

By: Representatives Gunn, Paden, Stamps

To: Agriculture

HOUSE BILL NO. 1389

1 AN ACT TO ESTABLISH THE "MISSISSIPPI GRAIN INDEMNITY ACT"; TO
2 CREATE NEW SECTION 75-46-1, MISSISSIPPI CODE OF 1972, TO NAME THE
3 ACT AS SUCH; TO CREATE NEW SECTION 75-46-3, MISSISSIPPI CODE OF
4 1972, TO PROVIDE FOR DEFINITIONS TO TERMINOLOGY USED IN THE ACT;
5 TO CREATE NEW SECTION 75-46-5, MISSISSIPPI CODE OF 1972, TO
6 ESTABLISH THE MISSISSIPPI GRAIN INDEMNITY BOARD, PROVIDE FOR ITS
7 COMPOSITION AND THE INITIAL AND SUBSEQUENT TERMS OF BOARD MEMBERS;
8 TO ESTABLISH THE MISSISSIPPI GRAIN INDEMNITY TRUST FUND AS A
9 SPECIAL FUND IN THE STATE TREASURY; TO STIPULATE THE USES OF
10 MONIES DEPOSITED INTO THE FUND; TO CREATE NEW SECTION 75-46-7,
11 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE FUND SHALL BE
12 ADMINISTERED BY THE BOARD, WHICH SHALL HAVE AUTHORITY TO CONTRACT
13 WITH A THIRD PARTY TO ADMINISTER PAYMENTS AND HANDLE ALL
14 ACCOUNTING FUNCTIONS RELATED TO THE FUND; TO CREATE NEW SECTION
15 75-46-9, MISSISSIPPI CODE OF 1972, TO REQUIRE GRAIN PRODUCERS TO
16 PAY AN ASSESSMENT ON ALL MARKETED GRAIN SOLD TO A FIRST PURCHASER
17 LICENSEE BEGINNING ON JULY 1, 2022; TO CREATE NEW SECTION
18 75-46-11, MISSISSIPPI CODE OF 1972, TO REQUIRE THE ASSESSMENT TO
19 BE COLLECTED BY THE FIRST PURCHASER LICENSEE OR ANY AGENT OR
20 REPRESENTATIVE OF THE LICENSEE, WHO SHALL DEDUCT SUCH ASSESSMENT
21 FROM THE PURCHASE PRICE; TO ESTABLISH THE DATE BY WHICH THE
22 LICENSEES MUST SUBMIT ASSESSMENTS TO THE BOARD FOLLOWING ITS
23 COLLECTION; TO CREATE NEW SECTION 75-46-13, MISSISSIPPI CODE OF
24 1972, TO DESIGNATE THE ASSESSMENT COLLECTION PERIOD AND ESTABLISH
25 AMOUNTS FOR THRESHOLD TRUST FUND BALANCES; TO CREATE NEW SECTION
26 75-46-15, MISSISSIPPI CODE OF 1972, TO REQUIRE FIRST PURCHASER
27 LICENSEES TO MAINTAIN A LEDGER OF ALL ASSESSMENTS COLLECTED, WHICH
28 SUCH RECORDS SHALL BE MADE AVAILABLE TO THE BOARD UPON REQUEST; TO
29 LIMIT THE COMMISSIONER OF AGRICULTURE AND COMMERCE'S AUTHORITY TO
30 DISCLOSE INFORMATION OBTAINED FROM THE LEDGER OF ASSESSMENTS; TO
31 CREATE NEW SECTION 75-46-17, MISSISSIPPI CODE OF 1972, TO PROVIDE
32 THAT PARTICIPATION IN THE FUND IS VOLUNTARY; TO REQUIRE
33 NONPARTICIPANTS TO NOTIFY THE COMMISSIONER BY THE PRECEDING JUNE 1
34 OF SUCH YEAR THAT THE PRODUCER HAS OPTED OUT; TO PROVIDE THAT



35 NONPARTICIPATION IN THE FUND DISQUALIFIES SUCH INDIVIDUALS FROM
36 RECEIPT OF ANY PAYMENT FOR A CONTRACT OR STORAGE LOSS OF GRAIN
37 PRODUCED DURING SUCH CROP DUE TO THE FAILURE OF A FIRST PURCHASER
38 LICENSEE; TO PROVIDE ADDITIONAL NOTICE TO BE GIVEN TO THE FIRST
39 PURCHASER LICENSEE; TO ALLOW A REFUND OF ASSESSMENTS PAID TO
40 PRODUCERS WHO OPT OUT OF THE FUND; TO CREATE NEW SECTION 75-46-19,
41 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER SHALL
42 DETERMINE WHEN A FIRST PURCHASER LICENSEE HAS FAILED; TO PRESCRIBE
43 PROCEDURES TO BE FOLLOWED BY THE COMMISSIONER UPON THE MAKING OF
44 SUCH DETERMINATION OF FAILURE; TO CREATE NEW SECTION 75-46-21,
45 MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE PROCESS TO BE FOLLOWED
46 FOR THE TIMELY ADJUDICATION OF CLAIMS ALLEGING FAILURE OF FIRST
47 PURCHASER LICENSEES; TO CREATE NEW SECTION 75-46-23, MISSISSIPPI
48 CODE OF 1972, TO REQUIRE THE COMMISSIONER OR THE DESIGNEES TO MAKE
49 A PRELIMINARY DETERMINATION OF ELIGIBILITY FOR PAYMENT FROM THE
50 FUND RESULTING FROM SUBMITTED CLAIMS; TO PROVIDE THAT THE BOARD
51 SHALL MAKE THE FINAL DETERMINATION ON PAYMENTS OF CLAIMS; TO
52 AUTHORIZE THE BOARD TO SEEK ANY ADDITIONAL INFORMATION NECESSARY
53 TO ADJUDICATE THE CLAIM; TO PRESCRIBE PROCEDURES TO BE FOLLOWED
54 WHEN ONLY A PARTIAL PAYMENT OF CLAIM IS MADE; TO SPECIFY THE
55 TIMELINE FOR CERTAIN RESPONSES AND ACTIONS BY THE BOARD AND
56 CLAIMANT; TO PROVIDE CLAIMANTS WITH AN OPTION TO REQUEST A REVIEW
57 OF THE BOARD'S FINAL ADJUDICATION OF THE CLAIM; TO PROVIDE FOR
58 ADMINISTRATIVE PROCEDURES PROCESS FOR APPEALS OF THE BOARD'S FINAL
59 ADJUDICATION; TO CREATE NEW SECTION 75-46-25, MISSISSIPPI CODE OF
60 1972, TO PRESCRIBE THE METHOD OF CALCULATING THE PAYMENT OF CLAIMS
61 FOR STORAGE OR CONTRACT LOSSES SUFFERED; TO CREATE NEW SECTION
62 75-46-27, MISSISSIPPI CODE OF 1972, TO REQUIRE THE BOARD TO MAKE
63 PAYMENTS OF CLAIMS ON A PRO RATA BASIS AT ANY TIME THE TOTAL
64 AMOUNT OF ELIGIBLE CLAIMS EXCEEDS THE AMOUNT OF FUNDS AVAILABLE;
65 TO CREATE NEW SECTION 75-46-29, MISSISSIPPI CODE OF 1972, TO
66 PROVIDE THE COMMISSIONER WITH THE AUTHORITY TO REVOKE THE LICENSE
67 OF A FIRST PURCHASER LICENSEE FOR FAILURE TO TIMELY COLLECT AND
68 SUBMIT ASSESSMENTS TO THE BOARD; TO CREATE NEW SECTION 75-46-31,
69 MISSISSIPPI CODE OF 1972, TO REQUIRE THE COMMISSIONER TO ESTABLISH
70 A TOLL-FREE HOTLINE AND OTHER INFORMATION COLLECTION PROCESSES FOR
71 THE PURPOSES OF RECEIVING INFORMATION ON LICENSEE FAILURE TO
72 PERFORM; TO CREATE NEW SECTION 75-46-33, MISSISSIPPI CODE OF 1972,
73 TO PROVIDE FOR THE INSPECTION OF THE BOARD'S RECORDS, ACCOUNTS AND
74 OTHER DOCUMENTS BY THE OFFICE OF THE STATE AUDITOR; TO CREATE NEW
75 SECTION 75-46-35, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD
76 TO ADOPT ANY RULES AND REGULATIONS DEEMED NECESSARY TO ADMINISTER
77 THE ACT; AND FOR RELATED PURPOSES.

78 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

79 **SECTION 1.** The following shall be codified as Section

80 75-46-1, Mississippi Code of 1972:



81 75-46-1. This chapter shall be known as the "Mississippi
82 Grain Indemnity Act."

83 **SECTION 2.** The following shall be codified as Section
84 75-46-3, Mississippi Code of 1972:

85 75-46-3. As used in this act, the following terms shall have
86 the meaning ascribed in this section, unless the context clearly
87 requires otherwise:

88 (a) "Board" means the Mississippi Grain Indemnity Trust
89 Fund Board.

90 (b) "Claimant" means a producer who:

91 (i) Has suffered either a "contract loss" or
92 "storage loss" as defined herein; and

93 (ii) Has a claim that has been determined by the
94 board to meet all requirements of this chapter and any rules
95 issued by the board under this chapter.

96 (c) "Commissioner" means the Commissioner of
97 Agriculture and Commerce for the State of Mississippi or his
98 designee.

99 (d) "Contract loss" means a loss to a claimant when a
100 failed first purchaser licensee has not fully paid the claimant
101 for grain sold to the licensee under any type of contract.

102 (e) "Department" means the Mississippi Department of
103 Agriculture and Commerce.

104 (f) "Failed" or "failure" means:



105 (i) Inability of a first purchaser licensee to
106 satisfy all obligations due to a claimant;

107 (ii) A declaration of insolvency of a first
108 purchaser licensee by the licensee or by the commissioner;

109 (iii) Nonpayment of a first purchaser licensee's
110 debts in the ordinary course of business unless there is a good
111 faith dispute regarding the legitimacy of the debt;

112 (iv) Revocation or suspension of the first
113 purchaser licensee's license by the State of Mississippi or the
114 United States Department of Agriculture, if the licensee has
115 outstanding indebtedness owed to claimants;

116 (v) Voluntary surrender of a first purchaser
117 licensee's license to the State of Mississippi or the United
118 States Department of Agriculture, if the licensee has outstanding
119 indebtedness owed to claimants; or

120 (vi) Insolvency, or nonvoluntary or voluntary
121 bankruptcy of a first purchaser licensee.

122 (g) "First purchaser licensee" means an entity that is
123 the first entity to purchase grain or is paid to store grain
124 produced in Mississippi from producers and is:

125 (i) Licensed by the State of Mississippi to store
126 grain under Chapter 44, Title 75, Mississippi Code of 1972;

127 (ii) Licensed by the State of Mississippi to act
128 as a grain dealer under Chapter 45, Title 75, Mississippi Code of
129 1972; or



130 (iii) Licensed by the United States under the
131 United States Warehouse Act to store grain.

132 (h) "Fund" means the Mississippi Grain Indemnity Trust
133 Fund.

134 (i) "Grain" means whole kernel corn for all purposes,
135 grain sorghum, oats, soybeans and wheat. Grain does not include
136 sweet corn, popcorn and any other corn for human consumption.

137 (j) "Mississippi Grain Indemnity Trust Fund" means the
138 fund established as provided in this chapter.

139 (k) "Mississippi Grain Indemnity Trust Fund Board"
140 means the board established under Section 75-46-5.

141 (l) "Person" means a natural person, trust,
142 partnership, corporation or any other business entity.

143 (m) "Producer" means a person that is:

144 (i) An owner of land, a tenant on a farm, or an
145 operator of a farm; and

146 (ii) Receives from a first purchaser licensee
147 proceeds from the sale of grain produced by the owner, tenant, or
148 operator.

149 (n) "Storage loss" means a loss to a claimant when a
150 failed first purchaser licensee has not fully satisfied the
151 licensee's storage obligations to the claimant, less any allowable
152 charges that have not been paid by the claimant.

153 **SECTION 3.** The following shall be codified as Section
154 75-46-5, Mississippi Code of 1972:



155 75-46-5. (1) (a) There is hereby created the Mississippi
156 Grain Indemnity Board, which is established for the purposes of
157 providing money to pay agricultural producers for contract losses
158 due to a failure of a grain dealer licensed by the State of
159 Mississippi under Chapter 45, Title 75, Mississippi Code of 1972,
160 and for contract and storage losses due to the failure of a grain
161 warehouse operator licensed by the State of Mississippi under
162 Chapter 44, Title 75, Mississippi Code of 1972, or by the United
163 States Department of Agriculture under the United States Warehouse
164 Act. The board shall consist of:

165 (i) The commissioner who shall be the chairperson
166 of the board;

167 (ii) Two (2) members selected by the President of
168 the Mississippi Farm Bureau;

169 (iii) Two (2) members selected by the President of
170 the Delta Council; and

171 (iv) Two (2) members selected at-large by the
172 commissioner who shall be active Mississippi grain farmers.

173 (b) Members of the initial board shall be appointed as
174 follows:

175 (i) The Delta Council shall appoint members for
176 terms of one (1) and three (3) years;

177 (ii) Mississippi Farm Bureau shall appoint members
178 for two (2) and four (4) years; and



179 (iii) The commissioner shall appoint members for
180 one (1) and three (3) years.

181 Following the initial board, subsequent members appointed to
182 the board shall serve a term of four (4) years with staggered
183 expiration dates. Members of the board shall, while serving on
184 business of the board, be entitled to receive as compensation a
185 per diem, as provided by law, in addition to any actual and
186 necessary expenses incurred in the performance of the official
187 duties of the board. The commissioner may call a meeting of the
188 board upon reasonable notice to the board members.

189 (2) There is created in the State Treasury a special fund to
190 be designated the "Mississippi Grain Indemnity Trust Fund." Funds
191 collected by or appropriated to the board shall be held in trust
192 by the State Treasurer for use and benefit of the board, only to
193 pay claimants and costs for the administration of this chapter.
194 Claimants shall be accorded rights under this act. The fund shall
195 consist of:

196 (a) Money collected under this chapter;

197 (b) Interest earned on any money in the fund;

198 (c) Any funds appropriated by the Legislature or any
199 other public or private source; and

200 (d) Any bond proceeds or other financial obligation in
201 favor of the commissioner as provided in Sections 75-44-29 and
202 75-45-305.



203 (3) Amounts in the fund may be invested and reinvested at
204 the discretion of the State Treasurer. Interest from these
205 investments shall be deposited in the fund and shall be available
206 for the same purposes as other monies deposited in the fund. The
207 monies in the fund shall not be available for any purpose other
208 than those specified in subsection (2) of this section.

209 (4) The fund shall operate on a fiscal year basis of July 1
210 to June 30. The board may accept and expend funds deposited into
211 the fund and funds not expended at the end of the fiscal year
212 shall not lapse into the State General Fund, and any investment
213 earnings or interest earned on such accounts shall be deposited to
214 the credit of the fund.

215 (5) A producer's decision to participate in the trust fund
216 and program described herein is voluntary.

217 **SECTION 4.** The following shall be codified as Section
218 75-46-7, Mississippi Code of 1972:

219 75-46-7. (1) The fund shall be administered by the board.
220 All payments made to claimants under this chapter may only be made
221 with board approval, and the board shall provide advice to the
222 commissioner on the day-to-day operation of the fund. The board
223 shall have the authority to contract with a third party to:

224 (a) Administer payments;

225 (b) Handle the accounting functions, including, but not
226 limited to, financial reviews or audits, and financial filings or
227 matters; and



228 (c) Any other matters the board deems appropriate.

229 (2) The commissioner shall be responsible for the day-to-day
230 operation of the fund including the disbursement of payments
231 approved by the board under subsection (1) of this section.
232 Disbursements are allowed without specific appropriation by the
233 Legislature.

234 **SECTION 5.** The following shall be codified as Section
235 75-46-9, Mississippi Code of 1972:

236 75-46-9. Beginning on July 1, 2022, producers of grain shall
237 be charged an assessment equal to two-tenths percent (0.2%) of the
238 price on all marketed grain that is sold to a first purchaser
239 licensee.

240 **SECTION 6.** The following shall be codified as Section
241 75-46-11, Mississippi Code of 1972:

242 75-46-11. Assessments shall be collected by the first
243 purchaser licensee and by any agent or representative of the
244 licensee. The first purchaser licensee shall deduct the
245 assessment from the purchase price of the grain and shall document
246 the amount of the assessment that was deducted on an invoice
247 provided to the producer. The first purchaser licensee shall
248 submit monthly assessments to the department by the twentieth day
249 of the following month.

250 **SECTION 7.** The following shall be codified as Section
251 75-46-13, Mississippi Code of 1972:



252 75-46-13. (1) Assessments shall be collected when the board
253 has determined and announced that the amount in the fund is less
254 than Eighteen Million Dollars (\$18,000,000.00). Assessments shall
255 be required to be collected and submitted until the board
256 determines that the amount in the fund is Twenty Million Dollars
257 (\$20,000,000.00).

258 (2) If the amount in the fund is less than Eighteen Million
259 Dollars (\$18,000,000.00) or the board has determined that the
260 failure of a first purchaser licensee will likely result in the
261 issuance of payments to claimants that will reduce the amount in
262 the fund to less than Eighteen Million Dollars (\$18,000,000.00) at
263 the end of the current fiscal year, assessments shall be required
264 beginning July 1 of the following fiscal year.

265 (3) If the amount in the fund exceeds Twenty Million Dollars
266 (\$20,000,000.00) at any time during a fiscal year when assessments
267 are being collected, assessments shall continue until the end of
268 such fiscal year without regard to the maximum amount authorized
269 to be in the fund.

270 **SECTION 8.** The following shall be codified as Section
271 75-46-15, Mississippi Code of 1972:

272 75-46-15. (1) First purchaser licensees shall maintain a
273 ledger of all assessments collected by the licensee that specifies
274 the date of the collection, from whom the assessment was
275 collected, and the amount of the assessment collected.



276 (2) At the request of the board, first purchaser licensees
277 shall make ledgers and related records available to the
278 commissioner or a designee of the commissioner. The commissioner
279 shall only disclose information obtained from such ledgers and
280 related records to the board, employees of the office of the
281 commissioner, law enforcement officials of the State of
282 Mississippi, law enforcement officials of the United States, as
283 directed by any court order, and as required by the Mississippi
284 Public Records Act of 1983.

285 **SECTION 9.** The following shall be codified as Section
286 75-46-17, Mississippi Code of 1972:

287 75-46-17. (1) Participation in the fund is voluntary.
288 During any fiscal year in which assessments are collected under
289 this chapter, a producer who does not desire to participate in the
290 fund shall notify the commissioner by the preceding June 1 of such
291 year that the producer has opted out of the fund by submission of
292 a written notification on a form provided by the commissioner.
293 The election to opt-out shall be effective for only one (1) crop
294 year. A producer who opts out of the fund shall not be eligible
295 to receive any payment with respect to grain produced during such
296 crop year for a contract loss or storage loss resulting from the
297 failure of a first purchaser licensee.

298 (2) A producer who opts out of the fund has the obligation
299 to notify any first purchaser licensee of the election to opt out



300 of the fund and the licensee may require the producer to provide a
301 copy of the form referenced in subsection (1) of this section.

302 (3) If an assessment is collected by a first purchaser
303 licensee from a producer who has opted out of the fund, the
304 producer may obtain a refund of the amount paid to the
305 commissioner in the manner established by the board.

306 **SECTION 10.** The following shall be codified as Section
307 75-46-19, Mississippi Code of 1972:

308 75-46-19. The commissioner shall be responsible for
309 determining when a first purchaser licensee has failed. Upon
310 making such a determination, the commissioner shall issue a legal
311 notice in a paper of general circulation once a week for two (2)
312 consecutive weeks in the county in which the first purchaser
313 licensee operates setting forth the name of the failed first
314 purchaser licensee and details on how a producer may file a claim
315 for a payment from the fund. The commissioner shall take any
316 other action the commissioner deems to be appropriate to provide
317 notice to affected producers.

318 **SECTION 11.** The following shall be codified as Section
319 75-46-21, Mississippi Code of 1972:

320 75-46-21. (1) The commissioner shall issue rules the
321 commissioner determines to be necessary to provide for a simple
322 and timely process to receive and adjudicate claims submitted in
323 response to the failure of a first purchaser licensee. These
324 rules shall include requirements that provide:



325 (a) A claim must be on a form prescribed by the
326 commissioner;

327 (b) A claim must be submitted not later than ninety
328 (90) days after the announcement made by the commissioner under
329 Section 75-46-19 of this act;

330 (c) A copy of any written agreement for the sale of
331 grain to the failed first purchaser licensee by the producer must
332 be included with the submitted form;

333 (d) For filing of an affidavit under penalty of perjury
334 setting forth the terms and conditions of any oral contract for
335 the sale of grain to the failed first purchaser licensee by the
336 producer; and

337 (e) A copy of any warehouse receipt, scale ticket or
338 other similar document showing the delivery of grain by the
339 producer to the failed first purchaser licensee must be included
340 with the claim.

341 (2) The commissioner may extend the time for filing a claim
342 upon a finding that extenuating circumstances exist that warrant
343 an extension.

344 **SECTION 12.** The following shall be codified as Section
345 75-46-23, Mississippi Code of 1972:

346 75-46-23. (1) All claims submitted to the commissioner
347 shall be reviewed by commissioner or designees of the
348 commissioner. The commissioner or the designees shall make a
349 preliminary determination regarding the eligibility for payment



350 from the fund. If the preliminary determination provides that
351 less than the full amount of the claimed loss should be paid, the
352 determination shall set forth an explanation of why the lesser
353 amount, if any, should be paid. The preliminary determination
354 shall be provided to the board for a final determination of
355 eligibility for payment from the fund.

356 (2) The board or the commissioner may request from a
357 claimant additional information it determines necessary to
358 adjudicate the claim and may provide an opportunity for the
359 claimant to provide oral testimony to the board or to a designee
360 of the board.

361 (3) If a claim is not approved for the full amount, the
362 board shall provide a written explanation to the claimant setting
363 forth the basis for the final determination of the eligible amount
364 of the claim.

365 (4) Within thirty (30) days of the receipt of the final
366 determination in which a claim has been denied in whole or only
367 partially approved, claimant may file with the board a request for
368 reconsideration of the claim.

369 (5) A claimant that does not agree with the determination of
370 the board issued after reconsideration of the final determination
371 may seek review of the determination issued by the board after its
372 reconsideration of the final determination by filing an appeal
373 with the circuit court located in the county of the producer's
374 residence. The circuit court shall render a decision based on the



375 administrative record prepared by the commissioner without a trial
376 by jury. The circuit court's decision may then be appealed to the
377 Mississippi Supreme Court. Any such appeal to circuit court or to
378 the Supreme Court shall be in accordance with existing laws and
379 regulations governing such appeals.

380 (6) (a) The department shall have subpoena power for
381 witnesses to attend hearings and for production of documents for
382 any and all proceedings under the department's jurisdiction. The
383 subpoenas shall be enforced by the chancery court of the residence
384 of the witness.

385 (b) The department shall have the authority to make
386 application for administrative inspection warrants and
387 administrative search warrants for any and all proceedings under
388 the department's jurisdiction. A judge or any state court of
389 record, or any justice court judge within his jurisdiction, and
390 upon proper oath or affirmation showing probable cause, may issue
391 warrants for the purpose of conducting administrative inspections
392 for the department. For purposes of the issuance of
393 administrative inspection or search warrants, probable cause
394 exists upon showing a valid public interest in the effective
395 enforcement of matters under the department's jurisdiction. An
396 administrative search warrant shall issue only upon an affidavit
397 of a person having knowledge or information of the facts alleged,
398 sworn to before the judge or justice court judge and establishing
399 that the grounds for the application exist or that there is



400 probable cause to believe they exist. The judge shall issue a
401 warrant identifying the area, premises, building or conveyance to
402 be searched, the purpose of the search, and, if appropriate, the
403 type of property to be searched. When authorized by an
404 administrative inspection or search warrant issued, an officer or
405 employee of the department, upon presenting the warrant and
406 appropriate credentials to the owner, operator, or agent in
407 charge, may enter the premises for the purpose of conducting an
408 administrative inspection.

409 **SECTION 13.** The following shall be codified as Section
410 75-46-25, Mississippi Code of 1972:

411 75-46-25. (1) Subject to Section 75-46-27, claims for
412 storage losses shall be paid at one hundred percent (100%) of the
413 amount of loss of the claimant less any amount received by the
414 claimant from any other source. The value of the grain subject to
415 the claim shall be the market price of the grain as determined by
416 the board as of the date of failure of the first purchaser
417 licensee. The board may adjust the value of the grain subject to
418 the claim if there is sufficient evidence on a warehouse receipt,
419 scale ticket or other similar document showing the quality of the
420 grain.

421 (2) (a) Subject to Section 75-46-27, claims for contract
422 losses shall be paid at one hundred percent (100%) of the amount of
423 loss of the claimant less any amount received by the claimant from
424 any other source including the sale of the grain to another



425 entity. The board shall use the purchase price set forth in the
426 contract for sale to determine the amount of loss and if purchase
427 price is not clearly set forth in the contract, the board shall
428 establish the price of grain to be used to determine the amount of
429 the loss taking into account normal marketing practices in the
430 area in which the first purchaser licensee conducted business.

431 (b) A claim for a contract loss shall not be approved
432 by the board if the claimant engaged in conduct or practices that
433 differ from generally accepted marketing practices within the
434 grain industry to an extent the claimant's actions have
435 substantially contributed to the claimant's loss.

436 (c) A failed first purchaser licensee may not file a
437 claim for payment from the fund for any loss associated with a
438 grain warehouse owned in whole or in part by the licensee or an
439 entity that is a grain dealer owned in whole or in part by the
440 licensee.

441 (d) Payments from the fund shall be available for
442 storage and contract losses incurred with respect to crops
443 produced in the 2022 and subsequent crop years.

444 **SECTION 14.** The following shall be codified as Section
445 75-46-27, Mississippi Code of 1972:

446 75-46-27. If the total amount of eligible claims exceeds the
447 amount of funds available to the board from the fund, the board
448 shall make initial payments on a pro rata basis. Assessments
449 subsequently collected and submitted to the fund shall not be used



450 to make an additional payment for prior payments made at less than
451 the full amount.

452 **SECTION 15.** The following shall be codified as Section
453 75-46-29, Mississippi Code of 1972:

454 75-46-29. The failure of a first purchaser licensee to
455 timely collect and submit assessments required by Section 75-46-11
456 of this act shall be basis for the commissioner to revoke a
457 license issued to the licensee under Sections 75-44-23 and
458 75-45-309.

459 **SECTION 16.** The following shall be codified as Section
460 75-46-31, Mississippi Code of 1972:

461 75-46-31. The commissioner shall establish a toll-free
462 hotline and other information collection processes for the
463 purposes of receiving information concerning the failure of a
464 first purchaser licensee to make timely payments for the purchase
465 of grain and information concerning any suspected fraudulent
466 activity of a first purchaser licensee. Upon receipt of
467 information from the hotline, the commissioner shall take such
468 action as the commissioner determines to be appropriate including
469 referral of the matter to the Attorney General. Information
470 received through the hotline shall not be subject to disclosure to
471 the public except as determined appropriate by the commissioner.

472 **SECTION 17.** The following shall be codified as Section
473 75-46-33, Mississippi Code of 1972:



474 75-46-33. All the board's books, records, accounts, and
475 other papers shall be subject to inspection, copying and audit by
476 the Office of the State Auditor at any time.

477 **SECTION 18.** The following shall be codified as Section
478 75-46-35, Mississippi Code of 1972:

479 75-46-35. The board may adopt any and all rules and
480 regulations deemed necessary or desirable by the board to carry
481 out the powers and duties of the board, including, but not limited
482 to, the collection and receipt of assessments, the procedure for
483 adjudicating the claims of loss by the producers, the refunding of
484 assessment to producers and the subrogation of procedures' claims
485 against a warehouse or dealer in return for payment from the trust
486 fund.

487 **SECTION 19.** This act shall take effect and be in force from
488 and after July 1, 2022.

