

By: Estes

S.B. No. 1099

A BILL TO BE ENTITLED

AN ACT

relating to the operation and functions of the Texas Grain Producer Indemnity Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 41.102, Agriculture Code, is amended to read as follows:

Sec. 41.102. SUSPENSION OR REVOCATION OF LICENSE. In addition to other remedies provided by law, a violation of any provision of Subchapter B, C, D, E, or I [~~Subchapters B-E~~] of this chapter is grounds for suspension or revocation of any license or permit issued by the commissioner. The suspension or revocation shall be conducted in accordance with the procedures provided by law for suspension or revocation on the basis of other grounds.

SECTION 2. Section 41.201, Agriculture Code, is amended by adding Subdivisions (3-a) and (8) to read as follows:

(3-a) "Fund" means the grain producer indemnity fund.

(8) "Reinsurance" means an insurance product purchased by the board to reduce the financial risk and capital balance associated with the function of the board.

SECTION 3. Subchapter I, Chapter 41, Agriculture Code, is amended by adding Section 41.2035 to read as follows:

Sec. 41.2035. FUND. (a) The grain producer indemnity fund is a trust fund outside the state treasury to be held by the comptroller and administered by the board, without appropriation,

1 for the payment of claims against a grain buyer who has experienced
2 a financial failure.

3 (b) The board shall deposit assessments remitted under
4 Section 41.206 in the fund.

5 (c) Interest or other income from investment of the fund
6 shall be deposited to the credit of the fund.

7 (d) Not later than December 1 of each year, subject to the
8 approval of the commissioner, the board shall set a minimum balance
9 for the fund to be held in reserve to pay for administrative costs
10 in the event that claims against the fund exceed the total balance
11 of the fund. The board shall post the minimum balance set under this
12 subsection on the board's Internet website.

13 SECTION 4. The heading to Section 41.205, Agriculture Code,
14 is amended to read as follows:

15 Sec. 41.205. POWERS AND DUTIES OF BOARD.

16 SECTION 5. Section 41.205, Agriculture Code, is amended by
17 adding Subsection (f) to read as follows:

18 (f) The board may borrow money, with the approval of the
19 commissioner, as necessary to implement this subchapter.

20 SECTION 6. Sections 41.209(b) and (f), Agriculture Code,
21 are amended to read as follows:

22 (b) In determining the amount due to a grain producer under
23 Subsection (a) for a loss of grain, the board may award the grain
24 producer not more than 85 [~~90~~] percent of:

25 (1) the value of the grain on the claim initiation
26 date, as determined by board rule, if the grain has not been sold;
27 or

1 (2) the contract price of the grain, if the grain has
2 been sold.

3 (f) The board may deny a grain producer's claim in whole or
4 in part:

5 (1) if the grain producer has failed to pay
6 assessments [~~for the current growing season~~] under Section 41.206;

7 (2) if the applicable grain buyer has a history of
8 failure to collect assessments as required by Section 41.206;

9 (3) if the documentation submitted by the grain
10 producer in support of the grain producer's claim is incomplete,
11 false, or fraudulent;

12 (4) to prevent the grain producer from recovering from
13 multiple payments an amount greater than the amount the grain
14 producer lost due to the financial failure of a grain buyer or to
15 the grain buyer's refusal, failure, or inability to deliver to the
16 grain producer grain held by the grain buyer as a bailment,
17 including:

18 (A) payments made by the board;

19 (B) payments made from a grain warehouse
20 operator's bond;

21 (C) payments ordered by a bankruptcy court; or

22 (D) a recovery under a state or federal crop
23 insurance policy or program; or

24 (5) if documentation submitted by the grain producer
25 demonstrates that deferred payment on sold grain was beyond normal
26 and customary practices.

27 SECTION 7. Section 41.210, Agriculture Code, is amended to

1 read as follows:

2 Sec. 41.210. REIMBURSEMENT OF BOARD BY GRAIN BUYER;
3 SUBROGATION OF RIGHTS; REINSURANCE. (a) If the board pays a claim
4 against a grain buyer, the board is subrogated to the extent of the
5 amount paid to a grain producer by the board to all rights of the
6 grain producer against[+]

7 [~~(1)~~] the grain buyer[~~, to the extent of the amount~~
8 ~~paid to a grain producer by the board,~~] and

9 [~~(2)~~] any other entity from which the grain producer
10 is entitled to a payment for the loss giving rise to the grain
11 producer's claim under this subchapter.

12 (b) Funds recovered under this section shall be deposited
13 with the depository bank selected by the board under Section
14 [41.060](#).

15 (c) The board may purchase reinsurance policies to mitigate
16 the board's financial risks.

17 SECTION 8. Section [41.211](#), Agriculture Code, is amended to
18 read as follows:

19 Sec. 41.211. RULES. Except as provided by Section [41.212](#),
20 the board may adopt rules as necessary to implement this
21 subchapter, including rules relating to:

- 22 (1) notice and collection of assessments;
23 (2) distribution of rebates;
24 (3) the management of the board's budget;
25 (4) the use of insurance and reinsurance products;
26 (5) [~~(3)~~] administration of the board's duties;
27 (6) [~~(4)~~] the statewide referendum conducted under

1 Section 41.212;

2 (7) [~~(5)~~] the selection of agents, designees, or
3 devices to carry out the intent of the board; and

4 (8) [~~(6)~~] guidelines for industry practices that do or
5 do not qualify for indemnification by the board.

6 SECTION 9. Section 41.212(e), Agriculture Code, is amended
7 to read as follows:

8 (e) A referendum is approved if a majority of votes cast are
9 in favor of the referendum [~~meets the requirements of Section~~
10 ~~41.031~~].

11 SECTION 10. Subchapter I, Chapter 41, Agriculture Code, is
12 amended by adding Section 41.2145 to read as follows:

13 Sec. 41.2145. REBATE OF ASSESSMENTS. (a) A grain producer
14 who has paid an assessment under Section 41.206 may be eligible for
15 a rebate from excess money in the indemnity fund as provided by this
16 section.

17 (b) Not later than December 1 of each year, the board shall
18 review the budget for the next year and the board's current
19 financial status. Based on that review, the board shall determine
20 whether funds are available in excess of the minimum fund balance to
21 issue rebates to grain producers who paid an assessment under
22 Section 41.206.

23 (c) The board shall adopt rules regarding the procedure for
24 determining the amount of a grain producer's rebate and the timing,
25 method, and order of rebate issuance.

26 SECTION 11. Subchapter I, Chapter 41, Agriculture Code, is
27 amended by adding Section 41.216 to read as follows:

1 Sec. 41.216. ADMINISTRATIVE REVIEW. (a) The board by rule
2 shall establish an administrative review process to informally
3 review and resolve claims arising from an action of the board under
4 this subchapter. The board shall adopt rules:

5 (1) designating which board actions are subject to
6 review under this section; and

7 (2) outlining available remedial actions.

8 (b) A person may appeal an administrative review decision
9 made by the board under Subsection (a) to the commissioner.

10 (c) A person may appeal a decision of the commissioner in
11 the manner provided for a contested case under Chapter 2001,
12 Government Code.

13 (d) This section does not waive this state's sovereign
14 immunity.

15 SECTION 12. Section 41.214, Agriculture Code, is repealed.

16 SECTION 13. (a) The change in law made by this Act to
17 Section 41.102, Agriculture Code, applies only to conduct that
18 occurs on or after the effective date of this Act. Conduct that
19 occurs before the effective date of this Act is governed by the law
20 in effect on the date the conduct occurs, and the former law is
21 continued in effect for that purpose.

22 (b) The repeal of Section 41.214, Agriculture Code, by this
23 Act applies only to an application for a refund submitted on or
24 after the effective date of this Act. An application for a refund
25 submitted before the effective date of this Act is governed by the
26 law in effect on the date the application was submitted, and the
27 former law is continued in effect for that purpose.

1 SECTION 14. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2015.