

IC 26-4

ARTICLE 4. GRAIN INDEMNITY PROGRAM

IC 26-4-1

Chapter 1. Applicability and Definitions

IC 26-4-1-1

Applicability of law

Sec. 1. This article applies to a grain buyer (as defined in section 14 of this chapter).

As added by P.L.250-1995, SEC.1.

IC 26-4-1-2

Applicability of definitions

Sec. 2. The definitions in this chapter apply throughout this article.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-3

"Agency"

Sec. 3. "Agency" refers to the Indiana grain buyers and warehouse licensing agency established under IC 26-3-7.

As added by P.L.250-1995, SEC.1. Amended by P.L.125-1997, SEC.56.

IC 26-4-1-4

"Board"

Sec. 4. "Board" means the governing body of the Indiana grain indemnity corporation created by IC 26-4-3-2.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-5

"Claimant"

Sec. 5. "Claimant" means a producer that:

- (1) is a participant in the grain indemnity program;
- (2) possesses a claim resulting from a failure of a licensed grain buyer or warehouse; and
- (3) has a claim that has been adjudicated by the agency under IC 26-3-7-16.5.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.15.

IC 26-4-1-6

"Cooperative agreement"

Sec. 6. "Cooperative agreement" means an agreement made by the board as may be reasonable and proper to carry out the provisions of this article.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-7**"Corporation"**

Sec. 7. "Corporation" means the Indiana grain indemnity corporation established by IC 26-4-3-1.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-8**"Deferred pricing"**

Sec. 8. "Deferred pricing" means a purchase by a buyer where title to the grain passes to the buyer, in which the actual dollar price to be paid to the seller is not to be determined at the time the grain is received by the buyer or less than twenty-one (21) days of that receipt.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.16.

IC 26-4-1-9**"Director"**

Sec. 9. "Director" means the director of the agency (as defined in section 3 of this chapter).

As added by P.L.250-1995, SEC.1.

IC 26-4-1-10**"Failed" or "failure"**

Sec. 10. "Failed" or "failure" means any of the following:

- (1) An inability of a licensee to financially satisfy fully all obligations due a claimant.
- (2) A public declaration of a licensee's insolvency.
- (3) The nonpayment of a licensee's debts in the ordinary course of business if there is not a good faith dispute.
- (4) Revocation or suspension of a licensee's license, if the licensee has outstanding indebtedness owed to claimants.
- (5) Voluntary surrender of a licensee's license, if the licensee has outstanding indebtedness to claimants.
- (6) Involuntary or voluntary bankruptcy of a licensee.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.17; P.L.42-2011, SEC.61.

IC 26-4-1-11**"Financial loss"**

Sec. 11. "Financial loss" means a loss resulting from a producer not being fully paid for grain that has been delivered and sold to a grain buyer, net of any outstanding charges against the grain.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-12**"Fund"**

Sec. 12. "Fund" means the Indiana grain indemnity fund established under IC 26-4-4-1.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-13

"Grain"

Sec. 13. "Grain" means corn for all uses, popcorn, wheat, oats, rye, soybeans, barley, sorghum, oil seeds, other agricultural commodities as approved by the agency, and seed (as defined in IC 26-3-7-2(24)). The term does not include canning crops for processing, sweet corn, or flint corn.

As added by P.L.250-1995, SEC.1. Amended by P.L.173-1999, SEC.15; P.L.1-2006, SEC.484; P.L.75-2010, SEC.18; P.L.60-2015, SEC.13.

IC 26-4-1-14

"Grain buyer"

Sec. 14. "Grain buyer" means a person licensed under IC 26-3-7 who is engaged in Indiana in the business of buying grain from producers.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.19.

IC 26-4-1-15

"Grain indemnity program"

Sec. 15. "Grain indemnity program" means the system created by this article to have the board pay money out of the fund to producers having losses due to a failure.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-16

"Participant in the grain indemnity program"

Sec. 16. "Participant in the grain indemnity program" means a producer who has never requested a refund under IC 26-4-5-1, or has reentered the program under IC 26-4-5-2.

As added by P.L.250-1995, SEC.1. Amended by P.L.268-2001, SEC.1.

IC 26-4-1-17

"Person"

Sec. 17. "Person" means a natural person, partnership, firm, association, corporation, limited liability company, or other business organization.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-18

"Producer"

Sec. 18. "Producer" means an owner of land, a tenant on land, or an operator of a farm that has an interest in and receives all or any part of the proceeds from the sale in Indiana of the grain produced.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-19**"Producer premium"**

Sec. 19. "Producer premium" means the amount of money charged to and collected from a producer under IC 26-4-4-4 that qualifies the producer to be a part of the grain indemnity program.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-19.5**"Seed"**

Sec. 19.5. "Seed", notwithstanding IC 15-15-1, means grain set apart to be used primarily for the purpose of producing new plants.

As added by P.L.173-1999, SEC.16. Amended by P.L.2-2008, SEC.68.

IC 26-4-1-20**"Storage loss"**

Sec. 20. "Storage loss" means a loss to a storage depositor resulting from a failed warehouse operator not fully satisfying the warehouse operator's storage obligation to the depositor, net of any outstanding charges against the grain.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.20.

IC 26-4-1-21**"United States Warehouse Act"**

Sec. 21. "United States Warehouse Act" means the United States Warehouse Act, enacted August 11, 1916, as amended.

As added by P.L.250-1995, SEC.1.

IC 26-4-1-22**Repealed**

(As added by P.L.250-1995, SEC.1. Amended by P.L.173-1999, SEC.17. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-1-23**"Warehouse"**

Sec. 23. "Warehouse" 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.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.21.

IC 26-4-1-24**"Warehouse operator"**

Sec. 24. "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
- (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.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.22.

IC 26-4-1-25

"Warehouse receipt"

Sec. 25. "Warehouse receipt" means any of the following:

- (1) A warehouse receipt issued under the Public Grain Warehouse and Warehouse Receipts Act in accordance with the Uniform Commercial Code.
- (2) A warehouse receipt issued under IC 26-3-7.
- (3) A warehouse receipt issued under the United States Warehouse Act.

As added by P.L.250-1995, SEC.1.

IC 26-4-2
Chapter 2. Grain Buyers Registration

IC 26-4-2-1

Repealed

(As added by P.L.250-1995, SEC.1. Amended by P.L.115-1999, SEC.2. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-2-2

Repealed

(As added by P.L.250-1995, SEC.1. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-2-3

Repealed

(As added by P.L.250-1995, SEC.1. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-2-4

Repealed

(As added by P.L.250-1995, SEC.1. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-2-5

Repealed

(As added by P.L.250-1995, SEC.1. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-3

Chapter 3. Indiana Grain Indemnity Corporation

IC 26-4-3-1

Establishment as a public body corporate

Sec. 1. The Indiana grain indemnity corporation is established. The corporation is a public body corporate and politic, and though it is separate from the state, the exercise by the corporation of its powers constitutes an essential governmental function. The corporation may sue and be sued and plead and be impleaded.

As added by P.L.250-1995, SEC.1.

IC 26-4-3-2

Board of directors; establishment; powers and duties; members

Sec. 2. (a) The corporation's board is created. The governing powers of the corporation are vested in the board, which is composed of thirteen (13) members as described in subsections (b) and (c).

(b) The board consists of the following ten (10) voting members:

(1) Two (2) members appointed by the largest Indiana organization representing the interests of grain and feed dealers in Indiana.

(2) Two (2) members appointed by the largest Indiana organization representing general farm interests in Indiana.

(3) One (1) member appointed by the second largest Indiana organization representing general farm interests in Indiana.

(4) One (1) member appointed by the largest Indiana organization exclusively representing the interests of corn producers.

(5) One (1) member appointed by the largest Indiana organization exclusively representing the interests of soybean producers in Indiana.

(6) Two (2) members appointed by the largest Indiana organization representing the interests of bankers in Indiana.

(7) One (1) member appointed by the largest Indiana organization representing the interests of the seed trade in Indiana.

The members appointed under subdivisions (2) through (5) must be producers.

(c) The board consists of the following three (3) nonvoting members:

(1) The attorney general.

(2) The treasurer of state.

(3) The director of the agency, who shall serve as the chairperson.

(d) The attorney general and treasurer of state may each designate a representative to serve on the board.

As added by P.L.250-1995, SEC.1. Amended by P.L.115-1999, SEC.3; P.L.5-2009, SEC.1.

IC 26-4-3-3

Board of directors; term; vacancies

Sec. 3. (a) A member of the board appointed under section 2(b) of this chapter:

- (1) serves for a four (4) year term;
- (2) is entitled to the same per diem and mileage allowances provided by law for state employees; and
- (3) may be reappointed.

(b) A vacancy created by a member described in subsection (a) shall be filled by the appointing body of the person who created the vacancy. The replacement board member shall fill the vacancy for the unexpired term of the previous member.

(c) A vacancy in the membership of the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

As added by P.L.250-1995, SEC.1.

IC 26-4-3-4

Board of directors; quorum

Sec. 4. (a) Except as provided in subsection (b), six (6) voting members constitute a quorum. The affirmative votes of at least six (6) voting members are necessary for any action to be taken by the board.

(b) A meeting may be adjourned by less than six (6) members.

As added by P.L.250-1995, SEC.1. Amended by P.L.115-1999, SEC.4.

IC 26-4-3-5

Board of directors; meetings

Sec. 5. The board shall meet at least two (2) times each year. One (1) meeting of the board must be held in July.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.23.

IC 26-4-3-6

Board of directors; notice of meetings

Sec. 6. (a) Except as provided in subsection (b), a member of the board must be given at least five (5) days written notice of the meetings.

(b) A member of the board may waive any notice required by this section or bylaws of the corporation before or after the date and time stated in the notice. The waiver by the board member entitled to the notice must be in writing and be hand delivered or mailed to the corporation for inclusion in the minutes or filing with the corporate records.

(c) A board member's attendance at a meeting waives any objection:

- (1) to the lack of a notice or a defective notice of the meeting, unless the member at the beginning of the meeting objects to

holding the meeting or transacting business at the meeting; and
(2) to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the notice, unless the member objects to considering the matter when it is presented.

As added by P.L.250-1995, SEC.1.

IC 26-4-3-7

Board of directors; duties

Sec. 7. The board shall do the following:

- (1) Adopt rules, create forms, and establish guidelines to implement this article.
- (2) Collect and deposit all producer premiums authorized under IC 26-4-4-4 into the fund for investment by the board.
- (3) Initiate any action it may consider necessary to compel the grain buyer against whom an awarded claim arose to repay to the fund the sums that are disbursed from the fund in relation to each claim.
- (4) Initiate any action it may consider necessary to compel the claimant whose claim arose due to a failure to participate in any legal proceeding in relation to the claim.
- (5) Within five (5) business days of receiving notice of failure of a grain buyer, publish notice of the failure in a manner described in IC 5-3.

As added by P.L.250-1995, SEC.1.

IC 26-4-3-8

Board of directors; liability

Sec. 8. A member of the board or other person acting on behalf of the corporation is not personally liable for damage or injury resulting from the performance of the member's or person's duties under this article.

As added by P.L.250-1995, SEC.1.

IC 26-4-3-9

Powers and duties of corporation

Sec. 9. (a) The corporation may do or shall have any of the following:

- (1) Perpetual succession by its corporate name as a corporate body.
- (2) Adopt and make use of an official seal and alter the same at pleasure.
- (3) Adopt, amend, and repeal bylaws consistent with the provisions of this article for the regulation and conduct of the corporation's affairs and prescribe rules and policies in connection with the performance of the corporation's functions and duties.
- (4) Use the services of the agency and the attorney general when considered necessary in the execution of the duties of the board.

(5) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with any attached conditions.

(6) Procure insurance against any loss in connection with its operations in the amounts and from the insurers as it considers necessary or desirable.

(7) Borrow money from a bank, an insurance company, an investment company, or any other person. The corporation may negotiate the terms of a loan contract. The contract must provide for repayment of the money in not more than forty (40) years and that the loan may be prepaid. The loan contract must plainly state that it is not an indebtedness of the state but constitutes a corporate obligation solely of the corporation and is payable solely from revenues of the corporation or any appropriations from the state that might be made to the corporation for that purpose.

(8) Include in any borrowing amounts considered necessary by the corporation to pay financing charges, interest on the obligations, consultant, advisory, and legal fees, and other expenses necessary or incident to such borrowing.

(9) Employ personnel as may be required in the judgment of the corporation, and fix and pay compensation from money available to the corporation from the administrative expenses account.

(10) Make, execute, and carry out any and all contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this article.

(11) Upon the request of the director of the agency and the approval of the board, make payment from the fund when the payment is necessary for the purpose of compensating claimants in accordance with the provisions of IC 26-4-6.

(12) Have powers necessary or appropriate for the exercise of the powers specifically conferred upon the corporation and all incidental powers customary in corporations.

(b) The corporation or the board may use the services of a person other than the attorney general to collect money owed to the fund or to litigate claims concerning money owed to the fund.

As added by P.L.250-1995, SEC.1.

IC 26-4-3-10

Repealed

(As added by P.L.5-1996, SEC.18. Repealed by P.L.177-2011, SEC.5.)

IC 26-4-4

Chapter 4. Indiana Grain Indemnity Fund

IC 26-4-4-1

Establishment of fund; fiscal year

Sec. 1. (a) The Indiana grain indemnity fund is established for the purpose of providing money to pay producers for losses incurred due to the failure of a grain buyer or warehouse operator licensed under IC 26-3-7. The fund shall be administered by the board of the corporation.

(b) The fund consists of money collected under this chapter.

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

As added by P.L.250-1995, SEC.1. Amended by P.L.173-1999, SEC.18; P.L.75-2010, SEC.24; P.L.60-2015, SEC.14.

IC 26-4-4-2

Fund administration expenses

Sec. 2. (a) The administrative expense account is created within the fund.

(b) The expenses of administering the fund and paying administrative expenses must be paid from money in the administrative expense account.

(c) The board may transfer annually not more than two hundred fifty thousand dollars (\$250,000) from the fund to the administrative expense account.

(d) Administrative expenses under this section may include:

(1) processing refunds;

(2) enforcement of the fund;

(3) record keeping in relation to the fund;

(4) the ordinary management and investment fees connected with the operation of the fund; and

(5) legal fees and legal expenses in actions brought against the corporation or board and that have been approved by the board.

As added by P.L.250-1995, SEC.1. Amended by P.L.5-2009, SEC.2; P.L.60-2015, SEC.15.

IC 26-4-4-3

Premiums held in trust; investment of fund; interest; reversion

Sec. 3. (a) All producer premiums submitted to the board by a grain buyer under section 6(b) of this chapter shall be held by the corporation in trust in the fund for carrying out the purposes of this article. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest earned from these investments shall be credited to the fund.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.250-1995, SEC.1.

IC 26-4-4-4

Producer premiums

Sec. 4. (a) Except as provided in section 8 of this chapter, beginning on July 1, 2015, the producers of grain shall be charged a producer premium equal to two-tenths percent (0.2%) of the price on all marketed grain that is sold in Indiana.

(b) The producer premiums required under this section are in addition to any other fees or assessments required by law.

As added by P.L.250-1995, SEC.1. Amended by P.L.60-2015, SEC.16.

IC 26-4-4-5

Notice of producer premium deductions

Sec. 5. The agency shall notify each grain buyer licensed under IC 26-3-7 that producer premiums described in section 4 of this chapter shall be deducted from the purchase price of the grain on and after the date specified in the notice. The notice must be sent by first class mail.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.25.

IC 26-4-4-6

Submission of producer premiums to finance fund

Sec. 6. (a) When purchasing grain, a grain buyer, a grain buyer's agent, or a grain buyer's representative shall:

- (1) deduct the producer premium described in section 4 of this chapter from the producer's payment; and
- (2) document the producer premium paid by the producer.

(b) A grain buyer shall submit producer premiums collected under subsection (a) to the board for the purpose of financing or contributing to the financing of the fund by:

- (1) October 31 for producer premiums collected during the months of July, August, and September;
- (2) January 31 for producer premiums collected during the months of October, November, and December;
- (3) April 30 for producer premiums collected during the months of January, February, and March; and
- (4) July 31 for producer premiums collected during the months of April, May, and June.

As added by P.L.250-1995, SEC.1.

IC 26-4-4-7

Inspection of books and records; verification; confidentiality

Sec. 7. (a) The:

- (1) books and records of each grain buyer must clearly indicate the producer premiums collected by the grain buyer; and
- (2) portion of the books and records reflecting the premiums collected must be open for inspection by the corporation, board, board's authorized agents, director, or the director's designee

during regular business hours.

(b) The corporation, board, board's authorized agent, director, or the director's designee may take steps reasonably necessary to verify the accuracy of the portion of a grain buyer's books and records that reflect the premiums collected. The information obtained under this section is confidential for purposes of IC 5-14-3-4(a)(1). Unless otherwise required by judicial order, the information obtained under this section may be disclosed only to parties empowered to see or review the information. The corporation, board, or director may respond to inquiries or disclose information obtained under this section only in accordance with guidelines set forth in IC 26-3-7-6.5.

(c) Notwithstanding subsections (a) and (b), the verification permitted under subsection (b) must be completed by the agency unless two-thirds (2/3) of the board vote to have the verification completed by an independent auditor.

As added by P.L.250-1995, SEC.1.

IC 26-4-4-8

Amount of fund; basis for suspension and reinstatement of producer premium collection

Sec. 8. (a) The producer premiums required under section 4 of this chapter must be collected until the fund contains more than twenty-five million dollars (\$25,000,000), as of June 30 of any given year.

(b) Except as provided in subsection (c), after the fund reaches twenty-five million dollars (\$25,000,000), the board may not require the collection of additional producer premiums until the amount in the fund drops below twenty million dollars (\$20,000,000), as determined under section 9 of this chapter. In a year when the board determines that the fund is at or below twenty million dollars (\$20,000,000), the board shall reinstate the collection described in this chapter.

(c) The board shall reinstate the collection described in this chapter if as of May 1:

- (1) the fund contains at least twenty million dollars (\$20,000,000);
- (2) the board is aware of a failure of a grain buyer; and
- (3) the amount of compensation from the fund to cover producers' claims, as determined by the board, is equal to or greater than the amount of money in the fund.

As added by P.L.250-1995, SEC.1. Amended by P.L.5-2009, SEC.3; P.L.60-2015, SEC.17.

IC 26-4-4-9

Certification of fund balance; discretion of board to suspend collection

Sec. 9. (a) At the July meeting required under IC 26-4-3-5, the board shall certify the amount of money in the fund on June 30.

(b) Except as provided in section 8(c) of this chapter, the board

may not require the collection of a producer premium during a fiscal year when the board certifies under subsection (a) that the fund has money in excess of twenty million dollars (\$20,000,000). If the fund is at or below twenty million dollars (\$20,000,000), the board shall reinstate the collection.

As added by P.L.250-1995, SEC.1. Amended by P.L.5-2009, SEC.4; P.L.75-2010, SEC.26; P.L.60-2015, SEC.18.

IC 26-4-4-10

Repealed

(As added by P.L.250-1995, SEC.1. Repealed by P.L.268-2001, SEC.2.)

IC 26-4-5

Chapter 5. Withdrawal From and Reentry Into the Grain Indemnity Program

IC 26-4-5-1

Refunds; form, restrictions, extension, notice

Sec. 1. (a) A producer upon and against whom a producer premium is charged and collected under the provisions of this chapter may demand of and by complying with this chapter receive from the fund through the board a refund of the producer premiums collected from the producer.

(b) The board shall develop the form on which a demand for a refund must be filed. The board shall make the form available to grain buyers, producers, and the public upon request.

(c) Except as provided in subsection (d), a demand for a refund under this section is only valid if:

(1) made in writing and:

(A) hand delivered; or

(B) sent by first class mail;

to the board; and

(2) delivered or sent to the board not more than twelve (12) months after the premium was collected.

(d) The board may for good cause grant an extension for filing a demand for a refund under this chapter.

(e) A producer that requests and receives a refund under this section is not protected and will not be compensated by the grain indemnity program.

(f) Before January 1 of each year in which producer premiums were collected during the immediately preceding calendar year, the board shall send a notice to each producer who requested a refund of producer premiums in any previous year. The notice must inform the producer of the time frame in which a request for a refund must be made and the method of filing for a refund.

As added by P.L.250-1995, SEC.1.

IC 26-4-5-2

Reentry into program; conditions; date coverage commences

Sec. 2. (a) A producer who has received a refund of a producer premium under section 1 of this chapter and has made a request for reentry may reenter the grain indemnity program if the following conditions are satisfied:

(1) The producer petitions the board for approval of reentry into the grain indemnity program by hand delivering or sending by certified mail, return receipt requested, a written request in a form required by the board.

(2) The board reviews the producer's petition for reentry and approves the petition.

(3) The producer pays into the fund:

- (A) all previous producer premium refunds; and
 - (B) interest on the refunds;
- as determined by the board.

(b) A producer that reenters the grain indemnity program under subsection (a)(3) is protected by the program from the time all previous producer premium refunds and interest on the refunds are paid to the fund.

As added by P.L.250-1995, SEC.1.

IC 26-4-5-3

Repealed

(As added by P.L.250-1995, SEC.1. Amended by P.L.173-1999, SEC.19. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-6

Chapter 6. Payments to Producers Under the Grain Indemnity Program

IC 26-4-6-1

Restrictions on use of fund; nonseverability of provision

Sec. 1. (a) The money in the fund:

(1) is not available for any purpose other than the payment of claims approved by the board or refunds to producers who do not want to participate in the fund; and

(2) may not be transferred to any other fund.

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

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.27; P.L.60-2015, SEC.19.

IC 26-4-6-2

Repealed

(As added by P.L.250-1995, SEC.1. Repealed by P.L.60-2015, SEC.20.)

IC 26-4-6-3

Compensation from fund; extension

Sec. 3. (a) Except as provided in subsection (b), within ninety (90) days of the board's approval of a claim, the board shall compensate from the fund, in an amount described in section 4 of this chapter and in the manner described in subsection (c), a claimant who has incurred a financial loss or storage loss due to a failure of a grain buyer or warehouse operator licensed under IC 26-3-7.

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

(c) If:

(1) a claimant engaged in farming operations granted to one (1) or more secured parties one (1) or more security interests in the grain related to the claimant's claim under this section; and

(2) one (1) or more secured parties described in subdivision (1) have given to:

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

(B) the board prior written notice of the security interest with respect to the grain described in subdivision (1) sufficient to give the board a reasonable opportunity to cause the issuance

of a joint check under this subsection;
the board may compensate the claimant described in subdivision (1) in the amount to which the claimant is entitled under section 4 of this chapter by causing the issuance of a check payable jointly to the order of the claimant and any secured party described in subdivision (1) who has given the notices described in subdivision (2). If only one (1) secured party described in subdivision (1) is a payee, the rights of the secured party in the check shall be to the extent of the indebtedness of the claimant to the secured party. If two (2) or more secured parties described in subdivision (1) are payees, the nature, extent, and priority of their respective rights in the check are determined in the same manner as the nature, extent, and priority of their respective security interest under IC 26-1-9.1.
As added by P.L.250-1995, SEC.1. Amended by P.L.115-1999, SEC.5; P.L.1-2002, SEC.102; P.L.75-2010, SEC.28.

IC 26-4-6-4

Percentage of compensation

Sec. 4. (a) A claimant who has incurred a storage loss due to the failure of a warehouse operator licensed under IC 26-3-7 is entitled to be compensated by the board from the fund for one hundred percent (100%) of the storage loss incurred less all credits and offsets and any producer premium that would have been due on the sale of the grain. The gross amount of the storage loss shall be as determined by the agency for warehouses licensed under IC 26-3-7 or by the United States Department of Agriculture for warehouses licensed under the United States Warehouse Act. The warehouse operator and claimants may submit to the agency evidence related to outstanding charges against stored grain. If the evidence is submitted, the agency shall determine the storage loss payable by the board.

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

- (1) For grain that has been priced, the loss shall be the value of the priced grain less any outstanding charges against the grain.
- (2) For grain sold to a grain buyer who is also a warehouse operator and that has not been priced, the loss shall be established using the price determined for the storage obligations.
- (3) For grain sold to a grain buyer who is not a warehouse operator and that has not been priced, the loss shall be established using a price determined by the agency using the same procedures used by the agency to determine the price at the warehouse.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.29.

IC 26-4-6-5

Repealed

(As added by P.L.250-1995, SEC.1. Repealed by P.L.75-2010, SEC.35.)

IC 26-4-6-6

Subrogation of claim

Sec. 6. A claimant compensated under this chapter may be required to subrogate to the board or corporation all the claimant's rights to collect on a bond issued under IC 26-3-7 or the United States Warehouse Act and all the claimant's rights to any other compensation arising from the failure of the grain buyer or warehouse operator. If so required, the claimant shall assign all the claimant's rights, title, and interest in any judgment concerning the failure to the board or corporation.

As added by P.L.250-1995, SEC.1. Amended by P.L.173-1999, SEC.20; P.L.75-2010, SEC.30.

IC 26-4-6-7

Denial of claim

Sec. 7. The board shall deny the payment of compensation under this chapter to a claimant who has incurred a financial loss or storage loss due to the failure of a warehouse or grain buyer when the board determines the existence of any of the following:

(1) The claimant as payee has failed to present for payment a negotiable instrument issued as payment for grain within ninety (90) days from the date the negotiable instrument is tendered to the claimant in satisfaction of obligations for grain purchased by the licensed grain establishment.

(2) The claimant has engaged in conduct or practices that differ from generally accepted marketing practices within the grain industry to an extent that the claimant's actions have substantially contributed to the claimant's loss. The Indiana grain indemnity board may consider whether contracts not excluded under IC 26-3-7-4 are to be generally accepted marketing practices within the grain industry.

As added by P.L.250-1995, SEC.1. Amended by P.L.139-1996, SEC.13.

IC 26-4-6-8

Duties of board following failure to pay by warehouse or grain buyer

Sec. 8. After the agency has determined that a grain buyer or warehouse has defaulted payment or failed, the board shall have the following duties:

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

(2) Authorize payment of money from the fund when necessary

for the purpose of compensating claimants in accordance with the provisions of this chapter.

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

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

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

(6) If the amount in the fund is insufficient to pay all approved claims in accordance with this chapter and the board is unable to borrow funds for whatever reason, authorize payment of all the approved claims on a pro rata basis.

As added by P.L.250-1995, SEC.1. Amended by P.L.173-1999, SEC.21; P.L.75-2010, SEC.31.

IC 26-4-7
Chapter 7. Rules

IC 26-4-7-1

Authority

Sec. 1. The agency, corporation, and board have authority to publish and adopt rules consistent with this article.

As added by P.L.250-1995, SEC.1.

IC 26-4-7-2

Disciplinary action

Sec. 2. This article does not limit the authority of the director of the agency to take disciplinary action against a grain buyer or warehouse operator licensed under IC 26-3-7 for a violation of IC 26-3-7, this article, or the rules of the agency.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.32.

IC 26-4-7-3

Effect of repayment to fund

Sec. 3. The repayment in full of all obligations to the fund by a grain buyer or warehouse operator does not nullify or modify the effect of any other disciplinary proceeding brought under IC 26-3-7 or this article.

As added by P.L.250-1995, SEC.1. Amended by P.L.75-2010, SEC.33.

IC 26-4-8
Chapter 8. Penalties

IC 26-4-8-1
Failure to collect or pay premiums

Sec. 1. A person who knowingly or intentionally refuses or fails to:

- (1) collect from producers under the program; or
- (2) pay producer premiums collected from producers under the program;

commits a Class A misdemeanor. In addition to the criminal penalty under this section, the grain buyer must also pay to the fund money collected from producers and owed to the fund.

As added by P.L.250-1995, SEC.1.

IC 26-4-8-2
Other violations

Sec. 2. A person who knowingly makes any false statement, representation, or certification, or who knowingly fails to make any statement, representation, or certification, in any record, report, or other document filed or required to be filed or maintained by the director, agency, board, or corporation commits a Class A misdemeanor.

As added by P.L.250-1995, SEC.1.

IC 26-4-8-3
Interference with board's or corporation's performance of duties

Sec. 3. Except as permitted by law, a person who willfully or knowingly resists, prevents, impedes, or interferes with the board or other agents or employees of the corporation or the board in the performance of the duties assigned under this article commits a Class A misdemeanor.

As added by P.L.250-1995, SEC.1.