

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/18/15

A Bill

SENATE BILL 920

5 By: Senator G. Stubblefield
6

For An Act To Be Entitled

8 AN ACT TO PROTECT ARKANSAS FARMERS BY REGULATING THE
9 GRAIN INDUSTRY; TO CREATE THE ARKANSAS GRAIN
10 INDEMNITY LAW; TO TRANSFER THE ADMINISTRATION OF
11 GRAIN ASSESSMENTS AND THE PREMISES OF GRAIN PROMOTION
12 BOARDS TO THE ARKANSAS AGRICULTURE DEPARTMENT; TO
13 CREATE THE ARKANSAS GRAIN INDEMNITY FUND; AND FOR
14 OTHER PURPOSES.
15

Subtitle

16
17
18 TO PROTECT ARKANSAS FARMERS BY REGULATING
19 THE GRAIN INDUSTRY; TO CREATE THE
20 ARKANSAS GRAIN INDEMNITY LAW; AND TO
21 TRANSFER THE ADMINISTRATION OF GRAIN
22 ASSESSMENTS TO THE ARKANSAS AGRICULTURE
23 DEPARTMENT.
24

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code Title 2 is amended to add an additional
29 chapter to read as follows:

Chapter 24

Arkansas Grain Indemnity Law

2-24-101. Title.

30
31
32
33 This chapter shall be known and may be cited as the "Arkansas Grain
34 Indemnity Law".
35
36



1 2-24-102. Definitions.

2 (1) "Grain" means corn, rice, soybeans, wheat, and milo;

3 (2) "Grain broker" means a person that facilitates a buy-sell
4 grain contract but does not:

5 (A) Take possession or delivery of grain;

6 (B) Store grain; or

7 (C) Handle the grain seller's money;

8 (3) "Grain buyer" means a marketing agent or the first person
9 that takes delivery of grain from a farmer.

10 (4) "Grain merchandiser" means a person that:

11 (A) Buys grain;

12 (B) Takes delivery and possession of grain; and

13 (C) Stores grain;

14 (5) "Marketing agent" means a person that:

15 (A) Buys grain for the purpose of reselling the grain; and

16 (B) Does not take delivery of or store the grain; and

17 (6) "Person" means an individual, corporation, partnership,
18 association, firm, or other business entity, and the agents or
19 representatives of a corporation, partnership, association, firm, or other
20 business entity.

21
22 2-24-103. Licensing of grain buyers.

23 (a) Beginning December 1, 2015, a person operating as a grain buyer
24 shall obtain a license under this section.

25 (b)(1) An applicant for a license under this section shall submit an
26 application on the form required by the Secretary of the Arkansas Agriculture
27 Department.

28 (2) An application for a license under this section shall
29 include:

30 (A) Evidence of the financial stability of the applicant,
31 including without limitation a statement of the applicant's liabilities and
32 assets; and

33 (B) Any other information required by the secretary.

34 (c) The secretary may establish an application fee to cover the costs
35 of administering this section.

36 (d) A grain buyer shall apply for renewal of the grain buyer's license

1 under this section by December 1 of each year.

2
3 2-24-104. Use of grain assessments.

4 (a) Beginning January 1, 2016, three percent (3%) of the assessments
5 on grain under §§ 2-20-406, 2-20-507, 2-20-606, and 2-20-805, after the
6 Secretary of the Arkansas Agriculture Department deducts an administrative
7 fee, shall be deposited into the Arkansas Grain Indemnity Fund to be used to
8 reimburse grain sellers if a grain buyer becomes insolvent.

9 (b) However, when the amount in the fund equals twenty-five million
10 dollars (\$25,000,000), all of the revenues derived from the assessments under
11 §§ 2-20-406, 2-20-507, 2-20-606, and 2-20-805, after the deduction of the
12 administrative fee, shall be credited to the respective promotion boards.

13 (c) The secretary shall establish the procedures for applying for
14 funds and establishing eligibility for funds under this section.

15
16 2-24-105. Contracts and records.

17 (a) Each grain purchase contract used by a grain buyer shall contain
18 the following:

19 (1) The buyer's name and signature;

20 (2) The seller's name;

21 (3) The delivery period;

22 (4) The freight-on-board location;

23 (5) The type of grain being purchased;

24 (6) The price of the grain being purchased;

25 (7) The amount of grain being purchased;

26 (8) The discount schedule that applies to the quality of grain
27 if the schedule is different from the industry standard; and

28 (9) A statement that:

29 (A)(i) Either:

30 (a) The grain buyer agrees to pay the seller
31 within ten (10) calendar days of each delivery of grain regardless of whether
32 the seller has delivered the entire amount of grain under the contract; or

33 (b) The grain buyer's payment is not due until
34 January of the year following the execution of the contract.

35 (ii) A cooperative association established under §
36 2-2-101 et seq. is exempt from the requirement stated in subdivision

1 (a)(9)(A)(i) of this section;

2 (B) The grain buyer agrees to provide the seller with
3 access to a weekly electronic load summary; and

4 (C) The buyer agrees to provide the following with each
5 payment:

6 (i) A settlement sheet; and

7 (ii) A load summary or weight ticket.

8 (b) A weight ticket for grain shall include the:

9 (1) Buyer's name;

10 (2) Seller's name;

11 (3) Date and time of delivery of the grain;

12 (4) Location of delivery of the grain;

13 (5) Gross, net, and tare weights of the grain;

14 (6) Grain type and complete sample results for the grain;

15 (7) Name and signature of the person who performed the sample of
16 the grain; and

17 (8) Seller's origin ticket number, if any.

18
19 2-24-106. Violations.

20 (a) A grain buyer's failure to pay for a delivered load of grain under
21 a grain purchase contract within ten (10) days of delivery of the grain is a
22 violation of this chapter.

23 (b) A grain seller may report a grain buyer's failure under this
24 section to the *Arkansas Agriculture Department*.

25
26 2-24-107. Audits.

27 The Secretary of the Arkansas Agriculture Department shall audit each
28 grain buyer:

29 (1) Annually; and

30 (2) Upon receipt of a complaint against the grain buyer for
31 violating this chapter.

32
33 2-24-108. Penalties.

34 (a) If a person does not obtain a license under this chapter and
35 operates as a grain buyer in this state, the person is guilty of a Class D
36 felony.

1 (b) A grain buyer that fails to self report under § 2-24-106(a)(2)
 2 shall have its licensed suspended and shall be subject to a civil penalty of
 3 one thousand dollars (\$1,000) for each day the grain buyer does not report
 4 the violation.

5
 6 2-24-109. Administration – Rules.

7 The Secretary of the Arkansas Agriculture Department shall:

8 (1) Promulgate rules to implement and administer this chapter;
 9 and

10 (2) Create a publicly accessible database on the website of the
 11 Arkansas Agriculture Department of:

12 (A) Licensed grain buyers;

13 (B) The results of each audit of a grain buyer; and

14 (C) Any verified complaints received regarding a grain
 15 buyer.

16
 17 SECTION 2. Arkansas Code § 2-20-402 is amended to read as follows:

18 2-20-402. Definitions.

19 As used in this subchapter, unless the context otherwise requires:

20 (1) “Board” means the Arkansas Soybean Promotion Board created
 21 ~~pursuant to~~ under this subchapter;

22 (2) “Net market price” means:

23 (A) The sales price or value received by a producer for
 24 soybeans after adjustments for any premium or discount based on grading or
 25 quality factors, as determined by the ~~secretary~~ United States Secretary of
 26 Agriculture; or

27 (B) For soybeans pledged as collateral for a loan issued
 28 under any price support loan program administered by the Commodity Credit
 29 Corporation, the principal amount of the loan;

30 ~~(3) “Secretary” means the Secretary of Agriculture of the United~~
 31 ~~States;~~

32 ~~(4)~~ (3) “Soybean Promotion, Research and Consumer Information
 33 Act” means the federal Soybean Promotion, Research and Consumer Information
 34 Act of 1990, Subtitle E of Title XIX, of the Food, Agriculture, Conservation
 35 and Trade Act of 1990, ~~P.L.~~ Pub. L. No. 101-624, as amended from time to
 36 time, and any order issued ~~pursuant thereto~~ under the act by the ~~secretary~~

1 United States Secretary of Agriculture; and

2 ~~(5)~~ (4) "United Soybean Board" means the United Soybean Board
3 created by the Soybean Promotion, Research and Consumer Information Act.
4

5 SECTION 3. Arkansas Code § 2-20-404(b), concerning the Arkansas
6 Soybean Promotion Board, is amended to read as follows:

7 (b) The members of the board shall meet and organize immediately after
8 their appointment and shall elect a chair, a vice chair, and a secretary-
9 treasurer from the membership of the board, whose duties shall be those
10 customarily exercised by those officers or specifically designated by the
11 board. The principal office of the board shall be located at the office of
12 the ~~Arkansas Farm Bureau Federation, in Little Rock~~ Arkansas Agriculture
13 Department.
14

15 SECTION 4. Arkansas Code § 2-20-405(a)(3), concerning the powers of
16 the Arkansas Soybean Promotion Board, is amended to read as follows:

17 (3) To collect assessments paid on soybeans marketed within the
18 state and to establish procedures for ensuring compliance with regard to the
19 payment of such assessments; provided, that the Arkansas Soybean Promotion
20 Board may designate the ~~Director of the Department of Finance and~~
21 ~~Administration~~ Secretary of the Arkansas Agriculture Department to collect
22 assessments and ensure compliance with regard to the payment of such
23 assessments, subject to ~~such the~~ the rules ~~as may be~~ that are promulgated by the
24 Arkansas Soybean Promotion Board and ~~as may be reasonably~~ that are necessary
25 to comply with the Soybean Promotion, Research and Consumer Information Act
26 of 1990;
27

28 SECTION 5. Arkansas Code § 2-20-406(a), concerning assessments on
29 Arkansas-grown soybeans, is amended to read as follows:

30 (a)(1) Except as otherwise prescribed by regulations approved by the
31 United States Secretary of Agriculture or the Arkansas Soybean Promotion
32 Board, each person purchasing from, and making payment to, a producer for
33 soybeans produced by ~~such the~~ the producer and marketed for commercial use,
34 including, in any case in which soybeans are pledged as collateral for a loan
35 issued under any federal price support loan program, the Commodity Credit
36 Corporation, shall be a first purchaser and shall collect an assessment from

1 the producer, and each producer shall pay such assessment to the first
2 purchaser, at the applicable rate prescribed in this section. Each first
3 purchaser shall remit ~~such~~ the assessment to the board or to its designee,
4 ~~the Director of the Department of Finance and Administration~~ Secretary of the
5 Arkansas Agriculture Department. For the purpose of this section, purchases
6 from a producer of soybeans or contracts with a producer for production of
7 soybeans for livestock feed or any other application shall constitute
8 marketing for commercial use.

9 (2) Any producer marketing processed soybeans or soybean
10 products of that producer's own production to consumers, either directly or
11 through retail or wholesale outlets, or for export purposes, shall remit the
12 assessment as required by this section.

13
14 SECTION 6. Arkansas Code § 2-20-406(c), concerning assessments on
15 Arkansas-grown soybeans, is amended to read as follows:

16 (c)(1)(A) ~~The~~ After the Secretary of the Arkansas Agriculture
17 Department deducts up to three percent (3%) of the proceeds of the assessment
18 to cover the cost of collections:

19 (i) Beginning January 1, 2016, three percent (3%) of
20 the net amount of proceeds of the assessment shall be deposited into the
21 Arkansas Grain Indemnity Fund; and

22 (ii) The remaining proceeds of the assessment shall
23 be deposited with the Treasurer of State ~~in~~ into a special fund to be
24 established for the Arkansas Soybean Promotion Board; ~~provided, that the~~
25 ~~director may deduct not more than three percent (3%) to cover the cost of~~
26 ~~collections.~~

27 (B) However, if the amount in the Arkansas Grain Indemnity
28 Fund is equal to at least twenty-five million dollars (\$25,000,000), the
29 entire net amount of proceeds of the assessment after the deduction for
30 administrative costs shall be deposited into the special fund established for
31 the board until the amount of the Arkansas Grain Indemnity Fund is less than
32 twenty-five million dollars (\$25,000,000), at which time the amount stated in
33 subdivision (c)(1)(A)(i) of this section shall continue to be deposited into
34 the Arkansas Grain Indemnity Fund.

35 (2) Disbursement shall be made only upon motion duly passed by
36 the board and presented to the Treasurer of State and only for the purposes

1 prescribed in this subchapter.

2
3 SECTION 7. Arkansas Code § 2-20-407 is amended to read as follows:
4 2-20-407. Reports – Books and records.

5 (a) Each person responsible for the collection and remittance of
6 assessments ~~pursuant to~~ under § 2-20-406(a) shall report to the Arkansas
7 Soybean Promotion Board ~~such the~~ information ~~as may be required from time to~~
8 ~~time~~ by regulations approved by the Secretary of Agriculture of the United
9 States or the board. ~~Such~~ The required information may include, ~~but not be~~
10 ~~limited to,~~ without limitation the following:

11 (1) The number of bushels of soybeans purchased, initially
12 transferred, or which, in any other manner, is subject to the collection of
13 assessment;

14 (2) The amount of assessments remitted;

15 (3) The basis, if necessary, to show why the remittance is less
16 than the applicable rate of assessment per bushel of soybeans purchased
17 multiplied by the number of bushels purchased; and

18 (4) The date any assessment was paid.

19 (b)(1) Each person who is subject to this subchapter shall maintain and
20 make available for inspection by the ~~secretary~~ United States Secretary of
21 Agriculture, the board or its designee, the ~~Director of the Department of~~
22 ~~Finance and Administration~~ Secretary of the Arkansas Agriculture Department,
23 ~~such the~~ books and records ~~as are~~ necessary to carry out ~~the provisions of~~
24 this subchapter and the regulations issued ~~thereunder~~ under this subchapter,
25 including ~~such the~~ records ~~as are~~ necessary to verify any reports required.
26 ~~Such~~ The records shall be retained for at least two (2) years beyond the
27 fiscal period of their applicability.

28 (2) ~~Any~~ A producer who plants less than twenty-five (25) acres of
29 soybeans annually shall not be required to maintain books or records ~~pursuant~~
30 ~~to~~ under this section.

31 (c) All information obtained from books, records, or reports required
32 to be filed or kept ~~pursuant to~~ under this section shall be kept confidential
33 by all persons, including employees and former employees of the board, all
34 officers and employees and all former officers and employees of the
35 ~~Department of Finance and Administration~~ Arkansas Agriculture Department, and
36 by all officers and employees and all former officers and employees of

1 contracting parties having access to such information, and shall not be
 2 available to board members or any other producers. Only those persons having
 3 a specific need for such information in order to effectively administer ~~the~~
 4 ~~provisions of~~ this subchapter shall have access to ~~such~~ the information. In
 5 addition, only ~~such~~ the information ~~so~~ furnished or acquired ~~as the secretary~~
 6 that the United States Secretary of Agriculture or the board deems relevant
 7 shall be disclosed by them, and then only in a suit or administrative hearing
 8 brought at the direction, or upon the request, of the ~~secretary~~ United States
 9 Secretary of Agriculture or the board, or to which the ~~secretary~~ United
 10 States Secretary of Agriculture, any officer of the United States, the board,
 11 or the director, is a party. ~~Nothing in this~~ This section ~~shall be deemed to~~
 12 does not prohibit:

13 (1) The issuance of general statements based upon the reports of
 14 the number of persons subject to this subchapter or statistical data
 15 collected ~~therefrom~~ from persons subject to this subchapter, which statements
 16 do not identify the information furnished by any person; and

17 (2) The publication, by direction of the ~~secretary~~ United States
 18 Secretary of Agriculture or the board, of the name of any person who has been
 19 adjudged to have violated this subchapter, together with a statement of the
 20 particular provisions of the subchapter violated by ~~such~~ the person.

21
 22 SECTION 8. Arkansas Code § 2-20-408(a), concerning refunds of
 23 assessments to producers of soybeans, is amended to read as follows:

24 (a) So long as the assessment on soybeans is as provided in § 2-20-
 25 406(b)(1), any soybean producer may request and receive a refund of ~~such~~ the
 26 assessment, ~~provided if~~ provided if he or she makes a written application ~~therefor~~ for a
 27 refund with the Arkansas Soybean Promotion Board or its designee, the
 28 ~~Director of the Department of Finance and Administration~~ Secretary of the
 29 Arkansas Agriculture Department, within forty-five (45) days from the date of
 30 sale, supported by copies of sales slips signed by the purchaser, and
 31 ~~provided further, that~~ if the application is filed before the annual
 32 accounting is made of the funds not later than July 1 each year.

33
 34 SECTION 9. Arkansas Code § 2-20-504(a) and (b), concerning penalties
 35 for failure to pay rice assessments, are amended to read as follows:

36 (a)(1) ~~Any~~ A buyer who fails to file a report or pay ~~any~~ an assessment

1 within the required time set by the ~~Director of the Department of Finance and~~
2 ~~Administration~~ Secretary of the Arkansas Agriculture Department shall forfeit
3 to the ~~director~~ secretary a penalty of five percent (5%) of the assessment
4 determined to be due plus one percent (1%) for each month of delay, or
5 fraction of a month, after the first month after the report was required to
6 be filed or the assessment became due.

7 (2) The penalty shall be paid to the ~~director~~ secretary and shall
8 be disposed of by him or her in the same manner as funds derived from the
9 payment of assessment imposed in this subchapter.

10 (b) The ~~director~~ secretary shall collect the penalty levied in this
11 subchapter, together with the delinquent assessment, by any or all of the
12 following methods:

13 (1) Voluntary payment by the person liable;

14 (2) Legal proceedings instituted in a court of competent
15 jurisdiction; or

16 (3) Injunctive relief to enjoin any buyer owing an assessment or
17 penalty from operating his or her business or engaging in business as a buyer
18 of rice until the delinquent assessment or penalty is paid.

19
20 SECTION 10. Arkansas Code § 2-20-505(e), concerning the Arkansas Rice
21 Research and Promotion Board, is amended to read as follows:

22 (e) The resident agent of the board shall be the ~~executive vice~~
23 ~~president, Arkansas Farm Bureau Federation,~~ Secretary of the Arkansas
24 Agriculture Department or his or her designee.

25
26 SECTION 11. Arkansas Code § 2-20-507(b) and (c), concerning
27 assessments on grown rice, are amended to read as follows:

28 (b) The assessment imposed and levied by this section shall be
29 collected by the ~~Director of the Department of Finance and Administration~~
30 Secretary of the Arkansas Agriculture Department from the buyer of rice at
31 the first point of sale or at the point the rice enters into the United
32 States Department of Agriculture loan program.

33 (c)(1)(A) The proceeds of the assessment, less not more than three
34 percent (3%) to cover the cost of collections, shall be deposited as follows:

35 (i) Beginning January 1, 2016, three percent (3%) of
36 the net amount of proceeds of the assessment shall be deposited into the

1 Arkansas Grain Indemnity Fund; and

2 (ii) The remaining proceeds of the assessment shall
3 be deposited with the Treasurer of State ~~in~~ into a special fund to be
4 established for the Arkansas Rice Research and Promotion Board to the credit
5 of the board.

6 (B) However, if the amount in the Arkansas Grain Indemnity
7 Fund is equal to at least twenty-five million dollars (\$25,000,000), the
8 entire net amount of proceeds of the assessment after the deduction for
9 administrative costs shall be deposited into the special fund established for
10 the board until the amount of the Arkansas Grain Indemnity Fund is less than
11 twenty-five million dollars (\$25,000,000), at which time the amount stated in
12 subdivision (c)(1)(A)(i) of this section shall continue to be deposited into
13 the Arkansas Grain Indemnity Fund.

14 (2) Disbursement shall be made only upon a motion duly passed by
15 the board and presented to the Treasurer of State and only for a purpose
16 prescribed in this subchapter.

17
18 SECTION 12. Arkansas Code § 2-20-508 is amended to read as follows:
19 2-20-508. Records and other documentation.

20 (a)(1) Every buyer shall keep a complete and accurate record of all
21 rice handled by him or her.

22 (2) The records shall be in ~~such~~ the form and contain other
23 information as the Arkansas Rice Research and Promotion Board shall prescribe
24 by rule or regulation.

25 (3) The record shall be preserved for a period of one (1) year
26 and shall be offered for inspection at any time upon written demand by the
27 ~~Director of the Department of Finance and Administration~~ Secretary of the
28 Arkansas Agriculture Department or any duly authorized agent or
29 representative of ~~him or her~~ the secretary.

30 (b)(1) At such times as the ~~director~~ secretary may require, every buyer
31 shall submit reports or otherwise document any information deemed necessary
32 for the efficient collection of the assessment imposed in this subchapter.

33 (2) The ~~director~~ secretary shall have the power to cause ~~any duly~~
34 an authorized agent or representative to enter upon the premises of ~~any a~~
35 buyer of rice and examine or cause to be examined by the agent any books,
36 papers, and records ~~which~~ that deal in any way with respect to the payment of

1 the assessment or enforcement of the provisions of this subchapter.

2
3 SECTION 13. Arkansas Code § 2-20-603(a) and (b), concerning penalties
4 for failure to pay wheat assessments, are amended to read as follows:

5 (a)(1) ~~Any~~ A buyer who fails to file a report or pay ~~any~~ an assessment
6 within the required time set by the ~~Director of the Department of Finance and~~
7 ~~Administration~~ Secretary of the Arkansas Agriculture Department shall forfeit
8 to the ~~director~~ secretary a penalty of five percent (5%) of the assessment
9 determined to be due plus one percent (1%) for each month of delay, or
10 fraction of a month, after the first month after the report was required to
11 be filed or the assessment became due.

12 (2) The penalty shall be paid to the ~~director~~ secretary and shall
13 be disposed of by him or her in the same manner as funds derived from the
14 payment of assessment imposed in this subchapter.

15 (b) The ~~director~~ secretary shall collect the penalty levied in this
16 subchapter, together with the delinquent assessment, by any or all of the
17 following methods:

18 (1) Voluntary payment by the person liable;

19 (2) Legal proceedings instituted in a court of competent
20 jurisdiction; or

21 (3) Injunctive relief to enjoin any buyer owing an assessment or
22 penalty from operating his or her business or engaging in business as a buyer
23 of wheat until the delinquent assessment or penalty is paid.

24
25 *SECTION 14. Arkansas Code § 2-20-604, concerning the Arkansas Wheat*
26 *Promotion Board, is amended to add an additional subsection to read as*
27 *follows:*

28 (e) The principal office of the board shall be located at the office
29 of the Arkansas Agriculture Department.

30
31 SECTION 15. Arkansas Code § 2-20-606(b), concerning assessments on
32 grown wheat, is amended to read as follows:

33 (b)(1) The assessment imposed and levied by this section shall be
34 collected by the ~~Director of the Department of Finance and Administration~~
35 Secretary of the Arkansas Agriculture Department from the buyer of wheat at
36 the first point of sale or when the wheat enters the United States Department

1 of Agriculture loan program.

2 (2)(A) The proceeds of the assessment, less not more than three
3 percent (3%) to cover cost of collections, shall be deposited as follows:

4 (i) Beginning January 1, 2016, three percent (3%) of
5 the net amount of proceeds of the assessment shall be deposited into the
6 Arkansas Grain Indemnity Fund; and

7 (ii) The remaining proceeds of the assessment shall
8 be deposited with the Treasurer of State ~~in~~ into a special fund to be
9 established for the board to the credit of the board.

10 (B) However, if the amount in the Arkansas Grain Indemnity
11 Fund is equal to at least twenty-five million dollars (\$25,000,000), the
12 entire net amount of proceeds of the assessment after the deduction for
13 administrative costs shall be deposited into the special fund established for
14 the board until the amount of the Arkansas Grain Indemnity Fund is less than
15 twenty-five million dollars (\$25,000,000), at which time the amount stated in
16 subdivision (b)(2)(A)(i) of this section shall continue to be deposited into
17 the Arkansas Grain Indemnity Fund.

18 ~~(B)~~ (C) Disbursement shall be made only upon motions duly
19 passed by the board and presented to the Treasurer of State, and only for
20 purposes prescribed in this subchapter.

21

22 SECTION 16. Arkansas Code §§ 2-20-607 and 2-20-608 are amended to read
23 as follows:

24 2-20-607. Records and other documentation.

25 (a)(1) Every buyer shall keep a complete and accurate record of all
26 wheat handled by him or her.

27 (2) The records shall be in ~~such~~ the form and contain other
28 information ~~as prescribed by~~ the Arkansas Wheat Promotion Board ~~shall~~
29 ~~prescribe,~~ by rule or regulation.

30 (3) The record shall be preserved for a period of one (1) year
31 and shall be offered for inspection at any time upon written demand by the
32 ~~Director of the Department of Finance and Administration~~ Secretary of the
33 Arkansas Agriculture Department or any duly authorized agent or
34 representative of ~~him or her~~ the secretary.

35 (b)(1) At such times as the ~~director~~ secretary may require, every buyer
36 shall submit reports or otherwise document any information deemed necessary

1 for the efficient collection of the assessment imposed in this subchapter.

2 (2) The ~~director~~ secretary shall have the power to cause ~~any duty~~
3 an authorized agent or representative to enter upon the premises of ~~any a~~
4 buyer of wheat and examine or cause to be examined by the agent any books,
5 papers, and records ~~which~~ that deal in any way with respect to the payment of
6 the assessment or enforcement of ~~the provisions of~~ this subchapter.

7
8 2-20-608. Refunds to producers.

9 ~~Any~~ A wheat producer may request and receive a refund of the amount
10 deducted from the sale of his or her wheat if:

11 (1) He or she makes a written application with the ~~Director of~~
12 ~~the Department of Finance and Administration~~ Secretary of the Arkansas
13 Agriculture Department within forty-five (45) days from the date of sale,
14 supported by copies of sales slips signed by the purchaser; and

15 (2) The application is filed before the annual accounting is made
16 of the funds not later than July 1 each year.

17
18 SECTION 17. Arkansas Code § 2-20-802(a) and (b), concerning penalties
19 for failure to pay corn and grain sorghum assessments, are amended to read as
20 follows:

21 (a)(1) ~~Any~~ A buyer who fails to file a report or pay ~~any~~ an assessment
22 within the required time set by the ~~Director of the Department of Finance and~~
23 ~~Administration~~ Secretary of the Arkansas Agriculture Department shall forfeit
24 to the ~~director~~ secretary a penalty of five percent (5%) of the assessment
25 determined to be due plus one percent (1%) for each month of delay, or
26 fraction of a month, after the first month after the report was required to
27 be filed or the assessment became due.

28 (2) The penalty shall be paid to the ~~director~~ secretary and shall
29 be disposed of by him or her in the same manner as funds derived from the
30 payment of the assessment imposed in this subchapter.

31 (b) The ~~director~~ secretary shall collect the penalty levied in this
32 section, together with the delinquent assessment, by any or all of the
33 following methods:

34 (1) Voluntary payment by the person liable;

35 (2) Legal proceedings instituted in a court of competent
36 jurisdiction; or

1 (3) Injunctive relief to enjoin any buyer owing the assessment or
2 penalty, or both, from operating his or her business or engaging in business
3 as a buyer of corn or grain sorghum until the delinquent assessment or
4 penalty, or both, is paid.

5
6 SECTION 18. Arkansas Code § 2-20-804(a)(1), concerning the Arkansas
7 Corn and Grain Sorghum Promotion Board, is amended to read as follows:

8 (a)(1) The Arkansas Corn and Grain Sorghum Promotion Board is created
9 and domiciled ~~in Little Rock, Arkansas, 10720 Kanis Road,~~ at the office of
10 the Arkansas Agriculture Department and is composed of seven (7) producer
11 members appointed by the Governor as provided in this subsection.

12
13 SECTION 19. Arkansas Code § 2-20-804(c), concerning the Arkansas Corn
14 and Grain Sorghum Promotion Board, is amended to read as follows:

15 (c) The resident agent of the board shall be the ~~executive vice~~
16 ~~president of the Arkansas Farm Bureau Federation,~~ Secretary of the Arkansas
17 Agriculture Department or his or her designee.

18
19 SECTION 20. Arkansas Code § 2-20-805(c) and (d), concerning
20 assessments on corn and grain sorghum and buyers' records of corn and grain
21 sorghum, are amended to read as follows:

22 (c)(1) The assessment imposed and levied by this section shall be
23 collected by the ~~Director of the Department of Finance and Administration~~
24 Secretary of the Arkansas Agriculture Department from the buyer of corn or
25 grain sorghum at the first point of sale or when the corn or grain sorghum
26 enters the United States Department of Agriculture loan program.

27 (2)(A) The proceeds of the assessment, less not more than three
28 percent (3%) to cover the cost of collections, shall be deposited as follows:

29 (i) Beginning January 1, 2016, three percent (3%) of
30 the net amount of proceeds of the assessment shall be deposited into the
31 Arkansas Grain Indemnity Fund; and

32 (ii) The remaining proceeds of the assessment shall
33 be deposited with the Treasurer of State ~~in~~ into a special fund to be
34 established for the board to the credit of the board.

35 (B) However, if the amount in the Arkansas Grain Indemnity
36 Fund is equal to at least twenty-five million dollars (\$25,000,000), the

1 entire net amount of proceeds of the assessment after the deduction for
 2 administrative costs shall be deposited into the special fund established for
 3 the board until the amount of the Arkansas Grain Indemnity Fund is less than
 4 twenty-five million dollars (\$25,000,000), at which time the amount stated in
 5 subdivision (c)(2)(A)(i) of this section shall continue to be deposited into
 6 the Arkansas Grain Indemnity Fund.

7 (C) Disbursement from the special fund shall be made only
 8 upon a motion duly passed by the board and presented to the Treasurer of
 9 State and only for a purpose prescribed in this subchapter.

10 (d)(1) Every buyer shall keep a complete and accurate record of all
 11 corn and grain sorghum handled by him or her.

12 (2) The records shall be in ~~such the~~ such the form and contain other
 13 information ~~as prescribed by the board shall~~ as prescribed by the board shall by rule or regulation ~~prescribe~~.

14 (3) The record shall be preserved for a period of one (1) year
 15 and shall be offered for inspection at any time upon written demand by the
 16 ~~director~~ secretary or any duly authorized agent or representative of the
 17 ~~director~~ secretary.

18 (4) Every buyer, at such time or times as the ~~director~~ secretary
 19 may require, shall submit reports or otherwise document any information
 20 deemed necessary for the efficient collection of the assessment imposed in
 21 this section.

22 (5) The ~~director~~ secretary shall have the power to cause ~~any duly~~
 23 an authorized agent or representative to enter upon the premises of ~~any a~~
 24 buyer of corn or grain sorghum and examine or cause to be examined by the
 25 agent any book, paper, and record ~~which that~~ which that deal in any way with respect to
 26 the payment of the assessment or enforcement of the provisions of this
 27 subchapter.

28
 29 SECTION 21. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
 30 amended to add an additional section to read as follows:

31 19-5-1142. Arkansas Grain Indemnity Fund.

32 (a) There is created on the books of the Treasurer of State, the
 33 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
 34 be known as the "Arkansas Grain Indemnity Fund".

35 (b) The fund shall consist of:

36 (1) A portion of the assessments on grain under §§ 2-20-406, 2-

1 20-507, 2-20-606, and 2-20-805;

2 (2) Any remaining fund balances carried forward from year to
3 year; and

4 (3) Any other funds authorized or provided by law.

5 (c) The fund shall be used by the Arkansas Agriculture Department as
6 provided under the Arkansas Grain Indemnity Law, § 2-24-101 et seq., to
7 reimburse grain sellers if a grain buyer becomes insolvent.

8 (d) Moneys remaining in the fund at the end of each fiscal year shall
9 carry forward and be made available for the purposes stated in this section
10 in the next fiscal year.

11
12 */s/G. Stubblefield*
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36