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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2718

03/08/2023 Authored by Cha; Vang; Pursell; Anderson, P. H.; Frederick and others
The bill was read for the first time and referred to the Committee on Agriculture Finance and Policy

1.1 A bill for an act
1.2 relating to agriculture; establishing a grain indemnity account; appropriating money;
1.3 amending Minnesota Statutes 2022, sections 223.16, by adding a subdivision;
1.4 223.17, subdivisions 7, 7a; 223.175; 223.19; 232.22, subdivision 5; proposing
1.5 coding for new law in Minnesota Statutes, chapter 223; repealing Minnesota
1.6 Statutes 2022, sections 223.17, subdivisions 4, 8; 232.22, subdivisions 4, 6, 6a, 7.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2022, section 223.16, is amended by adding a subdivision
1.9 to read:

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

1.13 Sec. 2. Minnesota Statutes 2022, section 223.17, subdivision 7, is amended to read:

1.14 Subd. 7. ~~Action on a bond~~ **Breach of contract.** A producer claiming to be damaged
1.15 by a breach of a contract for the purchase of grain by a licensed grain buyer may file a
1.16 written claim with the commissioner. The claim must state the facts constituting the claim.
1.17 ~~The claim must be filed with the commissioner within 180 days of the breach of the contract.~~
1.18 If a claim is valid, the commissioner may immediately suspend the license, in which case
1.19 the licensee shall surrender the license to the commissioner. Within 15 days the licensee
1.20 may request an administrative hearing subject to chapter 14 to determine whether the license
1.21 should be revoked. If no request is made within 15 days, the commissioner shall revoke the
1.22 license.

2.1 Sec. 3. Minnesota Statutes 2022, section 223.17, subdivision 7a, is amended to read:

2.2 Subd. 7a. **Bond requirements; claims.** For entities licensed under this chapter and  
 2.3 chapter 232, the bond requirements and ~~claims~~ actions against the bond are governed under  
 2.4 section ~~232.22, subdivision 6a~~ 223.24, subdivision 13.

2.5 Sec. 4. Minnesota Statutes 2022, section 223.175, is amended to read:

2.6 **223.175 WRITTEN VOLUNTARY EXTENSION OF CREDIT CONTRACTS;**  
 2.7 **FORM.**

2.8 A written confirmation required under section 223.177, subdivision 2, and a written  
 2.9 voluntary extension of credit contract must include those items prescribed by the  
 2.10 commissioner by rule. A contract shall include a statement of the legal and financial  
 2.11 responsibilities of grain buyers and sellers established in this chapter. A contract shall also  
 2.12 include the following statement in not less than ten point, all capital type, framed in a box  
 2.13 with space provided for the seller's signature: "THIS CONTRACT CONSTITUTES A  
 2.14 VOLUNTARY EXTENSION OF CREDIT. ~~THIS CONTRACT IS NOT COVERED BY~~  
 2.15 ~~ANY GRAIN BUYER'S BOND~~ MAY NOT BE COVERED COMPLETELY BY THE  
 2.16 GRAIN INDEMNITY ACCOUNT." If a written contract is provided at the time the grain  
 2.17 is delivered to the grain buyer, the seller shall sign the contract in the space provided beneath  
 2.18 the statement. A transaction that does not meet the provisions of a voluntary extension of  
 2.19 credit, including the issuance and signing of a voluntary extension of credit contract, is a  
 2.20 cash sale.

2.21 Sec. 5. Minnesota Statutes 2022, section 223.19, is amended to read:

2.22 **223.19 RULES.**

2.23 The commissioner may make rules pursuant to chapter 14 to carry out the provisions of  
 2.24 sections 223.15 to ~~223.23~~ 223.24.

2.25 Sec. 6. **[223.24] GRAIN INDEMNITY ACCOUNT.**

2.26 Subdivision 1. Establishment. The grain indemnity account is established under the  
 2.27 direction and control of the commissioner of agriculture. The grain indemnity account shall  
 2.28 consist of grain indemnity premiums, money from any other source, and interest.

2.29 Subd. 2. Account; appropriation. (a) A grain indemnity account is established in the  
 2.30 agricultural fund. Money in the grain indemnity account, including interest, is appropriated  
 2.31 to the commissioner to pay valid claims and to administer this section.

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

3.3 (1) the payment of valid claims;

3.4 (2) the payment of grain indemnity premium refunds;

3.5 (3) the payment of administrative expenses under paragraph (c);

3.6 (4) the payment of legal fees and legal expenses under subdivision 7; or

3.7 (5) the payment of a trustee appointed under subdivision 6.

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

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

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

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

3.23 (c) An aggrieved party may appeal the commissioner's determination by requesting,  
3.24 within 15 days, that the commissioner initiate a contested case proceeding under chapter  
3.25 14.

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

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

3.30 (2) the amount equal to the value of grain sold up to \$200,000, or the lesser of \$750,000  
3.31 or 75 percent of the amount owed to the seller for a contract in excess of \$200,000 for a

4.1 deferred or delayed payment contract for which a price has been established when the  
4.2 contract originated within 120 days of the breach of contract;

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

4.6 (4) the lesser of \$500,000 or 50 percent for an open storage assignment or a voluntary  
4.7 extension of credit contract when the open storage assignment or contract originated between  
4.8 181 days and 18 months from the failure; or

4.9 (5) the lesser of \$250,000 or 25 percent for an open storage assignment or a voluntary  
4.10 extension of credit contract when the open storage assignment or contract originated between  
4.11 19 months and 36 months from the failure.

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

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

4.15 (d) If a grain buyer holds both a Minnesota grain buyer license, as defined in chapter  
4.16 223, and a license with the United States Department of Agriculture (USDA) under the  
4.17 United States Warehouse Act, a seller may only file a claim with the grain indemnity account  
4.18 if the seller sold grain as a cash sale or under a voluntary extension of credit contract. The  
4.19 commissioner must deny any claims for stored grain from a seller that holds both a Minnesota  
4.20 grain buyer license and a license with the USDA under the United States Warehouse Act.

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

4.26 (f) If the grain indemnity account balance is insufficient to pay refunds under subdivision  
4.27 11 and valid claims exist, once money is deposited into the grain indemnity account, the  
4.28 commissioner must issue pending refunds for grain indemnity premium payments before  
4.29 issuing payments to claimants.

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

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

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

5.10 (b) As a condition of payment from the commissioner, a producer must subrogate the  
5.11 producer's interest in a voluntary extension of credit contract to the commissioner in an  
5.12 amount equal to any claim payment or payments that the producer received under this  
5.13 section.

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

5.16 Subd. 8. **Grain indemnity premiums.** (a) Except as provided in subdivision 10,  
5.17 producers of grain must be charged a grain indemnity premium as determined and published  
5.18 by the commissioner not to exceed 0.2 percent of the price on all marketed grain that is sold  
5.19 to a grain buyer as defined in chapter 223.

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

5.22 Subd. 9. **Collection and submission of grain indemnity premiums.** (a) Each producer  
5.23 must pay to the commissioner a grain indemnity premium of not more than 0.2 percent of  
5.24 the net proceeds from all grain sold by the producer to a grain buyer purchasing grain in  
5.25 Minnesota. When grain is sold to a grain buyer, the grain buyer must deduct the grain  
5.26 indemnity premium from the proceeds of the sale and pay the grain indemnity premium to  
5.27 the commissioner on behalf of the producer.

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

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

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

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

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

6.17 **Subd. 10. Amount in grain indemnity account; basis for suspension and**  
6.18 **reinstatement of grain indemnity premium collection.** (a) The grain indemnity premiums  
6.19 required under subdivision 8 must be collected until the grain indemnity account contains  
6.20 more than \$15,000,000, as of June 30 of any given year.

6.21 (b) Except as provided in paragraph (c), after the grain indemnity account reaches  
6.22 \$15,000,000, the commissioner may not require the collection of additional grain indemnity  
6.23 premiums until the amount in the grain indemnity account drops below \$9,000,000. In a  
6.24 year when the commissioner determines that the grain indemnity account is at or below  
6.25 \$9,000,000, the commissioner may reinstate the collection described in this section.

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

6.32 **Subd. 11. Grain indemnity refund; opt out.** (a) Subject to subdivision 9, a producer  
6.33 that has paid a grain indemnity premium may receive a refund of that premium from the  
6.34 grain indemnity account by submitting a written demand for a refund to the commissioner,

7.1 delivered personally or by first-class mail within 12 months after the producer paid the grain  
7.2 indemnity premium.

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

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

7.13 (d) If the commissioner announces grain indemnity premiums as required under  
7.14 subdivision 10 by June 30, the commissioner must send a notice to each producer who  
7.15 requested a refund of a grain indemnity premium during the previous three fiscal years. The  
7.16 notice must inform the producer of the deadline for and method of submitting a demand for  
7.17 a refund to the commissioner under paragraphs (a) and (b) and the method for reentering  
7.18 the grain indemnity program under paragraph (e).

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

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

7.26 (2) the producer's request is approved by the commissioner; and

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

7.30 (f) A producer that reenters the grain indemnity program under paragraph (e) is eligible  
7.31 to be reimbursed for claims under the grain indemnity program for any breach of contract  
7.32 that occurs at least 90 days after reentry.

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

8.4 Subd. 12. Penalties; enforcement action; costs and expenses. (a) In addition to any  
8.5 other penalty or remedy provided by law, a person who knowingly or intentionally commits  
8.6 any of the following is subject to civil penalties under section 18J.10:

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

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

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

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

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

8.22 Subd. 13. Grain bonds; new license holders. (a) Except as provided in paragraph (b),  
8.23 before the commissioner issues a grain buyer or public grain warehouse operator license,  
8.24 a person who has not been licensed to buy grain or operate a public grain warehouse in the  
8.25 previous licensing period must file with the commissioner a grain bond in a penal sum of  
8.26 \$100,000. A grain bond must remain in effect for the first three years of the license.

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

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

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



9.1 (e) A grain bond required under paragraphs (a) and (c) must provide for the payment of  
 9.2 any loss caused by the grain buyer's failure to pay upon the owner's demand, including loss  
 9.3 caused by the grain buyer's failure to pay within the time required. The grain bond must be  
 9.4 conditioned upon the grain buyer being duly licensed. A grain bond required under paragraphs  
 9.5 (a) and (c) that is obtained by a public grain warehouse operator must be conditioned that  
 9.6 the public grain warehouse operator issuing a grain warehouse receipt is liable to the depositor  
 9.7 for the delivery of the kind, grade, and net quantity of grain called for by the receipt. A  
 9.8 grain bond must be conditioned upon the operator being duly licensed. For those entities  
 9.9 licensed under this chapter, the entire grain bond must be available to any claims against  
 9.10 the grain bond filed under this chapter.

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

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

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

9.19 **EFFECTIVE DATE.** This section is effective July 1, 2023.

9.20 Sec. 7. Minnesota Statutes 2022, section 232.22, subdivision 5, is amended to read:

9.21 Subd. 5. **Statement of grain in storage; reports.** ~~(a) All public grain warehouse operators~~  
 9.22 ~~must by February 15 of each year file with the commissioner on a form approved by the~~  
 9.23 ~~commissioner a report showing the annual average liability of all grain outstanding on grain~~  
 9.24 ~~warehouse receipts, open storage, and grain stored for feed processing that occurred during~~  
 9.25 ~~the preceding calendar year. This report shall be used for the purpose of establishing the~~  
 9.26 ~~penal sum of the bond.~~

9.27 ~~(b) Warehouse operators that are at a maximum bond and want to continue at maximum~~  
 9.28 ~~bond do not need to file this report.~~

9.29 ~~(c) It is a violation of this chapter for any public grain warehouse operator to fail to file~~  
 9.30 ~~the report required in paragraph (a).~~

9.31 ~~(d)~~ (a) Every public grain warehouse operator shall keep in a place of safety complete  
 9.32 and accurate records and accounts relating to any grain warehouse operated. The records  
 9.33 shall reflect each commodity received and shipped daily, the balance remaining in the grain

10.1 warehouse at the close of each business day, a listing of all unissued grain warehouse receipts  
10.2 in the operator's possession, a record of all grain warehouse receipts issued which remain  
10.3 outstanding and a record of all grain warehouse receipts which have been returned for  
10.4 cancellation. Copies of grain warehouse receipts or other documents evidencing ownership  
10.5 of grain by a depositor, or other liability of the grain warehouse operator, shall be retained  
10.6 as long as the liability exists but must be kept for a minimum of three years.

10.7 ~~(e)~~ (b) Every public grain warehouse operator must maintain in the grain warehouse at  
10.8 all times grain of proper grade and sufficient quantity to meet delivery obligations on all  
10.9 outstanding grain warehouse receipts.

10.10 Sec. 8. **TRANSFER.**

10.11 \$5,000,000 in fiscal year 2024 is transferred from the general fund to the grain indemnity  
10.12 account established in section 6.

10.13 Sec. 9. **REPEALER.**

10.14 Minnesota Statutes 2022, sections 223.17, subdivisions 4 and 8; and 232.22, subdivisions  
10.15 4, 6, 6a, and 7, are repealed.

**223.17 LICENSES; BONDING; CLAIMS; DISBURSEMENTS.**

Subd. 4. **Bond.** (a) Except as provided in paragraphs (c) to (e), before a grain buyer's license is issued, the applicant for the license must file with the commissioner a bond in a penal sum prescribed by the commissioner but not less than the following amounts:

- (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;
- (2) \$20,000 for grain buyers whose gross annual purchases are more than \$100,000 but not more than \$750,000;
- (3) \$30,000 for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;
- (4) \$40,000 for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000;
- (5) \$50,000 for grain buyers whose gross annual purchases are more than \$3,000,000 but not more than \$6,000,000;
- (6) \$70,000 for grain buyers whose gross annual purchases are more than \$6,000,000 but not more than \$12,000,000;
- (7) \$125,000 for grain buyers whose gross annual purchases are more than \$12,000,000 but not more than \$24,000,000; and
- (8) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

(b) The amount of the bond shall be based on the most recent gross annual grain purchase report of the grain buyer.

(c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with the commissioner. This bond shall remain in effect for the first year of the license. Thereafter, the licensee shall comply with the applicable bonding requirements contained in paragraph (a), clauses (1) to (8).

(d) In lieu of the bond required by this subdivision the applicant may deposit with the commissioner of management and budget an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

(e) 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.

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

Subd. 8. **Bond disbursement.** (a) The bond required under subdivision 4 shall provide for payment of loss caused by the grain buyer's failure to pay, upon the owner's demand, the purchase price of grain sold to the grain buyer in the manner provided by subdivision 5, including loss caused by failure to pay within the time required. The bond shall be conditioned upon the grain buyer being duly licensed as provided herein.

(b) The commissioner shall promptly determine the validity of all claims filed and notify the claimants of the determination. An aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment promptly to those claimants entitled to payment. The commissioner may apply to the district court for an order appointing a trustee or receiver to manage and supervise the operations of the grain buyer in default. The commissioner may participate in any resulting court proceeding as an interested party.

(c) If a grain buyer has become liable to more than one producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all producers entitled to the protection of the bond, the proceeds of the bond shall be apportioned among the bona fide claimants.

(d) The bond shall not be cumulative from one licensing period to the next. The maximum liability of the bond shall be its face value for the licensing period.

(e) The bond disbursement shall occur 200 days from the date the commissioner publishes a public notice of a claim. At the end of this time period, the commissioner shall initiate bond payments on all valid claims received by the commissioner.

**232.22 LICENSES, BONDING CLAIMS, DISBURSEMENTS.**

Subd. 4. **Bonding.** (a) Before a license is issued, except as provided under paragraph (c), the applicant for a public grain warehouse operator's license shall file with the commissioner a bond in a penal sum prescribed by the commissioner based on the annual average storage liability as stated on the statement of grain in storage report or on the gross annual grain purchase report, whichever is greater, and applying the following amounts:

(1) \$10,000 for storages with annual average storage liability of more than \$0 but not more than \$25,000;

(2) \$20,000 for storages with annual average storage liability of more than \$25,001 but not more than \$50,000;

(3) \$30,000 for storages with annual average storage liability of more than \$50,001 but not more than \$75,000;

(4) \$50,000 for storages with annual average storage liability of more than \$75,001 but not more than \$100,000;

(5) \$75,000 for storages with annual average storage liability of more than \$100,001 but not more than \$200,000;

(6) \$125,000 for storages with annual average storage liability of more than \$200,001 but not more than \$300,000;

(7) \$175,000 for storages with annual average storage liability of more than \$300,001 but not more than \$400,000;

(8) \$225,000 for storages with annual average storage liability of more than \$400,001 but not more than \$500,000;

(9) \$275,000 for storages with annual average storage liability of more than \$500,001 but not more than \$600,000;

(10) \$325,000 for storages with annual average storage liability of more than \$600,001 but not more than \$700,000;

(11) \$375,000 for storages with annual average storage liability of more than \$700,001 but not more than \$800,000;

(12) \$425,000 for storages with annual average storage liability of more than \$800,001 but not more than \$900,000;

(13) \$475,000 for storages with annual average storage liability of more than \$900,001 but not more than \$1,000,000; and

(14) \$500,000 for storages with annual average storage liability of more than \$1,000,000.

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

(c) In lieu of the bond required by this subdivision, the applicant may deposit with the commissioner of management and budget an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

Subd. 6. **Bond claims.** A person claiming to be damaged by a breach of the conditions of a bond of a licensed public grain warehouse operator may file a written claim with the commissioner stating the facts constituting the claim. The claim must be filed with the commissioner within 180 days of the breach of the conditions of the bond. If the commissioner has reason to believe that a claim is valid, the commissioner may immediately suspend the license of the public grain warehouse operator and the licensee must 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. 6a. **Bond determinations.** If a public grain warehouse operator is licensed under both this chapter and chapter 223, the warehouse shall have its bond determined by its gross annual grain

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purchase amount or its annual average grain storage value, whichever is greater. For those entities licensed under this chapter and chapter 223, the entire bond shall be available to any claims against the bond for claims filed under this chapter and chapter 223.

Subd. 7. **Bond disbursement.** (a) The bond of 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.

(b) Upon notification of default, the commissioner shall determine the validity of all claims and notify all parties having filed claims. Any aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment to those claimants entitled to payment. If the commissioner determines it is necessary, the commissioner may apply to the district court for an order appointing a trustee or receiver to manage and supervise the operations of the grain warehouse operator in default. The commissioner may participate in any resulting court proceeding as an interested party.

(c) For the purpose of determining the amount of bond disbursement against all valid claims under a condition one bond, all grain owned or stored in the public grain warehouse shall be sold and the combined proceeds deposited in a special fund. Payment shall be made from the special fund satisfying the valid claims of grain warehouse receipt holders.

(d) If a public grain warehouse operator has become liable to more than one depositor or producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay, beyond the proceeds of the special fund, the entire liability to all valid claimants, the proceeds of the bond and special fund shall be apportioned among the valid claimants on a pro rata basis.

(e) A bond is not cumulative from one licensing period to the next. The maximum liability of the bond shall be its face value for the licensing period.

(f) The bond disbursement shall occur 200 days from the date the commissioner publishes a public notice of a claim. At the end of this time period, the commissioner shall initiate bond payments on all valid claims received by the department.