

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) and (5), 3412(L), and 3412.1(L), relative to the
4 Agricultural Commodities Dealer and Warehouse Law; to provide guidelines for
5 payment of claims under the agricultural commodity dealer and warehouse law; to
6 provide guidelines for payments by the commission using the self-insurance fund;
7 to provide guidelines for payments by the commission using grain and cotton
8 indemnity funds; 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) and (5), 3412(L), and 3412.1(L) are
12 hereby 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 lien holders 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 (5) A producer's claim under this Chapter and any payments therefrom shall
17 be deemed to be proceeds of the crops, farm products, or agricultural commodities,
18 in which the secured party holds a security interest or a lien.

19 * * *

20 §3412. Self-insurance fund

21 * * *

22 G.(1) Notwithstanding any other provision of law to the contrary, if the
23 commission pays a claim using self-insurance program funds, all payments shall be
24 made jointly payable to the claimant and to all secured parties and lien holders that,
25 ten days before the payment date, hold a security interest in or a lien on the crops,
26 farm products, or agricultural commodities, perfected by the filing of a financing
27 statement that:

28 (a) Identified those crops, farm products, or agricultural commodities as
29 collateral.

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

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

4 (2) A producer's claim under this Chapter and any payments therefrom shall
5 be deemed to be proceeds of the crops, farm products, or agricultural commodities,
6 in which the secured party holds a security interest or a lien.

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

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

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

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

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

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

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

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

4 (2) A producer's claim under this Chapter and any payments therefrom shall
5 be deemed to be proceeds of the crops, farm products, or agricultural commodities,
6 in which the secured party holds a security interest or a lien.

7 ‡ J. Expenses incurred by the commission in administrating the Grain and
8 Cotton Indemnity Fund shall be reimbursable from the fund. Administrative
9 expenses shall be paid in priority to all other payments.

10 ‡ K. Any licensee who knowingly or intentionally refuses or fails to collect
11 the assessment required under this Section or to submit any assessment collected
12 from producers to the commission for deposit in the Grain and Cotton Indemnity
13 Fund shall be subject to civil penalties.

14 ~~K.~~ L. Money paid from the Grain and Cotton Indemnity Fund in satisfaction
15 of a valid claim constitutes a debt obligation of the person against whom the claim
16 was made. The commission may take action on behalf of the fund against a person
17 to recover the amount of payment made, plus reasonable costs, including court costs,
18 incurred by the commission in obtaining recovery, legal interest from the date of
19 payment of any claim, and reasonable attorney fees. As a condition of payment of
20 a claim from the Grain and Cotton Indemnity Fund, the claimant shall subrogate its
21 interest, if any, to the commission in a cause of action against all parties, to the
22 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 Original

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) and (5), 3412(L), and 3412.1(L))