

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

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/18/15
A Bill

SENATE BILL 920

By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO PROTECT ARKANSAS FARMERS BY REGULATING THE GRAIN INDUSTRY; TO CREATE THE ARKANSAS GRAIN INDEMNITY LAW; TO TRANSFER THE ADMINISTRATION OF GRAIN ASSESSMENTS AND THE PREMISES OF GRAIN PROMOTION BOARDS TO THE ARKANSAS AGRICULTURE DEPARTMENT; TO CREATE THE ARKANSAS GRAIN INDEMNITY FUND; AND FOR OTHER PURPOSES.

Subtitle

TO PROTECT ARKANSAS FARMERS BY REGULATING THE GRAIN INDUSTRY; TO CREATE THE ARKANSAS GRAIN INDEMNITY LAW; AND TO TRANSFER THE ADMINISTRATION OF GRAIN ASSESSMENTS TO THE ARKANSAS AGRICULTURE DEPARTMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

Chapter 24

Arkansas Grain Indemnity Law

2-24-101. Title.

This chapter shall be known and may be cited as the "Arkansas Grain Indemnity Law".



2-24-102. Definitions.

- (1) "Grain" means corn, rice, soybeans, wheat, and milo;
- (2) "Grain broker" means a person that facilitates a buy-sell grain contract but does not:
 - (A) Take possession or delivery of grain;
 - (B) Store grain; or
 - (C) Handle the grain seller's money;
- (3) "Grain buyer" means a marketing agent or the first person that takes delivery of grain from a farmer.
- (4) "Grain merchandiser" means a person that:
 - (A) Buys grain;
 - (B) Takes delivery and possession of grain; and
 - (C) Stores grain;
- (5) "Marketing agent" means a person that:
 - (A) Buys grain for the purpose of reselling the grain; and
 - (B) Does not take delivery of or store the grain; and
- (6) "Person" means an individual, corporation, partnership, association, firm, or other business entity, and the agents or representatives of a corporation, partnership, association, firm, or other business entity.

2-24-103. Licensing of grain buyers.

- (a) Beginning December 1, 2015, a person operating as a grain buyer shall obtain a license under this section.
- (b)(1) An applicant for a license under this section shall submit an application on the form required by the Secretary of the Arkansas Agriculture Department.
- (2) An application for a license under this section shall include:
 - (A) Evidence of the financial stability of the applicant, including without limitation a statement of the applicant's liabilities and assets; and
 - (B) Any other information required by the secretary.
- (c) The secretary may establish an application fee to cover the costs of administering this section.
- (d) A grain buyer shall apply for renewal of the grain buyer's license

under this section by December 1 of each year.

2-24-104. Use of grain assessments.

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

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

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

2-24-105. Contracts and records.

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

(1) The buyer's name and signature;

(2) The seller's name;

(3) The delivery period;

(4) The freight-on-board location;

(5) The type of grain being purchased;

(6) The price of the grain being purchased;

(7) The amount of grain being purchased;

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

(9) A statement that:

(A)(i) Either:

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

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

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

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

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

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

(i) A settlement sheet; and

(ii) A load summary or weight ticket.

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

(1) Buyer's name;

(2) Seller's name;

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

(4) Location of delivery of the grain;

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

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

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

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

2-24-106. Violations.

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

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

2-24-107. Audits.

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

(1) Annually; and

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

2-24-108. Penalties.

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

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

2-24-109. Administration – Rules.

The Secretary of the Arkansas Agriculture Department shall:

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

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

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

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

2-20-402. Definitions.

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

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

(2) “Net market price” means:

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

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

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

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

United States Secretary of Agriculture; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

prescribed in this subchapter.

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

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

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

(2) The amount of assessments remitted;

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

(4) The date any assessment was paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Voluntary payment by the person liable;
- (2) Legal proceedings instituted in a court of competent jurisdiction; or
- (3) Injunctive relief to enjoin any buyer owing an assessment or penalty from operating his or her business or engaging in business as a buyer of rice until the delinquent assessment or penalty is paid.

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

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

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

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

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

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

Arkansas Grain Indemnity Fund; and

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

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

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

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

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

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

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

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

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

the assessment or enforcement of the provisions of this subchapter.

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

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

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

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

- (1) Voluntary payment by the person liable;
- (2) Legal proceedings instituted in a court of competent jurisdiction; or
- (3) Injunctive relief to enjoin any buyer owing an assessment or penalty from operating his or her business or engaging in business as a buyer of wheat until the delinquent assessment or penalty is paid.

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

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

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

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

of Agriculture loan program.

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

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

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

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

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

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

2-20-607. Records and other documentation.

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

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

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

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

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

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

2-20-608. Refunds to producers.

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

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

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

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

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

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

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

- (1) Voluntary payment by the person liable;
- (2) Legal proceedings instituted in a court of competent jurisdiction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19-5-1142. Arkansas Grain Indemnity Fund.

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

(b) The fund shall consist of:

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

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

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

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

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

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

/s/G. Stubblefield