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Requirements for Grain Dealers

State of Louisiana

Indemnity Fund

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Requirements for Grain Dealers

STATE OF LOUISIANA

Current with legislation from the 2013 Reg.Sess.

LSA-R.S. 3:3410.2

§ 3410.2. Grain and Cotton Indemnity Fund; creation; assessment; rules and regulations; suspension of assessment; eligibility for reimbursement; availability of money; prorated claims; reimbursement for administrative expenses; failure to pay; subrogation

- A. The commission may operate a Grain and Cotton Indemnity Fund for grain dealers and cotton merchants licensed under this Chapter.
- B. The commission shall charge an assessment at the rate of one twenty-fifth of one percent on the value of all agricultural commodities regulated under this Chapter which are sold to grain dealers and cotton merchants. The assessments shall be due and payable to the commission by the licensee at the first point of sale.
- C. The assessments charged under this Section shall be subject to the following provisions:
- (1) All assessments collected pursuant to this Section shall be deposited immediately upon receipt in the state treasury.
 - (2) After compliance with the requirements of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the Grain and Cotton Indemnity Fund. The monies in this fund shall be used solely as provided in Paragraph (3) of this Subsection and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of each fiscal year shall remain in this fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to this fund, again, following compliance with the requirement of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.
 - (3) The monies in the Grain and Cotton Indemnity Fund shall be used solely for the administration and operation of the Grain and Cotton Indemnity Fund provided for in this Section.
 - (4) The assessment shall not apply to grain or cotton purchased or contracted prior to August 15, 2008.
- D. The commission shall adopt rules and regulations, in accordance with the Administrative Procedure Act, necessary for the efficient administration of the Grain and Cotton Indemnity Fund. Such rules shall include:
- (1) Procedures for claims on the Grain and Cotton Indemnity Fund.
 - (2) Reimbursement limitations for each producer.
 - (3) Any rules and regulations necessary for the administration of the Grain and Cotton

Indemnity Fund.

(4) The establishment of civil penalties for violations of this Section.

E. At the end of the calendar quarter in which the Grain and Cotton Indemnity Fund reaches a level of six million dollars, the commission shall suspend collection of the assessment required by this Section. If after suspension of collection the balance in the fund is less than three million dollars, the commission shall require collection of the assessment.

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

- (1) The licensed grain dealer becomes insolvent after January 1, 2008.
- (2) The licensed cotton merchant becomes insolvent.
- (3) The licensed grain dealer or cotton merchant, as a result of the insolvency, does not fully compensate the producer in accordance with a sale.

G. Upon the insolvency of a licensed grain dealer or cotton merchant, the commission shall make the proceeds of the Grain and Cotton Indemnity Fund available for use in meeting the licensee's obligations with respect to the reimbursement of any producer who sold grain or cotton to the licensee and who was not fully compensated.

H. If claims for indemnity payments from the Grain and Cotton Indemnity Fund exceed the amount in the fund, the commission shall prorate the claims and pay the prorated amounts. As future assessments are collected, the commission shall continue to forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Section.

I. Expenses incurred by the commission in administering the Grain and Cotton Indemnity Fund shall be reimbursable from the fund.

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

K. Money paid from the Grain and Cotton Indemnity Fund in satisfaction of a valid claim constitutes a debt obligation of the person against whom the claim was made. The commission may take action on behalf of the fund against a person to recover the amount of payment made, plus costs and attorney fees. Any recovery for reimbursement to the fund shall include interest computed at the United States Treasury two-year note rate following rules promulgated by the department. Upon payment of a claim from the Grain and Cotton Indemnity Fund, the claimant shall subrogate its interest, if any, to the commission in a cause of action against all parties, to the amount of the loss that the claimant was reimbursed by the fund.