



## Indiana Grain Buyers and Warehouse Licensing Agency

Governor Eric Holcomb

Lt. Governor Suzanne Crouch, Secretary of Agriculture and Rural Development

Ted A. McKinney, Director, Indiana State Department of Agriculture

Ed Sheldon, Director, Indiana Grain Buyers and Warehouse Licensing Agency

To: Indiana Licensed Grain Buyers, Warehouses, and Grain Banks

From: Ed Sheldon, IGBWLA Director

A handwritten signature in black ink that reads "Ed Sheldon".

Date: June 9, 2017

RE: Indemnity Fund and Legislative Changes

We would like to remind you of some upcoming changes, including the projected ceasing of collections for the Indiana Grain Indemnity Fund, as well as requirements resulting from House Enrolled Act 1237 that was passed by the General Assembly this spring.

### Indiana Grain Indemnity Fund

Collections of producer premiums for the Indiana Grain Indemnity Fund *are projected to cease* at 11:59 pm June 30, 2017. Please begin planning for needed software or process updates to accommodate this change. ***Please note: Premium collections are based on actual settlement date (when payment is issued), not date of price establishment. No IGIF deductions should be made on checks issued after June 30.*** As normal, remittances of premiums collected during the second quarter will be due to IGIC by July 31, 2017.

IC 26-4-4 states that producer premiums must be collected until the fund reaches more than twenty-five million dollars (\$25,000,000), as of June 30 of any given year. As of April 30, 2017 the fund contained \$32,779,581.16. If unanticipated circumstances cause the fund to drop below the threshold level before June 30, thus requiring a continuation of collections, we will notify you immediately.

Please note that collections and remittances for the Indiana Corn & Soybean (SPARC) Checkoff programs will continue as normal. These programs are separate from the Indiana Grain Indemnity Program.

### Legislative Changes

The Indiana General Assembly recently passed HB 1237. This legislation contains several changes to the statutes governing the Indiana Grain Buyers and Warehouse Licensing Agency and the Indiana Grain Indemnity Program.

A full copy of House Enrolled Act No. 1237 can be found at <http://www.in.gov/isda/2351.htm>. The IGBWLA statute IC 26-3-7 and the IGIC statute IC 26-4 can be found there as well. It will be some time before the changes found in the new act will be incorporated into the two statutes, although the law became effective upon passage.

The following two sections of the new law will directly affect licensed grain buyers and warehouses in Indiana.

#### IC 26-3-7-3 (12)

The "risk paragraph" that has long been required to be included in most purchase contracts will need to be modified to reflect the new 15 month coverage duration for Indiana Grain Indemnity Fund protection. The law specifies that these changes be made to contract by August 31, 2017. IGBWLA auditors will monitor compliance with this change during regular state audits.

Exact language is as follows (additional required contract language in bold print):

(12) Require all contracts executed **after August 31, 2017**, for the purchase of grain from producers, except a flat price contract or a contract for the production of seed, to include the following notice immediately above the place on the contract where the seller of the grain must sign:

"NOTICE - SELLER IS CAUTIONED THAT CONTRACTING FOR THE SALE AND DELIVERY OF GRAIN INVOLVES RISKS. THESE RISKS MAY INCLUDE FUTURE PAYMENTS BY YOU TO MAINTAIN THIS CONTRACT, A LOWER SALES PRICE, AND OTHER RISKS NOT SPECIFIED. COVERAGE UNDER THE INDIANA GRAIN INDEMNITY PROGRAM IS **FOR GRAIN THAT HAS BEEN DELIVERED TO A FIRST PURCHASER LICENSEE WITHIN THE 15 MONTHS BEFORE THE DATE OF FAILURE AND IS LIMITED TO 100% OF A LOSS FOR STORED GRAIN AND 80% OF A LOSS FOR OTHER COVERED CONTRACTS. BE SURE YOU UNDERSTAND THE NATURE OF THIS CONTRACT AND THE ASSOCIATED RISKS.**"

#### **IC 26-3-7-4.2**

This section is new and addresses licensees or prospective licensees who are based out of state, and do not regularly conduct business or cannot normally be contacted at an address in Indiana. These firms will be now be required to appoint a registered agent so that Agency staff will have a defined point-of-contact within the state. The new section is quoted in its entirety below:

SECTION 4. IC 26-3-7-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.2. (a) If an applicant for a license or a renewal of a license issued under this chapter does not regularly conduct business at an address at which the applicant usually can be contacted in Indiana, the applicant shall include with the applicant's application a written appointment of a registered agent for service of process, notice, or demand.

b) The appointment in subsection (a) must be accompanied by a written acceptance of the appointment by the registered agent.

(c) The registered agent must be an individual who is a resident of Indiana or a corporation whose principal place of business is located in Indiana.

(d) The appointment must be made in the form and manner prescribed by the director.

(e) If a registered agent resigns or relocates from Indiana or the applicant revokes the registered agent's appointment, the applicant shall:

(1) immediately notify the director in writing not later than thirty (30) days before the resignation, relocation, or revocation; and

(2) file with the director a written appointment of another registered agent, along with a written acceptance of the appointment signed by the registered agent.

(f) If a registered agent dies or is incapacitated, the applicant shall:

(1) immediately notify the director in writing of the death or incapacity;

(2) not later than thirty (30) days after the death or incapacity, appoint another registered agent; and

(3) file with the director a written appointment of the other registered agent, along with a written acceptance of the appointment signed by the registered agent.

(g) Failure to comply with this section is grounds for denial, suspension, or revocation of a license.

We thank you for the great cooperation and support you have shown over the past two years in collecting and remitting Indemnity Fund premiums. We also thank in advance for the efforts to bring your company into compliance with the new statutory requirements. If you have any questions about how the new laws may affect your business or need assistance in any way, please contact the IGBWLA office at 317-232-1360.