

SENATE BILL No. 1397

June 22, 2010, Introduced by Senator VAN WOERKOM and referred to the Committee on Agriculture and Bioeconomy.

A bill to amend 2003 PA 198, entitled "Farm produce insurance act," by amending the title and sections 3, 7, 9, 15, 17, and 21 (MCL 285.313, 285.317, 285.319, 285.325, 285.327, and 285.331), sections 3 and 15 as amended by 2008 PA 140.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5

TITLE

An act to provide insurance to farm produce producers against losses from the failure of grain dealers; to establish a farm produce insurance authority; to prescribe the powers and duties of the authority and its board; to establish a farm produce insurance

1 fund; to provide for assessments on ~~grain dealers~~ **CERTAIN PRODUCERS**
2 **OF FARM PRODUCTS**; to prescribe certain powers and duties of certain
3 state agencies and officers; to authorize the promulgation of
4 rules; and to repeal acts and parts of acts.

5 Sec. 3. As used in this act:

6 (a) "Acknowledgment form" means that term as defined in
7 section 2 of the grain dealers act, MCL 285.62.

8 (b) "Administrative expenses" means the costs described in
9 section 9(2).

10 (c) "Authority" means the farm produce insurance authority
11 created in section 5.

12 (d) "Board" means the board of directors of the authority
13 described in section 7.

14 (e) "Claimant" means a producer who makes a claim for
15 reimbursement from the fund under section 15.

16 **(F) "COOPERATIVE ASSOCIATION" MEANS THAT TERM AS DEFINED IN 12**
17 **USC 1141J.**

18 **(G)** ~~(f)~~—"Department" means the department of agriculture.

19 **(H)** ~~(g)~~—"Depositor" means that term as defined in section 2 of
20 the grain dealers act, MCL 285.62.

21 **(I)** ~~(h)~~—"Director" means the director of the department or his
22 or her designee.

23 **(J) "FACILITY" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE**
24 **GRAIN DEALERS ACT, MCL 285.62.**

25 **(K)** ~~(i)~~—"Failure" of a licensee or grain dealer means that
26 term as defined in section 2 of the grain dealers act, MCL 285.62.

27 **(L)** ~~(j)~~—"Farm produce" means that term as defined in section 2

1 of the grain dealers act, MCL 285.62.

2 (M) ~~(k)~~—"Farm produce insurance program" or "program" means
3 the program for reimbursement of claims described in this act.

4 (N) ~~(l)~~—"Financial institution" means that term as defined in
5 section 2 of the grain dealers act, MCL 285.62.

6 (O) ~~(m)~~—"Financial loss" means the loss to a producer who is
7 not paid in full for farm produce that the producer sold to a grain
8 dealer and delivered under the terms of the sales contract, after
9 deducting any outstanding charges against the farm produce.

10 (P) ~~(n)~~—"Fund" means the farm produce insurance fund created
11 in section 9.

12 (Q) ~~(o)~~—"Grain dealer" means that term as defined in section 2
13 of the grain dealers act, MCL 285.62.

14 (R) ~~(p)~~—"Grain dealers act" means the grain dealers act, 1939
15 PA 141, MCL 285.61 to 285.88.

16 (S) ~~(q)~~—"Licensee" means that term as defined in section 2 of
17 the grain dealers act, MCL 285.62.

18 (T) ~~(r)~~—"Net proceeds" means the sale price of farm produce,
19 less usual and customary charges and costs of sale of the farm
20 produce.

21 ~~—(s) "Participant" means a producer that has never requested a~~
22 ~~refund from the fund or a producer who has reentered the program~~
23 ~~under section 13(5).~~

24 (U) ~~(t)~~—"Person" means an individual, corporation, limited
25 liability company, partnership, association, **COOPERATIVE**
26 **ASSOCIATION OR OTHER** cooperative organization, or other legal
27 entity.

1 (V) ~~(u)~~—"Price later agreement" means that term as defined in
2 section 2 of the grain dealers act, MCL 285.62.

3 (W) ~~(v)~~—"Producer" means a person that owns, rents, leases, or
4 operates a farm on land and who has an interest in and receives all
5 or any part of the proceeds from the sale in Michigan of farm
6 produce produced from the land to a grain dealer licensed under the
7 grain dealers act.

8 (X) ~~(w)~~—"Producer premium" means the amount of money charged
9 to and collected from a producer under section 11.

10 (Y) **"PRODUCER SECURITY ACTIVITIES" MEANS ANY ACTION BY THE**
11 **DIRECTOR UNDER SECTION 22 OF THE GRAIN DEALERS ACT, MCL 285.82, TO**
12 **ADMINISTER OR ENFORCE THAT ACT.**

13 (Z) ~~(x)~~—"Sale" means transfer of title.

14 (AA) ~~(y)~~—"Storage loss" means a loss to a depositor resulting
15 from the failure of a licensee that has not fully satisfied its
16 storage obligation to the depositor, net of any outstanding charges
17 against the farm produce.

18 (BB) ~~(z)~~—"Valid claim" means a claim arising from a failure of
19 a licensee that occurs after the effective date of this act, is
20 found valid by the department, and is approved by the board, less
21 all credits and offsets associated with farm produce **DELIVERED AND**
22 **sold in this state by a producer to the licensee OR TO A LOCATION**
23 **IN THIS STATE DESIGNATED IN ADVANCE OF THE DELIVERY.**

24 (CC) ~~(aa)~~—"Warehouse receipt" means that term as defined in
25 section 2 of the grain dealers act, MCL 285.62.

26 Sec. 7. (1) A board of directors shall govern and administer
27 the authority. The board shall consist of the following 9 members:

1 (a) The director, or his or her designee, is a nonvoting
2 member and the chairperson and secretary of the board. This member
3 shall not receive per diem or other compensation or reimbursement
4 for expenses for serving on the board.

5 (b) One nonvoting member appointed by the governor with the
6 advice and consent of the senate, from recommendations received
7 from the largest Michigan organization representing the interests
8 of licensees in Michigan, as determined by the director.

9 (c) Three voting members appointed by the governor with the
10 advice and consent of the senate for staggered terms, from
11 recommendations received from the largest Michigan organization
12 representing general farm interests in Michigan, as determined by
13 the director. Only a producer is eligible for appointment under
14 this subdivision. For the first board, the governor shall appoint 1
15 voting member appointed under this subdivision for a term of 1
16 year, 1 voting member for a term of 2 years, and 1 voting member
17 for a term of 3 years.

18 (d) One voting member appointed by the governor with the
19 advice and consent of the senate, from recommendations received
20 from the largest Michigan organization exclusively representing the
21 interests of corn producers in Michigan, as determined by the
22 director. Only a producer is eligible for appointment under this
23 subdivision.

24 (e) One voting member appointed by the governor with the
25 advice and consent of the senate, from recommendations received
26 from the largest Michigan organization exclusively representing the
27 interests of soybean producers in Michigan, as determined by the

1 director. Only a producer is eligible for appointment under this
2 subdivision.

3 (f) One voting member appointed by the governor with the
4 consent and advice of the senate, from recommendations received
5 from the largest Michigan organization exclusively representing dry
6 bean producers in Michigan, as determined by the director. Only a
7 producer is eligible for appointment under this subdivision.

8 (g) One voting member appointed by the governor with the
9 advice and consent of the senate, from recommendations received
10 from the largest Michigan organization representing the interests
11 of agricultural lenders in Michigan, as determined by the director.

12 (2) Except as provided in subsection (1)(b) and (c) for the
13 first board, each member of the board appointed by the governor
14 shall serve for a 3-year term and may be reappointed for 1 or more
15 additional terms. The governor may remove a member appointed by the
16 governor from the board for good cause.

17 (3) The governor shall fill a vacancy on the board for an
18 unexpired term for the remainder of the term and in the same manner
19 as an original appointment. A vacancy does not impair the right of
20 a quorum to exercise all the rights and perform all the duties of
21 the board.

22 (4) Four voting members constitute a quorum. The affirmative
23 vote of 4 or more voting members is necessary for an action of the
24 board other than adjournment of a meeting of the board. An
25 adjournment of a meeting of the board requires a vote of a majority
26 of voting members present at the meeting and voting.

27 (5) The board shall hold an annual meeting and at least 1

1 additional meeting each calendar year. The secretary of the board
2 shall provide written notice of each meeting to the members of the
3 board at least 5 days before the meeting.

4 (6) A member of the board may waive any notice required by
5 this section, before or after the date and time stated in the
6 notice, in writing and delivered, mailed, or electronically
7 transmitted to the authority for inclusion in the minutes or filing
8 with the records of the authority.

9 (7) A board member's attendance at a meeting waives any
10 objection to any of the following:

11 (a) No notice or a defective notice of a meeting, unless the
12 member at the beginning of the meeting objects to holding the
13 meeting or transacting business at the meeting.

14 (b) Consideration of any particular matter at a meeting that
15 is not within the purpose or purposes described in the notice,
16 unless the member objects to considering the matter when it is
17 presented.

18 (8) The board shall do all of the following:

19 (a) Elect from among its members a vice-chairperson and
20 treasurer.

21 (b) Create forms, and establish policies and procedures to
22 implement this act.

23 (c) Establish the amount of the producer premium under section
24 11 -

25 ~~—(d) Collect and~~ **COLLECT AND** deposit all producer premiums
26 ~~authorized under this act~~ into the fund.

27 **(D) ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE DIRECTOR**

1 **THAT PROVIDES FOR REIMBURSEMENT OF THE DIRECTOR FOR PRODUCER**
2 **SECURITY ACTIVITIES FROM THE FUND.**

3 (e) Take any legal action it considers necessary to compel a
4 failed licensee to repay the fund for any payment made from the
5 fund to a claimant for a valid claim against that licensee.

6 (f) Take any legal action it considers necessary to compel a
7 claimant to participate in any legal proceeding in relation to the
8 claim or the failure of a licensee.

9 (g) Within 5 business days of receiving notice of failure of a
10 licensee, publish notice of the failure in a manner described in
11 the grain dealers act.

12 (h) Request the services of the department or arrange for
13 legal services through the department of attorney general if the
14 board considered it necessary in the execution of its duties.

15 (i) Procure insurance against any loss in connection with its
16 operations, in amounts and from insurers as determined by the
17 board.

18 (j) Borrow money from a bank, an insurance company, an
19 investment company, or any other person, and pay or include in the
20 loan any financing charges or interest, consultant, advisory, or
21 legal fees, and other expenses the board determines are appropriate
22 in connection with the loan. Any loan contract must provide for a
23 term of not more than 40 years, allow prepayment without penalty,
24 and plainly state that the loan is not a debt of this state but the
25 sole obligation of the authority, payable solely from the fund or
26 from any appropriation from this state made to the authority for
27 repayment of the loan.

1 (k) Employ personnel as required in the judgment of the board
2 and fix and pay compensation from money available to the authority
3 from the administrative expenses account described in section 9(2).

4 (l) Make, execute, and carry out any contract, agreement, or
5 other instrument or document with a governmental department or
6 other person it determines is necessary or convenient to accomplish
7 the purposes of this act.

8 (m) If requested by the director and approved by the board,
9 make payment from the fund to compensate a claimant for a valid
10 claim.

11 (9) The board may do any of the following:

12 (a) Establish policies and procedures in connection with the
13 performance of the functions and duties of the authority.

14 (b) Adopt a policy establishing a code of ethics for its
15 employees and board members, consistent with 1973 PA 196, MCL
16 15.341 to 15.348.

17 (c) Accept gifts, devises, bequests, grants, loans,
18 appropriations, revenue sharing, other financing and assistance,
19 and any other aid from any source and deposit them in the fund and
20 agree to and comply with any conditions attached to them.

21 (10) A voting member may receive per diem compensation and
22 mileage reimbursement for attending meetings of the board or while
23 engaged in the performance of his or her duties on behalf of the
24 authority, in amounts established by the board, and may receive
25 reimbursement for other expenses approved by the board. The amounts
26 established by the board shall not exceed the maximum commission of
27 agriculture rates for per diem compensation and mileage

1 reimbursement. A voting member shall not receive any other
2 compensation for serving on the board or for services performed for
3 the authority.

4 (11) The department shall inspect the books and records of a
5 licensee during normal business hours to verify whether the
6 licensee is complying with the provisions of this act.

7 Sec. 9. (1) The farm produce insurance fund is established
8 under the direction and control of the board. The fund shall
9 consist of producer premiums, money from any other source, and
10 interest and earnings from any other source. The board shall direct
11 payments from the fund only for the following purposes:

12 (a) Payment of valid claims under section 15.

13 (b) Payment of producer premium refunds under section 13.

14 (c) Payment of administrative expenses under subsection (2).

15 (d) Payment of legal fees and legal expenses under subsection
16 (3).

17 **(E) REIMBURSEMENT OF THE DIRECTOR FOR PRODUCER SECURITY**
18 **ACTIVITIES.**

19 (2) The board shall allocate money from the fund to a separate
20 administrative expenses account to pay administrative expenses **AND**
21 **TO REIMBURSE THE DIRECTOR FOR PRODUCER SECURITY EXPENSES.** This
22 allocation shall not exceed ~~\$250,000.00~~ **\$500,000.00** in any fiscal
23 year. Administrative expenses under this subsection include the
24 actual cost of processing refunds of producer premiums,
25 enforcement, record keeping, ordinary management and investment
26 fees connected with the operation of the fund, verification cost
27 under section 11(5), and any other expenses approved by the board.

1 Administrative expenses do not include legal fees and legal
2 expenses described in subsection (3).

3 (3) For legal services requested by the board, the board shall
4 pay for any legal services and legal expenses required by the
5 authority, board, or fund from money in the fund. Legal services
6 and expenses described in this subsection are not administrative
7 expenses and shall not be paid from the administrative expenses
8 account.

9 (4) The treasurer of the board shall act as the investment
10 officer of the fund and shall invest or direct a financial
11 institution to invest the money in the fund that is not currently
12 needed to meet the obligations of the fund. The treasurer of the
13 board shall invest or direct the investment of the money only in
14 the manner permitted in section 1 of 1943 PA 20, MCL 129.91.
15 Interest and earnings shall be credited to the fund.

16 (5) The fund shall operate on a fiscal year established by the
17 board.

18 Sec. 15. (1) ~~A-SUBJECT TO SUBSECTION (2), A~~ producer that
19 ~~meets both~~ **SATISFIES ANY** of the following ~~may submit~~ **CONDITIONS IS**
20 **ELIGIBLE TO MAKE** a claim for reimbursement from the fund under this
21 section:

22 ~~— (a) The producer is a participant at the time the producer~~
23 ~~submits the claim.~~

24 ~~— (b) The producer satisfies 1 of the following conditions:~~

25 **(A)** ~~(i)~~ The producer possesses written evidence of ownership of
26 farm produce that discloses a storage obligation of a licensee that
27 has failed, including, but not limited to, a warehouse receipt,

1 acknowledgment form, or settlement sheet.

2 (B) ~~(ii)~~—The producer has surrendered warehouse receipts as
3 part of a sale of farm produce to a licensee that failed not more
4 than 21 days after the surrender of the warehouse receipts and the
5 producer surrendering the warehouse receipts was not fully paid for
6 the farm produce.

7 (C) ~~(iii)~~—The producer possesses written evidence of the
8 delivery and sale of farm produce or transfer of price later farm
9 produce to a failed licensee, including, but not limited to, an
10 acknowledgment form, settlement sheet, price later agreement, or
11 similar farm produce delivery contract, but the grain dealer did
12 not pay the producer in full for the farm produce.

13 (2) A PRODUCER IS NOT ELIGIBLE FOR REIMBURSEMENT FROM THE FUND
14 FOR A CLAIM SUBMITTED UNDER THIS SECTION IF ANY OF THE FOLLOWING
15 APPLY:

16 (A) THE PRODUCER PREVIOUSLY REQUESTED A REFUND FROM THE FUND
17 UNDER SECTION 13 AND THE PRODUCER DID NOT PREVIOUSLY REENTER THE
18 PROGRAM UNDER SECTION 13(5).

19 (B) THE CLAIM RELATES TO DELIVERY OF FARM PRODUCE TO A
20 LICENSEE THAT IS A COOPERATIVE ASSOCIATION, UNDER THE TERMS OF AN
21 AGREEMENT BETWEEN THE PRODUCER AND THE LICENSEE THAT ALLOCATED
22 DELIVERY RIGHTS AND OBLIGATIONS PROPORTIONATE TO A CAPITAL
23 INVESTMENT OF THE PRODUCER IN THE LICENSEE.

24 (C) AT THE TIME THE CLAIM IS SUBMITTED, EXCLUDING PATRONAGE
25 INTERESTS, THE PRODUCER IS THE OWNER OF AT LEAST 5% OF THE VOTING
26 SHARES, OTHER THAN PUBLICLY TRADED SHARES, MEMBERSHIP INTERESTS,
27 PARTNERSHIP INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE LICENSEE

1 WHOSE FAILURE IS THE BASIS OF THE CLAIM. AS USED IN THIS
2 SUBDIVISION, "PATRONAGE INTERESTS" MEANS SHARES OR MEMBERSHIP,
3 PARTNERSHIP, OR OTHER OWNERSHIP INTERESTS IN A LICENSEE THAT IS A
4 COOPERATIVE ASSOCIATION THAT ARE ALLOCATED AND DISTRIBUTED TO THE
5 PRODUCER IN PROPORTION TO THAT PRODUCER'S PATRONAGE OF THE
6 COOPERATIVE ASSOCIATION.

7 (D) AT THE TIME THE CLAIM IS SUBMITTED, THE PRODUCER IS THE
8 OWNER OF AT LEAST 5% OF THE VOTING SHARES, OTHER THAN PUBLICLY
9 TRADED SHARES, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, OR
10 OTHER OWNERSHIP INTERESTS OF THE PARENT CORPORATION OF THE LICENSEE
11 WHOSE FAILURE IS THE BASIS OF THE CLAIM.

12 (E) TITLE TO THE FARM PRODUCE THAT IS THE SUBJECT OF THE CLAIM
13 WAS TRANSFERRED BY THE PRODUCER MORE THAN 3 YEARS BEFORE THE DATE
14 THE CLAIM IS SUBMITTED.

15 (F) IF NOTICE OF THE FAILURE OF THE LICENSEE WAS PUBLISHED IN
16 A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH A
17 FACILITY OF THE LICENSEE WAS LOCATED, THE CLAIM IS SUBMITTED MORE
18 THAN 1 YEAR AFTER THAT PUBLICATION.

19 (3) ~~(2)~~—If the department finds a claim made under subsection
20 (1) is valid and the board approves of the valid claim, the board
21 shall within 90 days of the board's approval pay the claimant the
22 amount described in subsection ~~(3)~~—(4) or ~~(4)~~—(5) from the fund as
23 compensation for the claim. The 90-day time period for payment may
24 be extended if the board and claimant agree in a writing that
25 describes the payment terms and schedule.

26 (4) ~~(3)~~—A claimant that incurs a storage loss due to the
27 failure of a licensee is entitled to payment under subsection ~~(2)~~

1 (3) in an amount equal to 100% of the storage loss, less any
2 producer premium that would have been due on the sale of the farm
3 produce. The department shall determine the gross amount of the
4 storage loss based upon local market prices on the date of failure.
5 The department may consider any evidence submitted by the failed
6 licensee or any claimants concerning the actual charges associated
7 with stored farm produce.

8 (5) ~~(4)~~—A claimant that incurs a financial loss due to the
9 failure of a licensee is entitled to payment under subsection ~~(2)~~
10 (3) in an amount equal to 90% of the financial loss. For farm
11 produce that is sold in a transaction subject to the grain dealers
12 act, the department shall determine the amount of the financial
13 loss based on the value of the farm produce less any outstanding
14 charges against the farm produce. If the farm produce has not been
15 priced, the department shall establish the amount of the financial
16 loss using the local market on the date of failure less any usual
17 and customary charges associated with the sale of farm produce.

18 ~~—— (5) A claim under subsection (2) of this section is valid only~~
19 ~~if it is made within 1 year after notice of the failure of the~~
20 ~~licensee is published in a newspaper of general circulation in each~~
21 ~~county in which a facility of the licensee is located.~~

22 (6) The board may require a claimant paid under this section
23 for a valid claim to subrogate to the board or authority all the
24 claimant's rights to collect on any bond issued under the grain
25 dealers act or the United States warehouse act, 7 USC 241 to 256,
26 and the claimant's rights to any other compensation arising from
27 the failure of the licensee. If required to subrogate under this

1 subsection, the claimant shall assign the claimant's interest in
2 any judgment concerning the failure to the board or authority.

3 (7) The board shall deny the payment of a valid claim under
4 this section if the board determines any of the following are met:

5 (a) The claimant as payee fails to present for payment a
6 negotiable instrument issued as payment for farm produce within 90
7 days after the date the negotiable instrument is tendered to the
8 claimant as payment for farm produce purchased by the licensee.

9 (b) The claimant has engaged in marketing **OR MANAGEMENT**
10 practices that have contributed to the claimant's loss. The
11 authority may consider whether the marketing **OR MANAGEMENT**
12 practices are generally accepted marketing **OR MANAGEMENT** practices
13 in this state in making its determination.

14 (c) The claimant has intentionally committed a fraud or
15 violated this act in connection with the claim.

16 (8) If the department determines that a failure of a licensee
17 has occurred, the board shall do all of the following:

18 (a) Determine the valid claims against the licensee and the
19 amount of the valid claims.

20 (b) Authorize payment of money from the fund when necessary to
21 pay claimants for valid claims as provided in this section.

22 (c) Deposit into the fund any proceeds of the remaining farm
23 produce assets of a failed licensee to repay the fund for money
24 paid to claimants, subject to any priority lien right a holder of a
25 mortgage, security interest, or other encumbrance may possess under
26 any applicable law. The board shall not deposit into the fund an
27 amount in excess of the sum of the principal amount of valid claims

1 paid to claimants, plus interest for the period from the date a
2 claimant was paid for a valid claim to the date that the remaining
3 farm produce assets were received by the board under this
4 subsection, at a per annum rate equal to the auction rate of 91-day
5 discount treasury bills on the date the claimant was paid.

6 (d) If the amount in the fund and any amount the board borrows
7 under subsection (9)(b) are insufficient to pay all valid claims,
8 pay the amount available for payment proportionately among the
9 valid claims approved by the board and pay the prorated amount to
10 those claimants.

11 (9) If the department determines that a failure of a licensee
12 has occurred, the board may do any of the following:

13 (a) Pursue any subrogation rights obtained from claimants
14 under subsection (6).

15 (b) If the fund has insufficient money to pay the valid
16 claims, borrow money as authorized under section 7(8)(j) for the
17 payment of valid claims.

18 Sec. 17. (1) The board shall use money in the fund only for a
19 purpose described in section 9(1). This section is not severable
20 from the whole of this act, and if any portion of this section is
21 held invalid, it is the manifest intent of the legislature that
22 this act as a whole shall be held invalid and the money remaining
23 in the fund distributed to producers ~~in proportion to the amount of~~
24 ~~producer premiums each producer has paid to the authority~~ **AT THE**
25 **TIME AND IN THE AMOUNTS ESTABLISHED BY THE BOARD.**

26 (2) ~~All expenditures from the fund shall be audited by a~~
27 ~~certified public accountant at least annually.~~ **AT LEAST ANNUALLY, A**

1 **CERTIFIED PUBLIC ACCOUNTANT SELECTED BY THE BOARD SHALL AUDIT THE**
2 **FINANCIAL RECORDS OF THE FUND.** Within 30 days after completion of
3 the audit, the certified public accountant shall give copies of the
4 audit to the director and the other members of the board. The board
5 shall publish an activity and financial report annually and make it
6 available to the public on request.

7 Sec. 21. (1) ~~A~~ **IN ADDITION TO ANY OTHER PENALTY OR REMEDY**
8 **PROVIDED BY LAW, A** person that knowingly or intentionally commits
9 any of the following is guilty of a misdemeanor punishable by a
10 fine of not more than \$5,000.00 for each offense:

11 (a) Refusing or failing to collect producer premiums as
12 required under this act.

13 (b) Refusing or failing to pay to the authority producer
14 premiums collected under this act.

15 (c) Making a false statement, representation, or
16 certification, or knowingly failing to make a required statement,
17 representation, or certification, in a record, report, or other
18 document the person files with the director, department, board, or
19 authority, or that the person is required to file with the
20 director, department, board, or authority, under this act.

21 (d) Resisting, preventing, impeding, or interfering with the
22 director, agents or employees of the department, the board, or
23 agents or employees of the authority or board in the performance of
24 their duties under this act.

25 (2) In addition to the criminal penalty described in
26 subsection (1), the court in an enforcement action for a violation
27 described in subsection (1)(a) or (b) shall order the grain dealer

- 1 to pay to the fund any producer premiums collected by the grain
- 2 dealer that it owes to the fund and may order the grain dealer to
- 3 pay interest on the amount the grain dealer owes to the fund.