

CHAPTER 94
CLAIMS AGAINST THE GRAIN DEPOSITORS
AND SELLERS INDEMNITY FUND

[Prior to 7/27/88, 21—Ch 64]

21—94.1(203D) Definitions.

“*Assessable grain*” means all grain to which a licensed grain dealer obtains title except if title transfers by credit-sales contract and all grain received by a licensed warehouse operator. However, assessable grain does not include the following:

a. Grain purchased by an Iowa-licensed grain dealer from another licensed grain dealer, regardless of which jurisdiction licenses the other grain dealer.

b. Grain deposited in a licensed grain warehouse for custom drying, cleaning, conditioning, or processing if the grain is redelivered to the depositor immediately, as defined by rules adopted by the department.

“*Depositor*” means a person who deposits grain in a state warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding state warehouse receipt, or who is lawfully entitled to possession of the grain.

“*Seller*” means a person who sells grain which the person has produced or caused to be produced, but excludes a person who executes a credit-sale contract as a seller.

21—94.2(203D) By whom claims can be made. Claims shall be made only by a depositor or seller and only concerning assessable grain. A claim shall not be made on grain which qualified for an exemption from the definition of “assessable grain” as further defined by the department in rule 21—92.3(203D), including grain which was initially assessable but became nonassessable as a result of a new transaction.

21—94.3(203D) Procedure for filing claims. In regard to claims by a depositor or seller arising against a state-licensed grain dealer or state-licensed warehouse operator, a claim against the grain depositors and sellers indemnity fund may be filed with the grain warehouse division (the division) of the Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. The division shall create and provide a claim form. Use of the claim form shall be the exclusive manner of filing a claim against the fund. The claim shall include the following information:

1. The name and address of the grain dealer or warehouse operator against whom the claim arose;
2. The name, address, telephone number, and social security or tax identification number of the person making the claim;
3. The type and amount of grain involved;
4. The type of transaction involved;
5. Evidence of ownership;
6. Documentation of a demand on the obligation of a failure to honor the demand; and
7. A notarized signature by each person making the claim.

21—94.4 Rescinded, effective March 16, 1988.

21—94.5(203D) Time limitations.

94.5(1) A claim against the fund may be made any time after the earlier of the license revocation, termination, or cancellation or the filing of the petition for bankruptcy, but is not timely unless the claim is postmarked or delivered within 120 days after the revocation, termination, or cancellation of the grain dealer’s or warehouse operator’s license.

94.5(2) Rescinded, effective March 16, 1988.

21—94.6(203D) Claims by depositors where division is receiver. In regard to claims by depositors arising against a warehouse operator whose license has been revoked, terminated, or canceled and who has not filed a petition for bankruptcy where the division has been appointed by the court as the receiver of the grain assets of the warehouse, a claim properly filed with the division as receiver within 120 days of the license revocation, termination, or cancellation also is deemed to be a properly filed claim against the fund.

21—94.7(203D) Notice of claims. Within 30 days of the receipt of a claim, the division shall send notice of the claim to each member of the board.

21—94.8(203D) Report by division. When adequate information is available, the division shall make a report to the board of claims ready for determination, which report shall note the gross and net amount of each claim and the division's recommendations as to the validity and value of each claim. The division may report the claims ready for determination either as a class of listed claims relating to an identified licensee or individually, as may be appropriate.

21—94.9(203D) Determination of claims. The board shall review the report submitted by the division and may request additional information on a claim. The board shall determine the amount of the loss and the amount the claimant is validly entitled to from the fund within 90 days after the submission of the report to the board, unless the board finds good cause to delay the determination. "Good cause" includes the need for additional information on a claim. Notice of the board's determination shall be sent to each claimant by ordinary mail. The notice of the determination shall indicate the date it is sent.

21—94.10(203D) Appeal from determination.

94.10(1) A claimant whose claim has been determined by the board may appeal the determination by filing an appeal with the board within 20 days of the date the notice of the determination was sent. Appeals shall include a statement as to the amount the appellant is contesting and as to the basis for appeal. The board's determination becomes final if there is no timely appeal.

94.10(2) Upon the timely filing of an appeal, the board shall schedule an evidentiary hearing or an opportunity for oral argument before the board on the appeal. The hearing or argument shall be scheduled no sooner than 15 days after notice of the hearing or oral argument is sent by ordinary mail to the appellant. If an evidentiary hearing is scheduled, the appellant may appear and submit evidence concerning the claim. The division may also appear and submit evidence. If the appellant fails to appear, the board may proceed in the appellant's absence. If a hearing or oral argument is held, the board shall prepare a written decision. The appellant shall be sent a copy of the board's decision by ordinary mail. The decision shall indicate the date it is sent.

94.10(3) If a hearing was held on the appeal, the appellant may request a rehearing within 20 days of the date the decision is sent. The request is deemed to have been denied unless the board grants the request within 20 days after the board's receipt of the request.

94.10(4) The procedure provided by this rule is the exclusive administrative remedy in regard to the board's determinations as to the validity and amount of claims.

21—94.11(203D) Payment of valid claims—conflicting interests.

94.11(1) If the board has validated all or part of a claim, the board shall authorize the chairperson or the chairperson's designee to facilitate payment from the fund to the claimant in the determined amount upon the claimant's execution of a subrogation of the fund to the rights of the claimant and of an agreement to hold the fund harmless as against competing claims to the determined amount.

94.11(2) If the board determines that this is a valid claim subject to an interest by more than one depositor or seller, the board may order joint payment. If priority of interests in the validated claim is at issue, the board may bring an equitable action of interpleader against the conflicting parties pursuant to

Iowa rule of civil procedure 35, and may order the deposit of the determined amount with the court pursuant to Iowa rule of civil procedure 37.

These rules are intended to implement Iowa Code section 203D.6.

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