

2020 Regular Session

HOUSE BILL NO. 496

BY REPRESENTATIVE RISER AND SENATOR WOMACK

1 AN ACT

2 To amend and reenact R.S. 3:3402(10) and (12) through (19), 3406(A)(1) and (2),  
3 3410.1(A), and 3412.1(C)(1) and (2), (E), (F)(1), and (I)(introductory paragraph), to  
4 enact R.S. 3:3402(20) and 3410.1(G), and to repeal R.S. 3:3412.1(C)(4), relative to  
5 the agricultural dealer and warehouse law; to provide for definitions; to provide for  
6 powers and duties of the commissioner of agriculture; to provide for exceptions to  
7 licensure and notice applicable to noncommercial grain buyers or other unlicensed  
8 grain dealers; to provide for changes in balance allocation, suspension of collections,  
9 and claims under the Grain and Cotton Indemnity Fund; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 3:3402(10) and (12) through (19), 3406(A)(1) and (2), 3410.1(A),  
13 and 3412.1(C)(1) and (2), (E), F(1), and (I)(introductory paragraph) are hereby amended and  
14 reenacted and R.S. 3:3402(20) and 3410.1(G) are hereby enacted to read as follows:

15 §3402. Definitions

16 As used in this Chapter, the following terms shall have the meanings ascribed  
17 below:

18 \* \* \*

19 (10) "Grain dealer" means any person who purchases any agricultural  
20 commodities from producers or represents producers in the sale of agricultural  
21 commodities. The term does not include ~~producers who purchase grain commodities~~

1 for their own use as feed or seed any person who qualifies as a noncommercial grain  
2 buyer.

3 \* \* \*

4 (12) "Noncommercial grain buyer" means any person who purchases, or  
5 contracts to purchase, less than ten thousand bushels of grain or five thousand  
6 hundredweights of rice in a calendar year.

7 ~~(12)~~ (13) "Open" or "open position" means the grain dealer's contracts for  
8 purchase or sale of agricultural commodities which are unhedged.

9 ~~(13)~~ (14) "Open storage" means any storage for which a warehouse receipt  
10 has not been issued.

11 ~~(14)~~ (15) "Person" means any individual, partnership, company, firm,  
12 association, cooperative association, corporation, or any other legal entity engaged  
13 in any of the activities regulated under this Chapter.

14 ~~(15)~~ (16) "Producer" means the owner, tenant, lessee, or operator of land  
15 within this state who has an interest in or receives all or any part of the proceeds  
16 from the sale of agricultural commodities produced thereon.

17 ~~(16)~~ (17) "Risk position" means the loss potential to the grain dealer  
18 resulting from bringing its open position to market.

19 ~~(17)~~ (18) "Security" means any financial instrument or document issued for  
20 the benefit of or given to the commission by a licensee, or participation in any self-  
21 insurance fund program authorized by this Chapter as assurance for the fulfillment  
22 of the obligations imposed on the licensee by applicable law or regulations.

23 ~~(18)~~ (19) "Warehouse" means any building, structure, or any other protected  
24 enclosure required to be licensed by the commission in which agricultural  
25 commodities or other farm products are stored for the public for a fee. The term  
26 includes facilities which commingle commodities belonging to different owners and  
27 facilities which preserve the separate identities of different lots of agricultural  
28 commodities.

1                   (~~19~~) (20) "Warehouseman" means any person or other entity operating a  
2                   warehouse.

3                                                                   \*       \*       \*

4                   §3406. Powers and duties of the commissioner

5                   A. The commissioner shall administer and enforce this Chapter in  
6                   accordance with the rules and regulations promulgated by the commission. In the  
7                   administration and enforcement of this Chapter, the commissioner and his duly  
8                   constituted representatives are specifically authorized to do the following:

9                   (1) Enter the premises of any warehouse, cotton merchant, or cotton agent;  
10                  ~~or grain dealer~~ required to be licensed under this Chapter, or those of any person  
11                  purchasing grain from Louisiana producers, at any reasonable time during normal  
12                  working hours, for the purpose of making any examination or any inspection of the  
13                  premises and the contents thereof as may be necessary.

14                  (2) Examine, copy, and audit the accounts, books, and records, including  
15                  stock records, position records, balance sheets, scale tickets, and warehouse receipts  
16                  of any warehouse, cotton merchant, or cotton agent, ~~or grain dealer~~ required to be  
17                  licensed under this Chapter, or those of any person purchasing grain from Louisiana  
18                  producers, including all warehouses or grain dealers, or both, licensed under the  
19                  United States Warehouse Act, as amended, and any applicant for licensure under this  
20                  Chapter, or as otherwise permitted under this Chapter.

21                                                                   \*       \*       \*

22                  §3410.1. License to buy or sell agricultural commodities; posting requirements for  
23                  grain dealers; duration of license

24                  A. No person shall engage in the business of buying or selling agricultural  
25                  commodities from producers unless licensed by the commission, except a person that  
26                  qualifies as a noncommercial grain buyer.

27                                                                   \*       \*       \*

28                  G. Any noncommercial grain buyer, or other person not licensed as a grain  
29                  dealer, shall post notification in a conspicuous area on their premises, and on any  
30                  document used in the purchase of grain, including contracts and receipts, that they

1           are not a licensed grain dealer, and any producer selling grain to an unlicensed  
2           person is not eligible to make a claim with the Grain and Cotton Indemnity Fund.

3                                           \*           \*           \*

4           §3412.1. Grain and Cotton Indemnity Fund; creation; assessment; rules and  
5                                           regulations; suspension of assessment; eligibility for reimbursement;  
6                                           availability of money; prorated claims; reimbursement for administrative  
7                                           expenses; failure to pay; subrogation

8                                           \*           \*           \*

9                                           C. The assessments charged under this Section shall be subject to the  
10                                          following provisions:

11                                         (1) All assessments ~~collected~~ received pursuant to this Section shall be  
12                                         deposited immediately ~~upon receipt~~ in the state treasury.

13                                         (2) After compliance with the requirements of Article VII, Section 9 of the  
14                                         Constitution of Louisiana relative to the Bond Security and Redemption Fund, and  
15                                         prior to monies being placed in the state general fund, an amount equal to that  
16                                         deposited as required by Paragraph (1) of this Subsection shall be credited to a  
17                                         special fund hereby created in the state treasury to be known as the Grain and Cotton  
18                                         Indemnity Fund. The monies in this fund shall be used solely as provided in  
19                                         Paragraph (3) of this Subsection and only in the amounts appropriated by the  
20                                         legislature. All unexpended and unencumbered monies in this fund at the end of  
21                                         each fiscal year shall ~~remain in this fund~~ be transferred to the Louisiana Agricultural  
22                                         Finance Authority to provide solely for the administration and operation of the fund  
23                                         provided for in this Section. The monies in this fund shall be invested by the state  
24                                         treasurer in the same manner as monies in the state general fund, and interest earned  
25                                         on the investment of these monies shall be credited to this fund, again, following  
26                                         compliance with the requirement of Article VII, Section 9 of the Constitution of  
27                                         Louisiana relative to the Bond Security and Redemption Fund.

28                                           \*           \*           \*

29                                         E. ~~At the end of the calendar quarter~~ Beginning on July 1st following the  
30                                         fiscal year in which the ~~Grain and Cotton Indemnity Fund~~ balance within the

1        Louisiana Agricultural Finance Authority reaches a level of ~~six~~ twelve million  
 2        dollars, the commission shall suspend collection of the assessment required by this  
 3        Section. If after suspension of collection the balance ~~in the fund~~ is less than ~~three~~ ten  
 4        million dollars, the commission shall require collection of the assessment. Any  
 5        assessments collected after the balance reaches twelve million dollars, but prior to  
 6        the suspension of collection, shall remain within the Louisiana Agricultural Finance  
 7        Authority.

8                F. A producer shall be eligible to receive indemnity payments from the Grain  
 9        and Cotton Indemnity Fund if:

10              (1) The licensed grain dealer becomes insolvent ~~after January 1, 2008.~~

11                                                    \*        \*        \*

12              I. Notwithstanding any other provision of law to the contrary, if the  
 13        commission pays a claim ~~using Grain and Cotton Indemnity Funds~~ in accordance  
 14        with this Section, then all payments shall be made jointly payable to the claimant and  
 15        to all secured parties and lienholders that, ~~ten days before the~~ were included in the  
 16        most recent master listing of farm products within the central registry as provided in  
 17        R.S. 3:3654, or addendum thereto, published by the secretary of state prior to the  
 18        payment date; and hold a security interest in or a lien on the crops, farm products, or  
 19        agricultural commodities, perfected by the filing of a financing statement that:

20                                                    \*        \*        \*

21        Section 2. R.S. 3:3412.1(C)(4) is hereby repealed in its entirety.

\_\_\_\_\_  
 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 PRESIDENT OF THE SENATE

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

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

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.