

**ACT No. 12**

2016 Regular Session

HOUSE BILL NO. 592

BY REPRESENTATIVE ANDERS

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

\* \* \*

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

\* \* \*



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

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

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

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

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

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

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

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

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

10 \* \* \*

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

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

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

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

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

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

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_