

Senate Study Bill 3174 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON DRISCOLL)

A BILL FOR

1 An Act regulating the marketing of grain, by providing for
2 fees paid by grain dealers and warehouse operators into
3 the grain depositors and sellers indemnity fund, and the
4 payment of claims to reimburse sellers and depositors for
5 losses covered by the fund, and including effective date
6 provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 203.15, subsection 6, Code 2024, is
2 amended by striking the subsection.

3 Sec. 2. Section 203D.1, subsection 2, Code 2024, is amended
4 by striking the subsection.

5 Sec. 3. Section 203D.1, subsection 14, paragraph b, Code
6 2024, is amended to read as follows:

7 *b.* "Purchased grain" does not include grain that is subject
8 to an exempt transaction based on documentation satisfactory
9 to the department showing that the grain dealer did any of the
10 following:

11 (1) Purchased the grain from the United States government or
12 any of its subdivisions or agencies.

13 (2) Purchased the grain from a person licensed as a grain
14 dealer in any jurisdiction.

15 ~~(3) Purchased the grain under a credit sale contract.~~

16 ~~(4)~~ (3) Entered the grain in the company-owned paid
17 position as a cancellation of a collateral warehouse receipt.

18 ~~(5)~~ (4) Entered the grain in the company-owned paid
19 position as an intra-company location transfer.

20 Sec. 4. Section 203D.1, subsection 16, Code 2024, is amended
21 to read as follows:

22 16. *a.* "Seller" means a person who sells grain which the
23 person has produced or caused to be produced to a licensed
24 grain dealer, ~~but excludes a person who executes a credit sale~~
25 ~~contract as a seller as provided in [section 203.15](#).~~ However,
26 "seller"

27 *b.* "Seller" does not include any of the following:

28 ~~a.~~ (1) A person licensed as a grain dealer in any
29 jurisdiction who sells grain to a licensed grain dealer.

30 ~~b.~~ (2) A person who sells grain that is not produced in
31 this state unless such grain is delivered to a licensed grain
32 dealer at a location in this state as the first point of sale.

33 Sec. 5. Section 203D.5, subsections 4 and 5, Code 2024, are
34 amended to read as follows:

35 4. If on the last date of the fund's assessment year as

1 provided in [section 203D.3](#) the assets of the fund exceed ~~eight~~
2 sixteen million dollars, less any encumbered balances or
3 pending or unsettled claims, all of the following apply:

4 *a.* The participation fee shall be waived and shall not be
5 assessable or owing for the following assessment year of the
6 fund. However, the licensee shall continue to pay any owing
7 participation fee that was in effect on the prior September 1.

8 *b.* The per-bushel fee shall be waived and shall not be
9 assessable or owing.

10 5. The board shall reinstate the fees as provided in this
11 section if the assets of the fund, less any unencumbered
12 balances or pending or unsettled claims, are ~~three~~ eight
13 million dollars or less.

14 Sec. 6. Section 203D.6, subsection 4, paragraph d, Code
15 2024, is amended to read as follows:

16 *d.* That the claim derives from a covered transaction. For
17 purposes of this paragraph, a claim derives from a covered
18 transaction if the claimant is a seller who transferred
19 title to the grain to a licensed grain dealer ~~other than by~~
20 ~~credit-sale contract~~ within six months of the incurrence date
21 for a claim period as provided in [subsection 2](#), or if the
22 claimant is a depositor who delivered the grain to a licensed
23 warehouse operator.

24 Sec. 7. EMERGENCY RULES. The department of agriculture
25 and land stewardship shall adopt emergency rules under section
26 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph
27 "b", to implement the provisions of this Act and the adopted
28 rules shall be effective July 1, 2024. The rules adopted
29 in accordance with this section shall also be published as a
30 notice of intended action as provided in section 17A.4.

31 Sec. 8. ASSESSMENT OF FEES. A grain dealer licensed under
32 chapter 203 who is a party to a credit-sale contract shall
33 owe any participation fee or per-bushel fee assessed on grain
34 purchased under the credit-sale contract beginning on July 1 of
35 the fourth assessment quarter pursuant to section 203D.3A.

1 Sec. 9. EFFECTIVE DATE.

2 1. Except as provided in subsection 2, this Act takes effect
3 July 1, 2024.

4 2. The section of this Act requiring the department of
5 agriculture and land stewardship to adopt emergency rules takes
6 effect upon enactment.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 BACKGROUND — GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND.

11 This bill amends provisions regulating marketers of grain,
12 referred to as grain dealers purchasing grain (Code chapter
13 203), and grain warehouse operators storing grain under
14 bailment (Code chapter 203C). The department of agriculture
15 and land stewardship (DALs) issues a license to each type of
16 marketer (licensee) doing business in this state, including
17 inspections and audits. A person selling grain to a licensed
18 grain dealer (seller) or a person depositing grain with a
19 licensed warehouse operator (depositor) may be reimbursed for
20 a loss incurred by the failure of the licensee to honor a
21 contractual obligation regarding the transaction (Code section
22 203D.6). Payments are made from the grain depositors and
23 sellers indemnity fund (indemnity fund) upon a determination
24 that the claim is eligible for payment by the Iowa grain
25 indemnity fund board (indemnity board) acting in cooperation
26 with DALs.

27 BACKGROUND — FEES. In addition to license fees deposited
28 into the general fund of the state (Code sections 203.6 and
29 203C.33), each licensee pays either one or two special fees
30 (indemnity fees) to support the indemnity fund, referred
31 to as a participation fee and per-bushel fee. A licensed
32 grain dealer pays both fees based on the number of bushels of
33 grain purchased during the grain dealer's last fiscal year
34 (coinciding with the grain dealer's license period). The term
35 "purchased grain" is used to designate those bushels purchased

1 for which a loss may be claimed under the indemnity fund and
2 therefore excluded from coverage (e.g., grain purchased from
3 the United States government or by credit-sale contract) (21
4 IAC 92.2). The rate for the participation fee is 0.014 cents
5 per bushel on all purchased grain with a minimum of \$50, and
6 the rate for the per-bushel fee is 0.25 cents per bushel on
7 all purchased grain. A licensed warehouse operator pays only
8 a participation fee, based on bulk warehouse capacity. The
9 rate of the participation fee is 0.014 cents per bushel of
10 bulk grain storage capacity, or \$500, whichever is less, with
11 a minimum of \$50. Indemnity fees are collected quarterly
12 during the assessment year: September 1, December 1, March 1,
13 and June 1 (Code section 203D.3). The indemnity board must
14 annually review the debits of and credits to the indemnity fund
15 and by May 1 determine whether the balance triggers a waiver or
16 reinstatement (Code section 203D.5). The triggered waiver or
17 reinstatement is effective on the first day of the following
18 assessment year (September 1). If a waiver is triggered before
19 then, a licensee is subject to pay the outstanding amount of
20 the participation fee that is otherwise owing for the current
21 assessment year. However, a licensed grain dealer is no longer
22 obligated to pay the outstanding amount of the per-bushel
23 fee otherwise owing for that period, unless the amount is
24 delinquent (Code section 203D.5).

25 BACKGROUND — CREDIT-SALE CONTRACTS. A credit-sale
26 contract (also referred to as deferred-payment contract,
27 deferred-pricing contract, or price-later contract) involves a
28 transaction for the sale of grain in which the sales price is
29 to be paid to the seller by the licensed grain dealer (buyer)
30 more than 30 days after the delivery of the grain to the buyer
31 (Code section 203.1). The delayed price arrangement may be
32 made on the basis of an expectation of higher price or tax
33 liability. In such a transaction, the seller becomes the
34 grain dealer's creditor. For regulations regarding the use of
35 credit-sale contracts by licensees, see Code sections 203.3,

1 203.8, 203.15, 203.17, and 203C.17.

2 BACKGROUND — PAYMENT OF CLAIMS. A claim by a seller or
3 depositor (claimant) for the reimbursement of a loss from the
4 indemnity fund begins on the incurrence date which is the
5 earlier of when the grain dealer's or warehouse operator's
6 state license ceases or when the grain dealer or warehouse
7 operator files a petition in bankruptcy (Code section 203D.6).
8 The claim must derive from a covered transaction, meaning that
9 it is timely filed, there is evidence of a loss incurred by a
10 claimant, and the claim derives from a covered transaction.
11 For a claimant who is a seller, a covered transaction requires
12 that title be transferred with six months of the incurrence
13 date. A covered transaction excludes sale by credit-sale
14 contract. The value of a loss incurred by a seller is based
15 on the sales price. If the sold grain was unpriced, the value
16 of a claim is presumed to be based upon the price paid on the
17 incurrence date at the nearest terminal. A seller or depositor
18 is entitled to be reimbursed 90 percent of a loss but not more
19 than \$300,000.

20 BILL'S PROVISIONS — INDEMNITY FEES TRIGGERS. The bill
21 adjusts both triggers waiving or reinstating the two indemnity
22 fees. The bill increases from \$8 million to \$16 million the
23 balance in the indemnity fund required to trigger a waiver and
24 increases from \$3 million to \$8 million the balance in the
25 indemnity fund required to trigger a reinstatement.

26 BILL'S PROVISIONS — INDEMNITY FUND (FEES AND REIMBURSEMENT
27 BASED ON CREDIT-SALE CONTRACT TRANSACTIONS). The bill provides
28 that grain purchased by credit-sale contract is no longer
29 excluded from the definition of purchased grain. Therefore, a
30 grain dealer must pay the participation fee and per-bushel fee
31 and a warehouse operator must pay the participation fee. It
32 also provides that the sale of grain by credit-sale contract is
33 no longer excluded from the meaning of a covered transaction.
34 A seller may therefore claim a loss resulting from this type
35 of transaction. In the case of a claim filed for a loss

1 resulting from a credit-sale contract for which no price was
2 established by the incurrence date, the unpriced valuation
3 would be determined in the manner described for unpriced grain.
4 The bill does not modify special regulations that apply to a
5 licensee's use of a credit-sale contract.

6 EMERGENCY RULEMAKING. The bill authorizes DALs to adopt
7 emergency rules in order to implement its provisions.

8 ASSESSMENT OF FEES. A grain dealer who is a party to a
9 credit-sale contract owing an indemnity fee assessed on grain
10 purchased by credit-sale contract is imposed on July 1 of the
11 fourth assessment quarter.

12 EFFECTIVE DATE. The bill takes effect July 1, 2024, except
13 for the provision authorizing DALs to adopt emergency rules
14 which takes effect upon enactment.