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**Requirements for Grain Dealers**

**State of Illinois**

*Indemnity Fund*

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## Requirements for Grain Dealers

### STATE OF ILLINOIS

*Current through P.A. 98-925 of the 2014 Reg. Sess.*

#### **240 ILCS 40/5-30**

#### **40/5-30. Grain Insurance Fund assessments**

The Illinois Grain Insurance Fund is established as a continuation of the fund created under the Illinois Grain Insurance Act, now repealed. Licensees, applicants for a new license, first sellers of grain to grain dealers at Illinois locations, and lenders to licensees shall pay assessments as set forth in this Section.

(a) Subject to subsection (e) of this Section, a licensee that is newly licensed after the effective date of this Code shall pay an assessment into the Fund for 3 consecutive years. These assessments are known as “newly licensed assessments”. Except as provided in item (6) of subsection (b) of this Section, the first installment shall be paid at the time of or before the issuance of a new license, the second installment shall be paid on or before the first anniversary date of the issuance of the new license, and the third installment shall be paid on or before the second anniversary date of the issuance of the new license. For a grain dealer, the payment of each of the 3 installments shall be based upon the total estimated value of grain purchases by the grain dealer for the applicable year with the final installment amount determined as set forth in item (6) of subsection (b) of this Section. After the licensee has paid or was required to pay the last 3 installments of the newly licensed assessments, the licensee shall be subject to subsequent assessments as set forth in subsection (d) of this Section.

(b) Grain dealer newly licensed assessments.

(1) The first installment for a grain dealer shall be an amount equal to:

(A) \$0.000145 multiplied by the total value of grain purchases for the grain dealer's first fiscal year as shown in the final financial statement for that year provided to the Department under Section 5-20; and

(B) \$0.000255 multiplied by that portion of the value of grain purchases for the grain dealer's first fiscal year that exceeds the adjusted equity of the licensee multiplied by 20, as shown on the final financial statement for the licensee's first fiscal year provided to the Department under Section 5-20.

(2) The minimum amount for the first installment shall be \$500 and the maximum shall be \$15,000.

(3) The second installment for a grain dealer shall be an amount equal to:

(A) \$0.0000725 multiplied by the total value of grain purchases for the grain dealer's second fiscal year as shown in the final financial statement for that year provided to the Department under Section 5-20; and

(B) \$0.0001275 multiplied by that portion of the value of grain purchases for the grain dealer's second fiscal year that exceeds the adjusted equity of the licensee multiplied by 20, as shown on the final financial statement for the licensee's second fiscal year

provided to the Department under Section 5-20.

(4) The third installment for a grain dealer shall be an amount equal to:

(A) \$0.0000725 multiplied by the total value of grain purchases for the grain dealer's third fiscal year as shown in the final financial statement for that year provided to the Department under Section 5-20; and

(B) \$0.0001275 multiplied by that portion of the value of grain purchases for the grain dealer's third fiscal year that exceeds the adjusted equity of the licensee multiplied by 20, as shown on the final financial statement for the licensee's third fiscal year.

(5) The minimum amount of the second and third installments shall be \$250 per year and the maximum for each year shall be \$7,500.

(6) Each of the newly licensed assessments shall be adjusted up or down based upon the actual annual grain purchases for each year as shown in the final financial statement for that year provided to the Department under Section 5-20. The adjustments shall be determined by the Department within 30 days of the date of approval of renewal of a license. Refunds shall be paid out of the Fund within 60 days after the Department's determination. Additional amounts owed for any installment shall be paid within 30 days after notification by the Department.

(7) For the purposes of grain dealer newly licensed assessments under subsection (b) of this Section, the total value of grain purchases shall be the total value of first time grain purchases by Illinois locations from producers.

(8) The second and third installments shall be paid to the Department within 60 days after the date posted on the written notice of assessment. The Department shall immediately deposit all paid installments into the Fund.

(c) Warehouseman newly licensed assessments.

(1) The first assessment for a warehouseman shall be an amount equal to:

(A) \$0.00085 multiplied by the total permanent storage capacity of the warehouseman at the time of license issuance; and

(B) \$0.00099 multiplied by that portion of the permanent storage capacity of the warehouseman at the time of license issuance that exceeds the adjusted equity of the licensee multiplied by 5, all as shown on the final financial statement for the licensee provided to the Department under Section 5-10.

(2) The minimum amount for the first installment shall be \$500 and the maximum shall be \$15,000.

(3) The second and third installments shall be an amount equal to:

(A) \$0.000425 multiplied by the total permanent storage capacity of the warehouseman at the time of license issuance; and

(B) \$0.000495 multiplied by that portion of the permanent licensed storage capacity of the warehouseman at the time of license issuance that exceeds the adjusted equity of the licensee multiplied by 5, as shown on the final financial statement for the licensee's last completed fiscal year provided to the Department under Section 5-20.

(4) The minimum amount for the second and third installments shall be \$250 per installment and the maximum for each installment shall be \$7,500.

(5) Every warehouseman shall pay an assessment when increasing available permanent storage capacity in an amount equal to \$0.001 multiplied by the total number of bushels to be added to permanent storage capacity. The minimum assessment on any increase in permanent storage capacity shall be \$50 and the maximum assessment shall be \$20,000. The assessment based upon an increase in permanent storage capacity shall be paid at or before the time of approval of the increase in permanent storage capacity. This assessment on the increased permanent

storage capacity does not relieve the warehouseman of any assessments as set forth in subsection (d) of this Section.

(6) Every warehouseman shall pay an assessment of \$0.0005 per bushel when increasing available storage capacity by use of temporary storage space. The minimum assessment on temporary storage space shall be \$100. The assessment based upon temporary storage space shall be paid at or before the time of approval of the amount of the temporary storage space. This assessment on the temporary storage space capacity does not relieve the warehouseman of any assessments as set forth in subsection (d) of this Section.

(7) Every warehouseman shall pay an assessment of \$0.001 per bushel of emergency storage space. The minimum assessment on any emergency storage space shall be \$100. The assessment based upon emergency storage space shall be paid at or before the time of approval of the amount of the emergency storage space. This assessment on the emergency storage space does not relieve the warehouseman of any assessments as set forth in subsection (d) of this Section.

(8) The second and third installments shall be paid to the Department within 60 days after the date posted on the written notice of assessment. The Department shall immediately deposit all paid installments into the Fund.

(d) Grain dealer subsequent assessments; warehouseman subsequent assessments.

(1) Subject to paragraph (4) of this subsection (d), if on the first working day of a calendar quarter when a licensee is not already subject to an assessment under this subsection (d) (the assessment determination date), if the equity in the Fund is less than \$6,000,000, every grain dealer who has, or was required to have, already paid the newly licensed assessments shall be assessed by the Department in a total amount equal to:

(A) \$0.0000725 multiplied by the total value of grain purchases for the grain dealer's last completed fiscal year prior to the assessment determination date as shown in the final financial statement for that year provided to the Department under Section 5-20; and

(B) \$0.0001275 multiplied by that portion of the value of grain purchases for the grain dealer's last completed fiscal year prior to the assessment determination date that exceeds the adjusted equity of the licensee multiplied by 20, as shown on the final financial statement for the licensee's last completed fiscal year provided to the Department under Section 5-20.

The minimum total amount for the grain dealer's subsequent assessment shall be \$250 per 12-month period and the maximum amount shall be \$7,500 per 12-month period.

For the purposes of grain dealer assessments under this item (1) of subsection (d) of this Section, the total value of grain purchases shall be the total value of first time grain purchases by Illinois locations from producers.

(2) Subject to paragraph (4) of this subsection (d), if on the first working day of a calendar quarter when a licensee is not subject to an assessment under this subsection (d) (the assessment determination date), if the equity in the Fund is less than \$6,000,000, every warehouseman who has, or was required to have, already paid the newly licensed assessments shall be assessed a warehouseman subsequent assessment by the Department in a total amount equal to:

(A) \$0.000425 multiplied by the total licensed storage capacity of the warehouseman as of the first day of September that immediately precedes the assessment determination date; and

(B) \$0.000495 multiplied by that portion of the licensed storage capacity of the

warehouseman as of the first day of September that immediately precedes the assessment determination date that exceeds the adjusted equity of the licensee multiplied by 5, as shown on the final financial statement for the licensee's last completed fiscal year provided to the Department under Section 5-20.

The minimum total amount for a warehouseman subsequent assessment shall be \$250 per 12-month period and the maximum amount shall be \$7,500 per 12-month period.

(3) Subject to paragraph (4) of this subsection (d), if the equity in the Fund is below \$6,000,000 on the first working day of a calendar quarter when a licensee is not already subject to an assessment under this subsection (d) (the assessment determination date), every incidental grain dealer who has, or was required to have, already paid all 3 installments of the newly licensed assessments shall be assessed by the Department in a total amount equal to \$100. It shall be paid to the Department within 60 days after the date posted on the written notification by the Department, which shall be sent after the first day of the calendar quarter immediately following the assessment determination date.

(4) Following the payment of the final quarterly installment by grain dealers and warehousemen, the next assessment determination date can be no sooner than the first working day of the sixth full calendar month following the payment.

(5) All assessments under paragraphs (1) and (2) of this subsection (d) shall be effective as of the first day of the calendar quarter immediately following the assessment determination date and shall be paid to the Department by licensees in 4 equal installments by the twentieth day of each consecutive calendar quarter following notice by the Department of the assessment. The Department shall give written notice to all licensees of when the assessment is effective, and the rate of the assessment, by mail within 20 days after the assessment determination date.

(6) After an assessment under paragraph (1) and (2) of this subsection (d) is instituted, the amount of any unpaid installments for the assessment shall not be adjusted based upon any change in the financial statements or licensed storage capacity of a licensee.

(7) If the due date for the payment by a licensee of the third assessment under subsections (b) and (c) of this Section 5-30 is after the assessment determination date, that licensee shall not be subject to any of the 4 installments of an assessment under paragraphs (1) and (2) of this subsection (d).

(8) The Department shall immediately deposit all paid assessments into the Fund.

(e) Newly licensed; exemptions.

(1) For the purpose of assessing fees for the Fund under subsection (a) of this Section, and subject to the provisions of item (e)(2) of this Section, the Department shall consider the following to be newly licensed:

(A) A person that becomes a licensee for the first time after the effective date of this Code.

(B) A licensee who has a lapse in licensing of more than 30 days. A license shall not be considered to be lapsed after its revocation or termination if an administrative or judicial action is pending or if an order from an administrative or judicial body continues an existing license.

(C) A grain dealer that is a general partnership in which there is a change in partnership interests and that change is greater than 50% during the partnership's fiscal year.

(D) A grain dealer that is a limited partnership in which there is a change in the controlling interest of a general partner and that change is greater than 50% of the total controlling interest during the limited partnership's fiscal year.

(E) A grain dealer that is a limited liability company in which there is a change in

membership interests and that change is greater than 50% during the limited liability company's fiscal year.

(F) A grain dealer that is the result of a statutory consolidation if that person has adjusted equity of less than 90% of the combined adjusted equity of the predecessor persons who consolidated. For the purposes of this paragraph, the adjusted equity of the resulting person shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year of the resulting person. For the purpose of this paragraph, the combined adjusted equity of the predecessor persons shall be determined by combining the adjusted equity of each predecessor person as set forth in the most recent approved or certified financial statement of each predecessor person submitted to the Department.

(G) A grain dealer that is the result of a statutory merger if that person has adjusted equity of less than 90% of the combined adjusted equity of the predecessor persons who merged. For the purposes of this paragraph, the adjusted equity of the resulting person shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year of the resulting person ending after the merger. For the purposes of this paragraph, the combined adjusted equity of the predecessor persons shall be determined by combining the adjusted equity of each predecessor person as set forth in the most recent approved or certified financial statement submitted to the Department for the last fiscal year of each predecessor person ending on the date of or before the merger.

(H) A grain dealer that is a general partnership in which there is a change in partnership interests and that change is 50% or less during the partnership's fiscal year if the adjusted equity of the partnership after the change is less than 90% of the adjusted equity of the partnership before the change. For the purpose of this paragraph, the adjusted equity of the partnership after the change shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year ending after the change. For the purposes of this paragraph, the adjusted equity of the partnership before the change shall be determined from the approved or certified financial statement submitted to the Department for the last fiscal year of the partnership ending on the date of or before the change.

(I) A grain dealer that is a limited partnership in which there is a change in the controlling interest of a general partner and that change is 50% or less of the total controlling interest during the partnership's fiscal year if the adjusted equity of the partnership after the change is less than 90% of the adjusted equity of the partnership before the change. For the purposes of this paragraph, the adjusted equity of the partnership after the change shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year ending after the change. For the purposes of this paragraph, the adjusted equity of the partnership before the change shall be determined from the approved or certified financial statement submitted to the Department for the last fiscal year of the partnership ending on the date of or before the change.

(J) A grain dealer that is a limited liability company in which there is a change in membership interests and that change is 50% or less of the total membership interests during the limited liability company's fiscal year if the adjusted equity of the limited liability company after the change is less than 90% of the adjusted equity of the limited liability company before the change. For the purposes of this paragraph, the adjusted

equity of the limited liability company after the change shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year ending after the change. For the purposes of this paragraph, the adjusted equity of the limited liability company before the change shall be determined from the approved or certified financial statement submitted to the Department for the last fiscal year of the limited liability company ending on the date of or before the change.

(K) A grain dealer that is the result of a statutory consolidation or merger if one or more of the predecessor persons that consolidated or merged into the resulting grain dealer was not a licensee under this Code at the time of the consolidation or merger.

(2) For the purpose of assessing fees for the Fund as set forth in subsection (a) of this Section, the Department shall consider the following as not being newly licensed and, therefore, exempt from further assessment unless an assessment is required by subsection (d) of this Section:

(A) A person resulting solely from a name change of a licensee.

(B) A warehouseman changing from a Class I warehouseman to a Class II warehouseman or from a Class II warehouseman to a Class I warehouseman under this Code.

(C) A licensee that becomes a wholly owned subsidiary of another licensee.

(D) Subject to item (e)(1)(K) of this Section, a person that is the result of a statutory consolidation if that person has adjusted equity greater than or equal to 90% of the combined adjusted equity of the predecessor persons who consolidated. For the purposes of this paragraph, the adjusted equity of the resulting person shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year of the resulting person. For the purpose of this paragraph, the combined adjusted equity of the predecessor persons shall be determined by combining the adjusted equity of each predecessor person as set forth in the most recent approved or certified financial statement of each predecessor person submitted to the Department.

(E) Subject to item (e)(1)(K) of this Section, a person that is the result of a statutory merger if that person has adjusted equity greater than or equal to 90% of the combined adjusted equity of the predecessor persons who merged. For the purposes of this paragraph, the adjusted equity of the resulting person shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year of the resulting person ending after the merger. For the purposes of this paragraph, the combined adjusted equity of the predecessor persons shall be determined by combining the adjusted equity of each predecessor person as set forth in the most recent approved or certified financial statement, submitted to the Department for the last fiscal year of each predecessor person ending on the date of or before the merger.

(F) A general partnership in which there is a change in partnership interests and that change is 50% or less during the partnership's fiscal year and the adjusted equity of the partnership after the change is greater than or equal to 90% of the adjusted equity of the partnership before the change. For the purposes of this paragraph, the adjusted equity of the partnership after the change shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year ending after the change. For the purposes of this paragraph, the adjusted equity of the partnership before the change shall be determined from the approved or certified financial statement submitted to the Department for the last fiscal year of the partnership ending on the date of or before the change.

(G) A limited partnership in which there is a change in the controlling interest of a general partner and that change is 50% or less of the total controlling interest during the partnership's fiscal year and the adjusted equity of the partnership after the change is greater than or equal to 90% of the adjusted equity of the partnership before the change. For the purposes of this paragraph, the adjusted equity of the partnership after the change shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year ending after the change. For the purposes of this paragraph, the adjusted equity of the partnership before the change shall be determined from the approved or certified financial statement submitted to the Department for the last fiscal year of the partnership ending on the date of or before the change.

(H) A limited liability company in which there is a change in membership interests and that change is 50% or less of the total membership interests during the limited liability company's fiscal year if the adjusted equity of the limited liability company after the change is greater than or equal to 90% of the adjusted equity of the limited liability company before the change. For the purposes of this paragraph, the adjusted equity of the limited liability company after the change shall be determined from the approved or certified financial statement submitted to the Department for the first fiscal year ending after the change. For the purposes of this paragraph, the adjusted equity of the limited liability company before the change shall be determined from the approved or certified financial statement submitted to the Department for the last fiscal year of the limited liability company ending on the date of or before the change.

(I) A licensed warehouseman that is the result of a statutory merger or consolidation to the extent the combined storage capacity of the resulting warehouseman has been assessed under this Code before the statutory merger or consolidation, except that any storage capacity of the resulting warehouseman that has not previously been assessed under this Code shall be assessed as provided in items (c)(5), (c)(6), and (c)(7) of this Section.

(J) A federal warehouseman who participated in the Fund under Section 30-10 and who subsequently received an Illinois license to the extent the storage capacity of the warehouseman was assessed under this Code prior to Illinois licensing.

(f) Grain seller initial assessments and regular assessments. Assessments under this subsection (f) apply only to the first sale of grain to a grain dealer at an Illinois location.

(1) The grain seller initial assessment period is that period of time beginning on the effective date of this amendatory Act of the 93rd General Assembly and ending on the first assessment determination date thereafter when the equity in the fund is at least \$6,000,000.

(2) Subject to paragraph (3) of this subsection (f) (i) if during the grain seller initial assessment period the equity in the Fund is less than \$3,000,000 or (ii) if at any time after the grain seller initial assessment period the equity in the Fund is less than \$2,000,000, on the first working day of a calendar quarter when a grain seller is not already subject to an assessment under this subsection (f) (the assessment determination date), each person who settles for grain (sold to a grain dealer at an Illinois location) during the 12-month period commencing on the first day of the succeeding calendar quarter (the assessment period) shall pay an assessment equal to \$0.0004 multiplied by the net market value of grain settled for (payment received for grain sold).

(3) The next assessment determination date can be no sooner than the first working day of the fourth full calendar month following the end of the assessment period.



(4) "Net market value" of grain means the gross sales price of that grain adjusted by application of the grain dealer's discount schedule in effect at the time of sale and after deduction of any statutory commodity check-offs. Other charges such as storage charges, drying charges, and transportation costs shall not be deducted in arriving at the net market value of grain sold to a grain dealer. The net market value of grain shall be determined from the settlement sheet or other applicable written evidence of the sale of grain to the grain dealer.

(5) All assessments under this subsection (f) shall commence on the first day of the calendar quarter immediately following the assessment determination date and shall continue for a period of 12 consecutive calendar months. The assessments shall be collected by licensees at the time of settlement during the assessment period, and shall be remitted by licensees to the Department by the twentieth day of each calendar quarter, commencing with the second calendar quarter following the assessment determination date. The Department shall give written notice to all licensees of when an assessment under this subsection (f) is to begin and end, and the appropriate level of the assessment, by mail within 20 days after the assessment determination date.

(6) Assessments under this subsection (f) apply only to grain for which settlement is made during the assessment period, without regard to the date the grain was sold to the licensee.

(7) The collection and remittance of assessments from first sellers of grain under this subsection (f) is the sole responsibility of the licensees to whom the grain is sold. Sellers of grain shall not be penalized by reason of any licensee's failure to comply with this subsection (f). Failure of a licensee to collect any assessment shall not relieve the grain seller from paying the assessment, and the grain seller shall promptly remit the uncollected assessments upon demand by the licensee, which may be accounted for in settlement of grain subsequently sold to that licensee. Licensees who do not collect assessments as required by this subsection (f), or who do not remit those assessments to the Department within the time deadlines required by this subsection (f), shall remit the amount of the assessments that should have been remitted to the Department and in addition shall be subject to a monetary penalty in an amount not to exceed \$1,000.

(8) Notwithstanding the other provisions of this subsection (f), no assessment shall be levied against grain sold by the Department as a result of a failure.

(g) Lender assessments.

(1) Subject to the provisions of this subsection (g), if on the first working day of a calendar quarter when a person is not already subject to an assessment under this subsection (g) the equity in the Fund is less than \$6,000,000, each person holding warehouse receipts issued from an Illinois location on grain owned or stored by a licensee to secure a loan to that licensee shall be assessed a quarterly lender assessment for each of 4 consecutive calendar quarters beginning with the calendar quarter next succeeding the assessment determination date.

(2) Each quarterly lender assessment shall be at the rate of \$0.00000055 per bushel per day for bushels covered by a warehouse receipt held as security for the loan during that calendar quarter times the applicable commodity price times the lender assessment multiplier, if any, determined by the Department in accordance with paragraph (3) of this subsection (g). With respect to each calendar quarter within the assessment period, the "applicable commodity price" shall be the closing price paid by the licensee on the last working day of that calendar quarter for the base commodity for which the warehouse receipt was issued.

(3) With respect to the second assessment period beginning after June 30, 2003, the Department shall determine and apply a lender assessment multiplier equal to 250,000 divided by the aggregate dollar amount of lender assessments imposed under this subsection (g) under the first

assessment period beginning after June 30, 2003. With respect to the third assessment period beginning after June 30, 2003, the Department shall determine and apply a lender assessment multiplier equal to 250,000 divided by the average of aggregate dollar amounts of lender assessments imposed under this subsection (g) under the first 2 assessment periods beginning after June 30, 2003. With respect to assessment periods thereafter, the Department shall determine and apply a lender assessment multiplier equal to 250,000 divided by the average of the 3 most recent aggregate dollar amounts of lender assessments imposed under this subsection (g).

(4) The next assessment determination date can be no sooner than the first working day of the fourth full calendar month following the end of the assessment period.

(5) The Department shall give written notice by mail within 20 days after the assessment determination date to all licensees of when assessments under this subsection (g) are to begin and end, the rate of the lender assessment, and the lender assessment multiplier, if any, that shall apply.

(6) It is the responsibility of a licensee to inform each of its lenders and other persons by virtue of whose relationship with the licensee this subsection (g) will apply as to the onset of an assessment for which that person might be liable and the applicable lender assessment multiplier, if any. The notification must be in writing and, as to persons subject to assessment under this subsection (g) on the assessment determination date, must be sent no later than 20 days after the licensee receives notice of an assessment from the Department. As to persons not subject to assessment under this subsection (g) as of the assessment determination date, the notice shall be sent or given no later than the closing of any transaction subsequent to the assessment determination date involving the licensee and by virtue of which transaction the person is made subject to assessment under this subsection (g).

(7) Within 20 days after the end of each calendar quarter within the assessment period, each licensee shall send to each lender with which it has been associated during that calendar quarter and to the Department a written notice of quarterly assessment together with the information needed to determine the amount of the quarterly assessment owing with respect to loans from that lender. This information shall include the number of bushels covered by each warehouse receipt, organized by commodity, held as security for the loan owing to that lender, the number of days each of those warehouse receipts was outstanding during that calendar quarter, the applicable commodity price, the applicable lender assessment multiplier, the amount of the resulting quarterly lender assessment, and the due date of the quarterly assessment.

(8) Each quarterly assessment shall be due and paid by the lender or its designee to the Department within 20 days after the end of the calendar quarter to which the assessment pertains.

(9) Lenders shall not be penalized by reason of any licensee's failure to comply with this subsection (g). Failure of a licensee to comply with this subsection (g) shall not relieve the lender from paying the assessment, and the lender shall promptly remit the uncollected assessments by the due date as set forth in the notice from the licensee.

(10) This subsection (g) applies to any person who holds a grain warehouse receipt issued by a licensee from an Illinois location pursuant to any transaction, regardless of its form, that creates a security interest in the grain including, without limitation, the advancing of money or other value to or for the benefit of a licensee upon the licensee's issuance or negotiation of a grain warehouse receipt and pursuant to or in connection with an agreement between the licensee and a counter-party for the repurchase of the grain by the licensee or designee of the licensee. For purposes of this subsection (g), any such transaction shall be treated as one in which grain is

held as security for a loan outstanding to a licensee within the meaning of this subsection (g), and such a person shall be treated as a lender.

(11) The Department shall immediately deposit all paid assessments under this subsection (g) into the Fund.

(h) Equity in the Fund shall exclude moneys owing to the State or the Reserve Fund as a result of transfers to the Fund from the General Revenue Fund or the Reserve Fund under subsection (h) of Section 25-20. Notwithstanding the foregoing, for purposes of calculating equity in the Fund during the grain seller initial assessment period and assessing grain sellers, it shall be presumed that the State is owed, prior to repayment, only \$2,000,000 and the Reserve Fund contains a balance of \$2,000,000. Under no circumstances, however, shall there be more than 2 consecutive grain seller assessments during the initial assessment period, unless there is a failure that reduces the equity in the Fund to below \$3,000,000.

(i) Notwithstanding the provisions of subsections (d)(4), (f)(3), and (g)(4) of this Section or any other law to the contrary, until the equity in the Fund reaches a level of \$6,000,000 for the first time, assessment periods shall continue without interruption, subject to the termination of assessments on grain sellers provided in subsections (f)(2) and (h) of this Section.

#### **240 ILCS 40/30-5 40/30-5. Illinois Grain Insurance Corporation**

(a) The Corporation is a political subdivision, body politic, and public corporation. The governing powers of the Corporation are vested in the Board of Directors composed of the Director, who shall personally serve as president; the Attorney General or his or her designee, who shall serve as secretary; the State Treasurer or his or her designee, who shall serve as treasurer; the Director of the Department of Insurance or his or her designee; and the chief fiscal officer of the Department. Three members of the Board constitute a quorum at any meeting of the Board, and the affirmative vote of 3 members is necessary for any action taken by the Board at a meeting, except that a lesser number may adjourn a meeting from time to time. 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.

(b) The Corporation has the following powers, together with all powers incidental or necessary to the discharge of those powers in corporate form:

(1) To have perpetual succession by its corporate name as a corporate body.

(2) To adopt, alter, and repeal bylaws, not inconsistent with the provisions of this Code, for the regulation and conduct of its affairs and business.

(3) To adopt and make use of a corporate seal and to alter the seal at pleasure.

(4) To avail itself of the use of information, services, facilities, and employees of the State of Illinois in carrying out the provisions of this Code.

(5) To receive funds, printer registration fees, and penalties assessed by the Department under this Code.

(6) To administer the Fund by investing funds of the Corporation that the Board may determine are not presently needed for its corporate purposes.

(7) To receive funds from the Trust Account for deposit into the Fund.

(8) Upon the request of the Director, to make payment from the Fund and the Reserve Fund to the Trust Account when payment is necessary to compensate claimants in accordance with the provisions of Section 25-20 or for payment of refunds to licensees in accordance with the provisions of this Code.

(9) To authorize, receive, and disburse funds by electronic means.

(10) To make any inquiry and investigation deemed appropriate with regard to the failure of any licensee, including but not limited to analyzing the causes of and reasons for the failure; determining the adequacy and accuracy of Department examinations and other regulatory measures with regard to the failed licensee; and analyzing whether the handling of the liquidation and payment process by the Department was done in a manner that served the interests of those persons whose interests this Code was designed to protect.

(11) To have those powers that are necessary or appropriate for the exercise of the powers specifically conferred upon the Corporation and all incidental powers that are customary in corporations.

(12) To make payments from the Fund to the Asset Preservation Account in accordance with Section 20-20(e) of this Code.

(c) A committee of advisors shall be created to provide technical assistance and advice and make recommendations to the Board. The advisory committee shall assist the board in understanding pertinent developments in grain production and marketing and the grain industry. The advisory committee shall be composed of one grain producer designated by the Illinois Farm Bureau; one grain producer designated by the Illinois Farmers Union; one grain producer designated by the Illinois Corn Growers Association; one grain producer designated by the Illinois Soybean Association; 2 representatives of the grain industry, designated by the Grain and Feed Association of Illinois; and 2 representatives of the lending industry, one each designated by the Illinois Bankers Association and the Community Bankers of Illinois. Members of the advisory committee shall serve terms of 2 years from the date of their designation. Members of the advisory committee shall have the right to attend all meetings of the Board and participate in Board discussions, but shall not have a vote.

#### **240 ILCS 40/30-10 40/30-10. Participants in the Fund**

(a) A licensee under this Code is subject to this Article and shall collect and pay assessments into the Fund as provided in Section 5-30.

(b) Except as provided in subsection (c) of this Section, a person engaged in the business of a grain dealer or warehouseman but not licensed under this Code shall not participate in or benefit from the Fund and its claimants shall not receive proceeds from the Fund.

(c) Participation of federal warehousemen.

(1) A federal warehouseman may participate in the Fund. If a federal warehouseman chooses to participate in the Fund, it shall to the extent permitted by federal law:

(A) pay assessments into the Fund;

(B) be deemed a licensee and a warehouseman under this Code;

(C) be subject to this Code; and

(D) execute a cooperative agreement between itself and the Department.

(2) The cooperative agreement shall, at a minimum, provide each of the following to the extent permitted by federal law:

(A) Authorization for the Department to obtain information about the federal warehouseman including, but not limited to, bushel capacity of storage space, financial stability, and examinations performed by employees of the United States Department of Agriculture.

(B) That the federal warehouseman submits itself to the jurisdiction of the Department

and that it agrees to be subject to and bound by this Code and deemed a licensee under this Code.

(C) That in the event of a failure of the federal warehouseman, the Department shall have authority to seize, liquidate, and collect upon all grain assets, collateral, and guarantees relating to the federal warehouseman as in the case of any other licensee.

(D) Such other requirements as established by rule.

(3) A federal warehouseman that participates in the Fund shall at a minimum meet the licensing requirements of this Code and shall comply with all requirements of a licensee and a warehouseman under this Code to the extent permitted by federal law.

(d) A federal warehouseman that participates in the Fund or a warehouseman that desires to or has become a federal warehouseman cannot withdraw from participation in the Fund for the benefit of existing depositors until the occurrence of all of the following:

(1) Payment in full by the federal warehouseman or withdrawing warehouseman of all assessments under subsection (a) of Section 5-30.

(2) Payment in full by the federal warehouseman or withdrawing warehouseman of all assessments instituted under subsection (d) of Section 5-30 on or after an assessment determination date that occurs before the federal warehouseman or withdrawing warehouseman notifies the Department that it desires to withdraw from participation in the Fund and before the issuance by the Department of a certificate of withdrawal from the Fund.

(3) The expiration of 30 days following the later of:

(A) the date the federal warehouseman or withdrawing warehouseman has ceased providing its depositors with coverage under the Fund;

(B) the date the federal warehouseman or withdrawing warehouseman has posted at each of its locations a notice stating when it will cease providing its depositors with coverage under the Fund;

(C) notification of all potential claimants by the federal warehouseman or withdrawing warehouseman of the date on which it will cease providing its depositors with coverage under the Fund; and

(D) Completion of an audit and examination satisfactory to the Department as provided for in this Code and by rule, which is to be the Department's final examination.

(4) Obtaining releases of liability from all existing depositors or posting collateral with the Department for 270 days after withdrawing from the Fund in an amount equal to the liability to existing depositors who have not executed releases before the completion of the Department's final examination.

(5) Compliance with all notification requirements as provided for in this Code and by rule.

(6) Issuance by the Department of a certificate of withdrawal from the Fund when the federal warehouseman or withdrawing warehouseman has met all requirements for withdrawal from participation in the Fund.

(e) Before a federal warehouseman or a warehouseman that desires to or has become a federal warehouseman may withdraw from participation in the Fund, it must pay for an audit and examination and must provide to the Department all names and addresses of potential claimants for the purposes of notification of withdrawal of participation in the Fund.

**240 ILCS 40/30-15**  
**40/30-15. Investments of the Fund**

(a) All assessments by the Department under Section 5-30 shall be held by the Corporation in the

Fund.

(b) Subject to applicable law, the assets of the Fund may be invested and reinvested at the discretion of the Corporation, and the income from these investments shall be deposited to the credit of the Fund and shall be available for the same purposes as all other assets of the Fund.

(c) Except as provided in Section 20-20(e), the assets of the Fund shall not be available for any purpose other than the payment of valid claims under this Code and the payment of refunds of amounts that the Board determines have been inappropriately paid into the Fund, and may not be transferred to any other fund, other than the Trust Account when necessary to pay valid claims under this Code or to pay refunds authorized by the Board.

**240 ILCS 40/30-20**  
**40/30-20. Recovery of funds**

Amounts paid from the Fund in satisfaction of a valid claim constitute a debt and obligation of the licensee against whom the claim was made. On behalf of the Fund, the Director may bring suit, file a claim, or intervene in any legal proceeding to recover from a failed licensee, or upon any collateral and guarantees relating to the failed licensee, the amount of the payment made from the Fund together with interest at 6% per annum and all expenses, costs, and attorneys' fees incurred by the Department in its efforts to recover assets for the Fund in reference to the failed licensee.

**240 ILCS 40/30-25**  
**40/30-25. Grain Insurance Reserve Fund**

Upon payment in full of all money that has been transferred to the Fund prior to June 30, 2003 from the General Revenue Fund as provided for under subsection (h) of Section 25-20, the State of Illinois shall remit \$2,000,000 to the Corporation to be held in a separate and discrete account to be used to the extent the assets in the Fund are insufficient to satisfy claimants as payment of their claims become due as set forth in subsection (h) of Section 25-20. The remittance of the \$2,000,000 reserve shall be made to the Corporation within 60 days of payment in full of all money transferred to the Fund as set forth above in this Section 30-25. All income received by the Reserve Fund shall be deposited in the Fund within 35 days of the end of each calendar quarter.