

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 95**

**Representatives Click, Creech**

**Cosponsors: Representatives Dean, Johnson, Jones, Kick, Klopfenstein, Miller,  
K., Stewart, Willis**

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**A BILL**

To amend section 926.18 of the Revised Code to 1  
revise the law governing claims against 2  
agricultural commodity handlers. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 926.18 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 926.18.** (A) When a depositor has made a demand for 6  
settlement of an obligation concerning an agricultural commodity 7  
on which a fee was required to be remitted under section 926.16 8  
of the Revised Code and the licensed handler is experiencing 9  
failure, as "failure" is defined in section 926.021 of the 10  
Revised Code, and has failed to honor the demand, the depositor, 11  
after providing the director of agriculture or the director's 12  
authorized representative with evidence of the depositor's 13  
demand and the dishonoring of that demand, may file a claim with 14  
the director not later than six months after dishonor of the 15  
demand for indemnification of the depositor's damages, from the 16  
agricultural commodity depositors fund, to be measured as 17  
follows: 18

(1) The commodity advisory commission created in section 19  
926.32 of the Revised Code shall establish the dollar value of 20  
the loss incurred by a depositor holding a receipt or a ticket 21  
for agricultural commodities on which a fee was required and 22  
that the depositor delivered to the handler under a delayed 23  
price agreement, bailment agreement, or feed agreement, or that 24  
the depositor delivered to the handler before delivery was due 25  
under a contract or other agreement between the depositor and 26  
handler. The value shall be based on the fair market price being 27  
paid to producers by handlers for the commodities on the date on 28  
which the director received notice that the receipt or ticket 29  
was dishonored by the handler. All depositors filing claims 30  
under this division shall be bound by the value determined by 31  
the commission. 32

(2) The dollar value of the loss incurred by a depositor 33  
who has sold or delivered for sale, exchange, or solicitation or 34  
negotiation for sale agricultural commodities on which a fee was 35  
required and who is a creditor of the handler for all or a part 36  
of the value of the commodities shall be based on the amount 37  
stated on the obligation on the date of the sale. 38

(B) The agricultural commodity depositors fund shall be 39  
liable to a depositor for any moneys that are owed to the 40  
depositor for commodities deposited with a licensed handler 41  
pursuant to a transaction for which the handler must remit a fee 42  
under division (B) of section 926.16 of the Revised Code and 43  
that are not recovered through other legal and equitable 44  
remedies as follows: 45

(1) (a) The liability of the fund shall equal one hundred 46  
per cent of the depositor's loss as determined under division 47  
(A) (1) of this section if any of the following applies: 48

(i) The commodities were stored with the handler under a bailment agreement. 49  
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(ii) Payment for the commodities was tendered by the handler and subsequently dishonored, such as payment by a check for which there were insufficient funds or by a check that was written on an account that was frozen by the financial institution. 51  
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(iii) The commodities were priced not more than ~~thirty~~ forty-five days prior to the director's suspension of the handler's license under division (E), (G), or (H) of section 926.10 of the Revised Code, and the handler failed to pay for the commodities on or before the date on which the suspension occurred. 56  
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(iv) The commodities were priced not more than ~~ninety~~ three hundred sixty-five days prior to the director's suspension of the handler's license under division (E), (G), or (H) of section 926.10 of the Revised Code, the commodities were subject to a signed, written agreement for deferred between the handler and depositor to defer payment by the handler not later than ~~ninety-three hundred sixty-five~~ days following the date of delivery, and the handler failed to pay for the commodities on or before the payment date established in the written agreement. 62  
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(v) The commodities were delivered and marketed under a delayed price agreement not more than two years prior to the director's suspension of the handler's license under division (E), (G), or (H) of section 926.10 of the Revised Code. The delivery date as marked on the tickets shall be used to determine the two-year period. 71  
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(b) If the commodities were delivered and marketed under a 77

delayed price agreement more than two years prior to the 78  
director's suspension of the handler's license under division 79  
(E), (G), or (H) of section 926.10 of the Revised Code, the fund 80  
has no liability. 81

(c) If the deposit of commodities that were the subject of 82  
the depositor's loss involves circumstances other than those 83  
described in division (B) (1) (a) or (b) of this section, the 84  
liability of the fund shall equal ~~one hundred seventy-five per~~ 85  
~~cent of the first ten thousand dollars of the loss and eighty-~~ 86  
~~per cent of the remaining dollar value of that loss as~~ 87  
determined under divisions (A) (1) and (2) of this section. 88

(2) The aggregate amount recovered by a depositor under 89  
all remedies shall not exceed one hundred per cent of the value 90  
of the depositor's loss. If the moneys recovered by a depositor 91  
under all remedies exceed one hundred per cent of the value of 92  
the depositor's loss, the depositor shall reimburse the fund in 93  
the amount that exceeds the value of that loss. 94

(C) The director, with the recommendation of the commodity 95  
advisory commission, shall determine the validity of all claims 96  
presented against the fund. A claim filed under this section for 97  
losses on agricultural commodities other than commodities stored 98  
under a bailment agreement shall not be valid unless the 99  
depositor has made a demand for settlement of the obligation 100  
within twelve months after the commodities are priced. Any 101  
depositor whose claim has been refused by the director and the 102  
commission may appeal the refusal either to the court of common 103  
pleas of Franklin county or the court of common pleas of the 104  
county in which the depositor resides. 105

The director shall provide for payment from the fund to 106  
any depositor whose claim has been found to be valid. 107

(D) If at any time the fund does not contain sufficient 108  
assets to pay valid claims, the director shall hold those claims 109  
for payment until the fund again contains sufficient assets. 110  
Claims against the fund shall be paid in the order in which they 111  
are presented and found to be valid. 112

(E) If a depositor files an action for legal or equitable 113  
remedies in a state or federal court having jurisdiction in 114  
those matters that includes a claim against agricultural 115  
commodities upon which the depositor may file a claim against 116  
the fund at a later date, the depositor also shall file with the 117  
director a copy of the action filed with the court. 118

In the event of payment of a loss under this section, the 119  
director shall be subrogated to the extent of the amount of any 120  
payments to all rights, powers, privileges, and remedies of the 121  
depositor against any person regarding the loss. 122

The depositor shall render all necessary assistance to aid 123  
the director in securing the rights granted in this section. No 124  
action or claim initiated by the depositor and pending at the 125  
time of payment from the fund may be compromised or settled 126  
without the consent of the director. 127

(F) If, prior to June 20, 1994, a lawsuit, adversary 128  
proceeding, or other legal proceeding is brought against a 129  
depositor to recover money or payments from funds to which a 130  
depositor has a right of indemnification under this section, and 131  
the depositor retains legal counsel resulting in a cost or 132  
expense to the depositor, upon the rendering of a judgment or 133  
other resolution of the lawsuit, adversary proceeding, or other 134  
legal proceeding, the director, in the director's discretion and 135  
with the approval of the commodity advisory commission, may 136  
authorize indemnification from the fund for attorney's fees paid 137

by the depositor. Any claim made by a depositor for the payment 138  
of attorney's fees under this division shall be made in the same 139  
manner as a claim under division (A) of this section. 140

Attorney's fees payable under this division shall be 141  
limited to the actual hourly fee charged or one hundred dollars 142  
per hour, whichever is less, and to a total maximum amount of 143  
three hundred dollars. 144

**Section 2.** That existing section 926.18 of the Revised 145  
Code is hereby repealed. 146