

By: Senator(s) Seymour

To: Appropriations;  
Agriculture

SENATE BILL NO. 2516

1 AN ACT TO AMEND SECTIONS 75-44-29 AND 75-45-305, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT ANY GRAIN PRODUCER OR PERSON  
3 POSSESSING WAREHOUSE RECEIPTS COVERING GRAIN OWNED OR STORED BY A  
4 WAREHOUSEMAN OR GRAIN DEALER LOCATED IN THE STATE OF MISSISSIPPI  
5 DURING CALENDAR YEAR 2021 MAY MAKE A CLAIM TO THE MISSISSIPPI  
6 COMMISSIONER OF AGRICULTURE AND COMMERCE FOR COMPENSATION FOR ANY  
7 FINANCIAL LOSS DUE TO A FAILURE OF SUCH GRAIN WAREHOUSEMAN OR  
8 GRAIN DEALER SUBJECT TO THE AVAILABILITY OF FUNDS APPROPRIATED  
9 THEREFOR BY THE LEGISLATURE; TO PROVIDE THAT GRAIN WAREHOUSEMAN'S  
10 SURETY BOND AND GRAIN DEALER'S SURETY BOND UNDER APPLICABLE  
11 LICENSURE LAW SHALL BE PAYABLE TO THE COMMISSIONER TO COVER THE  
12 COST OF ANY SUCH COMPENSATION PAYMENTS; TO PROVIDE FOR SUBROGATION  
13 OF ANY CLAIMS PAID BY THE COMMISSIONER; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 75-44-29, Mississippi Code of 1972, is  
16 amended as follows:

17 75-44-29. (1) Before any person is granted a license  
18 pursuant to Section 75-44-23 such person shall give a bond to the  
19 commissioner executed by the grain warehouseman as principal and  
20 by a corporate surety licensed to do business in this state as a  
21 surety. The bond shall be in favor of the commissioner for the  
22 benefit of all persons interested, their legal representatives,  
23 attorneys or assigns, conditioned upon the faithful compliance by



24 the grain warehouseman with the provisions of this chapter and the  
25 rules and regulations of the State Department of Agriculture and  
26 Commerce applicable thereto, and for the reimbursement of any  
27 claims paid by the commissioner as compensation for any financial  
28 loss due to a failure of a licensed grain warehouseman or grain  
29 dealer occurring during calendar year 2021. The aggregate  
30 liability of the surety to all depositors or storers of grain  
31 shall not exceed the sum of such bond. The bond may be cancelled  
32 at any time by the surety by giving written notice to the  
33 Commissioner of Agriculture and Commerce of its intention to  
34 cancel the bond and all liability thereunder shall terminate  
35 thirty-five (35) days after the mailing of such notice except that  
36 such notice shall not affect any claims arising under the bond,  
37 whether presented or not, before the effective date of the  
38 cancellation notice.

39 (2) In lieu of the bond required in subsection (1) of this  
40 section an applicant for a license may be a self-insurer by  
41 posting with the commissioner any of the following:

42 (a) Cash;

43 (b) Certificates of deposit from any bank or banking  
44 corporation insured by the Federal Deposit Insurance Corporation;

45 (c) Irrevocable letters of credit from any bank or  
46 banking corporation insured by the Federal Deposit Insurance  
47 Corporation;

48 (d) Federal Treasury Bills; or



49 (e) Notes, securities or bonds secured by the federal  
50 government or the State of Mississippi.

51 Self-insurers shall post an amount equivalent to the amount  
52 of the bond required in Section 75-44-31.

53 (3) Any grain producer or person possessing warehouse  
54 receipts covering grain owned or stored by a warehouseman or grain  
55 dealer licensed in the State of Mississippi may make a claim to  
56 the Mississippi Commissioner of Agriculture and Commerce for  
57 compensation for any financial loss due to a failure of such grain  
58 warehouseman or grain dealer which occurred during calendar year  
59 2021. For purposes of this subsection, "failure" means an  
60 inability to financially satisfy a claimant in accordance with  
61 applicable statute or regulation or contract within the time  
62 limits provided therein. Market losses shall not be deemed to be  
63 failure of such grain warehouseman or grain dealer. The grain  
64 producer or person possessing warehouse receipts shall have one  
65 (1) year from the failure to make the claim to the commissioner.  
66 Any such compensation payments shall be subject to specific  
67 appropriation therefor by the Legislature, and the commissioner  
68 shall make such compensation payments within thirty (30) days of  
69 the commissioner's approval of a valid claim. To the extent that  
70 there is an insufficient balance in the funds made available to  
71 compensate all such claims, the commissioner is authorized to  
72 adjust the maximum amount per claimant proportionately in order  
73 for each claimant to receive an equal pro rata share at the time



74 of a failure of a grain warehouseman or grain dealer. In the  
75 event of the bankruptcy of a grain warehouseman or grain dealer  
76 subject to a claim under this subsection, the commissioner shall  
77 be subrogated to the rights of any such grain producer or person  
78 possessing the warehouse receipt who has received payment under  
79 this subsection to the extent of such payment. The Commissioner  
80 is authorized to promulgate rules and regulations in accordance  
81 with the Mississippi Administrative Procedures Act as may be  
82 necessary to effectively and efficiently administer and enforce  
83 this subsection.

84 **SECTION 2.** Section 75-45-305, Mississippi Code of 1972, is  
85 amended as follows:

86 75-45-305. (1) Every person licensed as a grain dealer  
87 shall have filed with the department a surety bond signed by the  
88 dealer as principal and by a responsible company authorized to  
89 execute surety bonds within the State of Mississippi. The surety  
90 bond shall be in the favor of and payable to the Commissioner of  
91 Agriculture and Commerce for the benefit of all persons  
92 interested, and shall specifically be payable to the commissioner  
93 for reimbursement for any compensation payments to grain producers  
94 made under the provisions of Section 75-44-29(3). A grain dealer  
95 may file with the department, in lieu of a surety bond, a  
96 certificate of deposit or irrevocable letter of credit from any  
97 bank or banking corporation insured by the Federal Deposit  
98 Insurance Corporation, payable to the commissioner, as trustee.



99 The principal amount of the certificate of deposit or the amount  
100 of the letter of credit shall be the same as that required for a  
101 surety bond under this article and the interest thereon shall be  
102 made payable to the purchaser thereof. Such bond shall be a  
103 principal amount (to the nearest One Thousand Dollars (\$1,000.00))  
104 equal to ten percent (10%) of the aggregate dollar amount paid, by  
105 the dealer to producers for grain purchased from them during the  
106 dealer's last completed fiscal year or in the case of a dealer who  
107 has been engaged in business as a grain dealer for less than one  
108 (1) year or who has not theretofore engaged in such business, ten  
109 percent (10%) of the estimated aggregate dollar amount to be paid  
110 by the dealer to producers for grain purchased from them during  
111 the next fiscal year. Such bond shall not be less than  
112 Twenty-five Thousand Dollars (\$25,000.00) nor more than One  
113 Hundred Thousand Dollars (\$100,000.00), except as otherwise  
114 authorized by this article. The commissioner shall determine the  
115 sufficiency of any letter of credit.

116 (2) The commissioner may, when he questions a grain dealer's  
117 ability to pay producers for grain purchased, require a grain  
118 dealer to post an additional bond in a dollar amount deemed  
119 appropriate by the commissioner. Failure to post such additional  
120 bond or certificate of deposit or irrevocable letter of credit,  
121 constitutes grounds for suspension or revocation of a license  
122 issued under this article.



123           (3) Any required bond or bonds shall be executed by the  
124 grain dealer as principal and by a corporate surety licensed to do  
125 business in this state as a surety. The bond shall be in favor of  
126 the commissioner for the benefit of all persons interested, their  
127 legal representatives, attorneys or assigns, conditioned upon the  
128 faithful compliance by the grain dealer with the provisions of  
129 this article and the rules and regulations of the State Department  
130 of Agriculture and Commerce applicable thereto, and shall  
131 specifically be payable to the commissioner for the reimbursement  
132 of any claims paid by the commissioner as compensation for any  
133 financial loss due to a failure of a licensed grain dealer  
134 occurring during calendar year 2021 as provided in Section  
135 75-44-29(3) repayment of any compensation payments to. The  
136 aggregate liability of the surety shall not exceed the sum of such  
137 bond. The bond may be cancelled at any time by the surety by  
138 giving written notice to the commissioner of its intention to  
139 cancel the bond and all liability thereunder shall terminate sixty  
140 (60) days after the mailing of such notice except that such notice  
141 shall not affect any claims arising under the bond, whether  
142 presented or not, before the effective date of the cancellation  
143 notice.

144           (4) Any grain dealer who is of the opinion that his net  
145 worth and assets are sufficient to guarantee payment to producers  
146 for grain purchased by him may request the commissioner to be  
147 relieved of the obligation of filing a bond in excess of the



148 minimum bond of Twenty-five Thousand Dollars (\$25,000.00). Such  
149 request shall be accompanied by a financial statement of the  
150 applicant made within six (6) months of the date of such request  
151 certified by a certified public accountant. If such financial  
152 statement discloses net assets and a net worth of an amount equal  
153 to at least three (3) times the amount of the bond required by  
154 this article and the commissioner is otherwise satisfied as to the  
155 financial ability and resources of the applicant, the commissioner  
156 may waive that portion of the required bond in excess of  
157 Twenty-five Thousand Dollars (\$25,000.00). However, in the case  
158 of a grain dealer whose net worth is not equal to three (3) times  
159 the amount of bond required, the commissioner may allow such grain  
160 dealer to waive in One Thousand Dollar (\$1,000.00) increments a  
161 portion of the bond required in excess of Twenty-five Thousand  
162 Dollars (\$ 25,000.00). The percentage factor to be applied to the  
163 bond required in excess of Twenty-five Thousand Dollars  
164 (\$25,000.00) shall be determined by dividing actual net worth by  
165 the net worth required to waive all bond in excess of Twenty-five  
166 Thousand Dollars (\$25,000.00). If the result of this computation  
167 provides a percentage factor of eighty percent (80%) or greater,  
168 then that same percentage of the bond in excess of Twenty-five  
169 Thousand Dollars (\$25,000.00) may be waived. The grain dealer  
170 shall then provide to the commissioner a surety bond in the amount  
171 of Twenty-five Thousand Dollars (\$25,000.00) plus any additional  
172 bond required in excess thereof.



173           (5) Any grain dealer who purchases grain from producers only  
174 in connection with or as an incident to some other business and  
175 whose total purchases of grain from producers during any fiscal  
176 year do not exceed an aggregate amount of One Hundred Thousand  
177 Dollars (\$100,000.00) may satisfy the bonding requirements of this  
178 article by filing with the commissioner a bond, or certificate of  
179 deposit or irrevocable letter of credit from any bank or banking  
180 corporation insured by the Federal Deposit Insurance Corporation,  
181 at the rate of One Thousand Dollars (\$1,000.00) for each Ten  
182 Thousand Dollars (\$10,000.00) or fraction thereof of the dollar  
183 amount to be purchased, with a minimum bond, certificate of  
184 deposit or irrevocable letter of credit of One Thousand Dollars  
185 (\$1,000.00) and a current financial statement.

186           (6) Failure of a grain dealer to file a bond, or certificate  
187 of deposit, or letter of credit, and to keep such bond,  
188 certificate of deposit or line of credit in force, or to maintain  
189 assets adequate to assure payment to producers for grain purchased  
190 from them shall be grounds for the suspension or revocation of a  
191 license issued under this article.

192           (7) When the commissioner has determined that a grain dealer  
193 has defaulted payment to producers for grain which he has  
194 purchased from them, the commissioner shall determine through  
195 appropriate legal procedures the producers and the amount of  
196 defaulted payment and as trustee of the bond shall immediately  
197 after such determination call for the dealer's surety bond or





198 bonds, or other pledged financial assets, to be paid to him for  
199 distribution to those producers who should receive the benefits.  
200 Should the defaulted amount owed the producers be less than the  
201 principal amount of the bond or bonds or pledged financial assets,  
202 then the surety bank, or banking corporation shall be obligated to  
203 pay only the amount of the default.

204         **SECTION 3.** This act shall take effect and be in force from  
205 and after July 1, 2022.

