

Act No. 196
Public Acts of 2023
Approved by the Governor
November 7, 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senator Hertel

ENROLLED SENATE BILL No. 508

AN ACT to amend 2003 PA 198, entitled “An act to provide insurance to farm produce producers against losses from the failure of grain dealers; to establish a farm produce insurance authority; to prescribe the powers and duties of the authority and its board; to establish a farm produce insurance fund; to provide for assessments on certain producers of farm products; to impose a fee for regulation of grain dealers and enforcement activities; 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,” by amending section 7 (MCL 285.317), as amended by 2016 PA 264.

The People of the State of Michigan enact:

Sec. 7. (1) A board of directors shall govern and administer the authority. The board shall consist of the following 10 members:

(a) The director, or the director’s designee, is a nonvoting member and the chairperson and secretary of the board. This member must not receive per diem or other compensation or reimbursement for expenses for serving on the board.

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

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

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

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

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

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

(h) One voting member appointed by the governor with the advice and consent of the senate, from recommendations received from the largest Michigan organization exclusively representing wheat producers in this state, as determined by the director. Only a producer is eligible for appointment under this subdivision. For the first appointment under this subdivision, the governor shall appoint the voting member for a term of 2 years.

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

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

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

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

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

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

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

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

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

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

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

(c) Establish the amount of the producer premium under section 11 and collect and deposit all producer premiums into the fund.

(d) Establish the amount of the administrative premium under section 10; collect and deposit all administrative premiums into the fund; and enter into a memorandum of understanding with the director that provides for reimbursement of the director for producer security activities from the proceeds of the administrative premiums.

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) A voting member may receive per diem compensation and mileage reimbursement for attending meetings of the board or while engaged in the performance of the member's duties on behalf of the authority, in amounts established by the board, and may receive reimbursement for other expenses approved by the board. The amounts established by the board must not exceed \$75.00 for per diem compensation and mileage reimbursement. A voting member shall not receive any other compensation for serving on the board or for services performed for the authority.

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

(12) A licensee shall make its books and records available to the department for the inspections and verifications described in sections 10(6) and 11(4). Financial information submitted to the department or the authority by a licensee for purposes of this subsection and sections 10(6) and 11(4) is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that disclosure of financial information may be made in any of the following circumstances:

(a) With the written consent of the licensee.

(b) Pursuant to a court proceeding.

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

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

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor