

CHAPTER 223

GRAIN BUYERS

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223.01 [Repealed, 1982 c 635 s 9]

223.02 [Repealed, 1982 c 635 s 9]

223.03 [Repealed, 1982 c 635 s 9]

223.04 [Repealed, 1982 c 635 s 9]

223.05 [Repealed, 1982 c 635 s 9]

223.06 [Repealed, 1981 c 90 s 5]

223.07 [Repealed, 1982 c 635 s 9]

223.08 [Repealed, 1982 c 635 s 9]

223.09 [Repealed, 1982 c 635 s 9]

223.10 [Repealed, 1982 c 635 s 9]

223.11 [Repealed, 1982 c 635 s 9]

223.12 [Repealed, 1981 c 90 s 5]

223.15 CITATION.

Sections 223.15 to 223.19 may be cited as the "Grain Buyers Act."

History: 1982 c 635 s 2; 1983 c 374 s 20

223.16 DEFINITIONS.

Subdivision 1. **Applicability.** For the purpose of sections 223.15 to 223.23, the terms defined in this section have the meanings given them.

Subd. 2. **Bond.** "Bond" means an obligation acceptable to and running to the state, as obligee, for the purpose of indemnifying producers of grain against the breach of a contract by a grain buyer.

Subd. 2a. **Cash sale.** (a) "Cash sale" means a sale that is not reduced to writing as a voluntary extension of credit contract and for which payment is tendered to the seller not later than the close of business on the

next business day after the sale, either in cash or by check, or by mailing or wiring funds to the seller's account.

(b) For the purposes of this subdivision, "cash" means currency or an equivalent manner of payment including but not limited to a certified check; a cashier's check; and a postal, bank, or express money order in which the amount of payment is verified and secured before issuance.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's designee.

Subd. 3a. **Electronic document.** "Electronic document" means a document that is generated, sent, received, or stored by electronic, optical, or similar means, including electronic data interchange, electronic mail, telegram, telex, or telecopy. "Electronic document" includes, but is not limited to, grain purchase contracts and voluntary extension of credit contracts.

Subd. 3b. **Electronic signature.** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Subd. 3c. **Failure.** "Failure" means a determination by the commissioner that a grain buyer or grain warehouse has failed to pay for delivered grain, breached a contract, breached more than one contract, or failed to redeliver stored grain to a producer.

Subd. 4. **Grain.** "Grain" means all products commonly referred to as grain, including wheat, corn, oats, barley, rye, rice, soybeans, emmer, sorghum, triticale, millet, pulses, dry edible beans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other products ordinarily stored in grain warehouses.

Subd. 5. **Grain buyer.** "Grain buyer" means a person who purchases grain for the purpose of reselling the grain or products made from the grain, with the exception of a person who purchases seed grain for crop production or who purchases grain as feed for the person's own livestock.

Subd. 6. **Grain warehouse.** "Grain warehouse" means an elevator, flour, cereal or feed mill, malthouse or warehouse in which grain belonging to a person other than the warehouse operator is received for purchase or storage.

Subd. 7. [Repealed, 2012 c 244 art 1 s 83]

Subd. 8. [Repealed, 1983 c 374 s 22]

Subd. 9. **Person.** "Person" means a corporation, company, joint stock company or association, partnership, firm or individual and includes their agents, trustees, assignees or duly appointed receivers.

Subd. 10. **Private grain warehouse operator.** "Private grain warehouse operator" means a person licensed to operate a grain warehouse for the sole purpose of purchasing, handling, processing and shipping grain or its by-products who is not licensed by the commissioner to accept grain belonging to others for storage. "Private grain warehouse operator" includes any person licensed under the United States Warehouse Act, United States Code, title 7, chapter 10.

Subd. 11. **Producer.** "Producer" means a person who grows grain on land owned or leased by the person.

Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator" means a person operating a grain warehouse in which grain belonging to persons other than the grain warehouse operator is accepted

for storage or purchase or who offers grain storage or warehouse facilities to the public for hire or a feed-processing plant that receives and stores grain, the equivalent of which it processes and returns to the grain's owner in amounts, at intervals, and with added ingredients that are mutually agreeable to the grain's owner and the person operating the plant.

Subd. 12a. **Scale ticket.** "Scale ticket" means a memorandum issued by a grain elevator or warehouse operator to a depositor at the time grain is delivered, showing the weight and kind of grain.

Subd. 13. **Semitrailer.** "Semitrailer" means a vehicle described in section 168.002, subdivision 30, used to haul grain.

Subd. 14. **Trailer.** "Trailer" means a vehicle described in section 168.002, subdivision 35, used to haul grain.

Subd. 15. **Truck.** "Truck" means a single unit vehicle described in section 168.002, subdivision 37, used to haul grain.

Subd. 16. **Voluntary extension of credit contract.** "Voluntary extension of credit contract" means a contract for the purchase of a specific amount of grain from a producer in which the title to the grain passes to the grain buyer upon delivery, but the price is to be determined or payment for the grain is to be made at a date later than the date of delivery of the grain to the grain buyer. Voluntary extension of credit contracts include deferred or delayed payment contracts, unpriced sales, no price established contracts, average pricing contracts, and all other contractual arrangements with the exception of cash sales and grain storage agreements evidenced by a grain warehouse receipt.

History: 1982 c 635 s 3; 1983 c 374 s 1-7,20; 1986 c 444; 1988 c 688 art 14 s 1; 2000 c 477 s 60; 2002 c 373 s 31; 2004 c 254 s 27,28; 2012 c 244 art 1 s 51; 1Sp2019 c 1 art 4 s 1-3; 2020 c 89 art 4 s 30; 2023 c 43 art 2 s 126

223.17 LICENSES; BONDING; CLAIMS; DISBURSEMENTS.

Subdivision 1. **Licenses.** An application for a grain buyer's license must be filed with the commissioner and the license issued before any grain may be purchased.

The applicant for a grain buyer's license shall identify all grain buying locations owned or controlled by the grain buyer and all vehicles owned or controlled by the grain buyer used to transport purchased grain. Every applicant for a grain buyer's license shall have a permanent established place of business at each licensed location. An "established place of business" means a permanent enclosed building, including a house or a farm, either owned by the applicant or leased by the applicant for a period of at least one year, and where the books, records, and files necessary to conduct the business are kept and maintained.

Subd. 1a. [Repealed, 1986 c 322 s 4]

Subd. 2. **License renewal.** A license must be renewed annually. Beginning July 1, 1984, the commissioner may stagger the renewal dates of licenses issued under this chapter, subject to the policy expressed in section 116J.69, subdivision 2, clause (4). If a person receives more than one license from the commissioner, the licenses shall be issued at the same time, but only after all conditions for each license are met. Multiple licenses should be combined into one license if possible.

Subd. 3. **Grain buyers and storage account; fees.** (a) The commissioner shall set the fees for inspections under sections 223.15 to 223.22 at levels necessary to pay the expenses of administering and enforcing

sections 223.15 to 223.22. The fee for any license issued or renewed after June 30, 2005, shall be set according to the following schedule:

(1) \$140 plus \$110 for each additional location for grain buyers whose gross annual purchases are less than \$100,000;

(2) \$275 plus \$110 for each additional location for grain buyers whose gross annual purchases are at least \$100,000, but not more than \$750,000;

(3) \$415 plus \$220 for each additional location for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;

(4) \$550 plus \$220 for each additional location for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000; and

(5) \$700 plus \$220 for each additional location for grain buyers whose gross annual purchases are more than \$3,000,000.

(b) In addition to the license fee required under paragraph (a), a grain buyer must pay to the commissioner an annual examination fee for each licensed location, as follows:

| Bushel Capacity | Examination Fee |
|--------------------------------------|-----------------|
| Examinations without a grain measure | \$ 100 |
| Less than 150,001 | \$ 300 |
| 150,001 to 250,000 | \$ 425 |
| 250,001 to 500,000 | \$ 545 |
| 500,001 to 750,000 | \$ 700 |
| 750,001 to 1,000,000 | \$ 865 |
| 1,000,001 to 1,200,000 | \$ 1,040 |
| 1,200,001 to 1,500,000 | \$ 1,205 |
| 1,500,001 to 2,000,000 | \$ 1,380 |
| More than 2,000,000 | \$ 1,555 |

(c) The fee for any supplemental examination required by the commissioner under section 223.23 is \$55 per hour per examiner.

(d) A licensed grain buyer meeting the annual examination requirements under section 223.23 is exempt from the fees under paragraph (b) if the annual examination is conducted by the Agricultural Marketing Service of the United State Department of Agriculture.

(e) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

(f) There is created the grain buyers and storage account in the agricultural fund. Money collected pursuant to sections 223.15 to 223.23 shall be paid into the state treasury and credited to the grain buyers

and storage account. Money in the account, including interest, is appropriated to the commissioner for the administration and enforcement of sections 223.15 to 223.23.

Subd. 4. MS 2022 [Repealed, 2023 c 43 art 2 s 142]

Subd. 5. **Cash sales; manner of payment.** For a cash sale of a shipment of grain, the grain buyer shall tender payment to the seller in cash, by check, or by wiring or mailing payment to the seller's account. The grain buyer must tender payment as required under this subdivision not later than the close of business on the next day after the sale of the shipment, or within 48 hours after the sale of the shipment, whichever is later.

Subd. 5a. **Grain purchases from unlicensed producers.** No grain buyer may refuse to purchase grain from a producer solely because the producer is not bonded or is not licensed by the commissioner; provided, that any producer who buys grain from other producers shall be licensed and bonded as required by this chapter.

Subd. 6. **Financial statements.** (a) Except as allowed in paragraph (c), a grain buyer licensed under this chapter must annually submit to the commissioner a financial statement prepared in accordance with generally accepted accounting principles. The annual financial statement required under this subdivision must also:

(1) include, but not be limited to the following:

(i) a balance sheet;

(ii) a statement of income (profit and loss);

(iii) a statement of retained earnings;

(iv) a statement of changes in financial position; and

(v) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer;

(2) be accompanied by a compilation report of the financial statement that is prepared by a grain commission firm or a management firm approved by the commissioner or by an independent public accountant, in accordance with standards established by the American Institute of Certified Public Accountants;

(3) be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, and where applicable, all members of the governing board of directors under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement;

(4) for grain buyers purchasing under \$7,500,000 of grain annually, be reviewed by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants, and must show that the financial statements are free from material misstatements; and

(5) for grain buyers purchasing \$7,500,000 or more of grain annually, be audited by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants and must include an opinion statement from the certified public accountant.

(b) Only one financial statement must be filed for a chain of warehouses owned or operated as a single business entity, unless otherwise required by the commissioner. All financial statements filed with the commissioner are private or nonpublic data as provided in section 13.02.

(c) A grain buyer who purchases grain immediately upon delivery solely with cash; a certified check; a cashier's check; or a postal, bank, or express money order is exempt from this subdivision if the grain buyer's gross annual purchases are \$1,000,000 or less.

(d) The commissioner shall annually provide information on a person's fiduciary duties to each licensee. To the extent practicable, the commissioner must direct each licensee to provide this information to all persons required to certify the licensee's financial statement under paragraph (a), clause (3).

Subd. 6a. Suspension, revocation, or refusal to issue license. (a) If a license applicant or a licensee fails to furnish financial statements the commissioner may refuse to issue or renew the license or may suspend the license.

(b) The commissioner may refuse to issue or renew a license or may suspend a license upon determining, based upon the financial statement filed under this section or other financial information obtained by the commissioner, that the applicant or licensee is not financially able to properly perform the services and operate the business for which the license is issued.

(c) When a license is suspended the licensee shall surrender the license to the commissioner. An applicant or licensee may request an administrative hearing subject to chapter 14 within 15 days after the commissioner suspends a license or refuses to issue or renew a license under clause (b) to determine whether the license should be issued, renewed, or revoked. If no request is made within 15 days after suspension, the commissioner shall revoke the license.

Subd. 7. Breach of contract. A producer claiming to be damaged by a breach of a contract for the purchase of grain by a grain buyer may file a written claim with the commissioner. The claim must state the facts constituting the claim. If a claim is valid, the commissioner may immediately suspend the license, in which case the licensee shall surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to chapter 14 to determine whether the license should be revoked. If no request is made within 15 days, the commissioner shall revoke the license.

Subd. 7a. Bond requirements. For entities licensed under this chapter and chapter 232, the bond requirements and actions against the bond are governed under section 223.28.

Subd. 8. MS 2022 [Repealed, 2023 c 43 art 2 s 142]

Subd. 9. Defaults; violations. It is a violation under this chapter if the commissioner finds, after an investigation is conducted, that a complaint is valid or that a licensee is in violation of the provisions of this chapter.

History: 1982 c 424 s 130; 1982 c 635 s 4; 1983 c 374 s 8,20; 1985 c 233 s 5; 1986 c 444; 1987 c 396 art 11 s 15; 1996 c 305 art 3 s 28; 1997 c 11 art 2 s 9; 1997 c 216 s 126; 1999 c 231 s 169; 1999 c 250 art 3 s 24; 2000 c 477 s 61; 1Sp2001 c 2 s 142; 2003 c 112 art 2 s 50; 2004 c 254 s 29,30; 1Sp2005 c 1 art 1 s 84,85; 2006 c 265 s 3; 2009 c 101 art 2 s 109; 2012 c 244 art 1 s 52-55; 2013 c 114 art 2 s 54; 2017 c 88 art 2 s 74; 1Sp2019 c 1 art 4 s 4-7; 2022 c 95 art 2 s 26,27; 2023 c 43 art 2 s 127,128

223.175 WRITTEN VOLUNTARY EXTENSION OF CREDIT CONTRACTS; FORM.

A written confirmation required under section 223.177, subdivision 2, and a written voluntary extension of credit contract must include those items prescribed by the commissioner by rule. A contract shall include a statement of the legal and financial responsibilities of grain buyers and sellers established in this chapter. A contract shall also include the following statement in not less than ten point, all capital type, framed in a box with space provided for the seller's signature: "THIS CONTRACT CONSTITUTES A VOLUNTARY

EXTENSION OF CREDIT. THIS CONTRACT MAY NOT BE COVERED COMPLETELY BY THE GRAIN INDEMNITY ACCOUNT." If a written contract is provided at the time the grain is delivered to the grain buyer, the seller shall sign the contract in the space provided beneath the statement. A transaction that does not meet the provisions of a voluntary extension of credit, including the issuance and signing of a voluntary extension of credit contract, is a cash sale.

History: 1983 c 374 s 9; 2000 c 477 s 62; 2023 c 43 art 2 s 129

223.177 PURCHASE BY VOLUNTARY EXTENSION OF CREDIT CONTRACTS.

Subdivision 1. **Indication of intention.** Every grain buyer who intends to purchase grain by voluntary extension of credit contracts shall indicate the intention to do so annually to the commissioner on a form provided by the commissioner.

Subd. 2. **Oral contracts.** Any grain buyer entering into a voluntary extension of credit contract orally or by phone shall give or mail to the seller a written confirmation conforming to the requirements of section 223.175 within 30 days of entering the voluntary extension of credit contract. Written confirmation of oral contracts must meet the requirements of subdivision 3.

Subd. 3. **Contracts reduced to writing.** A voluntary extension of credit contract must be reduced to writing by the grain buyer, mailed or given to the seller, and signed by both buyer and seller within 30 days of the date of delivery of the grain. The form of the contract shall comply with the requirements of section 223.175. A grain buyer may use an electronic version of a voluntary extension of credit contract that contains the same information as a written document and that conforms to the requirements of this chapter to which a seller has applied an electronic signature in place of a written document. There must not at any time be an electronic and paper voluntary extension of credit contract representing the same lot of grain.

Subd. 4. **Grain, rights, or proceeds held.** A licensed grain buyer purchasing grain by voluntary extension of credit contracts shall at all times maintain grain, rights in grain, or proceeds from the sale of grain totaling 90 percent of the grain buyer's obligation for grain purchased by voluntary extension of credit contracts. That amount must be evidenced or represented by one or more of the following:

(1) grain owned and actually held by the grain buyer in a grain warehouse owned or controlled by the grain buyer;

(2) rights in grain evidenced or represented by warehouse receipts issued by a state or federally licensed grain warehouse;

(3) cash on hand or cash held on account in federally or state licensed institutions;

(4) short-term investments held in time accounts with federally or state licensed institutions;

(5) balances on grain margin accounts;

(6) voluntary extension of credit contracts for grain shipped to a processor or terminal as purchaser, less any payment or advance that has been received;

(7) an irrevocable letter of credit, as defined in section 336.5-102; or

(8) other evidence of proceeds from the sale of grain acceptable to the commissioner.

Subd. 5. **Value of grain.** For the purpose of computing the dollar value of inventories of voluntary extension of credit obligations, the value of grain must be figured at the current market price on the day of delivery.

Subd. 6. **Transfer of title.** The title to grain delivered on a voluntary extension of credit contract transfers to the grain buyer upon delivery.

Subd. 7. **Storage charges prohibited.** No storage charges may be charged with respect to grain purchased on voluntary extension of credit contracts.

Subd. 8. **Records.** A grain buyer shall keep sufficiently detailed books and records of voluntary extension of credit contracts and evidences of grain, rights in grain, and the proceeds from the sale of grain so as to clearly show compliance with this section. The commissioner or the commissioner's authorized agent may inspect these books and records to determine whether grain buyers are complying with the provisions of this chapter, and for this purpose the commissioner may enter upon any public or private premises during regular business hours.

History: 1983 c 374 s 10; 1986 c 444; 1997 c 11 art 2 s 9; 2004 c 254 s 31; 1Sp2019 c 1 art 4 s 8,9; 2020 c 89 art 4 s 31,32

223.18 [Repealed, 2012 c 244 art 1 s 83]

223.19 RULES.

The commissioner may make rules pursuant to chapter 14 to carry out the provisions of sections 223.15 to 223.28.

History: 1982 c 635 s 6; 1983 c 374 s 12,20; 1984 c 640 s 32; 1997 c 7 art 5 s 19; 1Sp2019 c 1 art 4 s 10; 2023 c 43 art 2 s 130

223.20 REGULATION OF GRAIN BUYERS AND GRAIN STORAGE.

The commissioner may create a separate division within the Department of Agriculture for the purpose of administering this chapter and chapter 232.

History: 1983 c 374 s 13

223.21 ATTORNEY GENERAL; ENFORCEMENT.

The attorney general, upon request of the commissioner, shall assist the commissioner in enforcing this chapter.

History: 1983 c 374 s 14

223.22 INVESTIGATION; EDUCATION.

Subdivision 1. **Legislative investigation.** The legislature recommends that the standing committees of the house of representatives and senate with jurisdiction over agriculture investigate methods of protecting producers when marketing grain using voluntary extension of credit contracts, including establishment of a state administered trust fund, private insurance, or reinsurance, and methods which grain buyers can use to protect themselves and grain producers from grain price fluctuations.

Subd. 2. **Education.** The commissioner shall make every effort to inform grain producers and grain buyers of the protections and exposures which result from application of this chapter.

History: 1983 c 374 s 15

223.23 ANNUAL EXAMINATION REQUIRED; SUPPLEMENTAL EXAMINATIONS.

A licensed grain buyer is subject to an annual examination conducted by the commissioner or the Agricultural Marketing Service of the United States Department of Agriculture. Examinations must include a measurement of all grain owned and maintained by the grain buyer. The commissioner may require supplemental examinations of a grain buyer as the commissioner deems necessary.

History: 1Sp2019 c 1 art 4 s 11

223.24 GRAIN INDEMNITY ACCOUNT.

Subdivision 1. **Establishment.** The grain indemnity account is established in the agricultural fund. The grain indemnity account shall consist of grain indemnity premiums, money from any other source, and interest.

Subd. 2. **Account; appropriation.** (a) Money in the grain indemnity account, including interest, is appropriated to the commissioner to pay valid claims and to administer this section.

(b) The commissioner shall direct payments from the grain indemnity account only for the following purposes:

- (1) the payment of valid claims;
- (2) the payment of grain indemnity premium refunds;
- (3) the payment of administrative expenses under paragraph (c);
- (4) the payment of legal fees and legal expenses under subdivision 7; or
- (5) the payment of a trustee appointed under subdivision 6.

(c) The commissioner shall allocate money from the grain indemnity account to a separate administrative expenses account to pay or reimburse the agency for grain indemnity account expenses. Administrative expenses under this paragraph include the actual cost of processing payments and refunds, enforcement, record keeping, ordinary management and investment fees connected with the operation of the grain indemnity account, and legal expenses.

Subd. 3. **Eligibility.** A producer is eligible to receive a grain indemnity payment from the commissioner if the producer sold grain to a grain buyer as defined in this chapter or stored grain with a public grain warehouse operator under chapter 232 and the producer is damaged by the grain buyer's or public grain warehouse operator's failure to pay for or redeliver grain.

Subd. 4. **Application.** (a) A producer asserting eligibility under subdivision 3 must file a completed claim with the commissioner. The producer must state the facts constituting the claim and all other information required by the commissioner.

(b) Upon receiving a claim, the commissioner must promptly determine the validity of the claim and notify the claimant of the commissioner's determination.

(c) An aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding under chapter 14.

Subd. 5. Payment limitation. (a) For each failure as defined by section 223.16, subdivision 3c, the commissioner must pay the eligible producer:

(1) the amount equal to the value of the grain sold on cash sale, grain assigned to warehouse receipt, or grain assigned to open storage less than 180 days from the deposit;

(2) the amount equal to the value of grain sold up to \$300,000, or the lesser of \$750,000 or 75 percent of the amount owed to the seller for a contract in excess of \$300,000 for a deferred or delayed payment contract for which a price has been established when the contract originated within 120 days of the breach of contract;

(3) the lesser of \$750,000 or 75 percent of the amount owed to the seller for a voluntary extension of credit contract for which no price has been established when the contract originated within 180 days of the breach of contract;

(4) the lesser of \$500,000 or 50 percent for an open storage assignment or a voluntary extension of credit contract when the open storage assignment or contract originated between 181 days and 18 months from the failure; or

(5) the lesser of \$250,000 or 25 percent for an open storage assignment or a voluntary extension of credit contract when the open storage assignment or contract originated between 19 months and 36 months from the failure.

(b) Claims filed more than 36 months from the failure are not eligible for payment.

(c) For the purposes of this subdivision, multiple breaches of contract with a single entity constitute one failure.

(d) If a grain buyer holds both a Minnesota grain buyer license, as defined in chapter 223, and a license with the United States Department of Agriculture (USDA) under the United States Warehouse Act, a seller may only file a claim with the grain indemnity account if the seller sold grain as a cash sale or under a voluntary extension of credit contract. The commissioner must deny any claims for stored grain from a seller that holds both a Minnesota grain buyer license and a license with the USDA under the United States Warehouse Act.

(e) If valid claims exceed the amount of money available in the grain indemnity account, the commissioner must pay claims to producers in the order that the claims were received. When additional money becomes available, the commissioner must resume issuing grain indemnity payments to each eligible producer until each producer receives the maximum amount payable under paragraph (a).

(f) If the grain indemnity account balance is insufficient to pay refunds under section 223.26 and valid claims exist, once money is deposited into the grain indemnity account, the commissioner must issue pending refunds for grain indemnity premium payments before issuing payments to claimants.

Subd. 6. Court order. (a) The commissioner may apply to a district court for an order appointing a trustee or receiver to manage and supervise the operations of a grain buyer or public grain warehouse operator in default. The commissioner may participate in any resulting court proceeding as an interested party.

(b) The commissioner may recover the cost of the appointed trustee using money appropriated under subdivision 2.

Subd. 7. Debt obligation; subrogated claim. (a) Money paid by the commissioner to satisfy a valid claim constitutes a debt obligation of the grain buyer or public grain warehouse operator in default. The commissioner may take action against the grain buyer or public grain warehouse operator to recover the amount of any claim payment plus reasonable costs, attorney fees, and interest computed at the rate provided in section 270C.40. The commissioner must deposit any amount recovered under this subdivision in the grain indemnity account.

(b) As a condition of payment from the commissioner, a producer must subrogate the producer's interest in any claims against the grain buyer or public grain warehouse operator, including any rights to any grain bond claims, to the commissioner in an amount equal to any claim payment or payments that the producer received under this section. The surety for any claims against the grain bond must make payments to the grain indemnity account.

(c) The commissioner may recover any debt to the grain indemnity account from a member of the board or management who acted negligently or fraudulently.

History: 2023 c 43 art 2 s 131

223.25 GRAIN INDEMNITY PREMIUMS.

Subdivision 1. **Charges.** (a) Except as provided in subdivision 3, producers of grain must be charged a grain indemnity premium as determined and published by the commissioner not to exceed 0.2 percent of the price on all marketed grain that is sold to a grain buyer as defined in chapter 223.

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

Subd. 2. Collection and submission of grain indemnity premiums. (a) Each producer must pay to the commissioner a grain indemnity premium of not more than 0.2 percent of the net proceeds from all grain sold by the producer to a grain buyer purchasing grain in Minnesota. When a producer sells grain to a grain buyer, the grain buyer must deduct the grain indemnity premium from the proceeds of the sale and pay the grain indemnity premium to the commissioner on behalf of the producer.

(b) When purchasing grain from a producer, a grain buyer must deduct the grain indemnity premium described in paragraph (a) from the proceeds of the sale and notify the producer of the amount of the deduction in writing. The grain buyer must forward the grain indemnity premium to the commissioner for deposit into the grain indemnity account on behalf of the producer as described in this subdivision.

(c) A grain buyer must clearly indicate the grain indemnity premiums collected under paragraph (b) in the grain buyer's books and records. A grain buyer must retain books and records containing the grain indemnity premiums for at least three years. A grain buyer must make the grain buyer's books and records available for inspection by the commissioner during regular business hours. The department must take steps reasonably necessary to verify the accuracy of the grain indemnity premiums as recorded in the grain buyer's books and records. Any record or portion thereof seized or copied by the commissioner is private or nonpublic data as provided in section 13.02, except that the commissioner may disclose data to aid in the law enforcement process.

(d) A grain buyer must submit grain indemnity premiums collected under paragraph (a) to the commissioner for the purpose of financing or contributing to the financing of the grain indemnity account by:

(1) January 31 for grain indemnity premiums collected during the months of July, August, September, October, November, and December; and

(2) July 31 for grain indemnity premiums collected during the months of January, February, March, April, May, and June.

Subd. 3. Amount in grain indemnity account; basis for suspension and reinstatement of grain indemnity premium collection. (a) Except as provided in paragraph (b), the grain indemnity premiums required under this section must be collected until the grain indemnity account contains more than \$15,000,000 as of June 30 of any given year.

(b) The commissioner must not require the collection of additional grain indemnity premiums until the amount in the grain indemnity account drops below \$8,000,000. In a year when the commissioner determines that the grain indemnity account is at or below \$8,000,000, the commissioner may reinstate the collection described in this section. If the account contains at least \$8,000,000, the commissioner may, after holding a public meeting, suspend premium payments for all producers in the event of economic hardship.

(c) The commissioner shall announce the intention to collect the premiums described in this section by May 1 with collection to begin July 1 until the grain indemnity account contains at least \$15,000,000. The commissioner must notify the public of the commissioner's intent to reinstate collection of additional grain indemnity premiums through publication in the State Register and by notifying each licensee of the licensee's obligation to collect premiums.

History: 2023 c 43 art 2 s 132

223.26 GRAIN INDEMNITY OPT OUT.

(a) A producer that has paid a grain indemnity premium under section 223.25 may receive a refund of that premium from the grain indemnity account by submitting a written demand for a refund to the commissioner, delivered personally or by first-class mail within 12 months after the producer paid the grain indemnity premium.

(b) The commissioner must prepare a distributable flyer explaining how a producer can opt out of the grain indemnity program and must post the flyer on the Department of Agriculture website. A licensed business must make the flyers available for anyone visiting the licensed business.

(c) A producer must submit a demand for a refund of a grain indemnity premium under paragraph (a) on a demand for refund form developed by the commissioner. The commissioner must make the form available to a licensee, producer, or member of the public upon request.

(d) If a producer is entitled to a refund of a grain indemnity premium under this section, the commissioner must pay the refund within 90 days of receiving the demand for a refund. If the grain indemnity account balance is insufficient to pay refunds under this subdivision and valid claims exist, the commissioner must issue refunds for grain indemnity premium payments before issuing payments to claimants once money is deposited into the grain indemnity account.

(e) If the commissioner announces grain indemnity premiums as required under section 223.25, subdivision 3, by June 30, the commissioner must send a notice to each producer who requested a refund of a grain indemnity premium during the previous three fiscal years. The notice must inform the producer of the deadline for and method of submitting a demand for a refund to the commissioner under paragraphs (a) and (c) and the method for reentering the grain indemnity program under paragraph (f).

(f) A producer that receives a refund of a grain indemnity premium under paragraph (a) is not entitled to participate in the grain indemnity program or to receive any payment under this section unless the producer reenters the grain indemnity program by meeting all of the following conditions:

(1) the producer must submit a request for reentry into the grain indemnity program to the commissioner. The producer must submit the request on the form required by the commissioner and must deliver the request to the commissioner;

(2) the producer's request must be approved by the commissioner; and

(3) the producer must pay into the grain indemnity account all grain indemnity premiums that were refunded to the producer and interest on the refunds as determined by the commissioner.

(g) A producer that reenters the grain indemnity program under paragraph (f) is eligible to be reimbursed for claims under the grain indemnity program for any breach of contract that occurs at least 120 days after reentry.

(h) A producer is not eligible for a refund of a grain indemnity premium under this section if the producer has received payment from the grain indemnity account for a valid claim within the preceding 36 months.

History: 2023 c 43 art 2 s 133

223.27 PENALTIES; ENFORCEMENT ACTION; COSTS AND EXPENSES.

(a) In addition to any other penalty or remedy provided by law, a person who knowingly or intentionally commits any of the following is subject to civil penalties under section 18J.10:

(1) refusing or failing to collect any grain indemnity premiums as required under section 223.25;

(2) refusing or failing to pay to the commissioner any grain indemnity premiums collected under section 223.25;

(3) making a false statement, representation, or certification, or knowingly failing to make a required statement, representation, or certification in a record, report, or other document required under this chapter or filed with the commissioner; or

(4) resisting, preventing, impeding, or interfering with the commissioner in the performance of the commissioner's duties under this chapter.

(b) In addition to the civil penalty described in paragraph (a), the commissioner in an enforcement action for a violation described in paragraph (a), clause (1) or (2), must order the grain buyer to pay into the grain indemnity account any grain indemnity premiums collected by the grain buyer that the grain buyer owes to the grain indemnity account and may order the grain buyer to pay interest on the amount that the grain buyer owes to the grain indemnity account.

History: 2023 c 43 art 2 s 134

223.28 GRAIN BONDS; NEW LICENSE HOLDERS.

(a) Except as provided in paragraph (b), before the commissioner issues a grain buyer or public grain warehouse operator license, a person who has not been licensed to buy grain or operate a public grain warehouse in the previous licensing period must file with the commissioner a grain bond in a penal sum of \$100,000. A grain bond must remain in effect for the first three years of the license.

(b) A grain buyer who purchases grain immediately upon delivery solely with cash; a certified check; a cashier's check; or a postal, bank, or express money order is exempt from this subdivision if the grain buyer's gross annual purchases are \$1,000,000 or less.

(c) The commissioner may require a supplemental bond in an amount prescribed by the commissioner based on the financial statements required in section 223.17, subdivision 6.

(d) A grain bond must be on a form provided by the commissioner.

(e) A grain bond required under paragraphs (a) and (c) must provide for the payment of any loss caused by the grain buyer's failure to pay upon the owner's demand, including loss caused by the grain buyer's failure to pay within the time required. The grain bond must be conditioned upon the grain buyer being duly licensed.

(f) A grain bond required under paragraphs (a) and (c) that is obtained by a public grain warehouse operator must be conditioned that the public grain warehouse operator issuing a grain warehouse receipt is liable to the depositor for the delivery of the kind, grade, and net quantity of grain called for by the receipt. A grain bond must be conditioned upon the operator being duly licensed.

(g) A grain bond must not be cumulative from one licensing period to the next. The maximum liability of the grain bond must be the grain bond's face value for the licensing period.

(h) A grain bond must be continuous until canceled. To cancel a grain bond, a surety must provide 90 days' written notice of the grain bond's termination date to the licensee and the commissioner.

(i) Upon the commissioner's determination that a claim is valid, the surety for any claims against the grain bond must make payments to the grain indemnity account.

History: 2023 c 43 art 2 s 135