

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

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.

Subtitle

15
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:

30 Chapter 24

31 Arkansas Grain Indemnity Law

32
33 2-24-101. Title.

34 This chapter shall be known and may be cited as the "Arkansas Grain
35 Indemnity Law".
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)(A) "Grain buyer" means the first person that takes delivery
9 of grain from a farmer.

10 (B) "Grain buyer" does not include a grain broker or a
11 marketing agent;

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

13 (A) Buys grain;

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

15 (C) Stores grain;

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

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

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

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

23
24 2-24-103. Licensing of grain buyers.

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

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

30 (2) An application for a license under this section shall
31 include:

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

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

36 (c) The secretary may establish an application fee to cover the costs

1 of administering this section.

2 (d) A grain buyer shall apply for renewal of the grain buyer's license
3 under this section by December 1 of each year.

4
5 2-24-104. Use of grain assessments.

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

11 (b) However, when the amount in the fund equals twenty-five million
12 dollars (\$25,000,000), all of the revenues derived from the assessments under
13 §§ 2-20-406, 2-20-507, 2-20-606, and 2-20-805, after the deduction of the
14 administrative fee, shall be credited to the respective promotion boards.

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

17
18 2-24-105. Contracts and records.

19 (a) Each grain purchase contract used by a grain buyer shall contain
20 the following:

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

22 (2) The seller's name;

23 (3) The delivery period;

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

25 (5) The type of grain being purchased;

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

27 (7) The amount of grain being purchased;

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

30 (9) A statement that:

31 (A)(i) Either:

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

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

1 (ii) A cooperative association established under §
2 2-2-101 et seq. is exempt from the requirement stated in subdivision
3 (a)(9)(A)(i) of this section;

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

6 (C) The buyer agrees to provide the following with each
7 payment:

8 (i) A settlement sheet; and

9 (ii) A load summary or weight ticket.

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

11 (1) Buyer's name;

12 (2) Seller's name;

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

14 (4) Location of delivery of the grain;

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

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

17 (7) Name and signature of the person who performed the sample of
18 the grain; and

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

20
21 2-24-106. Violations.

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

25 (b) A grain buyer shall report any failure under this subsection to
26 the Arkansas Agriculture Department.

27 (c) A grain seller may report a grain buyer's failure under this
28 section to the department.

29
30 2-24-107. Audits.

31 The Secretary of the Arkansas Agriculture Department shall audit each
32 grain buyer:

33 (1) Annually; and

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

1 2-24-108. Penalties.

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

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

9
10 2-24-109. Administration – Rules.

11 The Secretary of the Arkansas Agriculture Department shall:

12 (1) Promulgate rules to implement and administer this chapter;
13 and

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

- 16 (A) Licensed grain buyers;
- 17 (B) The results of each audit of a grain buyer; and
- 18 (C) Any verified complaints received regarding a grain
19 buyer.

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

22 2-20-402. Definitions.

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

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

26 (2) “Net market price” means:
27 (A) The sales price or value received by a producer for
28 soybeans after adjustments for any premium or discount based on grading or
29 quality factors, as determined by the ~~secretary~~ United States Secretary of
30 Agriculture; or

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

34 ~~(3) “Secretary” means the Secretary of Agriculture of the United~~
35 ~~States;~~

36 ~~(4)~~ (3) “Soybean Promotion, Research and Consumer Information

1 Act” means the federal Soybean Promotion, Research and Consumer Information
 2 Act of 1990, Subtitle E of Title XIX, of the Food, Agriculture, Conservation
 3 and Trade Act of 1990, ~~P.L.~~ Pub. L. No. 101-624, as amended from time to
 4 time, and any order issued ~~pursuant thereto~~ under the act by the ~~secretary~~
 5 United States Secretary of Agriculture; and

6 ~~(5)~~ (4) “United Soybean Board” means the United Soybean Board
 7 created by the Soybean Promotion, Research and Consumer Information Act.

8

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

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

18

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

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

31

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

34 (a)(1) Except as otherwise prescribed by regulations approved by the
 35 United States Secretary of Agriculture or the Arkansas Soybean Promotion
 36 Board, each person purchasing from, and making payment to, a producer for

1 soybeans produced by ~~such~~ the producer and marketed for commercial use,
 2 including, in any case in which soybeans are pledged as collateral for a loan
 3 issued under any federal price support loan program, the Commodity Credit
 4 Corporation, shall be a first purchaser and shall collect an assessment from
 5 the producer, and each producer shall pay such assessment to the first
 6 purchaser, at the applicable rate prescribed in this section. Each first
 7 purchaser shall remit ~~such~~ the assessment to the board or to its designee,
 8 the ~~Director of the Department of Finance and Administration~~ Secretary of the
 9 Arkansas Agriculture Department. For the purpose of this section, purchases
 10 from a producer of soybeans or contracts with a producer for production of
 11 soybeans for livestock feed or any other application shall constitute
 12 marketing for commercial use.

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

17
 18 SECTION 6. Arkansas Code § 2-20-406(c), concerning assessments on
 19 Arkansas-grown soybeans, is amended to read as follows:

20 (c)(1)(A) The After the Secretary of the Arkansas Agriculture
 21 Department deducts up to three percent (3%) of the proceeds of the assessment
 22 to cover the cost of collections:

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

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

31 (B) However, if the amount in the Arkansas Grain Indemnity
 32 Fund is equal to at least twenty-five million dollars (\$25,000,000), the
 33 entire net amount of proceeds of the assessment after the deduction for
 34 administrative costs shall be deposited into the special fund established for
 35 the board until the amount of the Arkansas Grain Indemnity Fund is less than
 36 twenty-five million dollars (\$25,000,000), at which time the amount stated in

1 subdivision (c)(1)(A)(i) of this section shall continue to be deposited into
2 the Arkansas Grain Indemnity Fund.

3 (2) Disbursement shall be made only upon motion duly passed by
4 the board and presented to the Treasurer of State and only for the purposes
5 prescribed in this subchapter.

6

7 SECTION 7. Arkansas Code § 2-20-407 is amended to read as follows:
8 2-20-407. Reports – Books and records.

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

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

18 (2) The amount of assessments remitted;

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

22 (4) The date any assessment was paid.

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

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

35 (c) All information obtained from books, records, or reports required
36 to be filed or kept ~~pursuant to~~ under this section shall be kept confidential

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

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

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

25
 26 SECTION 8. Arkansas Code § 2-20-408(a), concerning refunds of
 27 assessments to producers of soybeans, is amended to read as follows:

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

1
 2 SECTION 9. Arkansas Code § 2-20-504(a) and (b), concerning penalties
 3 for failure to pay rice assessments, are amended to read as follows:

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

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

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

17 (1) Voluntary payment by the person liable;

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

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

23
 24 SECTION 10. Arkansas Code § 2-20-505(e), concerning the Arkansas Rice
 25 Research and Promotion Board, is amended to read as follows:

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

29
 30 SECTION 11. Arkansas Code § 2-20-507(b) and (c), concerning
 31 assessments on grown rice, are amended to read as follows:

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

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

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

6 (ii) The remaining proceeds of the assessment shall
 7 be deposited with the Treasurer of State ~~in~~ into a special fund to be
 8 established for the Arkansas Rice Research and Promotion Board to the credit
 9 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 (c)(1)(A)(i) of this section shall continue to be deposited into
 17 the Arkansas Grain Indemnity Fund.

18 (2) Disbursement shall be made only upon a motion duly passed by
 19 the board and presented to the Treasurer of State and only for a purpose
 20 prescribed in this subchapter.
 21

22 SECTION 12. Arkansas Code § 2-20-508 is amended to read as follows:

23 2-20-508. Records and other documentation.

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

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

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

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

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

6
 7 SECTION 13. Arkansas Code § 2-20-603(a) and (b), concerning penalties
 8 for failure to pay wheat assessments, are amended to read as follows:

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

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

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

22 (1) Voluntary payment by the person liable;

23 (2) Legal proceedings instituted in a court of competent
 24 jurisdiction; or

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

28
 29 SECTION 14. Arkansas Code § 2-20-606(b), concerning assessments on
 30 grown wheat, is amended to read as follows:

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

36 (2)(A) The proceeds of the assessment, less not more than three

1 percent (3%) to cover cost of collections, shall be deposited as follows:

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

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

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

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

19
 20 SECTION 15. Arkansas Code §§ 2-20-607 and 2-20-608 are amended to read
 21 as follows:

22 2-20-607. Records and other documentation.

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

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

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

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

36 (2) The ~~director~~ secretary shall have the power to cause ~~any~~ duly

1 an authorized agent or representative to enter upon the premises of ~~any a~~
 2 buyer of wheat and examine or cause to be examined by the agent any books,
 3 papers, and records ~~which~~ that deal in any way with respect to the payment of
 4 the assessment or enforcement of ~~the provisions of~~ this subchapter.

5
 6 2-20-608. Refunds to producers.

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

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

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

15
 16 SECTION 16. Arkansas Code § 2-20-802(a) and (b), concerning penalties
 17 for failure to pay corn and grain sorghum assessments, are amended to read as
 18 follows:

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

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

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

32 (1) Voluntary payment by the person liable;

33 (2) Legal proceedings instituted in a court of competent
 34 jurisdiction; or

35 (3) Injunctive relief to enjoin any buyer owing the assessment or
 36 penalty, or both, from operating his or her business or engaging in business

1 as a buyer of corn or grain sorghum until the delinquent assessment or
 2 penalty, or both, is paid.

3
 4 SECTION 17. Arkansas Code § 2-20-804(a)(1), concerning the Arkansas
 5 Corn and Grain Sorghum Promotion Board, is amended to read as follows:

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

10
 11 SECTION 18. Arkansas Code § 2-20-804(c), concerning the Arkansas Corn
 12 and Grain Sorghum Promotion Board, is amended to read as follows:

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

16
 17 SECTION 19. Arkansas Code § 2-20-805(c) and (d), concerning
 18 assessments on corn and grain sorghum and buyers' records of corn and grain
 19 sorghum, are amended to read as follows:

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

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

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

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

33 (B) However, if the amount in the Arkansas Grain Indemnity
 34 Fund is equal to at least twenty-five million dollars (\$25,000,000), the
 35 entire net amount of proceeds of the assessment after the deduction for
 36 administrative costs shall be deposited into the special fund established for

1 the board until the amount of the Arkansas Grain Indemnity Fund is less than
 2 twenty-five million dollars (\$25,000,000), at which time the amount stated in
 3 subdivision (c)(2)(A)(i) of this section shall continue to be deposited into
 4 the Arkansas Grain Indemnity Fund.

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

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

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

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

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

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

26
 27 SECTION 20. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
 28 amended to add an additional section to read as follows:

29 19-5-1142. Arkansas Grain Indemnity Fund.

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

33 (b) The fund shall consist of:

34 (1) A portion of the assessments on grain under §§ 2-20-406, 2-
 35 20-507, 2-20-606, and 2-20-805;

36 (2) Any remaining fund balances carried forward from year to

1 year; and

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

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

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

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