

# HOUSE BILL No. 1549

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-11-8-3; IC 26-3-7; IC 26-4.

**Synopsis:** Grain buyer and warehouse operators. Increases the fee for inspecting a moisture testing device. Requires the Indiana grain buyers and warehouse licensing agency (agency) to employ all necessary employees to administer the grain buyer and warehouse laws. Defines "daily position record", "grain coproducts", and "seed inventory". Amends the definition of "grain assets". Provides that an entity associated with a person with a revoked or suspended license may not operate as a grain buyer or warehouse. Adds seed inventory to the list of a warehouse's or grain buyer's (licensee's) unencumbered assets. Increases certain license fees. Adds certain information that must be included in a licensee's financial statements. Requires the agency to charge a fee for capacity changes between license renewal periods. Changes the structure and amounts of a licensee's late fees. Adds information that the agency may disclose about a licensee. Increases the amounts of a licensee's surety bond. Requires the agency to give public notice when a license is suspended or revoked. Reorganizes provisions concerning the grain indemnity fund and the administrative expense account, including repealing a law. Places a cap on the amount that the grain indemnity board may spend on administrative expenses. Raises the Indiana grain indemnity fund's cap to collect premiums for the grain indemnity program.

**Effective:** July 1, 2015.

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**Lehe, Niezgodski, Friend**

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January 20, 2015, read first time and referred to Committee on Agriculture and Rural Development.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

# HOUSE BILL No. 1549



A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-11-8-3, AS ADDED BY P.L.2-2008, SECTION  
2 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2015]: Sec. 3. (a) The director or the director's designee shall charge  
4 each inspection site a ~~ten two hundred~~ dollar (~~\$10~~) (**\$200**) fee for each  
5 moisture testing device inspected at the inspection site under this  
6 chapter.  
7 (b) All fees collected under this section must be deposited in the  
8 grain buyers and warehouse licensing agency license fee fund  
9 established by IC 26-3-7-6.3.

10 SECTION 2. IC 26-3-7-1, AS AMENDED BY P.L.120-2008,  
11 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2015]: Sec. 1. (a) The Indiana grain buyers and warehouse  
13 licensing agency is established within the Indiana state department of  
14 agriculture to administer this chapter. The director of the Indiana state  
15 department of agriculture may appoint the director of the agency, who



1 shall serve at the pleasure of the director of the Indiana state  
2 department of agriculture. The director shall administer this chapter  
3 and shall be the ultimate authority in the administration of this chapter.

4 (b) The agency ~~may~~ **shall** employ all necessary employees, counsel,  
5 and consultants to carry out the provisions of this chapter and is vested  
6 with the power necessary to fully and effectively carry out the  
7 provisions and objectives of this chapter.

8 SECTION 3. IC 26-3-7-2, AS AMENDED BY P.L.75-2010,  
9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2015]: Sec. 2. The following definitions apply throughout this  
11 chapter:

12 (1) "Agency" refers to the Indiana grain buyers and warehouse  
13 licensing agency established under section 1 of this chapter.

14 (2) "Anniversary date" means the date that is ninety (90) calendar  
15 days after the fiscal year end of a business licensed under this  
16 chapter.

17 (3) "Bin" means a bin, tank, interstice, or other container in a  
18 warehouse in which bulk grain may be stored.

19 (4) "Buyer-warehouse" means a person that operates both as a  
20 warehouse licensed under this chapter and as a grain buyer.

21 (5) "Claimant" means a person that is unable to secure satisfaction  
22 within the twelve (12) months following delivery of the financial  
23 obligations due from a licensee under this chapter for grain that  
24 has been delivered to the licensee for sale or for storage under a  
25 bailment.

26 **(6) "Daily position record" means a written or electronic**  
27 **document that is maintained on a daily basis for each grain**  
28 **commodity, contains a record of total amount of grain in**  
29 **inventory for that business day, and complies with any**  
30 **requirements established by the director.**

31 ~~(6)~~ (7) "Deferred pricing" or "price later" means a purchase by a  
32 buyer in which title to the grain passes to the buyer and the price  
33 to be paid to the seller is not determined:

34 (A) at the time the grain is received by the buyer; or

35 (B) less than twenty-one (21) days after delivery.

36 ~~(7)~~ (8) "Delayed payment" means a purchase by a buyer in which  
37 title to the grain passes to the buyer at a determined price and  
38 payment to the seller is not made in less than twenty-one (21)  
39 days after delivery.

40 ~~(8)~~ (9) "Depositor" means any of the following:

41 (A) A person that delivers grain to a licensee under this  
42 chapter for storage or sale.



- 1 (B) A person that:  
 2 (i) owns or is the legal holder of a ticket or receipt issued by  
 3 a licensee for grain received by the licensee; and  
 4 (ii) is the creditor of the issuing licensee for the value of the  
 5 grain received in return for the ticket or receipt.  
 6 (C) A licensee that stores grain that the licensee owns solely,  
 7 jointly, or in common with others in a warehouse owned or  
 8 controlled by the licensee or another licensee.
- 9 ~~(9)~~ **(10)** "Designated representative" means the person or persons  
 10 designated by the director to act instead of the director in assisting  
 11 in the administration of this chapter.
- 12 ~~(10)~~ **(11)** "Director" means the director of the Indiana grain  
 13 buyers and warehouse licensing agency appointed under section  
 14 1 of this chapter.
- 15 ~~(11)~~ **(12)** "Facility" means a location or one (1) of several  
 16 locations in Indiana that are operated as a warehouse or by a grain  
 17 buyer.
- 18 ~~(12)~~ **(13)** "Failed" or "failure" means any of the following:  
 19 (A) The inability of a licensee to financially satisfy fully all  
 20 obligations due to claimants.  
 21 (B) Public declaration of a licensee's insolvency.  
 22 (C) Revocation or suspension of a licensee's license, if the  
 23 licensee has outstanding indebtedness owed to claimants.  
 24 (D) Nonpayment of a licensee's debts in the ordinary course of  
 25 business, if there is not a good faith dispute.  
 26 (E) Voluntary surrender of a licensee's license, if the licensee  
 27 has outstanding indebtedness to claimants.  
 28 (F) Involuntary or voluntary bankruptcy of a licensee.
- 29 ~~(13)~~ **(14)** "Grain" means corn for all uses, popcorn, wheat, oats,  
 30 barley, rye, sorghum, soybeans, oil seeds, other agricultural  
 31 commodities as approved by the agency, and seed as defined in  
 32 this section. The term does not include canning crops for  
 33 processing, sweet corn, or flint corn.
- 34 ~~(14)~~ **(15)** "Grain assets" means any of the following:  
 35 (A) All grain **and grain coproducts** owned or stored by a  
 36 licensee, including ~~grain that:~~ **the following:**  
 37 (i) **Grain that** is in transit following shipment by a licensee.  
 38 **and**  
 39 (ii) **Grain that** has not been paid for.  
 40 (iii) **Grain that is stored in unlicensed facilities that are**  
 41 **leased, owned, or occupied by the licensee.**  
 42 (B) All proceeds, due or to become due, from the sale of a



- 1 licensee's grain.
- 2 (C) Equity, less any secured financing directly associated with
- 3 the equity, in hedging or speculative margin accounts of a
- 4 licensee held by a commodity or security exchange, or a dealer
- 5 representing a commodity or security exchange, and any
- 6 money due the licensee from transactions on the exchange,
- 7 less any secured financing directly associated with the money
- 8 due the licensee from the transactions on the exchange.
- 9 (D) Any other unencumbered funds, property, or equity in
- 10 funds or property, wherever located, that can be directly traced
- 11 to the sale of grain by a licensee. However, funds, property, or
- 12 equity in funds or property may not be considered encumbered
- 13 unless:
- 14 (i) the encumbrance results from valuable consideration paid
- 15 to the licensee in good faith by a secured party; and
- 16 (ii) the encumbrance did not result from the licensee posting
- 17 the funds, property, or equity in funds or property as
- 18 additional collateral for an antecedent debt.
- 19 (E) Any other unencumbered funds, property, or equity in
- 20 assets of the licensee.
- 21 ~~(15)~~ **(16) "Grain bank grain"** means grain owned by a depositor
- 22 for use in the formulation of feed and stored by the warehouse to
- 23 be returned to the depositor on demand.
- 24 ~~(16)~~ **(17) "Grain buyer"** means a person who is engaged in the
- 25 business of buying grain from producers.
- 26 **(18) "Grain coproducts"** means any milled or processed
- 27 grain, including the grain byproduct of ethanol production.
- 28 ~~(17)~~ **(19) "Grain standards act"** means the United States Grain
- 29 Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C.
- 30 71-87 as amended).
- 31 ~~(18)~~ **(20) "License"** means a license issued under this chapter.
- 32 ~~(19)~~ **(21) "Official grain standards of the United States"** means the
- 33 standards of quality or condition for grain, fixed and established
- 34 by the secretary of agriculture under the grain standards act.
- 35 ~~(20)~~ **(22) "Person"** means an individual, partnership, corporation,
- 36 association, or other form of business enterprise.
- 37 ~~(21)~~ **(23) "Receipt"** means a warehouse receipt issued by a
- 38 warehouse licensed under this chapter.
- 39 ~~(22)~~ **(24) "Seed"**, notwithstanding IC 15-15-1, means grain set
- 40 apart to be used primarily for the purpose of producing new
- 41 plants.
- 42 **(25) "Seed inventory"** means seed for commercial sale.



1           ~~(23)~~ **(26)** "Ticket" means a scale weight ticket, a load slip, or  
 2 other evidence, other than a receipt, given to a depositor upon  
 3 initial delivery of grain to a facility.

4           ~~(24)~~ **(27)** "Warehouse act" means the United States Warehouse  
 5 Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273  
 6 as amended).

7           ~~(25)~~ **(28)** "Warehouse" means any building or other protected  
 8 enclosure in one (1) general location licensed or required to be  
 9 licensed under this chapter in which grain is or may be:

10           (A) stored for hire;

11           (B) used for grain bank storage; or

12           (C) used to store company owned grain;

13 and the building or other protected enclosure is operated under  
 14 one (1) ownership and run from a single office.

15           ~~(26)~~ **(29)** "Warehouse operator" means a person that operates a  
 16 facility or group of facilities in which grain is or may be stored for  
 17 hire or which is used for grain bank storage and which is operated  
 18 under one (1) ownership and run from a single office.

19           SECTION 4. IC 26-3-7-4 IS AMENDED TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) A person may not operate a  
 21 warehouse or conduct business as a grain buyer or buyer-warehouse  
 22 without first having obtained the appropriate license from the agency,  
 23 nor may a person **or entity associated with the person** continue to  
 24 operate a warehouse or conduct business as a grain buyer or  
 25 buyer-warehouse after the person's license has been revoked or  
 26 suspended, except as provided in section 18 of this chapter.

27           (b) All facilities in Indiana that an applicant for a license uses to  
 28 store or handle grain must qualify for and obtain a license and be  
 29 licensed under this chapter before the applicant may operate a  
 30 warehouse or conduct business as a grain buyer in Indiana. An  
 31 applicant may not be licensed unless all of the applicant's facilities  
 32 qualify for a license under this chapter. An applicant for a license must  
 33 apply to the agency for a license that covers all facilities operated by  
 34 the applicant for the storage or handling of grain in Indiana.

35           (c) If a licensee acquires an additional grain storage or handling  
 36 facility in Indiana, the licensee shall promptly submit to the agency an  
 37 amended application for licensure. A licensee shall promptly notify the  
 38 agency of a material change to the licensee's operations, such as  
 39 expansion of the amount of storage being used in the licensee's existing  
 40 facilities or change of ownership of a facility, and shall provide the  
 41 director with additional information the director may require. A  
 42 licensee shall obtain the approval of the director before making use of



1 increased storage or handling capacity.

2 (d) A licensee that acquires an additional grain storage or handling  
3 facility that is required to be licensed shall not use the facility for the  
4 storage or handling of grain until it qualifies for and is issued a license  
5 and is licensed as provided in this chapter. If a licensed grain storage  
6 or handling facility that a licensee operates in Indiana becomes  
7 ineligible for a license at any time for any reason, it shall not be used  
8 for the storage or handling of grain until the condition making it  
9 ineligible is removed.

10 (e) A licensee shall maintain at least eighty percent (80%) of the  
11 unpaid balance of grain payables in unencumbered assets represented  
12 by the aggregate of the following:

- 13 (1) Company owned grain.  
14 (2) Cash on hand.  
15 (3) Cash held on account in federally or state licensed financial  
16 institutions or lending institutions of the Federal Farm Credit  
17 Administration.  
18 (4) Investments held in time accounts with federally or state  
19 licensed financial institutions.  
20 (5) Direct obligations of the United States government.  
21 (6) Balances in grain margin accounts determined by marking to  
22 market.  
23 (7) Balances due or to become due to the licensee on deferred  
24 pricing contracts.  
25 (8) Marketable securities, including mutual funds.  
26 (9) Irrevocable letters of credit that are:  
27 (A) in favor of the agency;  
28 (B) acceptable to the agency; and  
29 (C) in addition to any letter of credit deposited with the  
30 director to satisfy the bonding requirement of this chapter.  
31 (10) Deferred pricing contract service charges due or to become  
32 due to the licensee.  
33 (11) Other evidence of proceeds from or of grain that is  
34 acceptable to the agency.

35 **(12) Seed inventory.**  
36 ~~(12)~~ **(13)** Other assets approved by the director.  
37 (f) A licensee must have the minimum positive net worth specified  
38 in section 16 of this chapter to hold any license or do business.

39 SECTION 5. IC 26-3-7-6, AS AMENDED BY P.L.75-2010,  
40 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2015]: Sec. 6. (a) The agency shall issue the following  
42 licenses:



- 1 (1) A grain bank license may be issued to a person that:  
 2 (A) stores only grain bank grain;  
 3 (B) has a storage capacity of not more than fifty thousand  
 4 (50,000) bushels of grain; and  
 5 (C) purchases less than fifty thousand (50,000) bushels of  
 6 grain per year.
- 7 (2) A warehouse license may be issued to a person that:  
 8 (A) stores grain for hire; and  
 9 (B) purchases less than fifty thousand (50,000) bushels of  
 10 grain per year.
- 11 (3) A grain buyer license may be issued to a person that:  
 12 (A) purchases annually at least fifty thousand (50,000) bushels  
 13 of grain that are not for the sole purpose of feeding the  
 14 person's own livestock or poultry;  
 15 (B) chooses to obtain a grain buyer's license; or  
 16 (C) offers deferred pricing, delayed payments, or contracts  
 17 linked to the commodity futures or commodity options market  
 18 in connection with grain purchases.
- 19 (4) A buyer-warehouse license may be issued to a person that  
 20 operates both as a warehouse and as a grain buyer.
- 21 (b) An applicant shall file with the director a separate application  
 22 for each license or amendment of a license at the times, on the forms,  
 23 and containing the information that the director prescribes.
- 24 (c) An initial application for a license must be accompanied by a  
 25 license fee as follows:
- 26 (1) For a grain bank or for a warehouse or buyer-warehouse with  
 27 a storage capacity of less than two hundred fifty thousand  
 28 (250,000) bushels, ~~two hundred fifty one thousand~~ dollars (~~\$250~~)  
 29 **(\$1,000)** for the first facility and ~~two hundred~~ fifty dollars (~~\$50~~)  
 30 **(\$250)** for each additional facility.
- 31 (2) For a warehouse or a buyer-warehouse with a storage capacity  
 32 of at least two hundred fifty thousand (250,000) bushels but less  
 33 than one million (1,000,000) bushels, ~~one thousand~~ five hundred  
 34 dollars (~~\$500~~) **(\$1,500)** for the first facility and ~~two hundred~~ fifty  
 35 dollars (~~\$50~~) **(\$250)** for each additional facility.
- 36 (3) For a warehouse or a buyer-warehouse with a storage capacity  
 37 of at least one million (1,000,000) bushels but less than ten  
 38 million (10,000,000) bushels, ~~seven hundred fifty two thousand~~  
 39 dollars (~~\$750~~) **(\$2,000)** for the first facility and ~~two hundred~~ fifty  
 40 dollars (~~\$50~~) **(\$250)** for each additional facility.
- 41 (4) For a warehouse or buyer-warehouse with a storage capacity  
 42 greater than ten million (10,000,000) bushels, ~~one~~ **two** thousand





1           **five hundred** dollars ~~(\$1,000)~~ **(\$2,500)** for the first facility and  
 2           **two hundred** fifty dollars ~~(\$50)~~ **(\$250)** for each additional  
 3           facility.

4           (5) For a grain buyer, including a grain buyer that is also licensed  
 5           as a warehouse under the warehouse act, **one thousand** five  
 6           hundred dollars ~~(\$500)~~ **(\$1,500)** for the first facility and **two**  
 7           **hundred** fifty dollars ~~(\$50)~~ **(\$250)** for each additional facility.

8           The director may prorate the initial application fee for a license that is  
 9           issued at least thirty (30) days after the anniversary date of the  
 10          licensee's business.

11          (d) Before the anniversary date of the license, the licensee shall pay  
 12          an annual fee in an amount equal to the amount required under  
 13          subsection (c). The director may prorate the annual application fee for  
 14          a license that is modified at least thirty (30) days after the anniversary  
 15          date of the licensee's license.

16          (e) A licensee or an applicant for an initial license must have a  
 17          minimum current asset to current liability ratio of one to one (1:1) or  
 18          better.

19          (f) An applicant for an initial license shall submit with the person's  
 20          application a review level financial statement or better financial  
 21          statement that reflects the applicant's financial situation on a date not  
 22          more than fifteen (15) months before the date on which the application  
 23          is submitted. A financial statement submitted under this section must:

24               (1) be prepared by an independent accountant certified under  
 25               IC 25-2.1;

26               (2) comply with generally accepted accounting principles; and

27               (3) contain:

28                       (A) an income statement;

29                       (B) a balance sheet;

30                       (C) a statement of cash flow;

31                       (D) a statement of retained earnings;

32                       **(E) an aged accounts receivable listing detailing accounts**  
 33                       **that are ninety (90) days due, one hundred twenty (120)**  
 34                       **days due, and more than one hundred twenty (120) days**  
 35                       **due;**

36                       **(F) a copy of the daily position record for the end of the**  
 37                       **licensee's fiscal year;**

38                       ~~(E)~~ **(G)** the preparer's notes; and

39                       ~~(F)~~ **(H)** other information the agency may require.

40          The director may adopt rules under IC 4-22-2 to allow the agency to  
 41          accept other substantial supporting documents instead of those listed  
 42          to determine the financial solvency of the applicant if the director



1 determines that providing the listed documents creates a financial or  
2 other hardship on the applicant or licensee.

3 **(g) If a licensee's storage capacity changes between license**  
4 **renewals, the agency shall charge the licensee a fee of two hundred**  
5 **fifty dollars (\$250).**

6 ~~(g)~~ **(h)** An application for a license implies a consent to be  
7 inspected.

8 ~~(h)~~ **(i)** Fees collected under this section shall be deposited in the  
9 grain buyers and warehouse licensing agency license fee fund  
10 established by section 6.3 of this chapter.

11 SECTION 6. IC 26-3-7-6.1, AS ADDED BY P.L.64-2009,  
12 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2015]: Sec. 6.1. (a) Not more than ninety (90) days after the  
14 end of a licensee's fiscal year, the licensee shall file with the agency a  
15 current review level financial statement or better financial statement  
16 that reflects the licensee's financial situation for the previous fiscal  
17 year. **The financial statement must be submitted with the licensee's**  
18 **renewal forms and fees.**

19 **(b)** A financial statement submitted under this section must:

- 20 (1) be prepared by an independent accountant certified under  
21 IC 25-2.1;  
22 (2) comply with generally accepted accounting principles; and  
23 (3) contain:

24 (A) an income statement;

25 (B) a balance sheet;

26 (C) a statement of cash flow;

27 (D) a statement of retained earnings;

28 **(E) an aged accounts receivable listing detailing accounts**  
29 **that are ninety (90) days due, one hundred twenty (120)**  
30 **days due, and more than one hundred twenty (120) days**  
31 **due;**

32 **(F) a copy of the daily position record for the end of the**  
33 **licensee's fiscal year;**

34 ~~(E)~~ **(G)** the preparer's notes; and

35 ~~(F)~~ **(H)** other information the agency requires.

36 The director may adopt rules under IC 4-22-2 to allow the agency to  
37 accept other substantial supporting documents instead of those listed  
38 to determine the financial solvency of the applicant if the director  
39 determines that providing the listed documents creates a financial or  
40 other hardship on the applicant or licensee.

41 ~~(b)~~ **(c)** If the licensee has failed to timely file the financial statement  
42 as required in subsection (a), the agency may assess a fine as follows:



- 1 (1) ~~Twenty Fifty~~ percent (~~20%~~) (**50%**) of the licensee's renewal
- 2 fee for a financial statement, **renewal form, or renewal fee** that
- 3 is at least ~~one (1)~~ and less than ~~sixteen (16)~~ **sixty (60)** days late.
- 4 (2) ~~Forty percent (40%)~~ of the licensee's renewal fee for a
- 5 financial statement that is more than ~~fifteen (15)~~ and less than
- 6 ~~thirty-one (31)~~ days late.
- 7 (3) ~~Sixty percent (60%)~~ of the licensee's renewal fee for a
- 8 financial statement that is more than ~~thirty (30)~~ and less than
- 9 ~~forty-six (46)~~ days late.
- 10 (4) ~~Eighty percent (80%)~~ of the licensee's renewal fee for a
- 11 financial statement that is more than ~~forty-five (45)~~ and less than
- 12 ~~sixty-one (61)~~ days late.
- 13 (5) ~~(2)~~ One hundred percent (100%) of the licensee's renewal fee
- 14 for a financial statement, **renewal form, or renewal fee** that is
- 15 more than ~~sixty (60)~~ days late.

16 **(d) The agency may file a notice of hearing for any fines**  
 17 **assessed under subsection (c).**

18 SECTION 7. IC 26-3-7-6.5, AS AMENDED BY P.L.64-2009,  
 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2015]: Sec. 6.5. The names, **locations**, ~~and~~ respective  
 21 counties, **and license status** of licensees may be disclosed. Unless in  
 22 accordance with a judicial order, the director, the agency, its counsel,  
 23 auditors, or its other employees or agents shall not divulge any other  
 24 information disclosed by the applications or reports filed or inspections  
 25 performed under the provisions of this chapter, except to agents and  
 26 employees of the agency or to any other legal representative of the state  
 27 or federal government otherwise empowered to see or review the  
 28 information. The director may disclose the information only in the form  
 29 of an information summary or profile, or statistical study based upon  
 30 data provided with respect to more than one (1) warehouse, grain  
 31 buyer, or buyer-warehouse that does not identify the warehouse, grain  
 32 buyer, or buyer-warehouse to which the information applies.

33 SECTION 8. IC 26-3-7-10, AS AMENDED BY P.L.64-2009,  
 34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2015]: Sec. 10. (a) The minimum amount of bond, letter of  
 36 credit, or cash deposit required from a licensee is as follows:

- 37 (1) For a grain bank license or a warehouse license:
  - 38 (A) ~~ten fifty~~ thousand dollars (~~\$10,000~~); (**\$50,000**); and
  - 39 (B) ten cents (\$0.10) multiplied by the licensed bushel storage
  - 40 capacity of the grain bank or warehouse.
- 41 (2) For a grain buyer, including a grain buyer that is also a
- 42 licensee under the warehouse act:



- 1 (A) ~~ten fifty~~ thousand dollars (~~\$10,000~~); **(\$50,000)**; or  
 2 (B) five-tenths percent (0.5%) of the total amount the grain  
 3 buyer paid for grain purchased from producers during the  
 4 grain buyer's most recent fiscal year;  
 5 whichever is greater.
- 6 (3) For a buyer-warehouse:  
 7 (A) an amount equal to the sum of:  
 8 (i) ~~ten fifty~~ thousand dollars (~~\$10,000~~); **(\$50,000)**; and  
 9 (ii) ten cents (\$0.10) multiplied by the licensed bushel  
 10 storage capacity of the buyer-warehouse's facility; or  
 11 (B) five-tenths percent (0.5%) of the total amount the  
 12 buyer-warehouse paid for grain purchased from producers  
 13 during the buyer-warehouse's most recent fiscal year;  
 14 whichever is greater.
- 15 (b) Except as provided in subsections (g) and (h), the amount of  
 16 bond, letter of credit, or cash deposit required by this chapter may not  
 17 exceed ~~one two~~ hundred ~~fifty~~ thousand dollars (~~\$100,000~~) **(\$250,000)**  
 18 per license and may not exceed a total of ~~five hundred thousand one~~  
 19 ~~million~~ dollars (~~\$500,000~~) **(\$1,000,000)** per person.
- 20 (c) The licensed bushel storage capacity is the maximum number of  
 21 bushels of grain that the licensee's facility could accommodate as  
 22 determined by the director or the director's designated representative  
 23 and shall be increased or reduced in accordance with the amount of  
 24 space being used for storage from time to time.
- 25 (d) Instead of a bond or cash deposit, an irrevocable letter of credit  
 26 in the prescribed amount may be provided with the director as the  
 27 beneficiary. The director shall adopt rules under IC 4-22-2 to establish  
 28 acceptable form, substance, terms, and conditions for letters of credit.  
 29 The director may not release a party from the obligations of the letter  
 30 of credit within eighteen (18) months of the termination of the  
 31 licensee's license.
- 32 (e) The director shall adopt rules under IC 4-22-2 to provide for the  
 33 receipt and retention of cash deposits. However, the director shall not  
 34 return a cash deposit to a licensee until the director has taken  
 35 reasonable precautions to assure that the licensee's obligations and  
 36 liabilities have been or will be met.
- 37 (f) If a person is licensed or is applying for licenses to operate two  
 38 (2) or more facilities in Indiana, the person may give a single bond,  
 39 letter of credit, or cash deposit to satisfy the requirements of this  
 40 chapter and the rules adopted under this chapter to cover all the  
 41 person's facilities in Indiana.
- 42 (g) If a licensee has a deficiency in the minimum positive net worth



1 required under section 16(a)(2)(B), 16(a)(3)(B), 16(a)(4)(B), or  
 2 16(a)(5)(B) of this chapter, the licensee shall add to the amount of  
 3 bond, letter of credit, or cash deposit determined under subsection (a)  
 4 an amount equal to the deficiency or provide another form of surety as  
 5 permitted under the rules of the agency.

6 (h) Except as provided in subsections (i) and (j), a licensee may not  
 7 correct a deficiency in the minimum positive net worth required by  
 8 section 16(a)(1), 16(a)(2)(A), 16(a)(3)(A), 16(a)(4)(A), or 16(a)(5)(A)  
 9 of this chapter by adding to the amount of bond, letter of credit, or cash  
 10 deposit required by subsection (a).

11 (i) A buyer-warehouse that has a bushel storage capacity of less than  
 12 one million (1,000,000) bushels or purchases less than one million  
 13 (1,000,000) bushels of grain per year may correct a deficiency in  
 14 minimum positive net worth by adding to the amount of bond, letter of  
 15 credit, or cash deposit determined under subsection (a) if the  
 16 buyer-warehouse has a minimum positive net worth of at least ~~fifteen~~  
 17 **fifty** thousand dollars (~~\$15,000~~), (**\$50,000**), not including the amount  
 18 added to the bond, letter of credit, or cash deposit.

19 (j) A buyer-warehouse that has a bushel storage capacity of at least  
 20 one million (1,000,000) bushels, or purchases at least one million  
 21 (1,000,000) bushels of grain per year, may correct a deficiency in  
 22 minimum positive net worth by adding to the amount of bond, letter of  
 23 credit, or cash deposit determined under subsection (a) if the  
 24 buyer-warehouse has a minimum positive net worth of at least **fifty one**  
 25 **hundred** thousand dollars (~~\$50,000~~), (**\$100,000**), not including the  
 26 amount added to the bond, letter of credit, or cash deposit.

27 (k) If the director or the director's designated representative finds  
 28 that conditions exist that warrant requiring additional bond or cash  
 29 deposit, there shall be added to the amount of bond or cash deposit as  
 30 determined under the other provisions of this section, a further amount  
 31 to meet the conditions.

32 (l) The director may accept, instead of a single cash deposit, letter  
 33 of credit, or bond, a deposit consisting of any combination of cash  
 34 deposits, letters of credit, or bonds in an amount equal to the licensee's  
 35 obligation under this chapter. The director shall adopt rules under  
 36 IC 4-22-2 to establish standards for determining the order in which the  
 37 forms of security on deposit must be used to pay proven claims if the  
 38 licensee defaults.

39 (m) The director may require additional bonding that the director  
 40 considers necessary.

41 SECTION 9. IC 26-3-7-16, AS AMENDED BY P.L.64-2009,  
 42 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2015]: Sec. 16. (a) A licensee shall have and maintain a  
 2 current asset to current liability ratio of one to one (1:1) and shall  
 3 maintain, as evidenced by the financial statement required by section  
 4 6 of this chapter, the following minimum positive net worth:

5 (1) For a grain bank, minimum positive net worth is at least ~~ten~~  
 6 **one hundred** thousand dollars (~~\$10,000~~). **(\$100,000)**.

7 (2) For a warehouse, minimum positive net worth is at least equal  
 8 to the sum of:

9 (A) ~~fifteen~~ **one hundred** thousand dollars (~~\$15,000~~);  
 10 **(\$100,000)**; and

11 (B) ten cents (\$0.10) multiplied by the bushel storage capacity  
 12 of the warehouse.

13 (3) For a grain buyer, minimum positive net worth is:

14 (A) ~~ten~~ **one hundred** thousand dollars (~~\$10,000~~). **(\$100,000)**;  
 15 or

16 (B) five cents (\$0.05) multiplied by the total number of  
 17 bushels of grain purchased by the grain buyer during the grain  
 18 buyer's most recent fiscal year;

19 whichever is greater.

20 (4) For a buyer-warehouse that has a bushel storage capacity of  
 21 less than one million (1,000,000) bushels or purchases less than  
 22 one million (1,000,000) bushels of grain per year, minimum  
 23 positive net worth is:

24 (A) the sum of:

25 (i) ~~fifteen~~ **one hundred fifty** thousand dollars (~~\$15,000~~);  
 26 **(\$150,000)**; and

27 (ii) ten cents (\$0.10) multiplied by the bushel storage  
 28 capacity of the buyer-warehouse; or

29 (B) five cents (\$0.05) multiplied by the total number of  
 30 bushels of grain purchased by the buyer-warehouse during the  
 31 buyer-warehouse's most recent fiscal year;

32 whichever is greater.

33 (5) For a buyer-warehouse that has a bushel storage capacity of at  
 34 least one million (1,000,000) bushels or purchases at least one  
 35 million (1,000,000) bushels of grain per year, minimum positive  
 36 net worth is:

37 (A) the sum of:

38 (i) ~~fifty~~ **two hundred** thousand dollars (~~\$50,000~~);  
 39 **(\$200,000)**; and

40 (ii) ten cents (\$0.10) multiplied by the bushel storage  
 41 capacity of the buyer-warehouse; or

42 (B) five cents (\$0.05) multiplied by the total number of



1 bushels of grain purchased by the buyer-warehouse during the  
 2 buyer-warehouse's most recent fiscal year;  
 3 whichever is greater.

4 (b) Except as provided in section 10 of this chapter, if a licensee is  
 5 required to show additional net worth to comply with this section, the  
 6 licensee may satisfy the requirement by adding to the amount of the  
 7 bond, letter of credit, or cash deposit required under section 10 of this  
 8 chapter an amount equal to the additional net worth required or provide  
 9 another form of surety as permitted under the rules of the agency.

10 (c) The director may adopt rules under IC 4-22-2 to provide that a  
 11 narrative market appraisal that demonstrates assets sufficient to comply  
 12 with this section may satisfy the minimum positive net worth  
 13 requirement.

14 SECTION 10. IC 26-3-7-17.5 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17.5. (a) Whenever the  
 16 license of a licensee is suspended or revoked, the director ~~may~~ **shall**:

17 (1) for each facility operated by the licensee, publish a public  
 18 notice in a newspaper of general circulation that serves the county  
 19 in which the facility is located; and

20 (2) cause notice of the suspension or revocation to be posted at  
 21 the facilities covered by the license.

22 (b) Whenever an application for licensure under this chapter is  
 23 denied, the director may:

24 (1) for each facility operated by the applicant, publish a public  
 25 notice in a newspaper of general circulation that serves the county  
 26 in which the facility is located; and

27 (2) cause notice of the denial to be posted at the applicant's  
 28 facilities.

29 (c) A notice posted under this section may not be removed without  
 30 the written permission of the director.

31 (d) The director shall adopt rules under IC 4-22-2 to determine the  
 32 content of the notices required by this section.

33 SECTION 11. IC 26-4-1-13, AS AMENDED BY P.L.75-2010,  
 34 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2015]: Sec. 13. "Grain" means corn for all uses, popcorn,  
 36 wheat, oats, rye, soybeans, barley, sorghum, oil seeds, other agricultural  
 37 commodities as approved by the agency, and seed (as defined in  
 38 ~~IC 26-3-7-2(22)~~; **IC 26-3-7-2(24)**). The term does not include canning  
 39 crops for processing, sweet corn, or flint corn.

40 SECTION 12. IC 26-4-4-1, AS AMENDED BY P.L.75-2010,  
 41 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2015]: Sec. 1. (a) The Indiana grain indemnity fund is



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

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

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

7 SECTION 13. IC 26-4-4-2, AS AMENDED BY P.L.5-2009,  
 8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2015]: Sec. 2. (a) ~~The fund consists of money paid into the~~  
 10 ~~fund from the producers of grain under section 4 of this chapter.~~  
 11 **administrative expense account is created within the fund.**

12 (b) The expenses of administering the fund **and paying**  
 13 **administrative expenses** must be paid from money in the ~~fund~~. ~~After~~  
 14 ~~the fund reaches an amount in excess of ten million dollars~~  
 15 ~~(\$10,000,000); the board may annually take not more than two hundred~~  
 16 ~~fifty thousand dollars (\$250,000) and allocate it to a separate~~  
 17 ~~administrative expenses account to pay administrative expenses.~~  
 18 **administrative expense account.**

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

22 (d) Administrative expenses under this section may include:

- 23 (1) processing refunds;
- 24 (2) enforcement of the fund;
- 25 (3) record keeping in relation to the fund; ~~and~~
- 26 (4) the ordinary management and investment fees connected with
- 27 the operation of the fund; **and**
- 28 **(5) legal fees and legal expenses in actions brought against the**
- 29 **corporation or board and that have been approved by the**
- 30 **board.**

31 ~~(c) Board approved legal fees and legal expenses in actions brought~~  
 32 ~~against the corporation, board, or fund must be paid from money in the~~  
 33 ~~fund. These fees and expenses are not administrative costs and may not~~  
 34 ~~be paid from the administrative expense account.~~

35 SECTION 14. IC 26-4-4-4 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Except as  
 37 provided in section 8 of this chapter, beginning on July 1, ~~1996,~~ **2015,**  
 38 the producers of grain shall be charged a producer premium equal to  
 39 two-tenths percent (0.2%) of the price on all marketed grain that is sold  
 40 in Indiana.

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





1 SECTION 15. IC 26-4-4-8, AS AMENDED BY P.L.5-2009,  
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2015]: Sec. 8. (a) The producer premiums required under  
 4 section 4 of this chapter must be collected until the fund contains more  
 5 than ~~fifteen~~ **twenty-five** million dollars (~~\$15,000,000~~); (**\$25,000,000**),  
 6 as of June 30 of any given year.

7 (b) Except as provided in subsection (c), after the fund reaches  
 8 ~~fifteen~~ **twenty-five** million dollars (~~\$15,000,000~~); (**\$25,000,000**), the  
 9 board may not require the collection of additional producer premiums  
 10 until the amount in the fund drops below ~~ten~~ **twenty** million dollars  
 11 (~~\$10,000,000~~); (**\$20,000,000**), as determined under section 9 of this  
 12 chapter. In a year when the board determines that the fund is at or  
 13 below ~~ten~~ **twenty** million dollars (~~\$10,000,000~~); (**\$20,000,000**), the  
 14 board shall reinstate the collection described in this chapter.

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

17 (1) the fund contains at least ~~ten~~ **twenty** million dollars  
 18 (~~\$10,000,000~~); (**\$20,000,000**);

19 (2) the board is aware of a failure of a grain buyer; and

20 (3) the amount of compensation from the fund to cover producers'  
 21 claims, as determined by the board, is equal to or greater than the  
 22 amount of money in the fund.

23 SECTION 16. IC 26-4-4-9, AS AMENDED BY P.L.75-2010,  
 24 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2015]: Sec. 9. (a) At the July meeting required under  
 26 IC 26-4-3-5, the board shall certify the amount of money in the fund on  
 27 June 30.

28 (b) Except as provided in section 8(c) of this chapter, the board may  
 29 not require the collection of a producer premium during a fiscal year  
 30 when the board certifies under subsection (a) that the fund has money  
 31 in excess of ~~ten~~ **twenty** million dollars (~~\$10,000,000~~); (**\$20,000,000**).  
 32 If the fund is at or below ~~ten~~ **twenty** million dollars (~~\$10,000,000~~);  
 33 (**\$20,000,000**), the board shall reinstate the collection.

34 SECTION 17. IC 26-4-6-1, AS AMENDED BY P.L.75-2010,  
 35 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2015]: Sec. 1. (a) ~~Except as provided in section 2 of this~~  
 37 ~~chapter~~, The money in the fund:

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

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

42 (b) The limiting and nontransferability provision of subsection (a)



1 is declared to be nonseverable from the whole of this article. If  
2 subsection (a) is held to be invalid, repealed, or substantially amended,  
3 this article shall immediately become invalid and the money remaining  
4 in the fund shall be distributed to participants in the fund in a manner  
5 that is proportional to the amount of producer premiums each producer  
6 paid to the fund.  
7 SECTION 18. IC 26-4-6-2 IS REPEALED [EFFECTIVE JULY 1,  
8 2015]. ~~Sec. 2: The board is authorized to pay the administrative~~  
9 ~~expenses or the fund from the administrative expenses account~~  
10 ~~established by IC 26-4-4-2(b) and to pay the fund's legal fees and legal~~  
11 ~~expenses from the fund.~~

