

1 AN ACT relating to grain.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 246.120 is amended to read as follows:

4 (1) The board shall consist of ***eighteen (18)***~~fourteen (14)~~ members as follows:

5 (a) The commissioner ***or the commissioner's designee***, who shall be a voting
6 member and serve as chairman;

7 (b) The ***dean of the University of Kentucky College of Agriculture, Food and***
8 ***Environment or the dean's designee***,~~director of the agricultural experiment~~
9 ~~station~~ who shall be a voting member and serve as vice chairman;

10 (c) ***Thirteen (13)***~~Nine (9)~~ citizens of the Commonwealth appointed by the
11 Governor who shall serve as voting members, ***specifically:***~~;~~

12 ***1. Four (4) members who are farmers with experience in crop***
13 ***production, each of whom shall be selected from a list of at least three***
14 ***(3) individuals nominated by the Kentucky Corn Growers Association,***
15 ***the Kentucky Small Grain Growers Association, the Kentucky***
16 ***Soybean Association, or other similar trade organizations or***
17 ***commodity groups;***

18 ***2. Four (4) members who are farmers with experience in animal***
19 ***agriculture, each of whom shall be selected from a list of at least three***
20 ***(3) individuals nominated by the Kentucky Cattlemen's Association,***
21 ***the Kentucky Dairy Development Council, the Kentucky Pork***
22 ***Producers Association, the Kentucky Poultry Federation, the***
23 ***Kentucky Sheep and Goat Development Office, or other similar trade***
24 ***organizations or commodity groups;***

25 ***3. Three (3) members who shall be appointed from the state at large who***
26 ***are farmers with due consideration to geographical distribution***
27 ***throughout the state and industry representation;***

- 1 **4. One (1) member who shall be appointed from a list of at least three (3)**
2 **individuals nominated by the AgriBusiness Association of Kentucky or**
3 **other similar trade organizations representing agribusiness; and**
4 **(5) One (1) member who shall be appointed from a list of at least three (3)**
5 **individuals nominated by the Kentucky Farm Bureau Federation;**
- 6 (d) The state president of the **Kentucky FFA Association**~~[Future Farmers of~~
7 ~~America]~~ who shall serve as a nonvoting member **for the duration of his or**
8 **her term;**
- 9 (e) The state president of the **Kentucky Young Farmers Association**~~[of America]~~
10 who shall serve as a nonvoting member **for the duration of his or her term;**
11 and
- 12 (f) The state president of the **Kentucky 4-H**~~[Club]~~ who shall serve as a nonvoting
13 member **for the duration of his or her term.**
- 14 (2) **The members who serve on the board and were appointed by the Governor shall**
15 **serve four (4) year terms and shall serve until their successors are duly appointed**
16 **and qualified. The initial appointments shall be for staggered terms, as follows:**
- 17 **(a) Three (3) members shall be appointed for one (1) year;**
18 **(b) Three (3) members shall be appointed for two (2) years;**
19 **(c) Three (3) members shall be appointed for three (3) years; and**
20 **(d) Four (4) members shall be appointed for four (4) years**~~[The nine (9) voting~~
21 ~~members from the state at large shall be experienced and practical farmers or~~
22 ~~agriculturalists]. No more than **eight (8)**~~[five (5)]~~ of the **thirteen (13)**~~[nine (9)]~~
23 shall belong to the same political party.~~
- 24 (3) Upon the expiration of the term of ~~a~~**each** member of the board~~, and every four (4)~~
25 ~~years thereafter], the Governor shall appoint a successor. **A board member whose**~~
26 **term has expired shall serve until a replacement has been appointed and**
27 **qualified. No person shall serve on the board for more than twelve (12) years.**

1 (4) The board shall be a body corporate under the corporate name "State Board of
2 Agriculture" and shall have the usual corporate powers.

3 ➔Section 2. KRS 246.130 is amended to read as follows:

4 The board shall meet at least four (4) times per year to consider the general agricultural,
5 horticultural, and forestry interests of the state, and to take the necessary steps for
6 carrying out the purpose of the board. The Commissioner may, and at the request of eight
7 (8)~~six (6)~~ of its voting members~~shall~~, call its meetings and the board may adjourn any
8 meeting to a time and place as may be determined. Eight (8)~~Six (6)~~ voting members
9 shall constitute a quorum. Eight (8)~~Six (6)~~ members may call the board together for the
10 transaction of business if the Commissioner, upon their request, refuses to do so.

11 ➔SECTION 3. KRS 251.010 IS REPEALED AND REENACTED TO READ AS
12 FOLLOWS:

13 *As used in this chapter, unless the context requires otherwise:*

14 *(1) "Board" means the State Board of Agriculture;*

15 *(2) "Claimant" means a person who:*

16 *(a) Possesses scale tickets, settlement sheets, ledger cards, or other written*
17 *evidence of ownership of fund-covered grain stored or possessed by a*
18 *licensee;*

19 *(b) Possesses warehouse receipts relating to fund-covered grain owned, stored,*
20 *or possessed by a licensee; or*

21 *(c) Possesses written evidence of a sale of fund-covered grain to a licensee but*
22 *did not receive full payment for the grain sold;*

23 *(3) "Cooperative agreement" means an agreement made by the board with a state or*
24 *federal agency for the purpose of carrying out the provisions of this chapter;*

25 *(4) "Department" means the Kentucky Department of Agriculture;*

26 *(5) "Depositor" means any person who deposits grain in a grain warehouse for*
27 *storage, handling, shipment, or is the owner or legal holder of an outstanding*

- 1 warehouse receipt, or who is lawfully entitled to possession of the grain;
- 2 (6) "Facility" means a single location with one (1) or more structures used for the
3 storage or handling of grain;
- 4 (7) "Failure" means the occurrence of one (1) or more of the following events:
- 5 (a) A licensee's inability to pay for storage obligations in accordance with
6 requirements set forth in statute, administrative regulation, or contract;
- 7 (b) A public declaration of insolvency;
- 8 (c) A revocation of a grain dealer license or grain warehouse operator license
9 and an outstanding obligation or indebtedness by the licensee;
- 10 (d) A failure to pay a producer in the ordinary course of business and a bona
11 fide dispute does not exist between the licensee and the producer;
- 12 (e) A failure to deliver a grain to a depositor in the ordinary course of business
13 and a bona fide dispute does not exist between the licensee and the
14 depositor;
- 15 (f) A failure to make timely application for license renewal; or
- 16 (g) A denial of license renewal application;
- 17 (8) "Forward pricing contract" means an agreement for sale which provides that:
- 18 (a) Title passes at the time of delivery; and
- 19 (b) The price will be determined at a later date;
- 20 (9) "Fund" means the Kentucky grain insurance fund established by Section 21 of
21 this Act;
- 22 (10) "Fund-covered grain" means grain as used in Section 13 of this Act;
- 23 (11) "Grain" means corn, wheat, soybeans, rye, barley, oats, grain sorghums, or
24 popcorn;
- 25 (12) "Grain dealer" means any person engaged in the business of buying grain from
26 producers for resale, milling, or processing. A producer of grain buying grain for
27 the producer's own use as seed or feed shall not be considered to be engaging in

- 1 the business of buying grain for resale, milling, or processing;
- 2 (13) "Grain warehouse operator" means a person who owns, controls, operates, or
- 3 manages any public grain warehouse in which grain is stored for compensation;
- 4 (14) "Gross value" means the value of grain after deductions for quality discounts,
- 5 including but not limited to discounts for excessive moisture or foreign matter,
- 6 but before deductions for storage or marketing charges;
- 7 (15) "Person" means any individual, partnership, firm, corporation, limited liability
- 8 company, or other corporate entity created under the laws of the Commonwealth
- 9 or any other jurisdiction;
- 10 (16) "Producer" means the owner, tenant, or operator of land who has an economic
- 11 or financial interest in grain or receives all or any part of the proceeds from the
- 12 sale of grain;
- 13 (17) "Seed" means grain that is set aside to be used for the purpose of producing new
- 14 plants;
- 15 (18) "Warehouse" means any building, structure, or other protected enclosure,
- 16 permanent or temporary, used or useable for the storage or conditioning of grain.
- 17 Buildings used in connection with or operation of the grain warehouse shall be
- 18 deemed part of the warehouse; and
- 19 (19) "Warehouse receipt" means a document of title issued by a person engaged in
- 20 the business of storing grains for compensation.

21 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO

22 READ AS FOLLOWS:

- 23 (1) The purpose of this chapter is to promote the welfare of the Commonwealth and
- 24 its people, and to provide economic stability for its agricultural and agribusiness
- 25 industries, by:
- 26 (a) Establishing a system of licensure for persons engaging in the business of
- 27 grain dealing;

- 1 (b) Establishing a system of licensure for persons engaging in the business of
 2 grain warehouse operating; and
- 3 (c) Establishing a grain insurance fund of which the purpose is to:
- 4 1. Protect producers of fund-covered grains against risk of loss in the
 5 event of a licensed grain dealer or grain warehouse operator's
 6 financial failure; and
- 7 2. Compensate eligible claimants of fund-covered grains for losses due to
 8 the failure of a licensed grain dealer or grain warehouse operator.
- 9 (2) The board, in conjunction with the department, shall be responsible for adopting
 10 and overseeing the policies, procedures, and programs to effectuate the purposes
 11 identified in this section.

12 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 13 READ AS FOLLOWS:

- 14 (1) Upon receiving grain, a licensee shall issue a scale ticket to the depositor.
- 15 (2) Upon request from a representative of the department, a licensee shall produce
 16 for inspection and copying the scale tickets and any other documents that were
 17 issued for received grain.

18 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 19 READ AS FOLLOWS:

- 20 (1) Every scale ticket issued by a licensed grain dealer or a licensed grain warehouse
 21 operator shall include the following information in writing:
- 22 (a) A statement indicating whether the delivery was inbound or outbound;
- 23 (b) The name of the depositor for inbound delivery or consignee for outbound
 24 delivery;
- 25 (c) The date of delivery;
- 26 (d) The name and street address of the location where the grain was delivered;
- 27 (e) The quantity of the grain that was delivered, in bushels or pounds;

1 (f) The kind and grade of grain delivered, unless its identity is preserved by
2 placing it in a special bin or a special pile which has a unique or identifying
3 mark that appears on the receipt;

4 (g) A statement whether the grain is being sold at a specified price or being
5 delivered pursuant to a forward pricing contract whose terms were pre-
6 approved by a representative of the department; and

7 (h) The scale ticket's serial number.

8 (2) Grain received by a licensee shall be weighed on department-approved scales.

9 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
10 READ AS FOLLOWS:

11 (1) No person shall be or act as a grain dealer in the Commonwealth without holding
12 a valid grain dealer license issued by the department.

13 (2) No person shall engage in the business of buying grain from producers for
14 resale, milling, or processing in the Commonwealth without holding a valid grain
15 dealer license issued by the department.

16 (3) No person shall be or act as a grain warehouse operator in the Commonwealth
17 without holding a valid grain warehouse operator license issued by the
18 department.

19 (4) No person shall own, control, operate, or manage any public warehouse in which
20 grain is stored for compensation in the Commonwealth without holding a valid
21 grain warehouse operator license issued by the department.

22 (5) Any person who possesses unpaid-grain for more than thirty (30) days shall be
23 deemed to be acting as a grain warehouse operator and shall be subject to the
24 licensing and financial requirements for grain warehouse operators under the
25 provisions of this chapter.

26 (6) Licenses issued by the department shall be valid for a period of time not to exceed
27 one (1) year and shall expire on June 30 each year.

1 (7) A separate license shall be required for each facility in the Commonwealth.

2 (8) The board, in conjunction with the department, shall promulgate administrative
3 regulations setting forth a schedule of fees for licensed grain warehouse
4 operators. Any changes to the schedule of fees shall be approved by a majority
5 vote of the board. The schedule of fees shall be reviewed by the board at least one
6 (1) time every four (4) years. The annual increase in board-approved license fees
7 shall be limited to five percent (5%) and shall not exceed twenty percent (20%)
8 over any four (4) year period.

9 (9) The board, in conjunction with the department, shall promulgate administrative
10 regulations setting forth a schedule of fees for licensed grain dealers. Any
11 changes to the schedule of fees shall be approved by a majority vote of the board.
12 The schedule of fees shall be reviewed by the board at least one (1) time every
13 four (4) years. The annual increase in board-approved license fees shall be
14 limited to five percent (5%) and shall not exceed twenty percent (20%) over any
15 four (4) year period.

16 (10) The department shall have the authority to suspend or revoke a license if the
17 board or department determines the licensee has violated a provision of this
18 chapter or any administrative regulation promulgated under this chapter.

19 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) Receipts collected from grain dealer or grain warehouse operator licensing fees
22 shall be used by the department to offset the cost of:

23 (a) The salary and benefits for employees in the department's Division of
24 Regulation and Inspection; and

25 (b) The vehicles, mileage, training, legal fees, accounting fees, and other
26 expenses incurred by the department of the board in connection with the
27 provisions authorized by this chapter.

1 (2) Receipts collected from grain dealer or grain warehouse operator licensing fees
 2 shall not be deposited in, or used to pay expenses incurred in connection with, the
 3 administration of the Kentucky grain insurance fund.

4 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 5 READ AS FOLLOWS:

6 (1) The department shall not issue or renew a grain dealer or grain warehouse
 7 operator license under this chapter until the applicant or licensee has filed with
 8 the department satisfactory evidence of financial responsibility.

9 (2) Evidence of financial responsibility shall:

10 (a) Consist of:

11 1. A surety bond, executed by the applicant as principal, and issued by a
 12 corporate surety authorized to conduct business in this state;

13 2. A certificate of deposit issued by a federally insured financial
 14 institution in this state;

15 3. An irrevocable letter of credit issued by a federally insured financial
 16 institution in this state;

17 4. Other security, as deemed acceptable by the department; or

18 5. Any combination of subparagraphs 1. to 4. of this paragraph, so long
 19 as the aggregate value of the evidence meets the requirements of this
 20 section;

21 (b) Be made payable to the board;

22 (c) Be in an amount meeting the requirements of this section;

23 (d) In the case of a bond, be conditioned upon the faithful performance of:

24 1. All obligations of a licensee under the terms of this chapter and any
 25 administrative regulations promulgated under it, from the effective
 26 date of the bond until the license is revoked, denied, or suspended or
 27 the bond is canceled, whichever comes first; and

- 1 2. Any obligations the applicant or licensee may contract for with
2 producers, depositors, or other persons placing grains in the
3 applicant's or licensee's facilities, from the effective date of the bond
4 and thereafter, regardless of whether or not the applicant's or
5 licensee's facility remains the subject of a valid license;
- 6 (e) Be filed with and remain in possession of the department until it is released,
7 canceled, or discharged as provided for by the terms of this chapter and any
8 administrative regulations promulgated under it;
- 9 (f) Be kept in force at all times while the licensee is operating as a grain
10 warehouse operator or grain dealer. Failure to keep the bond or other
11 security in force shall be cause for revocation of the license, and shall
12 subject the licensee to criminal penalties set forth in Section 25 of this Act;
13 and
- 14 (g) Contain a provision stating that it may not be canceled by any party, except
15 upon ninety (90) days' notice in writing to the department. A notice of
16 cancellation shall not affect any liability accrued before the expiration of
17 the notice period.
- 18 (3) Separate proof of financial responsibility shall be required for each facility that is
19 licensed by the department.
- 20 (4) For any security used as evidence under subsection (2) of this section that bears
21 interest, the interest shall be made payable to the purchaser of the security.
- 22 (5) No person may release, cancel, or discharge security filed with the department
23 under subsection (1) of this section without prior approval of the department and
24 its approval of a substitute bond or other security.
- 25 (6) If the department questions a licensee's ability to pay producers and depositors
26 for grain, or if the department determines that the licensee does not have a
27 sufficient net worth to meet the licensee's financial obligations, the department

1 shall require the licensee to file additional security with the department in an
 2 amount equal to the insufficiency. Failure to post the additional security shall
 3 constitute grounds for suspension or revocation of a license.

4 (7) The amount of the security required by subsection (1) of this section shall be in a
 5 principal amount, to the nearest one thousand dollars (\$1,000), that is equal to
 6 ten percent (10%) of:

7 (a) For a licensed grain dealer, the aggregate dollar amount:

8 1. That was paid by the dealer for grain purchased in the dealer's most
 9 recently completed fiscal year; or

10 2. That the department estimates will be paid by the grain dealer for
 11 grain purchased in the grain dealer's current fiscal year, if records for
 12 the grain dealer's most recently completed fiscal year do not exist or
 13 are not available; and

14 (b) For a licensed grain warehouse operator, the aggregate dollar value of:

15 1. The grain deposited in the grain warehouse operator's most recently
 16 completed fiscal year; or

17 2. The grain the department estimates will be deposited in the operator's
 18 warehouse during the current fiscal year, if records for the warehouse
 19 operator's most recently completed fiscal year do not exist or are not
 20 available.

21 (8) In no event shall the required security for a licensee be less than fifty thousand
 22 dollars (\$50,000) nor more than one million dollars (\$1,000,000).

23 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) A licensee using paper scale tickets, settlement sheets, or purchase contracts shall
 26 comply with the following requirements:

27 (a) Documents shall be pre-numbered sequentially; and

- 1 (b) Settlement sheet information shall be cross-referenced with scale tickets.
- 2 (2) A licensee using electronic scale tickets, settlement sheets, purchase contracts, or
3 other documents shall conform to the formats and procedures required by the
4 department.
- 5 (3) A licensee shall provide, and make available to the department or the board, a
6 complete and accurate set of business records, including:
- 7 (a) Records of all transactions, including records and accounts of all grains
8 received and withdrawn or delivered;
- 9 (b) Records, filed in numerical order, of all scale tickets, warehouse receipts,
10 and settlement sheets that have been issued, voiced, or lost; and
- 11 (c) Copies of contracts for the sale or storage of grain.
- 12 (4) A licensee shall retain its business records for a minimum of four (4) years.
- 13 (5) A licensed grain warehouse operator shall retain copies, either digitally or on
14 paper, of warehouse receipts or other documents evidencing ownership of any
15 grain, or any liability of the grain warehouse operator, so long as such
16 documents evidence a valid ownership interest or debt. A licensee shall retain
17 copies of such documents for a period of not less than four (4) years from the
18 date when the ownership interest or debt was extinguished.
- 19 (6) A licensee's accounting functions shall be performed in conformity with
20 generally accepted accounting principles.
- 21 (7) A licensee's business records shall accurately identify any liens or encumbrances
22 on grain that is held or owned by the licensee.
- 23 (8) A licensee shall provide to the department at least once annually, and upon
24 request, an audited financial statement that is certified by the licensee, its owner,
25 or other officer to be an accurate reflection of the licensee's financial condition,
26 except when exempted by subsection (5) of Section 19 of this Act.
- 27 (9) The board, in conjunction with the department, shall have authority to

1 *promulgate administrative regulations setting forth additional recordkeeping*
2 *requirements for licensees.*

3 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) No licensee shall enter into forward pricing contracts without first attaining*
6 *approval from the department to enter into these contracts. A licensee entering*
7 *into forward pricing contracts shall keep any records and ledgers the department*
8 *deems necessary to document the licensee's obligations.*

9 *(2) A licensee that has entered into a forward pricing contract shall make a copy*
10 *available for inspection by the department or the board upon request.*

11 *(3) Forward pricing contracts shall be in writing.*

12 *(4) The board, in conjunction with the department, shall promulgate administrative*
13 *regulations setting forth the minimum information that shall be included in any*
14 *forward pricing contract entered into by a licensee.*

15 *(5) By the tenth day of each month, any licensee that has entered into a forward*
16 *pricing contract shall submit to the department a report accurately reflecting its*
17 *position on the last day of the previous month.*

18 *(6) A licensee which has entered into one (1) or more forward pricing contracts shall*
19 *maintain at least eighty percent (80%) of the value of the licensee's unpaid*
20 *obligations for all grain purchased under forward pricing contracts, using one*
21 *(1) or more of the following:*

22 *(a) Grain maintained in storage in the licensee's warehouse or other storage*
23 *facilities;*

24 *(b) Rights in grain as evidenced by a warehouse receipt or scale ticket for*
25 *storage of the grain under an agreement with another warehouse approved*
26 *by a representative of the department; or*

27 *(c) Proceeds from the sale of grain as evidenced by one (1) or more of the*

1 following:

2 1. Funds held in a separate account, designated for the benefit of unpaid
 3 sellers of grain that was delivered under forward pricing contracts, in
 4 a state or federally licensed financial institution or a lending agency of
 5 the Farm Credit Administration;

6 2. Short-term investments held in time accounts, designated for the
 7 benefit of unpaid sellers of grain that was delivered under forward
 8 pricing contracts, in a state or federally licensed financial institution
 9 or a lending agency of the Farm Credit Administration; or

10 3. Other evidence of unencumbered security or assets acceptable to the
 11 department, including but not limited to an irrevocable letter of credit
 12 or surety bond.

13 (7) If the department or the board determines that a licensee does not have sufficient
 14 net worth to satisfy the indebtedness, the department shall prohibit the transfer or
 15 disbursement of any grain, property, or assets except for the satisfaction of
 16 unpaid obligations for grain that was delivered under forward pricing contracts.
 17 Disbursements of payments to sellers shall be made on a pro rata basis of the
 18 value of the remaining grain.

19 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) The department shall inspect each licensed grain warehouse at least two (2) times
 22 each year. The department's inspection shall include:

23 (a) A determination whether the grain in storage is properly accounted for;

24 (b) An assessment of the storage facilities for fitness; and

25 (c) An assessment of the condition of the grain in storage.

26 (2) The department shall permit a licensee to store grain at another facility that is
 27 licensed and located in the Commonwealth of Kentucky, if the requirements for a

1 surety bond or other evidence of financial responsibility set forth in Section 9 of
 2 this Act are satisfied.

3 (3) A licensee that is short of grain may cover the shortage by:

4 (a) Acquiring additional bond on one hundred percent (100%) of the value of
 5 the grain; or

6 (b) Depositing the shortage value of the grain into a special account that is
 7 payable jointly to the licensee and the department.

8 (4) The department may allow a licensee that is short of grain to substitute one (1)
 9 type of grain for another type of grain on a dollar-for-dollar basis.

10 (5) The department shall inspect each licensed grain dealer at least one (1) time each
 11 year. The department's inspection shall include:

12 (a) An inspection of the licensee's scale tickets, settlements, and canceled
 13 checks; and

14 (b) Verification that payments are made by the dealer within thirty (30) days of
 15 the completion of delivery.

16 (6) A licensee that is short of grain shall correct any deficiencies identified by the
 17 department within the deadline mandated by the department.

18 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 19 READ AS FOLLOWS:

20 (1) The following grains shall be fund-covered grains:

21 (a) Corn, wheat, soybeans, grain sorghums, rye, barley, oats, or popcorn; and

22 (b) Other grains that may be approved for "fund-covered grain status" by a
 23 majority vote of the board.

24 (2) The board shall not approve for "fund-covered grain status" any grain that is not
 25 publicly traded on at least one (1) exchange in the United States or Canada.

26 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 27 READ AS FOLLOWS:

- 1 (1) Except as provided in subsections (2) and (3) of this section, any claimant who
2 delivers fund-covered grain to a licensed grain dealer or licensed grain
3 warehouse operator shall be eligible for coverage by the fund.
- 4 (2) Any person who submits to the department, not later than January 31, a written
5 notice of intent not to be covered by the fund, shall:
- 6 (a) Be entitled to receive from the board a refund of any assessments collected
7 from that person pursuant to Section 21 of this Act during the course of
8 that calendar year; and
- 9 (b) Remain ineligible for coverage and compensation by the fund for any grain
10 that may be delivered by or on behalf of that person to any licensee during
11 the course of that calendar year.
- 12 (3) By submitting a timely written notice of intent not to be covered by the fund as
13 provided under subsection (2) of this section, a person foregoes any protection or
14 eligibility for compensation from the fund for grain that may be delivered during
15 the course of that calendar year. The written notice shall:
- 16 (a) Be effective with respect to eligibility for coverage only to the fund-covered
17 grain delivered in that calendar year; and
- 18 (b) Not have any effect with respect to eligibility for coverage for fund-covered
19 grain delivered in previous calendar years or in subsequent calendar years.
- 20 (4) Any person who does not submit to the department, on or before January 31, a
21 written notification of intent not to be covered by the fund shall:
- 22 (a) Not be entitled to receive a refund of any assessments that may be collected
23 from that person pursuant to Section 21 of this Act during the course of
24 that calendar year; and
- 25 (b) Remain eligible for coverage by the fund for any fund-covered grain
26 delivered by or on behalf of that person to any licensee during the course of
27 that calendar year.

1 (5) Any person who submits a written notice of intent not to be covered by the fund
 2 shall be deemed also to have given notice of intent not to be covered to the extent
 3 of his, her, or its ownership interest in any other entities in which he, she, or it
 4 holds such an interest.

5 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 6 READ AS FOLLOWS:

7 (1) When a depositor stores grain with a grain warehouse operator and has written
 8 evidence of ownership disclosing a storage obligation, the producer or other
 9 depositor has a first priority lien on the grain, the proceeds from the grain, or on
 10 grain owned by the grain warehouse operator. The lien terminates when the
 11 storage liability of the grain warehouse operator to the depositor terminates.

12 (2) The lien created under this section shall be preferred to any lien or security
 13 interest of any creditor to the grain warehouse operator, regardless of whether
 14 the creditor's lien or security interest was attached to the grain or proceeds before
 15 or after the date on which the producer or other depositor's lien was attached.

16 (3) A depositor who claims a lien under this section need not file any notice of the
 17 lien in order to perfect the lien.

18 (4) The lien created under this section is discharged, except as to the proceeds
 19 therefrom and except as to grain owned by the grain warehouse operator, upon
 20 sale of the grain by the warehouse operator to a buyer in the ordinary course of
 21 business.

22 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) When the board determines there has been a failure involving a licensed grain
 25 dealer or licensed grain warehouse operator, the board shall have the authority
 26 to:

27 (a) Take receivership of any grain on the licensee's premises to ensure that it is

- 1 not destroyed, lost, stolen, or otherwise disposed of;
- 2 (b) Sell the grain and place the proceeds in escrow for the benefit of the
3 owners, or for the benefits of claimants, when the identities of those persons
4 have been identified;
- 5 (c) Establish a priority lien on any grain or other assets that remain in the
6 licensee's possession, custody, or control;
- 7 (d) Secure and take possession of any grains or other commodities in the
8 possession, custody, or control of the failed grain dealer or grain warehouse
9 operator for the purpose of using it to cover outstanding storage obligations.
10 If there is insufficient grain to cover outstanding shortage obligations, the
11 board shall determine each depositor's pro rata share of the value of the
12 remaining grain. Any remaining deficiency shall be considered a claim of
13 the producer or depositor against the fund, if applicable. Each grade of
14 grain shall be treated separately for the purpose of covering outstanding
15 storage obligations and calculating claims against the fund;
- 16 (e) Commence action upon the surety bond, certificate of deposit, letter of
17 credit, or temporary surety as required by Section 9 of this Act. The board
18 may commence action against both the licensee and the surety or other
19 financial institution in the Franklin Circuit Court or a Circuit Court in the
20 county where the grain is located;
- 21 (f) Deposit into the fund any remaining assets of the failed grain dealer or
22 grain warehouse operator for the purpose of using those assets to pay
23 claimants;
- 24 (g) Establish a period of time, not less than thirty (30) days and not greater
25 than one (1) year, for potential claimants to file their claims with supporting
26 documentation;
- 27 (h) Make a public announcement of the procedure and deadline for potential

1 claimants to file their claims;

2 (i) Examine timely filed claims and make such investigation as may be
3 necessary for the board to determine whether a claim is a valid claim;

4 (j) Determine which of the claims that were submitted in advance of the
5 deadline are valid claims;

6 (k) Assign to each valid claim an initial value computed as a percentage of the
7 value of the grain on the date when it was delivered by the claimant to the
8 licensee, relying on the value established for that grain by the Chicago
9 Board of Trade on the date of delivery. If there is no price information from
10 the Chicago Board of Trade for that grain on that date, then the board shall
11 rely on price information from another exchange in the United States or
12 Canada. If there is no price information from any exchange in the United
13 States or Canada for that grain on that date, the board shall determine an
14 alternative method for determining a value for that grain on that date;

15 (l) Compute claim values by applying these percentages to each valid claim's
16 initial value:

17 1. One hundred percent (100%), for valid claims that are evidenced by a
18 grain warehouse receipt issued by a federally licensed warehouse; or

19 2. Ninety percent (90%), for all other valid claims; and

20 (m) Notify each claimant in writing of the board's determination as to:

21 1. The validity of the claim;

22 2. The value of the grain claimed by the claimant;

23 3. The amount and percent of value that will be reimbursed by the fund;

24 and

25 4. The claimant's right to request a hearing on his or her claim within
26 thirty (30) days of the claimant's receipt of the written notification.

27 (2) The board shall not approve for payment from the fund any claims with respect to

1 grains that are not fund-covered grains.

2 (3) The board shall not compute a claim's value in reliance on the price or other
 3 terms of agreement between a claimant and a licensee.

4 (4) If a producer or other depositor fails to file a claim within the time announced by
 5 the board, then the board and the fund shall not be liable to that depositor.

6 (5) If the board fails to commence action against the surety bond, certificate of
 7 deposit, letter of credit, or temporary surety that Section 9 of this Act required the
 8 licensee to obtain within thirty (30) days of a depositor making a written demand
 9 that the board commence action, then the depositor shall have a right of action
 10 against the licensee to recover damages suffered by reason of the licensee's
 11 failure. The depositor shall give the board immediate written notice of the
 12 commencement of such action.

13 (6) The board shall deny payment from the fund to a claimant when the board
 14 determines that the claimant:

15 (a) Elected to opt out of coverage, as permitted by Section 14 of this Act; or

16 (b) Engaged in conduct or practices which substantially contributed to the
 17 claimant's financial loss.

18 (7) A claimant who accepts payment from the fund shall be deemed to have assigned
 19 to the board all of the claimant's rights, title, and interest in the grain and in any
 20 judgment with respect to the grain. The board shall have the authority to initiate
 21 or maintain any civil action it deems necessary to compel a licensee or a former
 22 licensee to repay to the fund any sums disbursed therefrom in relation to a claim.

23 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO
 24 READ AS FOLLOWS:

25 Any person injured by the violation of any provision in this chapter may bring an
 26 action against the person or corporation that committed the violation to recover
 27 damages sustained due to the violation without regard to whether or not the person or

1 corporation committing the violation has been subjected to other civil or criminal
 2 penalties.

3 → Section 18. KRS 251.020 is amended to read as follows:

4 The~~[State]~~ board~~[of Agriculture]~~ shall have the following powers, and all powers
 5 incidental or necessary to same, in carrying out the duties set forth in Section 4 of this
 6 Act, in addition to the powers enumerated elsewhere within this chapter and in other
 7 chapters to:

8 (1) ~~[Have general supervision of the administration of the provisions of this chapter;~~

9 ~~(2) — Make and]Promulgate~~ administrative~~[such]~~ regulations, in conjunction with the
 10 department,~~[as are]~~ necessary for the proper administration and enforcement of
 11 the provisions of this chapter, and for the accomplishment of the purposes
 12 intended by this chapter~~[or desirable to effectuate the purposes of this chapter];~~

13 ~~(2)~~~~(3)]~~ Enter into cooperative agreements with state agencies, federal agencies,
 14 universities, and other entities;~~[Make such reasonable regulations with respect to~~
 15 ~~the construction and maintenance of granaries, cribs, bins or other receptacles as~~
 16 ~~may be necessary to protect the grain stored there under this chapter; and]~~

17 ~~(3)~~~~(4)]~~ Make application to the Franklin Circuit Court, or a Circuit Court in the
 18 county where a licensed grain facility is located, for an order enjoining actions
 19 on the part of any person that would constitute a violation of any section of this
 20 chapter or any administrative regulation promulgated under the authority of this
 21 chapter;~~[Prepare and have printed under the same conditions as other state printing~~
 22 ~~the necessary blanks, forms and other printed matter, and make such charges to~~
 23 ~~persons desiring the printed matter as shall meet the cost of production.]~~

24 (4) Bring or defend civil actions that relate to the provisions of this chapter, the
 25 department's actions, or the board's actions under the authority of this chapter.
 26 Legal expenses incurred shall be approved for payment by the board; and

27 (5) Take disciplinary action against any current or former licensee.

1 ➔Section 19. KRS 251.440 is amended to read as follows:

2 (1) Application for license as a grain warehouse operator or grain dealer shall:

3 (a) Set forth the name of the applicant, its principal officer, if a corporation, or the
4 active members of a partnership if a partnership; ~~and the~~

5 (b) Identify the location or locations of the principal office or place of business
6 and the locations in this state at which applicant proposes to engage in this
7 business; and ~~Application shall~~

8 (c) Be accompanied by a bond as set forth in Section 9 of this Act~~[KRS 251.451]~~.

9 The bond shall run to the Commonwealth~~[State]~~ of Kentucky and be for the
10 benefit of all persons storing grain in the licensee's warehouse or selling
11 grain to the licensee. ~~It shall be conditioned upon the warehouseman~~
12 ~~carrying combustion, fire, lightning, and tornado insurance sufficient to cover~~
13 ~~loss upon all stored grain in the warehouse, and the delivery of all stored grain~~
14 ~~or payment of the value of the grain upon the surrender of the warehouse~~
15 ~~receipt or scale ticket, and upon the faithful performance by the~~
16 ~~warehouseman of all provisions of law relating to the storage and handling of~~
17 ~~grain by the warehouseman and the administrative regulations promulgated by~~
18 ~~the Kentucky Department of Agriculture relative to the storage and handling~~
19 ~~of grain.]~~

20 (2) The department may deny~~refuse to issue~~ a license to any applicant or revoke the
21 existing license if the applicant or licensee:~~of one who~~

22 (a) Furnishes false or misleading information or conceals a material fact on the
23 application or other supporting documents;~~]~~

24 (b) Has been convicted of fraud or deceptive practice;~~]~~

25 (c) Is currently adjudicated incompetent by a court of competent jurisdiction;~~]~~

26 (d) Fails to maintain an asset to liability ratio of not less than one to one (1:1) or
27 fails to post additional surety to cover the deficiency; ~~or]~~

1 (e) Violates a provision of this chapter; or

2 (f) For other good cause shown.

3 (3) Any ~~person~~^{individual} denied a license or whose license has been revoked for
4 these reasons shall:

5 (a) Be given written notice within thirty (30) working days of receipt of
6 application or prior to revocation; and~~. Any applicant who is denied a~~
7 ~~license or has had his license revoked and feels aggrieved,~~

8 (b) May request a hearing by writing to the board~~[Commissioner of Agriculture].~~
9 Upon request, a hearing shall be conducted in accordance with KRS Chapter
10 13B.

11 (4)~~(3)~~ The department shall not approve an~~[All applications]~~ application for a
12 grain warehouse operator's~~[warehouseman]~~ license without first verifying that the
13 applicant has~~[shall be accompanied by]~~ a current audited financial statement and
14 proof of insurance against risk of loss that is sufficient to cover all grain stored
15 by the grain warehouse operator.

16 (5) The department shall not approve an application for a grain dealer's license
17 without first verifying that the applicant has a current audited financial
18 statement. This requirement shall not apply to a grain dealer license applicant
19 whose total annual purchases in each of the last three (3) years did not exceed
20 fifty thousand (50,000) bushels.

21 ➔Section 20. KRS 251.500 is amended to read as follows:

22 (1) A~~[warehouse]~~ license issued under the authority of this chapter shall become
23 invalid upon:

24 (a) The change of management;~~[,]~~

25 (b) Cessation of operations;~~[,]~~

26 (c) Change of partners in a partnership;~~[,]~~

27 (d) Change of corporate structure of a corporation;~~[,]~~

1 (e) Failure to remit license fees or fines;~~[,] or~~

2 (f) A sale.

3 (2) A~~Every~~ licensee~~licensed warehouseman~~ shall immediately notify the department
4 as to any change and shall deliver his license to the~~office of the~~ department
5 together with a notarized statement setting forth the arrangements made with
6 depositors for final disposition of~~the~~ grain in storage and for fulfilling any
7 current~~the~~ obligations~~of the retiring warehouseman~~.

8 (3) If there is to be~~In the case of~~ a successor, the successor shall apply for a new
9 license.

10 (4) If there is a change of management or cessation of operations, the department~~,~~
11 ~~when deemed appropriate,~~ may cause an audit and examination to be made. In
12 these cases, all records required in this chapter~~KRS 251.480~~ shall be available to
13 the department until the department is satisfied that all obligations have been met.

14 ➔Section 21. KRS 251.640 is amended to read as follows:

15 (1) It is declared to be in the public interest and highly advantageous to the agricultural
16 economy of the Commonwealth~~state~~ that~~all~~ producers of fund-covered
17 grains~~grain~~ delivered to licensed grain dealers and licensed grain warehouse
18 operators shall be assessed at a rate of .0025 times the gross value of the fund-
19 covered~~all marketed~~ grain,~~and~~ The board or the department shall provide for
20 the collection of the assessment, under the provisions of this section, for the
21 purpose of financing~~or contributing to the financing of~~ the Kentucky grain
22 insurance fund, which is hereby created. Assessments shall be levied only on fund-
23 covered grains.

24 (2) Except as provided in subsection (3) of this section, beginning on or after August
25 1, 2019,~~Upon the establishment of the Kentucky Grain Insurance Corporation, the~~
26 ~~Commissioner shall notify by certified mail,~~ all persons in this state who are
27 licensed grain dealers or licensed grain warehouse operators shall

1 ~~deduct~~[engaged in the business of purchasing grain from producers, that on and
 2 after the date specified in the letter,] the levied[specified] assessment[shall be
 3 deducted] from each[the] producer's payment[by the purchaser, or his agent or
 4 representative, from the purchase price] for[of the] fund-covered grain. The
 5 total[deducted] assessment collected by each licensee shall, on or before the
 6 fifteenth day of the month following the end of the month in which the grains are
 7 sold to the purchaser, be remitted[by the purchaser] to the grain insurance fund.
 8 The books and records[of all purchasers of grain, which] shall clearly indicate the
 9 producer assessment and[,] shall[at all times] be open for inspection by the board
 10 or the department[Commissioner of Agriculture or his duly authorized agents
 11 during regular business hours]. The board or the department[Commissioner or his
 12 agents] may take steps as are reasonably necessary to verify the accuracy of books
 13 and records of purchasers of grain.

- 14 (3) (a) [~~Beginning with the first assessment levied on or after June 25, 2009, no~~
 15 ~~assessments shall be collected by the department under paragraph (b) of this~~
 16 ~~subsection unless~~]Beginning on August 1, 2019, no assessment shall be
 17 collected if the board has certified that the fund is greater[less] than three
 18 million dollars (\$3,000,000). If the board receives notification the fund is
 19 less than three million dollars (\$3,000,000), then the board shall within
 20 sixty (60) days reinstate the assessment fee of .0025 times the gross value of
 21 the fund-covered grain purchased. Assessments shall continue until the
 22 board certifies the fund is in excess of ten million dollars (\$10,000,000)[~~For~~
 23 ~~subsequent assessments, the provisions and amounts specified in paragraph~~
 24 ~~(b) of this subsection apply~~].
- 25 (b) No later than April 30 of each year, the board shall meet and certify the
 26 amount in the fund. If[and when] the board certifies the fund's[fund]
 27 current balance is more than ten million dollars (\$10,000,000), then no

1 ~~*assessment*~~~~[fees]~~ shall be *levied*~~[assessed by the department unless the~~
2 ~~amount in the fund drops below ten million dollars (\$10,000,000). If the fund~~
3 ~~is more than ten million dollars (\$10,000,000), no later than April 30 of each~~
4 ~~year, the board shall meet and certify the fund is in excess of ten million~~
5 ~~dollars (\$10,000,000). Upon this certification, no assessment shall be assessed~~
6 ~~or collected for that licensed year. If at any time after the board has certified~~
7 ~~the ten million dollars (\$10,000,000) amount,]~~ *If* the board receives
8 ~~notification[of]~~ the fund *balance is*~~[being]~~ less than eight million dollars
9 ~~(\$8,000,000), *then* the board[shall within thirty (30) days certify that the fund~~
10 ~~has less than eight million dollars (\$8,000,000), and]~~ *shall reinstate* the
11 ~~assessment *within sixty (60) days*[shall be reinstated]. Upon notification from~~
12 ~~the board, the department shall *notify each licensee and shall begin*~~
13 ~~*collecting*[within thirty (30) days reinstate] the assessment *within sixty (60)*~~
14 ~~*days*[fee of .0025 times the gross value of the grain purchased].~~

15 ~~(4)[—Any producer upon and against whom the assessment is levied and collected under~~
16 ~~the provisions of this section, if dissatisfied with the assessment, may demand of~~
17 ~~and receive from the treasurer of the grain insurance corporation a refund of~~
18 ~~assessment collected from the producer, if the demand for refund is made in writing~~
19 ~~within thirty (30) days from the date on which the assessment is collected from the~~
20 ~~producer. By voluntarily submitting to a refund, the producer forgoes any protection~~
21 ~~or compensation provided for by the grain insurance corporation.~~

22 ~~(5)—When in the judgment of the board or the duly certified association, a purchaser has~~
23 ~~engaged in or is about to engage in any acts or practices that constitute a violation of~~
24 ~~any of the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, or~~
25 ~~251.600 to 251.740, the grain insurance corporation may make application to the~~
26 ~~Franklin Circuit Court for an order enjoining the acts or practices, and obtain a~~
27 ~~restraining order and preliminary injunction against the purchaser.~~

1 ~~(6)~~ The assessments by the **board**~~[department]~~ in accordance with this section are in
2 addition to any other fees or assessments required by law.

3 ➔ Section 22. KRS 251.650 is amended to read as follows:

4 (1) **The total value of**~~[All]~~ assessments~~[by the department in accordance with KRS~~
5 ~~251.640]~~ shall be **deposited and** held by the **board**~~[corporation]~~ in trust in the
6 Kentucky grain insurance fund **to pay valid claims under the provisions of this**
7 **section and Section 16 of this Act**~~[for carrying out the purposes of KRS 251.410,~~
8 ~~251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740]~~. These funds shall be
9 invested and reinvested in United States Treasury obligations at the
10 **direction**~~[discretion]~~ of the **board**~~[corporation]~~, and the interest from these
11 investments shall be deposited to the credit of the fund and shall be available for the
12 same purposes as all other money deposited in the fund. The money in the fund
13 shall not be available for any purpose other than the payment of claims in
14 accordance with **Section 16 of this Act, refunds, legal fees, management fees,**
15 **investment fees, and administration fees that are approved by the board. No**
16 **money in this fund shall be used for any regulatory or licensing provision in this**
17 **chapter**~~[KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to~~
18 ~~251.740, and shall not be transferred to any fund other than the grain indemnity trust~~
19 ~~fund, which is hereby created. This limiting and nontransferability provision shall~~
20 ~~not be severable from the whole of KRS 251.410, 251.430, 251.440, 251.451,~~
21 ~~251.490, and 251.600 to 251.740; and if the provision is held invalid, repealed, or~~
22 ~~substantially amended, KRS 251.410, 251.430, 251.440, 251.451, 251.490, and~~
23 ~~251.600 to 251.740 shall immediately become invalid, and to this end, the provision~~
24 ~~is declared to be nonseverable].~~

25 (2) Notwithstanding the provisions of subsection (1) of this section, the board may
26 authorize the investment of funds for the Kentucky grain insurance fund through the
27 **Finance and Administration Cabinet's Office of Financial**

1 Management~~[Kentucky Commission for Investments]~~ in any guaranteed security or
 2 other guaranteed investment recommended by the office~~[commission]~~ if the board
 3 determines the recommendation would maximize the interest or income to the fund.

4 (3) Notwithstanding the provisions of subsection (1) of this section, the board is
 5 authorized to pay management and investment fees from the interest or
 6 income earned~~[produced]~~ by the investing of the Kentucky grain insurance
 7 fund~~:~~

8 ~~(a) The ordinary management and investment fees assessed in accordance with
 9 statute or administrative regulation; and~~

10 ~~(b) A per diem of fifty dollars (\$50) to board members for each board meeting
 11 they attend, and reimbursement for other reasonable and necessary expenses
 12 incurred while engaged in carrying out the official duties of the board].~~

13 (4) Notwithstanding the provisions of subsection (1) of this section, the board may
 14 authorize the payment of legal fees, in actions brought by or against the board that
 15 relate to the~~[Kentucky grain insurance]~~ fund or the administration of the fund,~~[~~
 16 exclusively] from the interest or income earned from the investment of the
 17 Kentucky grain insurance fund.

18 (5) All legal expenses, management fees, investment fees, and administration fees
 19 incurred must be approved~~[for payment]~~ by the board.

20 ➔Section 23. KRS 251.660 is amended to read as follows:

21 In the event the~~[that]~~ amount~~[amounts]~~ in the Kentucky grain insurance fund is~~[are]~~
 22 insufficient to pay~~[the]~~ approved claims,~~[funds to satisfy the unpaid claims shall be~~
 23 ~~made available to the corporation as provided by this section. KRS 251.410, 251.430,~~
 24 ~~251.440, 251.451, 251.490, and 251.600 to 251.740]~~ the unpaid claims shall be deemed
 25 a necessary government expense. Upon notification from the board of the amount of
 26 unpaid claims~~[shall constitute an irrevocable and continuing appropriation for, and~~
 27 ~~direction to],~~ the secretary of the Finance and Administration Cabinet and the State

1 Treasurer ~~shall to~~ make the necessary transfers from any unbudgeted balance of the
 2 general fund to pay the unpaid claims. The general fund shall be reimbursed from the
 3 assessment in accordance with Section 21 of this Act ~~and disbursements from the~~
 4 ~~revenues and funds of the state for that purpose. The state shall be reimbursed~~, with
 5 interest at the rate paid on ninety (90) day United States Treasury bills, for any amounts
 6 transferred and paid to claimants under this section. The board shall reimburse the
 7 general fund prior to any money from the assessment being deposited into the
 8 Kentucky grain insurance fund ~~paid under this section upon replenishment of the fund~~
 9 ~~from assessments made in accordance with KRS 251.640~~.

10 → Section 24. KRS 251.730 is amended to read as follows:

11 If irregularities are suspected, the department may issue subpoenas or subpoenas duces
 12 tecum to compel the attendance of witnesses or the production of books, documents and
 13 records anywhere in the Commonwealth ~~state~~ in any hearing ~~,~~ affecting the authority or
 14 privilege granted by a license, or to verify the accuracy of any books or records subject to
 15 inspection under the provisions of this chapter ~~KRS 251.410, 251.430, 251.440,~~
 16 ~~251.451, 251.490, and 251.600 to 251.740~~.

17 → Section 25. KRS 251.990 is amended to read as follows:

18 (1) Except as provided otherwise in this section, any person who violates ~~a~~ ~~the~~
 19 ~~provisions~~ provision of this chapter ~~KRS 251.430 to 251.720~~ shall be guilty of a
 20 violation for the first offense and fined not more than five hundred dollars
 21 (\$500). He or she shall be guilty of a Class A misdemeanor and shall be fined not
 22 more than one thousand dollars (\$1,000) or imprisoned for up to six (6) months,
 23 or both, for each subsequent offense. Each day of operation in violation of the
 24 provisions of this chapter ~~KRS 251.430 to 251.720~~ shall constitute a separate
 25 offense.

26 (2) Any person who operates as a grain warehouse operator or a grain dealer without
 27 a license ~~as required by KRS 251.430 or 251.720~~ shall be guilty of a Class D

- 1 **felony and shall be** fined not more than ten thousand dollars (\$10,000) for each
2 violation, not to exceed a total of five hundred thousand dollars (\$500,000), or
3 imprisoned for at least one (1) but not more than five (5) years, or both.
- 4 (3) Any person who intentionally refuses or fails to pay moneys collected for
5 assessment of grain under the Kentucky grain insurance fund~~[Program]~~ as set forth
6 in KRS 251.640 shall be **guilty of a Class A misdemeanor and shall be** subject to a
7 fine of not more than five hundred dollars (\$500), or imprisoned for not more than
8 six (6) months, or both.
- 9 (4) Any person who fails **to comply with the requirement in Section 11 of this Act**~~[or~~
10 ~~refuses]~~ to maintain at all times grain in storage, rights in grain, proceeds from the
11 sale of grain, or a combination of the grain, rights, and proceeds equal to eighty
12 percent (80%) of the value of a licensed grain storage establishment's unpaid
13 obligations to producers for grain delivered under a forward pricing~~[(delayed~~
14 ~~pricing)]~~ contract~~[as required by KRS 251.485 or 251.675]~~ shall be fined not more
15 than ten thousand dollars (\$10,000) for each violation, not to exceed a total of five
16 hundred thousand dollars (\$500,000), or imprisoned for at least one (1) year but not
17 more than five (5) years, or both.
- 18 (5) Any person who knowingly makes any false statement, representation, or
19 certification, or who knowingly fails to make any statement, representation, or
20 certification in any record, report, or other document~~[filed or required to be~~
21 ~~maintained by the Commissioner in violation of KRS 251.485(2)]~~ shall **be guilty of**
22 **a Class D felony and**~~[upon conviction be]~~ fined not more than one thousand dollars
23 (\$1,000) for each violation, not to exceed a total of five hundred thousand dollars
24 (\$500,000), or imprisoned for at least one (1) year but not more than five (5) years,
25 or both.
- 26 (6) Any person who transfers or disburses grain, property, or assets~~[from the licensed~~
27 ~~grain establishment's handler account]~~ in violation of **a provision of this**

1 ~~chapter~~[KRS 251.485(2)] shall **be guilty of a Class D felony and**[upon conviction]
 2 be fined not more than ten thousand dollars (\$10,000) for each violation, not to
 3 exceed a total of five hundred thousand dollars (\$500,000), or be imprisoned for at
 4 least one (1) year but not more than five (5) years, or both.

5 (7) Except as permitted by law, any person who willfully and knowingly resists,
 6 prevents, impedes, or interferes with **a representative of the board or**[the
 7 ~~Commissioner or other agents or employees of~~] the department in performance of
 8 the duties assigned by **a provision of this chapter**[KRS 251.485 or 251.675], shall
 9 **be guilty of a Class C felony and**[upon conviction] be fined not more than ~~ten~~[five]
 10 thousand dollars (**\$10,000**)[(\$5,000)] for each violation, or imprisoned for not more
 11 than ~~ten (10)~~[one (1)] [~~year~~]**years**, or both.

12 (8) If a **business entity**[corporate grain establishment license holder] violates any
 13 provision of **this chapter**[KRS 251.485 or 251.675 or any administrative
 14 regulations that pertain to KRS 251.485 or 251.675], or if it fails or refuses to
 15 comply with any lawful order issued by **a representative of the board or the**
 16 **department**[the Commissioner], **then** any director, officer, or agent of the **business**
 17 **entity**[corporation] who willfully and knowingly authorized, ordered, or carried out
 18 the violation, failed, or refused to comply with **the**[any] lawful order [~~issued by the~~
 19 ~~Commissioner~~] shall be subject to the same penalties, fines, and imprisonment as
 20 may be imposed upon a person in accordance with this section.

21 (9) Any person who fails to renew a license within the time frame required by **Section 7**
 22 **of this Act**[KRS 251.430 or 251.720] shall be fined one hundred fifty dollars
 23 (\$150).

24 (10) All fines or penalties collected from violators of the provisions of this chapter shall
 25 be used to carry out the provisions of this chapter.

26 ➔Section 26. KRS 64.012 is amended to read as follows:

27 The county clerk shall receive for the following services the following fees:

- 1 (1) (a) Recording and indexing of a:
- 2 1. Deed of trust or assignment for the benefit of creditors;
- 3 2. Deed;
- 4 3. Real estate mortgage;
- 5 4. Deed of assignment;
- 6 5. Real estate option;
- 7 6. Power of attorney;
- 8 7. Revocation of power of attorney;
- 9 8. Lease which is recordable by law;
- 10 9. Deed of release of a mortgage or lien under KRS 382.360;
- 11 10. United States lien;
- 12 11. Release of a United States lien;
- 13 12. Release of any recorded encumbrance other than state liens;
- 14 13. Lis pendens notice concerning proceedings in bankruptcy;
- 15 14. Lis pendens notice;
- 16 15. Mechanic's and artisan's lien under KRS Chapter 376;
- 17 16. Assumed name;
- 18 17. Notice of lien issued by the Internal Revenue Service;
- 19 18. Notice of lien discharge issued by the Internal Revenue Service;
- 20 19. Original, assignment, amendment, or continuation financing statement;
- 21 20. Making a record for the establishment of a city, recording the plan or
- 22 plat thereof, and all other service incident;
- 23 21. Survey of a city, or any part thereof, or any addition to or extensions of
- 24 the boundary of a city;
- 25 22. Recording with statutory authority for which no specific fee is set,
- 26 except a military discharge; and
- 27 23. Filing with statutory authority for which no specific fee is set.

- 1 For all items in this subsection if the entire thereof does not exceed
- 2 three (3) pages\$12.00
- 3 And, for all items in this subsection exceeding three (3) pages,
- 4 for each additional page\$3.00
- 5 And, for all items in this subsection for each additional reference
- 6 relating to same instrument\$4.00
- 7 (b) The twelve dollar (\$12) fee imposed by paragraph (a) of this subsection shall
- 8 be divided as follows:
- 9 1. Six dollars (\$6) shall be retained by the county clerk; and
- 10 2. Six dollars (\$6) shall be paid to the affordable housing trust fund
- 11 established in KRS 198A.710 and shall be remitted by the county clerk
- 12 within ten (10) days following the end of the quarter in which the fee
- 13 was received. Each remittance to the affordable housing trust fund shall
- 14 be accompanied by a summary report on a form prescribed by the
- 15 Kentucky Housing Corporation.
- 16 (2) Recording and indexing a file-stamped copy of documents set forth in KRS 14A.2-
- 17 040(1) or (2) that have been filed first with the Secretary of State:
- 18 (a) The entire record thereof does not exceed three (3) pages\$10.00
- 19 (b) And, exceeding three (3) pages, for each additional page\$3.00
- 20 (3) Recording wills or other probate documents pursuant to KRS
- 21 Chapter 392 or 394\$ 8.00
- 22 (4) Recording court ordered name changes pursuant to KRS Chapter 401\$ 8.00
- 23 (5) For noting a security interest on a certificate of title pursuant to
- 24 KRS Chapter 186A\$12.00
- 25 (6) For filing the release of collateral under a financing statement
- 26 and noting same upon the face of the title pursuant to KRS Chapter
- 27 186 or 186A\$5.00

1 (7) Filing or recording state tax or other state liens\$5.00

2 (8) Filing release of a state tax or other state lien\$5.00

3 (9) Marginal release, noting release of any lien, mortgage, or redemption

4 other than a deed of release\$8.00

5 (10) Acknowledging or notarizing any deed, mortgage, power of attorney,

6 or other written instrument required by law for recording and certifying

7 same\$4.00

8 (11) Recording a land use restriction according to KRS 100.3681\$15.00

9 (12) Recording plats, maps, and surveys, not exceeding 24 inches by

10 36 inches, per page\$20.00

11 (13) Recording a bond, for each bond\$10.00

12 (14) Each bond required to be taken or prepared by the clerk\$4.00

13 (15) Copy of any bond when ordered\$3.00

14 (16) Administering an oath and certificate thereof\$5.00

15 (17) Issuing a license for which no other fee is fixed by law\$8.00

16 (18) Issuing a solicitor's license\$15.00

17 (19) Marriage license, indexing, recording, and issuing certificate thereof\$24.00

18 (20) Every order concerning the establishment, changing, closing, or

19 discontinuing of roads, to be paid out of the county levy when

20 the road is established, changed, closed, or discontinued, and by

21 the applicant when it is not\$3.00

22 (21) Registration of licenses for professional persons required to register

23 with the county clerk\$10.00

24 (22) Certified copy of any record\$5.00

25 Plus fifty cents (\$.50) per page after three (3) pages

26 (23) Filing certification required by KRS 65.070(2)(a)\$5.00

27 (24) Filing notification and declaration and petition of candidates

1 for Commonwealth's attorney\$200.00

2 (25) Filing notification and declaration and petition of candidates for county

3 and independent boards of education\$20.00

4 (26) Filing notification and declaration and petition of candidates for

5 boards of soil and water conservation districts\$20.00

6 (27) Filing notification and declaration and petition of candidates for

7 other office\$50.00

8 (28) Filing declaration of intent to be a write-in candidate for office\$50.00

9 (29) Filing petitions for elections, other than nominating petitions\$50.00

10 (30) Notarizing any signature, per signature\$2.00

11 (31) Filing bond for receiving bodies under KRS 311.310\$10.00

12 (32) Noting the assignment of a certificate of delinquency and recording

13 and indexing the encumbrance under KRS 134.126 or 134.127\$27.00

14 (33) Filing a going-out-of-business permit under KRS 365.445\$50.00

15 (34) Filing a renewal of a going-out-of-business permit under KRS 365.445\$50.00

16 (35) ~~Filing a grain warehouseman's license under KRS 359.050\$10.00~~

17 ~~(36)~~ Filing and processing a transient merchant permit under KRS 365.680\$25.00

18 ➔Section 27. The following KRS sections are repealed:

- 19 251.015 Division of Regulation and Inspection.
- 20 251.410 Definitions for KRS 251.420 to 251.510.
- 21 251.420 Duties of board.
- 22 251.430 License required -- Exception -- Renewal -- Fee.
- 23 251.451 Surety bond, certificate of deposit, letter of credit, or temporary surety required.
- 24 251.480 Forward pricing and storage contracts -- Licensee's records -- Receipts or scale
- 25 tickets -- Content -- Bookkeeping system.
- 26 251.485 Forward pricing (delayed pricing) contracts.
- 27 251.490 Semiannual inspection -- Special provisions for licensees short of facilities.

- 1 251.510 Board hearings.
- 2 251.520 Departments to enter into agreements with other governments to satisfy
3 inspection requirements.
- 4 251.600 Purpose.
- 5 251.610 Definitions.
- 6 251.620 Kentucky Grain Insurance Corporation -- Board of directors -- Powers.
- 7 251.630 Applicability.
- 8 251.642 Procedure for reentry of producer into grain insurance program after withdrawal
9 of assessments.
- 10 251.670 Payment of compensation.
- 11 251.675 Conditions requiring denial of compensation from Kentucky Grain Insurance
12 Fund.
- 13 251.680 Duty of board when dealer or warehouseman defaults or fails.
- 14 251.690 Other duties of board.
- 15 251.700 Rules and regulations.
- 16 251.710 Grounds for suspension or revocation of license or cooperative agreement.
- 17 251.720 License to engage in business of buying grain from producers for resale,
18 milling, or processing -- Grounds for refusal to issue or to revoke license -- Notice
19 and hearing -- Surety bond required -- Invalid license -- Requirements for bulk
20 purchasers of grain.
- 21 359.010 Definitions.
- 22 359.020 Warehouse receipt or voucher, when may be issued as security.
- 23 359.030 Warehouseman to keep register.
- 24 359.040 Civil action for violation of KRS 359.020 or 359.030.
- 25 359.050 Grain warehouseman's license.
- 26 359.060 Bond of grain warehouseman.
- 27 359.070 Inspector, weigher and registrar for grain warehouses in city having board of

- 1 trade -- Inspection standards and fees.
- 2 359.090 Breach of duty by inspector, weigher or registrar -- Improper influence.
- 3 359.100 Receipt of grain for storage.
- 4 359.110 Effect of delay in delivering grain.
- 5 359.120 Handling and moving of grain in storage.
- 6 359.130 Grain in warehouse, records and reports of.
- 7 359.140 Storage rates and charges to be posted -- Changes in rates and charges.
- 8 359.150 Grain warehousemen to post copies of grain warehouse law.
- 9 359.160 Oil warehouses.
- 10 359.170 Guaranteeing of receipts, how regulated.
- 11 359.990 Penalties.
- 12 →Section 28. This Act takes effect August 1, 2019.