

HOUSE BILL No. 4311

March 11, 2003, Introduced by Reps. Meyer, Sheltroun, Caswell, Julian, Rivet, Newell, Ehardt, Stahl, Shackleton and Nitz and referred to the Committee on Agriculture and Resource Management.

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 insurance program created 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 who has contributed to the
10 fund and never requested a refund from the fund or a producer who
11 has reentered the program under section 13(6).

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 who 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.

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

23 (x) "Storage loss" means a loss to a depositor resulting from
24 the failure of a licensee who has not fully satisfied its storage
25 obligation to the depositor, net of any outstanding charges
26 against the farm produce.

27 (y) "Valid claim" means a claim arising from a failure of a

1 licensee that occurs after the effective date of this act, is
2 found valid by the department, and is approved by the board, less
3 all credits and offsets associated with farm produce sold by a
4 producer to the licensee.

5 (z) "Warehouse receipt" means that term as defined in section
6 2 of the grain dealers act, MCL 285.62.

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

15 Sec. 7. (1) A board of directors shall govern and
16 administer the authority. The board shall consist of the
17 following 12 members:

18 (a) The director, the attorney general, and the state
19 treasurer, or their respective designees, are nonvoting members
20 of the board. These members may not be reimbursed for services
21 performed for the authority. The director shall serve as
22 chairperson of the board.

23 (b) Two voting members appointed by the director for
24 staggered terms, upon the recommendation of the largest Michigan
25 organization representing the interests of licensees in Michigan,
26 as determined by the director. For the first board, the director
27 shall appoint 1 voting member appointed under this subdivision

1 for a term of 1 year and 1 voting member for 2 years.

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

10 (d) One voting member appointed by the director, upon the
11 recommendation of the largest Michigan organization exclusively
12 representing the interests of corn producers in Michigan, as
13 determined by the director. Only a producer is eligible for
14 appointment under this subdivision.

15 (e) One voting member appointed by the director, upon the
16 recommendation of the largest Michigan organization exclusively
17 representing the interests of soybean producers in Michigan, as
18 determined by the director. Only a producer is eligible for
19 appointment under this subdivision.

20 (f) One voting member appointed by the director, upon the
21 recommendation of the largest Michigan organization exclusively
22 representing dry bean producers in Michigan, as determined by the
23 director. Only a producer is eligible for appointment under this
24 subdivision.

25 (g) One voting member appointed by the director, upon the
26 recommendation of the largest Michigan organization representing
27 the interests of agricultural lenders in Michigan, as determined

1 by the director.

2 (2) Except as provided in subsection (1)(b) and (c) for the
3 first board, each voting member of the board shall serve for a
4 3-year term and may be reappointed for 1 or more additional
5 terms. A voting member shall receive a per diem and mileage
6 allowance fixed by the board that does not exceed the per diem
7 and mileage allowance paid to a member of the commission of
8 agriculture and may receive reimbursement for other expenses
9 approved by the board. A voting member shall not receive any
10 other compensation for serving on the board or for services
11 performed for the authority.

12 (3) A vacancy in a position of voting member of the board
13 shall be filled for the balance of the unexpired term in the same
14 manner as an original appointment. A vacancy does not impair the
15 right of a quorum to exercise all the rights and perform all the
16 duties of the board.

17 (4) Five voting members constitute a quorum. The affirmative
18 vote of 5 or more voting members is necessary for an action of
19 the board other than adjournment of a meeting of the board. An
20 adjournment of a meeting of the board requires a vote of a
21 majority of voting members present at the meeting and voting.

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

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

1 notice, in writing and delivered, mailed, or electronically
2 transmitted to the authority for inclusion in the minutes or
3 filing with the records of the authority.

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

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

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

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

14 (a) Create forms, and establish policies and procedures to
15 implement this act.

16 (b) Collect and deposit all producer premiums authorized
17 under this act into the fund.

18 (c) Take any legal action it considers necessary to compel a
19 failed licensee to repay the fund for any payment made from the
20 fund to a claimant for a valid claim against that licensee.

21 (d) Take any legal action it considers necessary to compel a
22 claimant to participate in any legal proceeding in relation to
23 the claim or the failure of a licensee.

24 (e) Within 5 business days of receiving notice of failure of
25 a licensee, publish notice of the failure in a manner described
26 in the grain dealers act.

27 (f) Request the services of the department and the attorney

1 general when considered necessary in the execution of the duties
2 of the board.

3 (g) Procure insurance against any loss in connection with its
4 operations, in amounts and from insurers as determined by the
5 board.

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

16 (i) Employ personnel as required in the judgment of the board
17 and fix and pay compensation from money available to the
18 authority from the administrative expenses account described in
19 section 9(2).

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

24 (k) If requested by the director and approved by the board,
25 make payment from the fund to compensate a claimant for a valid
26 claim.

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

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

3 (b) Use the services of a person other than the attorney
4 general to collect money owed to the fund or to litigate claims
5 concerning money owed to the fund.

6 (c) 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 (d) 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 member of the board or other individual acting on
14 behalf of the authority is not personally liable for damage or
15 injury resulting from the performance of the member's or
16 individual's duties under this act unless the damage or injury is
17 the result of the gross negligence or malfeasance of that
18 individual.

19 (11) A representative of the board or the department may in
20 accordance with this act inspect the books and records of a
21 licensee during normal business hours to verify whether the
22 licensee is complying with the provisions of this act.

23 Sec. 9. (1) The farm produce insurance fund is established
24 in the department of treasury. The fund shall consist of
25 producer premiums, money from any other source, and interest and
26 earnings from any other source. The board shall direct payments
27 from the fund only for the following purposes:

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

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

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

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

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

16 (3) The board shall pay any legal fees and legal expenses
17 approved by the board and incurred in an action against the
18 authority, board, or fund from money in the fund. Legal fees and
19 expenses described in this subsection are not administrative
20 costs and shall not be paid from the administrative expenses
21 account.

22 (4) The state treasurer shall invest or direct a financial
23 institution to invest the money in the fund that is not currently
24 needed to meet the obligations of the fund. Interest and
25 earnings shall be credited to the fund. Money in the fund at the
26 end of a state fiscal year does not revert to the state general
27 fund.

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

3 Sec. 11. (1) Except as provided in this section, beginning
4 January 1, 2004, each producer shall pay to the authority a
5 producer premium of not more than 0.2% of the net proceeds from
6 all farm produce sold by the producer to a licensee in this
7 state. If the farm produce is sold to a licensee, the licensee
8 shall deduct the producer premium from the proceeds of sale and
9 pay the premium to the authority on behalf of the producer as
10 provided in subsection (3).

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

13 (3) Beginning January 1, 2004, when purchasing farm produce
14 from a producer, a licensee or its agent or representative shall
15 deduct the producer premium described in subsection (1) from the
16 proceeds of sale and notify the producer of the amount of the
17 deduction in writing. The licensee shall submit the producer
18 premium to the authority for deposit into the fund on behalf of
19 the producer within 30 days of the close of each quarter of the
20 fiscal year.

21 (4) Before January 1, 2004, the department by first-class
22 mail shall notify each licensee of the requirements of subsection
23 (3).

24 (5) A licensee shall clearly indicate in its books and
25 records the individual producer premiums collected by the
26 licensee under subsection (3) and retain those books and records
27 for at least 3 years. A licensee shall make the portion of the

1 books and records of the licensee reflecting the premiums
2 collected available for inspection during regular business hours
3 by the authority, its authorized agents, or the director. The
4 department, or an independent auditor if use of an independent
5 auditor is required by a 2/3 vote of the voting members of the
6 board, may take steps reasonably necessary to verify the accuracy
7 of the portion of the licensee's books and records that reflect
8 the premiums collected. The board shall reimburse the department
9 or independent auditor for the costs related to the verification
10 from the fund as an administrative expense under section 9(2).

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

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

22 (b) Pursuant to a court proceeding.

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

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

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

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

16 (a) The board certifies that the fund contained less than
17 \$3,000,000.00 at the end of the preceding fiscal year. In any
18 year where the board has certified that the fund contained less
19 than \$3,000,000.00 at the end of the preceding fiscal year, the
20 obligation of each producer to pay and each licensee to collect
21 producer premiums is reinstated.

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

25 (i) The board certifies that the fund contained at least
26 \$3,000,000.00 at the end of the preceding fiscal year.

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

1 (iii) As determined by the board, the amount required to
2 satisfy valid claims equals or exceeds the amount of money in the
3 fund.

4 (8) A producer that fails to pay a producer premium assessed
5 against the producer before a failure is not entitled to any
6 payment from the fund for any valid claim arising from that
7 failure.

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

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

20 (3) If a producer is entitled to a refund of a producer
21 premium under this section, the board shall pay the refund within
22 60 days of its receipt of the demand for refund.

23 (4) A producer that receives a refund of a producer premium
24 under subsection (1) is not entitled to any payment from the
25 fund, including payment for a valid claim.

26 (5) If producer premiums were assessed in the immediately
27 preceding calendar year, the board shall by January 31 send a

1 notice to each producer who requested a refund of a producer
2 premium in any previous calendar year. The notice must inform
3 the producer of the deadline for and method of submitting a
4 demand for refund to the board under subsections (1) and (2) and
5 the method for reentering the program under subsection (6).

6 (6) A producer that receives a refund of a producer premium
7 under subsection (1) may reenter the farm produce insurance
8 program if all of the following conditions are met:

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

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

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

19 (7) Beginning 90 days after the reentry, a producer that
20 reenters the farm produce insurance program under subsection (6)
21 is protected by the program on a pro rata basis to the extent of
22 producer premium refunds and interest paid from the time they are
23 paid to the fund.

24 (8) A producer is not eligible for a refund of a producer
25 premium under this section if the producer has received
26 reimbursement from the fund for a valid claim within the
27 preceding 36 months.

1 Sec. 15. (1) A producer who meets both of the following may
2 submit a claim for reimbursement from the fund under this
3 section:

4 (a) The producer is a participant at the time the producer
5 submits the claim.

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

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

11 (ii) The producer has surrendered warehouse receipts as part
12 of a sale of farm produce to a licensee that failed not more than
13 21 days after the surrender of the warehouse receipts and the
14 producer surrendering the warehouse receipts was not fully paid
15 for the farm produce.

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

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

1 describes the payment terms and schedule.

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

11 (4) A claimant who incurs a financial loss due to the failure
12 of a licensee is entitled to payment under subsection (2) in an
13 amount equal to 90% of the financial loss. The department shall
14 determine the amount of the financial loss based upon 1 or both
15 of the following, as applicable:

16 (a) For farm produce that has been priced, the amount of the
17 financial loss is the value of the farm produce less any
18 outstanding charges against the farm produce.

19 (b) For farm produce sold to a licensee that has not been
20 priced, the department shall establish the amount of the
21 financial loss using the local market on the date of failure less
22 any usual and customary charges associated with the sale of farm
23 produce.

24 (5) A claim under subsection (2) of this section is valid
25 only if it is made within 1 year after notice of the failure of
26 the licensee is published in a newspaper of general circulation
27 in each county in which a facility of the licensee is located.

1 (6) The board may require a claimant paid under this section
2 for a valid claim to subrogate to the board or authority all the
3 claimant's rights to collect on any bond issued under the grain
4 dealers act or the United States warehouse act, 39 Stat. 486, 7
5 U.S.C. 241 to 273, and the claimant's rights to any other
6 compensation arising from the failure of the licensee. If
7 required to subrogate under this subsection, the claimant shall
8 assign the claimant's interest in any judgment concerning the
9 failure to the board or authority.

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

13 (a) The claimant as payee has failed to present for payment a
14 negotiable instrument issued as payment for farm produce within
15 90 days after the date the negotiable instrument is tendered to
16 the claimant as payment for farm produce purchased by the
17 licensee.

18 (b) The claimant has engaged in practices that differ from
19 generally accepted marketing practices within the farm produce
20 industry to an extent that the claimant's actions have
21 substantially contributed to the claimant's loss. The authority
22 may consider whether contracts not excluded under the grain
23 dealers act are within generally accepted marketing practices in
24 this state.

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

27 (8) If the department determines that a failure of a licensee

1 has occurred, the board shall do all of the following:

2 (a) Determine the valid claims against the licensee and the
3 amount of the valid claims.

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

6 (c) Deposit into the fund any proceeds of the remaining farm
7 produce assets of a failed licensee to repay the fund for money
8 paid to claimants, subject to any priority lien right a holder of
9 a mortgage, security interest, or other encumbrance may possess
10 under any applicable law. The board shall not deposit into the
11 fund an amount in excess of the sum of the principal amount of
12 valid claims paid to claimants, plus interest for the period from
13 the date a claimant was paid for a valid claim to the date that
14 the remaining farm produce assets were received by the board
15 under this subsection, at a per annum rate equal to the auction
16 rate of 91-day discount treasury bills on the date the claimant
17 was paid.

18 (d) If the amount in the fund and any amount the board
19 borrows under subsection (9)(b) are insufficient to pay all valid
20 claims, pay the amount available for payment proportionately
21 among the valid claims approved by the board and pay the prorated
22 amount to those claimants.

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

25 (a) Pursue any subrogation rights obtained from claimants
26 under subsection (6).

27 (b) If the fund has insufficient money to pay the valid

1 claims, borrow money as authorized under section 7(8)(h) for the
2 payment of valid claims.

3 Sec. 17. Money in the fund shall be used only for a purpose
4 described in section 9(1) and shall not be transferred to any
5 other fund or appropriated for any other purpose. This section
6 is not severable from the whole of this act, and if any portion
7 of this section is held invalid, it is the manifest intent of the
8 legislature that this act as a whole shall be held invalid and
9 the money remaining in the fund distributed to producers in
10 proportion to the amount of producer premiums each producer has
11 paid to the authority.

12 Sec. 19. (1) The department, board, or authority may
13 promulgate rules necessary to implement and administer this act
14 and to exercise the powers expressly granted in this act in
15 accordance with the administrative procedures act of 1969, 1969
16 PA 306, MCL 24.201 to 24.328.

17 (2) This act does not limit the authority of the director or
18 department to take action against a licensee under the grain
19 dealers act for a violation of the grain dealers act or the rules
20 of the department.

21 (3) It is not a defense to an action by the director or
22 department against a licensee under the grain dealers act for a
23 violation of that act that the grain dealer has fulfilled its
24 obligations under this act.

25 Sec. 21. (1) A person who commits any of the following is
26 guilty of a misdemeanor punishable by a fine of not more than
27 \$5,000.00 for each offense:

1 (a) Knowingly or intentionally refusing or failing to collect
2 producer premiums as required under this act.

3 (b) Knowingly or intentionally refusing or failing to pay to
4 the authority producer premiums collected under this act.

5 (c) Knowingly making a false statement, representation, or
6 certification, or knowingly failing to make a required statement,
7 representation, or certification, in a record, report, or other
8 document the person files with the director, department, board,
9 or authority, or that the person is required to file with the
10 director, department, board, or authority, under this act.

11 (d) Willfully or knowingly resisting, preventing, impeding,
12 or interfering with the director, agents or employees of the
13 department, the board, or agents or employees of the authority or
14 board in the performance of their duties under this act.

15 (2) In addition to the criminal penalty described in
16 subsection (1), the court in an enforcement action for a
17 violation described in subsection (1)(a) or (b) shall order the
18 grain dealer to pay to the fund any producer premiums collected
19 by the grain dealer that it owes to the fund and may order the
20 grain dealer to pay interest on the amount the grain dealer owes
21 to the fund.

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