

2016 Regular Session

HOUSE BILL NO. 592

BY REPRESENTATIVE ANDERS

AGRICULTURE/FOREST DEPT: Provides with respect to the Agricultural Commodities Dealer and Warehouse Law

1 AN ACT

2 To amend and reenact R.S. 3:3412(G), (H), (I), (J), and (K) and 3412.1(I), (J), and (K) and
3 to enact R.S. 3:3409(H)(4), 3412(L), and 3412.1(L), relative to the Agricultural
4 Commodities Dealer and Warehouse Law; to provide guidelines for payment of
5 claims under the agricultural commodity dealer and warehouse law; to provide
6 guidelines for payments by the commission using the self-insurance fund; to provide
7 guidelines for payments by the commission using grain and cotton indemnity funds;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 3:3412(G), (H), (I), (J), and (K) and 3412.1(I), (J), and (K) are
11 hereby amended and reenacted and R.S. 3:3409(H)(4), 3412(L), and 3412.1(L) are hereby
12 enacted to read as follows:

13 §3409. Security and provisional stock insurance required as a condition of license,
14 time of filing; amount of security; approval; notice of cancellation; changes
15 in licensed capacity; failure to maintain security and insurance in full force
16 and effect

17 * * *

18 H. The commission shall be the sole owner of the security and shall be the
19 sole party entitled to sue upon, recover, or enforce the security. Any other person or
20 party, including, without limitation, any licensee, person, producer, cotton farmer or

1 agent, or creditor who has a claim against a licensee, shall have no ownership or
2 other interest in the security and shall have no right to sue upon, recover, or enforce
3 the security, except pursuant to the commission's administrative procedures.

4 * * *

5 (4) Notwithstanding any other provision of law to the contrary, when paying
6 any claim on the security under this Chapter, the commission shall make payments
7 jointly payable to the claimant and to all other secured parties and lienholders that,
8 ten days before the payment date, hold a security interest in or a lien on the crops,
9 farm products, or agricultural commodities, perfected by the filing of a financing
10 statement that:

11 (a) Identified those crops, farm products, or agricultural commodities as
12 collateral.

13 (b) Was indexed under that producer's name as debtor.

14 (c) Was filed in the office designated for filing a financing statement against
15 the producer covering that collateral.

16 * * *

17 §3412. Self-insurance fund

18 * * *

19 G. Notwithstanding any other provision of law to the contrary, if the
20 commission pays a claim using self-insurance program funds, all payments shall be
21 made jointly payable to the claimant and to all secured parties and lienholders that,
22 ten days before the payment date, hold a security interest in or a lien on the crops,
23 farm products, or agricultural commodities, perfected by the filing of a financing
24 statement that:

25 (1) Identified those crops, farm products, or agricultural commodities as
26 collateral.

27 (2) Was indexed under that producer's name as debtor.

28 (3) Was filed in the office designated for filing a financing statement against
29 the producer covering that collateral.

1 ~~G.~~ H. Expenses incurred by the commission in administering the self-
2 insurance program shall be reimbursable from the funds collected under the program.
3 Administrative expenses shall be paid in priority to all other payments.

4 ~~H.~~ I. A licensee who knowingly or intentionally refuses or fails to pay into
5 the self-insurance program any funds due pursuant to this Chapter shall be subject
6 to civil penalties.

7 ~~I.~~ J. Money paid from the self-insurance program in satisfaction of a valid
8 claim shall constitute a debt obligation of the licensee against whom the claim was
9 made. The commission may take action on behalf of the self-insurance program
10 against such person to recover the amount of payment made plus reasonable costs,
11 including court costs, incurred by the commission in obtaining recovery, legal
12 interest from the date of payment of any claim, and reasonable attorney fees. As a
13 condition of payment of a claim from the self-insurance program, the claimant shall
14 subrogate his interest, if any, to the commission in a cause of action against all
15 parties, to the amount of the loss that the claimant was reimbursed by the self-
16 insurance program.

17 ~~J.~~ K. The commission may charge fees for participation in the program
18 established in this Section. The amount of the fees shall be fixed by rule adopted in
19 accordance with the Administrative Procedure Act.

20 ~~K.~~ L. The fees charged under this Section shall be subject to the following
21 provisions:

22 (1) All fees shall be deposited immediately upon receipt in the state treasury.

23 (2) After compliance with the requirements of Article VII, Section 9 of the
24 Constitution of Louisiana relative to the Bond Security and Redemption Fund, and
25 prior to monies being placed in the state general fund, an amount equal to that
26 deposited as required by Paragraph (1) of this Subsection shall be credited to a
27 special fund hereby created in the state treasury to be known as the Agricultural
28 Commodity Commission Self-Insurance Fund. The monies in this fund shall be used
29 solely as provided in Paragraph (3) of this Subsection and only in the amounts

1 appropriated by the legislature. All unexpended and unencumbered monies in this
2 fund at the end of each fiscal year shall remain in this fund. The monies in this fund
3 shall be invested by the state treasurer in the same manner as monies in the state
4 general fund, and interest earned on the investment of these monies shall be credited
5 to this fund, again, following compliance with the requirement of Article VII,
6 Section 9 relative to the Bond Security and Redemption Fund.

7 (3) The monies in the Agricultural Commodity Commission Self-Insurance
8 Fund shall be used solely for the administration and operation of the program of self
9 insurance provided for in this Section.

10 §3412.1. Grain and Cotton Indemnity Fund; creation; assessment; rules and
11 regulations; suspension of assessment; eligibility for reimbursement;
12 availability of money; prorated claims; reimbursement for administrative
13 expenses; failure to pay; subrogation

14 * * *

15 I. Notwithstanding any other provision of law to the contrary, if the
16 commission pays a claim using Grain and Cotton Indemnity Funds, all payments
17 shall be made jointly payable to the claimant and to all secured parties and
18 lienholders that, ten days before the payment date, hold a security interest in or a lien
19 on the crops, farm products, or agricultural commodities, perfected by the filing of
20 a financing statement that:

21 (1) Identified those crops, farm products, or agricultural commodities as
22 collateral.

23 (2) Was indexed under that producer's name as debtor.

24 (3) Was filed in the office designated for filing a financing statement against
25 the producer covering that collateral.

26 † J. Expenses incurred by the commission in administrating the Grain and
27 Cotton Indemnity Fund shall be reimbursable from the fund. Administrative
28 expenses shall be paid in priority to all other payments.

1 ~~¶ K.~~ Any licensee who knowingly or intentionally refuses or fails to collect
2 the assessment required under this Section or to submit any assessment collected
3 from producers to the commission for deposit in the Grain and Cotton Indemnity
4 Fund shall be subject to civil penalties.

5 ~~¶ L.~~ Money paid from the Grain and Cotton Indemnity Fund in satisfaction
6 of a valid claim constitutes a debt obligation of the person against whom the claim
7 was made. The commission may take action on behalf of the fund against a person
8 to recover the amount of payment made, plus reasonable costs, including court costs,
9 incurred by the commission in obtaining recovery, legal interest from the date of
10 payment of any claim, and reasonable attorney fees. As a condition of payment of
11 a claim from the Grain and Cotton Indemnity Fund, the claimant shall subrogate its
12 interest, if any, to the commission in a cause of action against all parties, to the
13 amount of the loss that the claimant was reimbursed by the fund.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 592 Engrossed

2016 Regular Session

Anders

Abstract: Establishes guidelines for the Louisiana Agricultural Commodities Commission to follow when paying claims under the agricultural commodities dealer and warehouse law.

Proposed law provides guidelines for the La. Agricultural Commodities Commission to follow when paying claims based on security and provisional stock insurance, paying a claim using self-insurance funds, and paying a claim using grain and cotton indemnity funds.

(Amends R.S. 3:3412(G), (H), (I), (J), and (K) and 3412.1(I), (J), and (K); Adds R.S. 3:3409(H)(4), 3412(L), and 3412.1(L))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill:

1. Remove provisions, relative to security and provisional stock insurance, the self-insurance fund, and the grain and cotton indemnity fund, that designate a producer's claim and any payments under the Agricultural Commodities Dealer and Warehouse law as proceeds of the crops, farm products, agricultural commodities, in which a secured party holds an interest of lien.
2. Make technical changes.