

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4311**

A bill 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 fund; to provide for assessments on grain dealers; to prescribe certain powers and duties of certain state agencies and officers; to authorize the promulgation of rules; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "farm produce insurance act".

3 Sec. 3. As used in this act:

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

6 (b) "Administrative expenses" means the costs described in

1 section 9(2).

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

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

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

8 (f) "Department" means the department of agriculture.

9 (g) "Depositor" means that term as defined in section 2 of
10 the grain dealers act, MCL 285.62.

11 (h) "Director" means the director of the department or his or
12 her designee.

13 (i) "Failure" of a licensee or grain dealer means that term
14 as defined in section 2 of the grain dealers act, MCL 285.62.

15 (j) "Farm produce" means that term as defined in section 2 of
16 the grain dealers act, MCL 285.62.

17 (k) "Farm produce insurance program" or "program" means the
18 program for reimbursement of claims described in this act.

19 (l) "Financial institution" means that term as defined in
20 section 2 of the grain dealers act, MCL 285.62.

21 (m) "Financial loss" means the loss to a producer who is not
22 paid in full for farm produce that the producer sold to a grain
23 dealer and delivered under the terms of the sales contract, after
24 deducting any outstanding charges against the farm produce.

25 (n) "Fund" means the farm produce insurance fund created in
26 section 9.

27 (o) "Grain dealer" means that term as defined in section 2 of

1 the grain dealers act, MCL 285.62.

2 (p) "Grain dealers act" means the grain dealers act, 1939
3 PA 141, MCL 285.61 to 285.88.

4 (q) "Licensee" means that term as defined in section 2 of the
5 grain dealers act, MCL 285.62.

6 (r) "Net proceeds" means the sale price of farm produce, less
7 usual and customary charges and costs of sale of the farm
8 produce.

9 (s) "Participant" means a producer that has contributed to
10 the fund and never requested a refund from the fund or a producer
11 who has reentered the program under section 13(5).

12 (t) "Person" means an individual, corporation, limited
13 liability company, partnership, association, cooperative
14 organization, or other legal entity.

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

17 (v) "Producer" means a person that owns, rents, leases, or
18 operates a farm on land and who has an interest in and receives
19 all or any part of the proceeds from the sale in Michigan of farm
20 produce produced from the land to a grain dealer licensed under
21 the grain dealers act.

22 (w) "Producer premium" means the amount of money charged to
23 and collected from a producer under section 11.

24 (x) "Sale" means transfer of title.

25 (y) "Storage loss" means a loss to a depositor resulting from
26 the failure of a licensee that has not fully satisfied its
27 storage obligation to the depositor, net of any outstanding

1 charges against the farm produce.

2 (z) "Valid claim" means a claim arising from a failure of a
3 licensee that occurs after the effective date of this act, is
4 found valid by the department, and is approved by the board, less
5 all credits and offsets associated with farm produce sold by a
6 producer to the licensee.

7 (aa) "Warehouse receipt" means that term as defined in
8 section 2 of the grain dealers act, MCL 285.62.

9 Sec. 5. The farm produce insurance authority is created as
10 a public body corporate and politic. The authority is within,
11 but not a part of, the department. The authority shall exercise
12 its prescribed statutory powers, duties, and functions
13 independently of the director, the department, and the commission
14 of agriculture. The budgeting, procurement, and related
15 functions of the authority shall be performed under the direction
16 and supervision of the board.

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

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

24 (b) One nonvoting member appointed by the governor with the
25 advice and consent of the senate, from recommendations received
26 from the largest Michigan organization representing the interests
27 of licensees in Michigan, as determined by the director.

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

10 (d) One voting member appointed by the governor with the
11 advice and consent of the senate, from recommendations received
12 from the largest Michigan organization exclusively representing
13 the interests of corn producers in Michigan, as determined by the
14 director. Only a producer is eligible for appointment under this
15 subdivision.

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

22 (f) One voting member appointed by the governor with the
23 consent and advice of the senate, from recommendations received
24 from the largest Michigan organization exclusively representing
25 dry bean producers in Michigan, as determined by the director.
26 Only a producer is eligible for appointment under this
27 subdivision.

1 (g) One voting member appointed by the governor with the
2 advice and consent of the senate, from recommendations received
3 from the largest Michigan organization representing the interests
4 of agricultural lenders in Michigan, as determined by the
5 director.

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

11 (3) The governor shall fill a vacancy on the board for an
12 unexpired term for the remainder of the term and in the same
13 manner as an original appointment. A vacancy does not impair the
14 right of a quorum to exercise all the rights and perform all the
15 duties of the board.

16 (4) Four voting members constitute a quorum. The affirmative
17 vote of 4 or more voting members is necessary for an action of
18 the board other than adjournment of a meeting of the board. An
19 adjournment of a meeting of the board requires a vote of a
20 majority of voting members present at the meeting and voting.

21 (5) The board shall hold an annual meeting and at least 1
22 additional meeting each calendar year. The secretary of the
23 board shall provide written notice of each meeting to the members
24 of the board at least 5 days before the meeting.

25 (6) A member of the board may waive any notice required by
26 this section, before or after the date and time stated in the
27 notice, in writing and delivered, mailed, or electronically

1 transmitted to the authority for inclusion in the minutes or
2 filing with the records of the authority.

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

5 (a) No notice or a defective notice of a meeting, unless the
6 member at the beginning of the meeting objects to holding the
7 meeting or transacting business at the meeting.

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

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

13 (a) Elect from among its members a vice-chairperson and
14 treasurer.

15 (b) Create forms, and establish policies and procedures to
16 implement this act.

17 (c) Establish the amount of the producer premium under
18 section 11.

19 (d) Collect and deposit all producer premiums authorized
20 under this act into the fund.

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

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

27 (g) Within 5 business days of receiving notice of failure of

1 a licensee, publish notice of the failure in a manner described
2 in the grain dealers act.

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

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

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

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

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

27 (m) If requested by the director and approved by the board,

1 make payment from the fund to compensate a claimant for a valid
2 claim.

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

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

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

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

13 (10) A voting member may receive per diem compensation and
14 mileage reimbursement for attending meetings of the board or
15 while engaged in the performance of his or her duties on behalf
16 of the authority, in amounts established by the board, and may
17 receive reimbursement for other expenses approved by the board.
18 The amounts established by the board shall not exceed the maximum
19 commission of agriculture rates for per diem compensation and
20 mileage reimbursement. A voting member shall not receive any
21 other compensation for serving on the board or for services
22 performed for the authority.

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

26 Sec. 8. (1) The board shall conduct its business at public
27 meetings held in compliance with the open meetings act, 1976 PA

1 267, MCL 15.261 to 15.275, and shall give public notice of a
2 time, date, and place of any meeting in the manner required by
3 that act.

4 (2) Subject to section 11(6), any information submitted to
5 the board by any person that is not related to the amount of a
6 claim is confidential and is not subject to the disclosure
7 requirements of the freedom of information act, 1976 PA 442, MCL
8 15.231 to 15.246, except that disclosure of that information may
9 be made in any of the following circumstances:

10 (a) With the written consent of the person that submitted the
11 information.

12 (b) Pursuant to a court proceeding.

13 (c) The disclosure is made to the director or an agent or
14 employee of the department.

15 (d) The disclosure is made to an agent or employee of a state
16 or the federal government authorized by law to see or review the
17 information.

18 (e) The information is disclosed in the form of an
19 information summary or profile, or as part of a statistical study
20 that includes data on more than 1 person, that does not identify
21 the person to whom any specific information applies.

22 (f) The information sought relates solely to the amount of 1
23 or more claims paid from the fund.

24 Sec. 9. (1) The farm produce insurance fund is established
25 under the direction and control of the board. The fund shall
26 consist of producer premiums, money from any other source, and
27 interest and earnings from any other source. The board shall

1 direct payments from the fund only for the following purposes:

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

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

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

5 (d) Payment of legal fees and legal expenses under subsection
6 (3).

7 (2) The board shall allocate money from the fund to a
8 separate administrative expenses account to pay administrative
9 expenses. This allocation shall not exceed \$250,000.00 in any
10 fiscal year. Administrative expenses under this subsection
11 include the actual cost of processing refunds of producer
12 premiums, enforcement, record keeping, ordinary management and
13 investment fees connected with the operation of the fund,
14 verification cost under section 11(5), and any other expenses
15 approved by the board. Administrative expenses do not include
16 legal fees and legal expenses described in subsection (3).

17 (3) For legal services requested by the board, the board
18 shall pay for any legal services and legal expenses required by
19 the authority, board, or fund from money in the fund. Legal
20 services and expenses described in this subsection are not
21 administrative expenses and shall not be paid from the
22 administrative expenses account.

23 (4) The treasurer of the board shall act as the investment
24 officer of the fund and shall invest or direct a financial
25 institution to invest the money in the fund that is not currently
26 needed to meet the obligations of the fund. The treasurer of the
27 board shall invest or direct the investment of the money only in

1 the manner permitted in section 1 of 1943 PA 20, MCL 129.91.

2 Interest and earnings shall be credited to the fund.

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

5 Sec. 11. (1) Except as provided in this section, beginning
6 January 1, 2005, each producer shall pay to the authority a
7 producer premium of not more than 0.2% of the net proceeds from
8 all farm produce sold by the producer to a licensee in this
9 state. If the farm produce is sold to a licensee, the licensee
10 shall deduct the producer premium from the proceeds of sale and
11 pay the premium to the authority on behalf of the producer as
12 provided in subsection (3).

13 (2) A producer premium imposed under this section is in
14 addition to any other fees or assessments required by law.

15 (3) Beginning January 1, 2005, when purchasing farm produce
16 from a producer, a licensee or its agent or representative shall
17 deduct the producer premium described in subsection (1) from the
18 proceeds of sale and notify the producer of the amount of the
19 deduction in writing. The licensee shall forward the producer
20 premium to the authority for deposit into the fund on behalf of
21 the producer within 30 days of the close of each quarter of the
22 fiscal year. Until the authority has received \$5,000,000.00 in
23 producer premiums under this act from licensees, a licensee that
24 forwards producer premiums it has collected to the authority
25 within the time period described in this subsection may retain
26 0.1% of the producer premiums collected.

27 (4) Before January 1, 2005, the department by first-class

1 mail shall notify each licensee of the requirements of subsection
2 (3).

3 (5) A licensee shall clearly indicate in its books and
4 records the individual producer premiums collected by the
5 licensee under subsection (3) and retain those books and records
6 for at least 3 years. A licensee shall make the portion of the
7 books and records of the licensee reflecting the premiums
8 collected available for inspection by the director during regular
9 business hours. The department shall take steps reasonably
10 necessary to verify the accuracy of the portion of the licensee's
11 books and records that reflect the premiums collected. The board
12 shall reimburse the department for the costs related to the
13 verification from the fund as an administrative expense under
14 section 9(2).

15 (6) The director shall require that a licensee make its books
16 and records available to the department for the inspection or
17 verification described in subsection (5). Financial information
18 submitted to the department or the authority by a licensee for
19 purposes of this subsection and subsection (5) is confidential
20 and is not subject to the disclosure requirements of the freedom
21 of information act, 1976 PA 442, MCL 15.231 to 15.246, except
22 that disclosure of financial information may be made in any of
23 the following circumstances:

24 (a) With the written consent of the licensee.

25 (b) Pursuant to a court proceeding.

26 (c) The disclosure is made to the director or an agent or
27 employee of the department.

1 (d) The disclosure is made to an agent or employee of a state
2 or the federal government authorized by law to see or review the
3 information.

4 (e) The information is disclosed in the form of an
5 information summary or profile, or as part of a statistical study
6 that includes data on more than 1 grain dealer, that does not
7 identify the grain dealer to whom any specific information
8 applies.

9 (7) At each annual meeting, the board shall certify the
10 amount of money in the fund at the end of the preceding fiscal
11 year. A producer shall continue to pay and a licensee shall
12 continue to collect producer premiums until the board certifies
13 that the fund contained more than \$5,000,000.00 at the end of the
14 preceding fiscal year. In any fiscal year where the board has
15 certified that the fund contained more than \$5,000,000.00 at the
16 end of the preceding fiscal year, a producer is not required to
17 pay and a licensee is not required to collect producer premiums
18 until 1 of the following occurs:

19 (a) The board certifies that the fund contained less than
20 \$3,000,000.00 at the end of the preceding fiscal year. In any
21 year where the board has certified that the fund contained less
22 than \$3,000,000.00 at the end of the preceding fiscal year, the
23 obligation of each producer to pay and each licensee to collect
24 producer premiums is reinstated.

25 (b) The obligation of each producer to pay and each licensee
26 to collect producer premiums is reinstated in any fiscal year in
27 which all of the following are met:

1 (i) The board certifies that the fund contained at least
2 \$3,000,000.00 at the end of the preceding fiscal year.

3 (ii) The board is aware of a failure of a licensee.

4 (iii) As determined by the board, the amount required to
5 satisfy valid claims equals or exceeds the amount of money in the
6 fund.

7 Sec. 13. (1) Subject to subsection (7), a producer that has
8 paid, either directly or collected by a licensee, a producer
9 premium may receive a refund of the producer premium from the
10 fund by submitting a written demand for refund to the board,
11 delivered personally or by first-class mail within 12 months
12 after the producer paid the producer premium, or within a longer
13 period granted by the board if it determines that good cause for
14 an extension exists.

15 (2) A producer shall submit a demand for refund under
16 subsection (1) on a demand for refund form developed by the
17 board. The board shall make the form available to a licensee,
18 producer, or member of the public upon request.

19 (3) If a producer is entitled to a refund of a producer
20 premium under this section, the board shall pay the refund within
21 60 days of its receipt of the demand for refund.

22 (4) If producer premiums were assessed in the immediately
23 preceding calendar year, the board shall by January 31 send a
24 notice to each producer who requested a refund of a producer
25 premium in any previous calendar year. The notice must inform
26 the producer of the deadline for and method of submitting a
27 demand for refund to the board under subsections (1) and (2) and

1 the method for reentering the program under subsection (5).

2 (5) A producer that receives a refund of a producer premium
3 under subsection (1) is not entitled to participation in the
4 program or to receive any payment under this act unless it
5 reenters the farm produce insurance program by meeting all of the
6 following conditions:

7 (a) The producer submits a request for reentry into the farm
8 produce insurance program to the board. The producer shall
9 submit the request in the form required by the board and shall
10 deliver the request to the board by hand or by certified mail,
11 return receipt requested.

12 (b) The board reviews the producer's request for reentry and
13 approves the request.

14 (c) The producer pays into the fund all previous producer
15 premiums refunded to the producer, and interest on the refunds as
16 determined by the board.

17 (6) Beginning 90 days after the reentry, a producer that
18 reenters the farm produce insurance program under subsection (5)
19 is eligible for reimbursement of claims under the program.

20 (7) A producer is not eligible for a refund of a producer
21 premium under this section if the producer has received
22 reimbursement from the fund for a valid claim within the
23 preceding 36 months.

24 Sec. 15. (1) A producer that meets both of the following
25 may submit a claim for reimbursement from the fund under this
26 section:

27 (a) The producer is a participant at the time the producer

1 submits the claim.

2 (b) The producer satisfies 1 of the following conditions:

3 (i) The producer possesses written evidence of ownership of
4 farm produce that discloses a storage obligation of a licensee
5 that has failed, including, but not limited to, a warehouse
6 receipt, acknowledgment form, or settlement sheet.

7 (ii) The producer has surrendered warehouse receipts as part
8 of a sale of farm produce to a licensee that failed not more than
9 21 days after the surrender of the warehouse receipts and the
10 producer surrendering the warehouse receipts was not fully paid
11 for the farm produce.

12 (iii) The producer possesses written evidence of the delivery
13 and sale of farm produce or transfer of price later farm produce
14 to a failed licensee, including, but not limited to, an
15 acknowledgment form, settlement sheet, price later agreement, or
16 similar farm produce delivery contract, but the grain dealer did
17 not pay the producer in full for the farm produce.

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

25 (3) A claimant that incurs a storage loss due to the failure
26 of a licensee is entitled to payment under subsection (2) in an
27 amount equal to 100% of the storage loss, less any producer

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

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

18 (5) A claim under subsection (2) of this section is valid
19 only if it is made within 1 year after notice of the failure of
20 the licensee is published in a newspaper of general circulation
21 in each 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 273,
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
5 met:

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

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

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

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

20 (a) Determine the valid claims against the licensee and the
21 amount of the valid claims.

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

24 (c) Deposit into the fund any proceeds of the remaining farm
25 produce assets of a failed licensee to repay the fund for money
26 paid to claimants, subject to any priority lien right a holder of
27 a mortgage, security interest, or other encumbrance may possess

1 under any applicable law. The board shall not deposit into the
2 fund an amount in excess of the sum of the principal amount of
3 valid claims paid to claimants, plus interest for the period from
4 the date a claimant was paid for a valid claim to the date that
5 the remaining farm produce assets were received by the board
6 under this subsection, at a per annum rate equal to the auction
7 rate of 91-day discount treasury bills on the date the claimant
8 was paid.

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

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

16 (a) Pursue any subrogation rights obtained from claimants
17 under subsection (6).

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

21 Sec. 17. (1) The board shall use money in the fund only for
22 a purpose described in section 9(1). This section is not
23 severable from the whole of this act, and if any portion of this
24 section is held invalid, it is the manifest intent of the
25 legislature that this act as a whole shall be held invalid and
26 the money remaining in the fund distributed to producers in
27 proportion to the amount of producer premiums each producer has

1 paid to the authority.

2 (2) All expenditures from the fund shall be audited by a
3 certified public accountant at least annually. Within 30 days
4 after completion of the audit, the certified public accountant
5 shall give copies of the audit to the director and the other
6 members of the board. The board shall publish an activity and
7 financial report annually and make it available to the public on
8 request.

9 Sec. 19. (1) This act does not limit the authority of the
10 director or department to take action against a licensee under
11 the grain dealers act for a violation of the grain dealers act or
12 the rules of the department.

13 (2) It is not a defense to an action by the director or
14 department against a licensee under the grain dealers act for a
15 violation of that act that the grain dealer has fulfilled its
16 obligations under this act.

17 Sec. 21. (1) A person that knowingly or intentionally
18 commits any of the following is guilty of a misdemeanor
19 punishable by a fine of not more than \$5,000.00 for each
20 offense:

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

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

25 (c) Making a false statement, representation, or
26 certification, or knowingly failing to make a required statement,
27 representation, or certification, in a record, report, or other

1 document the person files with the director, department, board,
2 or authority, or that the person is required to file with the
3 director, department, board, or authority, under this act.

4 (d) Resisting, preventing, impeding, or interfering with the
5 director, agents or employees of the department, the board, or
6 agents or employees of the authority or board in the performance
7 of their duties under this act.

8 (2) In addition to the criminal penalty described in
9 subsection (1), the court in an enforcement action for a
10 violation described in subsection (1)(a) or (b) shall order the
11 grain dealer to pay to the fund any producer premiums collected
12 by the grain dealer that it owes to the fund and may order the
13 grain dealer to pay interest on the amount the grain dealer owes
14 to the fund.

15 Enacting section 1. The Michigan agricultural commodity
16 insurance act, 1988 PA 366, MCL 285.211 to 285.219, is repealed.