

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-second Legislature Second Regular Session - 2014

IN THE SENATE

SENATE BILL NO. 1392

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO AGRICULTURE; AMENDING SECTION 22-5125, IDAHO CODE, TO PROVIDE A  
PROCEDURE FOR THE REVIEW AND DETERMINATION OF PRODUCER CLAIMS RELATING  
TO THE SEED INDEMNITY FUND; AND AMENDING SECTION 69-262, IDAHO CODE, TO  
PROVIDE A PROCEDURE FOR THE REVIEW AND DETERMINATION OF PRODUCER CLAIMS  
RELATING TO THE COMMODITY INDEMNITY FUND.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-5125, Idaho Code, be, and the same is hereby  
amended to read as follows:

22-5125. PROOF OF CLAIMS -- PROCEDURE -- HEARING. After the director  
has declared a failure, the department shall process the claims of producers  
having paid or owing assessments who: (a) produce written evidence of trans-  
fer together with the amounts of their unpaid claims, and (b) have "stored  
for withdrawal" and provide written evidence of deposit.

(1) The department shall give written notice to and provide a reason-  
able time of not less than thirty (30) days and not more than sixty (60) days  
for producers to file their written verified claims, including any written  
evidence, with the department.

(2) The department shall investigate each claim and prepare a staff re-  
port and recommendation as to the validity and amount of each claim. The  
department shall provide a copy of the staff report and recommendation to  
the seed indemnity fund advisory committee, and make available for review  
by the advisory committee any documentation upon which the department re-  
lied in preparing the staff report and recommendation. No later than two (2)  
weeks following issuance of the staff report and recommendation, the advi-  
sory committee shall provide the director with the committee's written com-  
ments regarding the staff report, recommendation and payment of claims from  
the fund.

(3) Following the receipt of the staff report, recommendation and the  
seed indemnity fund advisory committee's written comments, if any, the di-  
rector shall issue a determination regarding the validity and amount of each  
claim.

(4) The director shall notify in writing each claimant, the seed buyer  
and the advisory committee of the department's determination as to the va-  
lidity and amount of each claim. A claimant or seed buyer may request a  
hearing on the department's determination within twenty (20) days of receipt  
of written notification of the determination pursuant to chapter 52, title  
67, Idaho Code. Upon determining the amount and validity of the claim, the  
director shall pay to the claimant an amount equal to ninety percent (90%)  
of the approved claim from the seed indemnity fund. Prior to any payment  
from the fund to a claimant, the claimant shall be required to subrogate and  
assign to the department his right to any recovery from any other source.

1 The claimant shall be entitled to seek recovery of the remaining ten percent  
2 (10%), which was not assigned to the department. The procedure to determine  
3 the value of any claim will be established by rules.

4 (35) In the event of a shortage or inability to meet financial obli-  
5 gations, the department shall determine each producer's pro rata share of  
6 available seed crops and any deficiency shall be the claims of the producers.  
7 Each type of seed crop shall be treated separately for the purpose of deter-  
8 mining shortages.

9 (46) The director shall not approve or pay any claim based on losses re-  
10 sulting from transactions with persons unlicensed pursuant to this chapter.  
11 The director shall not approve or pay any claim made on the seed indemnity  
12 fund if the claim is for the payment of interest, attorney's fees, ancillary  
13 costs, or punitive damages. The director shall not approve or pay any claim  
14 based on losses resulting from uninsurable perils.

15 (57) If a producer's claim reveals that the assessment has not been paid  
16 or collected, and the claim is otherwise valid, the amount of the assessment  
17 shall be deducted from the claim payment.

18 SECTION 2. That Section 69-262, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 69-262. PROOF OF CLAIMS -- PROCEDURE -- HEARING -- INSPECTION OF  
21 WAREHOUSE. In the event a warehouse or dealer fails, as defined in section  
22 69-202(8), Idaho Code, the department shall process the claims of producers  
23 who have paid or owe assessments as required by this chapter. Claims against  
24 a failed warehouse or dealer shall include written evidence disclosing a  
25 storage obligation or a sale or delivery of commodities.

26 (1) The department shall give notice and provide a reasonable time of  
27 not less than thirty (30) days and not more than sixty (60) days to producers  
28 to file their written verified claims, including any written evidence, with  
29 the department.

30 (2) The department shall investigate each claim and prepare a staff re-  
31 port and recommendation as to the validity and amount of each claim. The de-  
32 partment shall provide a copy of the staff report and recommendation to the  
33 commodity indemnity fund advisory committee, and make available for review  
34 by the advisory committee any documentation upon which the department re-  
35 lied in preparing the staff report and recommendation. No later than two (2)  
36 weeks following issuance of the staff report and recommendation, the advi-  
37 sory committee shall provide the director with the committee's written com-  
38 ments regarding the staff report, recommendation and payment of claims from  
39 the fund.

40 (3) Following the receipt of the staff report, recommendation and the  
41 commodity indemnity fund advisory committee's written comments, if any, the  
42 director shall issue a determination regarding the validity and amount of  
43 each claim.

44 (4) The director shall notify each claimant, the warehouseman or  
45 dealer, and the advisory committee of the department's determination as to  
46 the validity and amount of each claimant's claim. A claimant or warehouseman  
47 or dealer may request a hearing on the department's determination within  
48 twenty (20) days of receipt of written notification and a hearing shall be  
49 held by the department pursuant to chapter 52, title 67, Idaho Code. Upon

1 determining the amount and validity of the claim, the director shall pay to  
2 the claimant an amount equal to ninety percent (90%) of the approved claim  
3 from the commodity indemnity fund. Prior to any payment from the fund to a  
4 claimant, the claimant shall be required to subrogate and assign his right  
5 to recover from any other source. The department may then pay up to ninety  
6 percent (90%) of the approved claim to the claimant. The department shall  
7 have a priority claim for that amount. The claimant shall be entitled to  
8 seek recovery of the remaining ten percent (10%) which was not originally  
9 assigned to the department. For the purpose of determining the amount of the  
10 producer's claim, the value of a producer's commodity shall be the lesser of:  
11 (a) the value of the commodity on the date the director declared the ware-  
12 house or dealer to have failed or to have failed to comply with the provisions  
13 of this chapter or rules promulgated thereunder; (b) the contract price as  
14 listed on a valid contract; or (c) the value of the commodity represented on  
15 the contract on the date the contract was signed. The value shall be deter-  
16 mined by a survey of the available market price reports or markets of similar  
17 facilities within the same geographic location as the failed facility.

18 (35) The department may inspect and audit a failed warehouseman or  
19 dealer. In the event of a shortage, the department shall determine each  
20 producer's pro rata share of available commodities and the deficiency shall  
21 be considered as a claim of the producer. Each type of commodity shall be  
22 treated separately for the purpose of determining shortages.

23 (46) The director shall not approve or pay any claim made on the com-  
24 modity indemnity fund if the claim is based on losses resulting from the de-  
25 posit, sale or storage of commodities in an unlicensed warehouse or dealer.

26 (57) The fund shall not be liable for claims filed against a warehouse  
27 or dealer in good standing who has voluntarily relinquished their license if  
28 such claims are not filed with the department within six (6) months of the  
29 closing.

30 (68) The fund shall not be liable for claims that result from losses due  
31 to uninsurable physical perils.