

By: Representative Pigott

To: Agriculture

## HOUSE BILL NO. 363

1 AN ACT TO CREATE NEW SECTION 69-1-401, MISSISSIPPI CODE OF  
2 1972, TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE AND COMMERCE TO  
3 ISSUE ADMINISTRATIVE SUBPOENAS FOR PROCEEDINGS BEFORE THE  
4 DEPARTMENT; TO PERMIT THE COMMISSIONER OR ANY DESIGNATED AGENT  
5 ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE  
6 EVIDENCE; TO CREATE NEW SECTION 69-1-403, MISSISSIPPI CODE OF  
7 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND  
8 COMMERCE TO HAVE ISSUED BY THE CIRCUIT COURT AND TO EXECUTE  
9 ADMINISTRATIVE INSPECTION AND SEARCH WARRANTS FOR PREMISES OF  
10 ENTITIES OR INDIVIDUALS THAT DEPARTMENT LICENSES OR REGULATES; TO  
11 PRESCRIBE THE CIRCUMSTANCES BY WHICH THE DEPARTMENT MAY FACILITATE  
12 THE ISSUANCE AND EXECUTION OF ADMINISTRATIVE INSPECTION AND SEARCH  
13 WARRANTS; TO AMEND SECTION 69-5-31, MISSISSIPPI CODE OF 1972, TO  
14 EXEMPT OR MAINTAIN CONFIDENTIALITY OF PERSONAL IDENTIFYING  
15 INFORMATION OF LAW ENFORCEMENT OFFICERS HIRED BY THE DEPARTMENT;  
16 TO AMEND SECTION 69-29-1, MISSISSIPPI CODE OF 1972, TO ALLOW  
17 ARRESTS BY INVESTIGATORS OF THE MISSISSIPPI AGRICULTURAL &  
18 LIVESTOCK THEFT BUREAU FOR MATTERS AUTHORIZED UNDER THE  
19 CONSTITUTIONAL AND GENERAL LAWS OF THE STATE AND TO PERMIT  
20 RETIRING INVESTIGATORS TO RETAIN SIDE ARM; TO AMEND SECTION  
21 69-42-1, MISSISSIPPI CODE OF 1972, TO DELETE REQUIREMENT FOR  
22 PRODUCTION OF ANNUAL REPORTS; TO AMEND SECTION 69-46-3,  
23 MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL MEETING VENUE FOR  
24 THE MISSISSIPPI LAND, WATER AND TIMBER RESOURCES BOARD MEETINGS;  
25 TO AMEND SECTION 75-44-29, MISSISSIPPI CODE OF 1972, TO PROVIDE  
26 THAT LIABILITY UNDER GRAIN BOND ISSUED UNDER GRAIN DEALERS LAW  
27 SHALL NOT BE LIMITED BY PAYMENT UNDER GRAIN WAREHOUSE LAW; TO  
28 AMEND SECTION 75-44-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
29 ANY BOND SHALL BE AVAILABLE FOR CLAIMS FILED UNDER GRAIN WAREHOUSE  
30 AND GRAIN DEALERS LAW; TO AMEND SECTION 75-44-35, MISSISSIPPI CODE  
31 OF 1972, TO CLARIFY LANGUAGE RELATED TO FILING A CLAIM FOR FAILURE  
32 TO DELIVER GRAIN; TO AMEND SECTION 75-45-305, MISSISSIPPI CODE OF  
33 1972, TO CLARIFY HEARING PROCEDURES RELATED TO SURETY BOND FOR  
34 GRAIN DEALERS; TO AMEND SECTION 75-45-311, MISSISSIPPI CODE OF



35 1972, TO CLARIFY PROCEDURE FOR GRAIN PRODUCERS TO NOTIFY  
36 COMMISSIONER IN EVENT OF GRAIN DEALER'S FAILURE TO PAY; TO REPEAL  
37 SECTIONS 69-41-1, 69-41-3, 69-41-5, 69-41-7, 69-41-9, 69-41-11,  
38 69-41-13 AND 69-41-19, MISSISSIPPI CODE OF 1972, WHICH ARE  
39 PROVISIONS ESTABLISHING AND GOVERNING THE ADMINISTRATION OF THE  
40 "MISSISSIPPI AGRIBUSINESS COUNCIL ACT OF 1993"; AND FOR RELATED  
41 PURPOSES.

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

43 **SECTION 1.** The following shall be codified as Section  
44 69-1-401, Mississippi Code of 1972, is created as follows:

45 69-1-401. (1) The commissioner shall have power to issue  
46 subpoenas and subpoena duces tecum to compel the attendance of  
47 witnesses and the production of documents, papers, books, records  
48 and other evidence in a hearing or proceeding before him in any  
49 matter over which he has jurisdiction.

50 (2) The commissioner or any agent designated by him or her,  
51 may administer oaths and affirmations, examine witnesses and  
52 receive evidence. The attendance of witnesses and the production  
53 of evidence may be required from any place in the state at any  
54 designated place of hearing.

55 (3) (a) If any person served with a subpoena to give  
56 testimony, or to produce evidence as required thereby, a circuit  
57 court judge in the county in which the hearing or proceeding is to  
58 occur shall, upon application and proof of such refusal, make an  
59 order awarding process of subpoena or subpoena duces tecum, for  
60 the witness to appear before the commissioner and to give  
61 testimony, and to produce evidence as required thereby. Upon  
62 filing the order in the office of the clerk of the court, the  
63 clerk shall issue process of subpoena, as directed, under the seal



64 of the court, requiring the person to whom it is directed, to  
65 appear at the time and place therein designated.

66 (b) If any person served with any subpoena issued by  
67 the circuit court shall refuse to obey the same, or to give  
68 testimony, or to produce evidence as required thereby, the  
69 commissioner may apply to the circuit court for an order of  
70 contempt.

71 **SECTION 2.** The following shall be codified as Section  
72 69-1-403, Mississippi Code of 1972, is created as follows:

73 69-1-403. (1) If the Mississippi Department of Agriculture  
74 and Commerce is denied access to records or authority to inspect  
75 the premises of entities or individuals which the Department  
76 licenses or regulates and for which it has statutory authority to  
77 inspect and access said premises and documents, the department may  
78 make application to the circuit court of the county in which the  
79 premises and documents are located for an administrative  
80 inspection and search warrant.

81 (2) Issuance and execution of administrative inspection and  
82 search warrants for the department shall be as follows:

83 (a) A circuit court judge, upon proper oath or  
84 affirmation showing probable cause, may issue warrants for the  
85 purpose of conducting administrative inspections for matters set  
86 forth in subsection (1), and seizures of property appropriate to  
87 the inspections. For purposes of the issuance of administrative  
88 inspection warrants, probable cause exists upon showing a valid



89 public interest in the effective enforcement of this article or  
90 rules thereunder, sufficient to justify administrative inspection  
91 of the area, premises, building or conveyance in the circumstances  
92 specified in the application for the warrant. All such warrants  
93 shall be served during normal business hours;

94 (b) A search warrant shall be issued only upon an  
95 affidavit of a person having knowledge or information of the facts  
96 alleged, sworn to before the circuit court judge and establishing  
97 the grounds for issuing the warrant. If the judge is satisfied  
98 that grounds for the application exist or that there is probable  
99 cause to believe they exist, he or she shall issue a warrant  
100 identifying the area, premises, building or conveyance to be  
101 searched, the purpose of the search, and, if appropriate, the type  
102 of property to be searched, if any. The warrant shall:

103 (i) State the grounds for its issuance and the  
104 name of each person whose affidavit has been taken in support  
105 thereof;

106 (ii) Be directed to a department employee to serve  
107 and execute;

108 (iii) Command the person to whom it is directed to  
109 inspect the area, premises, building or conveyance identified for  
110 the purpose specified, and if appropriate, direct the seizure of  
111 the property specified;

112 (iv) Identify the item or types of property to be  
113 seized, if any; and



114                   (v) Direct that it be served and designate the  
115 judge or magistrate to whom it shall be returned.

116                   (c) A warrant issued pursuant to this section must be  
117 executed and returned within ten (10) days of its date unless,  
118 upon a showing of a need for additional time, the court orders  
119 otherwise. If property is seized pursuant to a warrant, a copy  
120 shall be given to the person from whom or from whose premises the  
121 property is taken, together with a receipt for the property taken.  
122 The return of the warrant shall be made promptly, accompanied by a  
123 written inventory of any property taken. The inventory shall be  
124 made in the presence of the person executing the warrant and of  
125 the person from whose possession or premises the property was  
126 taken, if present, or in the presence of at least one (1) credible  
127 person other than the person executing the warrant. A copy of the  
128 inventory shall be delivered to the person from whom or from whose  
129 premises the property was taken and to the applicant for the  
130 warrant; and

131                   (d) The judge who has issued a warrant shall attach  
132 thereto a copy of the return and all papers returnable in  
133 connection therewith and file them with the clerk of the court for  
134 the judicial district in which the inspection was made.

135                   (3) When authorized by an administrative inspection warrant  
136 issued in accordance with the conditions imposed in this section,  
137 an officer or employee designated by the department, upon  
138 presenting the warrant and appropriate credentials to the owner,



139 operator or agent in charge, may enter the premises for the  
140 purpose of conducting an administrative inspection related to an  
141 investigation, proceeding or hearing of the department.

142 (4) When authorized by an administrative inspection warrant,  
143 an officer or employee designated by the department may:

144 (a) Seize, inspect and copy records required by this  
145 article to be kept;

146 (b) Inspect, within reasonable limits and in a  
147 reasonable manner, controlled premises and all pertinent  
148 equipment, finished and unfinished material, containers and  
149 labeling found therein, and, except as provided in subsection (5),  
150 all other things therein, including records, files, papers,  
151 processes, controls and facilities bearing on violation of this  
152 article; and

153 (c) Seize or prepare an inventory of any stock of any  
154 regulated substances or items therein and obtain samples thereof.

155 (5) This section does not prevent the inspection without a  
156 warrant of books and records pursuant to an administrative  
157 subpoena, nor does it prevent entries and administrative  
158 inspections, including seizures of property, without a warrant:

159 (a) If the owner, operator or agent in charge of the  
160 controlled premises consents;

161 (b) In situations presenting imminent danger to health  
162 or safety;



163 (c) In situations involving inspection of conveyances  
164 if there is reasonable cause to believe that the mobility of the  
165 conveyance makes it impracticable to obtain a warrant;

166 (d) In any other exceptional or emergency circumstance  
167 where time or opportunity to apply for a warrant is lacking; or

168 (e) In all other situations in which a warrant is not  
169 constitutionally required.

170 (6) Any officer acting under such warrant shall, as soon as  
171 practical, after entering the premises, identify himself and give  
172 the reasons and authority for his entrance upon the premises.

173 **SECTION 3.** Section 69-5-31, Mississippi Code of 1972, is  
174 amended as follows:

175 69-5-31. (1) The Department of Agriculture and Commerce is  
176 authorized to hire and designate area law enforcement officers on  
177 a contractual basis to provide security and to enforce all laws of  
178 the State of Mississippi on the Mississippi State Fairgrounds  
179 Complex. All officers must have attended and satisfactorily  
180 completed the training course required for law enforcement  
181 officers at the Law Enforcement Officer's Training Academy or an  
182 equivalent facility. All officers must be current with this  
183 certification. A complete record of all law enforcement training  
184 of each employee will be maintained in each employee's record of  
185 employment. Furthermore, the Department of Agriculture and  
186 Commerce may enter into a contract with any certified law  
187 enforcement officer to provide security to the Department of



188 Agriculture and Commerce with jurisdiction to enforce all laws of  
189 the State of Mississippi on property known as the "Mississippi  
190 State Fairgrounds Complex" and any and all of its outlying  
191 buildings and property.

192 (2) (a) All officers while in performance of their duty on  
193 the premises or at any of the facilities at the Mississippi State  
194 Fairgrounds Complex under the direction or control of the  
195 Department of Agriculture and Commerce and public property  
196 immediately adjacent to such facilities shall:

197 (i) Be required to dress in uniforms prescribed by  
198 the respective law enforcement agency by which he or she is  
199 employed; and

200 (ii) Be authorized to carry weapons.

201 (b) Employees designated as officers shall be duly  
202 sworn and vested with authority to bear arms and make arrests, and  
203 shall exercise primarily the responsibilities of the prevention  
204 and detection of crime, the apprehension of criminals, and the  
205 enforcement of the ordinances and policies of the Department of  
206 Agriculture and Commerce, a political subdivision of the State of  
207 Mississippi. Employees designated as such officers shall be  
208 considered law enforcement officers within the meaning of Section  
209 45-6-3.

210 (3) The identities and personal information of the officers  
211 under the authority of this section are confidential and shall not  
212 be publicly disclosed by the department. All contract entered





213 under the authority of this section shall be exempt from  
214 disclosure under the Mississippi Public Records Act, prescribed  
215 under Section 25-61-1 et seq.

216         **SECTION 4.** Section 69-29-1, Mississippi Code of 1972, is  
217 amended as follows:

218             69-29-1. (1) (a) There is established the Mississippi  
219 Agricultural and Livestock Theft Bureau.

220                     (b) The Commissioner of Agriculture and Commerce shall  
221 appoint a director of the Mississippi Agricultural and Livestock  
222 Theft Bureau. Such director shall have at least five (5) years of  
223 law enforcement experience. Such director shall be responsible  
224 solely to the supervision of the Commissioner of Agriculture and  
225 Commerce and to no other person or entity. Such director may be  
226 discharged only for just cause shown.

227                     (c) The director may employ twelve (12) agricultural  
228 and livestock theft investigators. Each investigator shall be  
229 certified as a law enforcement officer, successfully completing at  
230 least a nine-week training course, in accordance with Section  
231 45-6-11. The curriculum for the training of constables shall not  
232 be sufficient for meeting the certification requirements of this  
233 paragraph. In the selection of investigators under this section,  
234 preference shall be given to persons who have previous law  
235 enforcement experience.

236                     (d) The director appointed under this section, under  
237 the direction, control and supervision of the commissioner, and



238 the investigators employed under this section shall perform only  
239 the duties described in subsection (2) of this section and shall  
240 not be assigned any other duties.

241 (2) The director appointed under this section and the  
242 investigators employed under this section shall have the following  
243 powers, duties and authority:

244 (a) To enforce all of the provisions of Sections  
245 69-29-9 and 69-29-11, and particularly those portions requiring  
246 persons transporting livestock to have a bill of sale in their  
247 possession; to make investigations of violations of such sections  
248 and to arrest persons violating same;

249 (b) To enforce all of the laws of this state enacted  
250 for the purpose of preventing the theft of livestock, poultry,  
251 timber and agricultural, aquacultural and timber products and  
252 implements; to make investigations of violations thereof and to  
253 arrest persons violating same;

254 (c) To cooperate with all regularly constituted law  
255 enforcement officers relative to the matters herein set forth;

256 (d) To serve warrants and other process emanating from  
257 any court of lawful jurisdiction, including search warrants, in  
258 all matters herein set forth;

259 (e) To carry proper credentials evidencing their  
260 authority, which shall be exhibited to any person making demand  
261 therefor;



262 (f) To make arrests with or without warrant in all  
263 matters \* \* \* authorized under the constitutional and general laws  
264 of this state;

265 (g) To handle the registration of brands of cattle and  
266 livestock;

267 (h) To investigate, prevent, apprehend and arrest those  
268 persons anywhere in the state who are violating any of the laws  
269 administered by the Department of Agriculture and Commerce,  
270 including, but not limited to, all agriculture-related crimes;

271 (i) To access and examine records of any person,  
272 business or entity that harvests, loads, carries, receives or  
273 manufactures timber products as defined in this section. Each  
274 such person or entity shall permit the director or any  
275 investigator of the Mississippi Agricultural and Livestock Theft  
276 Bureau to examine records of the sale, transfer or purchase of  
277 timber or timber products, including, but not limited to,  
278 contracts, load tickets, settlement sheets, drivers' logs,  
279 invoices, checks and any other records or documents related to an  
280 ongoing investigation of the Mississippi Agricultural and  
281 Livestock Theft Bureau;

282 (j) To conduct training for law enforcement regarding  
283 laws enforced by the bureau and to assist any other law  
284 enforcement agencies in responding to matters that may be related  
285 to agriculture and commerce in the State of Mississippi and in



286 cases of natural disasters or other disasters to respond as needed  
287 or as requested by other agencies.

288 (3) The Commissioner of Agriculture and Commerce shall  
289 furnish such investigators with such vehicles, equipment and  
290 supplies as may be necessary. All expenses of same, and all other  
291 expenses incurred in the administration of this section, shall be  
292 paid from such appropriation as may be made by the Legislature.

293 (4) Any director or investigator of the Agricultural and  
294 Livestock Theft Bureau who retires for superannuation or for  
295 reasons of disability under the Public Employees' Retirement  
296 System, upon his or her request, may be allowed by the  
297 commissioner to retain, as his or her personal property, one (1)  
298 side arm which issued to him or her during his or her service.

299 ( \* \* \*5) The Mississippi Department of Revenue and its  
300 agents and employees shall cooperate with such investigators by  
301 furnishing to them information as to any possible or suspected  
302 violations of any of the laws mentioned herein, including  
303 specifically Section 69-29-27, and in any other lawful manner.

304 ( \* \* \*6) The conservation officers of the Department of  
305 Wildlife, Fisheries and Parks are authorized to cooperate with and  
306 assist the agricultural and livestock theft investigators in the  
307 enforcement and apprehension of violators of laws regarding  
308 agricultural and livestock theft.

309 ( \* \* \*7) The Mississippi Forestry Commission employees are  
310 excluded from any timber and timber products theft investigative



311 responsibilities except when technical expertise is needed and  
312 requested through the State Forester or his designee.

313 ( \* \* \*8) For the purposes of this section, "timber product"  
314 means timber of all kinds, species or sizes, including, but not  
315 limited to, logs, lumber, poles, pilings, posts, blocks, bolts,  
316 cordwood and pulpwood, pine stumpwood, pine knots or other  
317 distillate wood, crossties, turpentine (crude gum), pine straw,  
318 firewood and all other products derived from timber or trees that  
319 have a sale or commercial value.

320 **SECTION 5.** Section 69-42-1, Mississippi Code of 1972, is  
321 amended as follows:

322 69-42-1. (1) For the purposes of this section, the  
323 following words shall have the meanings ascribed in this section  
324 unless the context otherwise requires:

325 (a) "Agribusiness" means any agricultural,  
326 aquacultural, horticultural, manufacturing, research and  
327 development or processing enterprise or enterprises.

328 (b) "Farmer" means a resident of Mississippi who  
329 engages or wishes to engage in the commercial production of crops  
330 on land in Mississippi. The term shall include individuals,  
331 partnerships and corporations.

332 (2) The Mississippi Development Authority shall develop and  
333 implement a program to stimulate growth in the agricultural  
334 industry for agribusiness concerns and farmers.



335           (3) The program developed and implemented by the Mississippi  
336 Development Authority under this section shall:

337           (a) Increase the availability of financial assistance  
338 available to agribusiness concerns and farmers;

339           (b) Provide incentives for agribusiness concerns and  
340 farmers which will encourage growth in the Mississippi  
341 agricultural industry;

342           (c) Assist new agribusiness concerns and farmers in  
343 developing and implementing business plans;

344           (d) Develop methods for increasing markets for the  
345 goods and services of agribusiness concerns and farmers;

346           (e) Work with public and private entities in  
347 disseminating information about public and private programs that  
348 benefit agribusiness concerns and farmers; and

349           (f) Identify sources of financial assistance available  
350 to agribusiness concerns and farmers and assist agribusiness  
351 concerns and farmers with the preparation of applications for  
352 assistance from public and private sources.

353           \* \* \*

354           **SECTION 6.** Section 69-46-3, Mississippi Code of 1972, is  
355 amended as follows:

356           69-46-3. (1) There is created the Mississippi Land, Water  
357 and Timber Resources Board, hereinafter referred to as "the  
358 board," for the purpose of assisting Mississippi agricultural



359 industry in the development, marketing and distribution of  
360 agricultural products.

361 (2) The board shall be composed of the following members:

362 (a) The Chairman of the Senate Agriculture Committee,  
363 or a member of the Senate Agriculture Committee designated by the  
364 chairman, as a nonvoting member;

365 (b) The Chairman of the House of Representatives  
366 Agriculture Committee or a member of the House of Representatives  
367 Agriculture Committee designated by the chairman, as a nonvoting  
368 member;

369 (c) The Chairman of the Senate Forestry Committee, or a  
370 member of the Senate Forestry Committee designated by the  
371 chairman, as a nonvoting member;

372 (d) The Executive Director of the Mississippi  
373 Development Authority, or his designee;

374 (e) The Commissioner of the Mississippi Department of  
375 Agriculture and Commerce, or his designee;

376 (f) The President of the Mississippi Farm Bureau  
377 Federation, or his designee;

378 (g) The Director of the Cooperative Extension Service  
379 at Mississippi State University, or his designee;

380 (h) The Executive Director of the Agribusiness and  
381 Natural Resource Development Center at Alcorn State University, or  
382 his designee;



383 (i) The Director of the Agricultural Finance Division  
384 of the Mississippi Development Authority, or his designee;

385 (j) The Director of the Agriculture Marketing Division  
386 of the Mississippi Department of Agriculture and Commerce, or his  
387 designee;

388 (k) The Executive Director of the Mississippi Forestry  
389 Commission, or his designee; and

390 (l) Three (3) individuals appointed by the Governor who  
391 are active producers of Mississippi land, water or timber  
392 commodities. The Governor shall appoint one (1) such person from  
393 each Supreme Court district.

394 (3) The Executive Director of the Mississippi Development  
395 Authority and the Commissioner of the Mississippi Department of  
396 Agriculture and Commerce shall serve as cochairmen of the board.

397 (4) The board shall meet at least once each calendar quarter  
398 at the call of the cochairmen. A majority of the members of the  
399 board shall constitute a quorum at all meetings. An affirmative  
400 vote of a majority of the members present and voting is required  
401 in the adoption of any actions taken by the board. All members  
402 must be notified, in writing, of all regular and special meetings  
403 of the board, which notices must be mailed at least ten (10) days  
404 before the dates of the meetings. All meetings shall take place  
405 at the State Capitol in Jackson, Mississippi, or at a location to  
406 be determined by the cochairmen. The board shall provide a copy  
407 of the minutes of each of its meetings to the Chairman of the





408 Senate Agriculture Committee and the Chairman of the House of  
409 Representatives Agriculture Committee.

410 (5) Members of the board shall not receive compensation.  
411 However, each member may be paid travel expenses and meals and  
412 lodging expenses as provided in Section 25-3-41, for such expenses  
413 incurred in furtherance of their duties. Travel expenses and  
414 meals and lodging expenses and other necessary expenses incurred  
415 by the board shall be paid out of funds appropriated to the  
416 Mississippi Development Authority.

417 (6) In carrying out the provisions of the Mississippi Land,  
418 Water and Timber Resources Act, the board may utilize the  
419 services, facilities and personnel of all departments, agencies,  
420 offices and institutions of the state, and all such departments,  
421 agencies, offices and institutions shall cooperate with the board  
422 in carrying out the provisions of such act.

423 **SECTION 7.** Section 75-44-29, Mississippi Code of 1972, is  
424 amended as follows:

425 75-44-29. (1) Before any person is granted a license  
426 pursuant to Section 75-44-23 such person shall give a bond to the  
427 commissioner executed by the grain warehouseman as principal and  
428 by a corporate surety licensed to do business in this state as a  
429 surety. The bond shall be in favor of the commissioner for the  
430 benefit of all persons interested, their legal representatives,  
431 attorneys or assigns, conditioned upon the faithful compliance by  
432 the grain warehouseman with the provisions of this chapter, the



433 provision of the "Mississippi Grain Dealers Law of 1978,"  
434 authorized under Article 7, Chapter 45, Title 75, Mississippi Code  
435 of 1972, and the rules and regulations of the State Department of  
436 Agriculture and Commerce applicable thereto. The aggregate  
437 liability of the surety to all depositors or storers of grain  
438 under this chapter and to sellers of grain under the "Mississippi  
439 Grain Dealers Law of 1978" shall not exceed the sum of such bond.  
440 However, the liability under a bond additionally issued under the  
441 "Mississippi Grain Dealers Law of 1978" shall not be limited by  
442 payment under the bond required under this chapter. The bond may  
443 be cancelled at any time by the surety by giving written notice to  
444 the Commissioner of Agriculture and Commerce of its intention to  
445 cancel the bond and all liability thereunder shall terminate  
446 thirty-five (35) days after the mailing of such notice except that  
447 such notice shall not affect any claims arising under the bond,  
448 whether presented or not, before the effective date of the  
449 cancellation notice.

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

453 (a) Cash;

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



456 (c) Irrevocable letters of credit from any bank or  
457 banking corporation insured by the Federal Deposit Insurance  
458 Corporation;

459 (d) Federal treasury bills; or

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

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

464 **SECTION 8.** Section 75-44-31, Mississippi Code of 1972, is  
465 amended as follows:

466 75-44-31. (1) The amount of bond to be furnished for each  
467 grain warehouse shall be fixed at a rate of Twenty-five Cents  
468 (25¢) per bushel for the first one million (1,000,000) bushels of  
469 licensed capacity; Twenty Cents (20¢) per bushel for the next one  
470 million (1,000,000) bushels of licensed capacity; and Fifteen  
471 Cents (15¢) per bushel for all licensed capacity over two million  
472 (2,000,000) bushels; provided that in no case shall the amount of  
473 the bond be less than Fifteen Thousand Dollars (\$15,000.00) or  
474 more than One Million Dollars (\$1,000,000.00), except as  
475 prescribed in subsection (3) of this section. The licensed  
476 capacity shall be equal to the maximum number of bushels of grain  
477 that the grain warehouse can accommodate for storage. In no event  
478 shall the liability of the surety accumulate for each successive  
479 license period during which this bond is in force, but shall be



480 limited in the aggregate to the bond amount or changed by  
481 appropriate rider or endorsement.

482 (2) A grain warehouseman who is licensed or is applying for  
483 licenses to operate two (2) or more grain warehouses may give a  
484 single bond meeting the requirements of this chapter to cover all  
485 such grain warehouses within the state. In such cases all grain  
486 warehouses to be covered by the bond shall be deemed to be one (1)  
487 warehouse for purposes of determining the amount of bond required  
488 under subsection (1) of this section.

489 (3) In case of a deficiency in the net assets required by  
490 Section 75-44-21, there shall be added to the amount of the bond  
491 determined in accordance with subsection (1) of this section an  
492 amount equal to such deficiency. In any other case in which the  
493 commissioner finds that conditions exist which warrant requiring  
494 additional bond, there shall be added to the amount of bond such  
495 further amount as is determined to be reasonable by the  
496 commissioner.

497 (4) If a public grain warehouseman is licensed under this  
498 chapter and also conducts grain transaction under the "Mississippi  
499 Grain Dealers Law of 1978" authorized under Article 7, Chapter 45,  
500 Title 75, Mississippi Code of 1972, the entire bond, in addition  
501 to any other required bond, shall be available to claims filed  
502 under this chapter and Chapter 45, Title 75, Mississippi Code of  
503 1972.



504           **SECTION 9.** Section 75-44-35, Mississippi Code of 1972, is  
505 amended as follows:

506           75-44-35. (1) It shall be the duty of the grain  
507 warehouseman to deliver grain to the holder of a warehouse receipt  
508 within ten (10) days of the demand for the redemption of such  
509 receipt. In the event the grain warehouseman fails to deliver  
510 grain to the holder of a warehouse receipt within ten (10) days of  
511 the demand the holder of the warehouse receipt may make demand of  
512 the surety for payment under the bond. The surety has the  
513 responsibility to pay within fifteen (15) days following receipt  
514 by the surety of the notice of the demand for redemption. Any  
515 holder of a warehouse receipt issued by a grain warehouseman who  
516 has made demand for redemption of such receipt, which demand was,  
517 without lawful excuse, not satisfied within ten (10) days, shall  
518 notify the commissioner in writing and the holder shall have the  
519 right to \* \* \* file a claim with the commissioner against the  
520 grain warehouseman and the surety on the grain warehouseman's bond  
521 for payment of the market value of the grain represented by such  
522 warehouse receipt, such market value to be determined as of the  
523 date of the demand, plus legal interest accrued from the date of  
524 the demand. In the event the grain warehouseman is a self-insurer  
525 as provided in Section 75-44-29 the holder of a warehouse receipt  
526 shall have the right to \* \* \* file a claim with the commissioner  
527 against the grain warehouseman to the extent of the amount posted  
528 in lieu of the bond. \* \* \* The commissioner may also pay to the



529 holder of a warehouse receipt the amount of the market value of  
530 the grain provided that the grain warehouseman agrees to such  
531 payment \* \* \*.

532 \* \* \*

533 (2) (a) Upon receipt of any claim, the commissioner shall  
534 provide written notice, via certified mail, return receipt  
535 requested, to the warehouseman and the corporate surety of the  
536 claims. The notice shall be effective upon receipt of proof of  
537 delivery or a receipt marked as refused delivery. If the  
538 commissioner determines, in his or her opinion, that there are or  
539 may be other competing claims as to bond, the commissioner shall  
540 give notice to other interested parties, which shall include the  
541 holders of outstanding and uncanceled receipts and scale tickets,  
542 any person having a claim for payment under Section 75-45-311, and  
543 any other person or party claiming any rights under the bond. The  
544 notice shall be deemed complete and sufficient upon the  
545 publication once per week for three (3) consecutive weeks in a  
546 newspaper of general circulation. The commissioner shall  
547 promulgate regulations which shall govern the procedure and  
548 process to be followed in the hearing. The regulations shall,  
549 among other things, set forth the county or counties, depending on  
550 whether the licensee is a warehouseman, grain dealer, individual  
551 or corporate entity or resident or nonresident, in which  
552 publication of notice hereunder shall be made.



553           (b) The commissioner or his designated representative,  
554 hereinafter "hearing officer," shall hear evidence and determine  
555 whether a loss has occurred. Upon a determination that a loss has  
556 occurred, the hearing officer shall determine the date of the  
557 loss, the fair market value at the place of loss or in the region  
558 immediately surrounding the place of loss, whether payments should  
559 be made by the corporate surety and, if so, to what parties and in  
560 what amounts. Recovery under the bond shall be prorated by the  
561 hearing officer when the claims exceed the liability of the  
562 corporate surety under the bond. The burden of establishing the  
563 proration shall be on the corporate surety as a matter of defense.  
564 The hearing officer shall enter a written order determining the  
565 validity of claims under the bond and setting forth those  
566 claimants who are entitled to recover thereunder. The order shall  
567 be final, binding and conclusive on all interested parties. The  
568 order shall be sent by registered or certified mail to all  
569 interested parties that appeared in the hearing. Within thirty  
570 (30) days after the mailing of said order, any interested party,  
571 if dissatisfied with the order of the hearing officer, may appeal  
572 to the Chancery Court of the First Judicial District of Hinds  
573 County, Mississippi, by filing a written notice of appeal alleging  
574 the pertinent facts upon which the appeal is grounded. At the  
575 time of the filing of the appeal, the appellant shall give a bond  
576 for costs conditioned upon his prosecution of the appeal without  
577 delay and payment of all costs assessed against him. Appeal may



578 be with supersedeas and shall be subject to the provisions of  
579 Section 11-51-31.

580 (3) Where a warehouseman licensed under this chapter is  
581 involved in the hearing, the claim determination provisions of  
582 this chapter are applicable to claims arising both under this  
583 chapter and Article 7, Chapter 45, Title 75, Mississippi Code of  
584 1972.

585 **SECTION 10.** Section 75-45-305, Mississippi Code of 1972, is  
586 amended as follows:

587 75-45-305. (1) Every person licensed as a grain dealer  
588 shall have filed with the department a surety bond signed by the  
589 dealer as principal and by a responsible company authorized to  
590 execute surety bonds within the State of Mississippi. A grain  
591 dealer may file with the department, in lieu of a surety bond, a  
592 certificate of deposit or irrevocable letter of credit from any  
593 bank or banking corporation insured by the Federal Deposit  
594 Insurance Corporation, payable to the commissioner, as trustee.  
595 The principal amount of the certificate of deposit or the amount  
596 of the letter of credit shall be the same as that required for a  
597 surety bond under this article and the interest thereon shall be  
598 made payable to the purchaser thereof. Such bond shall be a  
599 principal amount (to the nearest One Thousand Dollars (\$1,000.00))  
600 equal to ten percent (10%) of the aggregate dollar amount paid, by  
601 the dealer to producers for grain purchased from them during the  
602 dealer's last completed fiscal year or in the case of a dealer who





603 has been engaged in business as a grain dealer for less than one  
604 (1) year or who has not theretofore engaged in such business, ten  
605 percent (10%) of the estimated aggregate dollar amount to be paid  
606 by the dealer to producers for grain purchased from them during  
607 the next fiscal year. Such bond shall not be less than  
608 Twenty-five Thousand Dollars (\$25,000.00) nor more than One  
609 Hundred Thousand Dollars (\$100,000.00), except as otherwise  
610 authorized by this article. The commissioner shall determine the  
611 sufficiency of any letter of credit.

612 (2) The commissioner may, when he questions a grain dealer's  
613 ability to pay producers for grain purchased, require a grain  
614 dealer to post an additional bond in a dollar amount deemed  
615 appropriate by the commissioner. Failure to post such additional  
616 bond or certificate of deposit or irrevocable letter of credit,  
617 constitutes grounds for suspension or revocation of a license  
618 issued under this article.

619 (3) Any required bond or bonds shall be executed by the  
620 grain dealer as principal and by a corporate surety licensed to do  
621 business in this state as a surety. The bond shall be in favor of  
622 the commissioner for the benefit of all persons interested, their  
623 legal representatives, attorneys or assigns, conditioned upon the  
624 faithful compliance by the grain dealer with the provisions of  
625 this article and the rules and regulations of the State Department  
626 of Agriculture and Commerce applicable thereto. The aggregate  
627 liability of the surety shall not exceed the sum of such bond.



628 The bond may be cancelled at any time by the surety by giving  
629 written notice to the commissioner of its intention to cancel the  
630 bond and all liability thereunder shall terminate sixty (60) days  
631 after the mailing of such notice except that such notice shall not  
632 affect any claims arising under the bond, whether presented or  
633 not, before the effective date of the cancellation notice.

634 (4) Any grain dealer who is of the opinion that his net  
635 worth and assets are sufficient to guarantee payment to producers  
636 for grain purchased by him may request the commissioner to be  
637 relieved of the obligation of filing a bond in excess of the  
638 minimum bond of Twenty-five Thousand Dollars (\$25,000.00). Such  
639 request shall be accompanied by a financial statement of the  
640 applicant made within six (6) months of the date of such request  
641 certified by a certified public accountant. If such financial  
642 statement discloses net assets and a net worth of an amount equal  
643 to at least three (3) times the amount of the bond required by  
644 this article and the commissioner is otherwise satisfied as to the  
645 financial ability and resources of the applicant, the commissioner  
646 may waive that portion of the required bond in excess of  
647 Twenty-five Thousand Dollars (\$25,000.00). However, in the case  
648 of a grain dealer whose net worth is not equal to three (3) times  
649 the amount of bond required, the commissioner may allow such grain  
650 dealer to waive in One Thousand Dollar (\$1,000.00) increments a  
651 portion of the bond required in excess of Twenty-five Thousand  
652 Dollars (\$25,000.00). The percentage factor to be applied to the



653 bond required in excess of Twenty-five Thousand Dollars  
654 (\$25,000.00) shall be determined by dividing actual net worth by  
655 the net worth required to waive all bond in excess of Twenty-five  
656 Thousand Dollars (\$25,000.00). If the result of this computation  
657 provides a percentage factor of eighty percent (80%) or greater,  
658 then that same percentage of the bond in excess of Twenty-five  
659 Thousand Dollars (\$25,000.00) may be waived. The grain dealer  
660 shall then provide to the commissioner a surety bond in the amount  
661 of Twenty-five Thousand Dollars (\$25,000.00) plus any additional  
662 bond required in excess thereof.

663 (5) Any grain dealer who purchases grain from producers only  
664 in connection with or as an incident to some other business and  
665 whose total purchases of grain from producers during any fiscal  
666 year do not exceed an aggregate amount of One Hundred Thousand  
667 Dollars (\$100,000.00) may satisfy the bonding requirements of this  
668 article by filing with the commissioner a bond, or certificate of  
669 deposit or irrevocable letter of credit from any bank or banking  
670 corporation insured by the Federal Deposit Insurance Corporation,  
671 at the rate of One Thousand Dollars (\$1,000.00) for each Ten  
672 Thousand Dollars (\$10,000.00) or fraction thereof of the dollar  
673 amount to be purchased, with a minimum bond, certificate of  
674 deposit or irrevocable letter of credit of One Thousand Dollars  
675 (\$1,000.00) and a current financial statement.

676 (6) Failure of a grain dealer to file a bond, or certificate  
677 of deposit, or letter of credit, and to keep such bond,



678 certificate of deposit or line of credit in force, or to maintain  
679 assets adequate to assure payment to producers for grain purchased  
680 from them shall be grounds for the suspension or revocation of a  
681 license issued under this article.

682 (7) When the commissioner has determined that a grain dealer  
683 has defaulted payment to producers for grain which he has  
684 purchased from them, the commissioner shall determine \* \* \* ,using  
685 the hearing procedures set out in Section 75-44-35, the producers  
686 and the amount of defaulted payment and as trustee of the bond  
687 shall immediately after such determination call for the dealer's  
688 surety bond or bonds, or other pledged financial assets, to be  
689 paid to him for distribution to those producers who should receive  
690 the benefits. Should the defaulted amount owed the producers be  
691 less than the principal amount of the bond or bonds or pledged  
692 financial assets, then the surety bank, or banking corporation  
693 shall be obligated to pay only the amount of the default.

694 **SECTION 11.** Section 75-45-311, Mississippi Code of 1972, is  
695 amended as follows:

696 75-45-311. If a grain dealer should fail or refuse to make  
697 payment to a producer for grain purchased when such payment is  
698 requested by the producer and the request is made within one  
699 hundred sixty (160) days of the date of sale or the date of  
700 delivery of such grain to the dealer, whichever is later, but in  
701 case of deferred pricing, delayed pricing, priced-later, or  
702 similar contractual arrangements, no more than two hundred seventy



703 (270) days after the date of delivery, the producer may notify the  
704 commissioner in writing, by certified mail when possible, of such  
705 failure or refusal within the period of \* \* \* thirty (30) days  
706 after such refusal or failure to pay. The commissioner upon  
707 receiving such notice shall \* \* \* initiate a hearing procedure as  
708 set forth in Section 75-44-35. The producer shall then file a  
709 claim in accordance with any regulations promulgated by the  
710 commissioner. The producer furnishing such written notice within  
711 the prescribed length of time is entitled to the benefits of the  
712 grain dealer's bond. However, if a producer fails to furnish  
713 written notice to the commissioner within the prescribed time,  
714 then such producer is not entitled to any benefits under the grain  
715 dealer's bond. Grain dealer liability under priced-later  
716 contracts, open-priced contracts, deferred price contracts, or  
717 similar agreements shall accrue under the bond in effect at the  
718 date of default as determined by the commissioner. Any bond  
719 required under this chapter shall be in addition to the bond  
720 required by an entity licensed under the "Mississippi Grain  
721 Warehouse Law," established under Section 75-44-1 et seq.

722 **SECTION 12.** Sections 69-41-1, 69-41-3, 69-41-5, 69-41-7,  
723 69-41-9, 69-41-11, 69-41-13 and 69-41-19, Mississippi Code of  
724 1972, which are provisions establishing and governing the  
725 administration of the "Mississippi Agribusiness Council Act of  
726 1993," are repealed.



727           **SECTION 13.** This act shall take effect and be in force from  
728 and after July 1, 2023.

