) or more secured parties
39 described in subdivision (1) are payees, the nature, extent, and priority
40 of their respective rights in the check are determined in the same
41 manner as the nature, extent, and priority of their respective security
42 interest under IC 26-1-9.1.

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1 SECTION 18. IC 26-4-6-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A claimant who
 3 has incurred a storage loss due to the failure of a ~~warehouseman~~
 4 **warehouse operator licensed under IC 26-3-7** is entitled to be
 5 compensated by the board from the fund for one hundred percent
 6 (100%) of the storage loss incurred less **all credits and offsets and** any
 7 producer premium that would have been due on the sale of the grain.
 8 The gross amount of the storage loss shall be as determined by the
 9 agency for warehouses licensed under IC 26-3-7 or by the United States
 10 Department of Agriculture for warehouses licensed under the United
 11 States Warehouse Act. The ~~warehouseman~~ **warehouse operator** and
 12 claimants may submit to the agency evidence related to outstanding
 13 charges against stored grain. If the evidence is submitted, the agency
 14 shall determine the storage loss payable by the board.

15 (b) A claimant who has incurred a financial loss due to the failure
 16 of a grain buyer is entitled to be compensated by the board from the
 17 fund for eighty percent (80%) of the loss incurred **less all credits and**
 18 **offsets and any producer premium that should have been due on**
 19 **the sale of the grain.** The agency shall determine the loss incurred in
 20 the following manner:

21 (1) For grain that has been priced, the loss shall be the value of
 22 the priced grain less any outstanding charges against the grain.

23 (2) For grain sold to a grain buyer who is also a ~~warehouseman~~
 24 **warehouse operator** and that has not been priced, the loss shall
 25 be established using the price determined for the storage
 26 obligations.

27 (3) For grain sold to a grain buyer who is not a ~~warehouseman~~
 28 **warehouse operator** and that has not been priced, the loss shall
 29 be established using a price determined by the agency using the
 30 same procedures used by the agency to determine the price at the
 31 warehouse.

32 SECTION 19. IC 26-4-6-6 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. A claimant
 34 compensated under this chapter may be required to subrogate to the
 35 board or corporation all the claimant's rights to collect on a bond issued
 36 under IC 26-3-7 or the United States Warehouse Act and all the
 37 claimant's rights to any other compensation arising from the failure of
 38 the grain buyer or ~~warehouseman~~ **warehouse operator**. If so required,
 39 the claimant shall assign all the claimant's rights, title, and interest in
 40 any judgment concerning the failure to the board or corporation.

41 SECTION 20. IC 26-4-6-8 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. After the agency has

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1 determined that a grain buyer or warehouse has defaulted payment or
2 failed, the board shall have the following duties:

3 (1) Determine the valid claims and the amount of such claims to
4 be paid to claimants for financial losses that were incurred due to
5 the failure of a grain buyer or ~~warehouseman~~ **warehouse**
6 **operator**.

7 (2) Authorize payment of money from the fund when necessary
8 for the purpose of compensating claimants in accordance with the
9 provisions of this chapter.

10 (3) Collect money through subrogated claims against bonds filed
11 under IC 26-3-7 in the place of claimants who collected for a loss
12 incurred due to a warehouse or grain buyer failure.

13 (4) Borrow money as authorized under IC 26-4-3-9 if the fund has
14 insufficient money to cover ~~valid~~ **approved** claims.

15 (5) Deposit into the fund any remaining grain assets of a failed
16 grain buyer or ~~warehouseman~~ **warehouse operator** for the
17 purpose of repayment to the fund the money used to pay
18 claimants, subject to any priority lien right a holder of a mortgage,
19 security interest, or other encumbrance may possess under any
20 other applicable law. Any repayment into the fund may not
21 exceed the principal amount paid to claimants plus interest at the
22 rate paid on ninety (90) day United States Treasury bills.

23 (6) If the amount in the fund is insufficient to pay all ~~valid~~
24 **approved** claims in accordance with this chapter and the board
25 is unable to borrow funds for whatever reason, ~~grant priority of~~
26 ~~payment of~~ **authorize payment of** all the **approved** claims in the
27 ~~order the claims were approved as valid by the board.~~ **on a pro**
28 **rata basis.**

29 SECTION 21. IC 26-4-7-2 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. This article does not
31 limit the authority of the director of the agency to take disciplinary
32 action against a grain buyer or ~~warehouseman~~ **warehouse operator**
33 licensed under IC 26-3-7 for a violation of IC 26-3-7, this article, or the
34 rules of the agency.

35 SECTION 22. IC 26-4-7-3 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The repayment in
37 full of all obligations to the fund by a grain buyer or ~~warehouseman~~
38 **warehouse operator** does not nullify or modify the effect of any other
39 disciplinary proceeding brought under IC 26-3-7 or this article.

40 SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE
41 JULY 1, 2010]: IC 26-4-1-22; IC 26-4-2-1; IC 26-4-2-2; IC 26-4-2-3;
42 IC 26-4-2-4; IC 26-4-2-5; IC 26-4-5-3; IC 26-4-6-5.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1230, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, between lines 38 and 39, begin a new paragraph and insert:

"(e) The director and the director's designees shall become members of the national grain regulatory organization and shall:

- (1) work in partnership with other state grain regulatory officials;**
- (2) participate in national grain regulatory meetings; and**
- (3) provide expertise and education at national meetings."**

Page 8, line 16, strike "and" and insert "**or**".

Page 16, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 12. IC 26-4-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. "Warehouse" means:

- (1) any building or buildings or other protected enclosures in one (1) general location licensed under IC 26-3-7 in which grain:
 - (A) may be stored for hire; or
 - (B) is used for grain bank storage; and
 that is operated under one (1) ownership and run from a single office; or
- (2) any facility licensed under the United States Warehouse Act:

means any building or other protected enclosure in one (1) general location that is licensed or required to be licensed under IC 26-3-7 in which grain is or may be:

- (1) stored for hire;
- (2) used for grain bank storage; or
- (3) used to store company owned grain;

and the building or other protected enclosure is operated under one (1) ownership and run from a single office."

Page 16, delete lines 28 through 33, begin a new paragraph and insert:

"SECTION 13. IC 26-4-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. "Warehouseman" means a person engaged in the business of operating a warehouse for storing, shipping, or handling grain for hire that holds a valid warehouseman's license under IC 26-3-7 or the United States Warehouse Act. "Warehouse operator" means a person who operates a facility or group of facilities:

- (1) in which grain is or may be stored for hire; or

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**(2) that is used for grain bank storage;
and that is operated under one (1) ownership and run from a single
office that holds a valid license under IC 26-3-7 or the United
States Warehouse Act."**

Page 17, line 23, strike "valid".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1230 as introduced.)

PFLUM, Chair

Committee Vote: yeas 10, nays 0.

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