

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1894

By: Pope (Clay)

COMMITTEE SUBSTITUTE

An Act relating to agriculture; amending 2 O.S. 1991, Section 9-45, as amended by Section 20, Chapter 10, O.S.L. 1997 (2 O.S. Supp. 1999, Section 9-45), which relates to the Commodity Storage Indemnity Fund; reducing maximum level maintained; clarifying and updating language; removing certain restrictions; modifying certain reimbursements; requiring certain reimbursement; providing for deposits and expenditures in indemnity; prohibiting certain expenditures or transfers; providing exceptions; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 1991, Section 9-45, as amended by Section 20, Chapter 10, O.S.L. 1997 (2 O.S. Supp. 1999, Section 9-45), is amended to read as follows:

Section 9-45. A. The State Department of Agriculture shall administer the Commodity Storage Indemnity Fund. The Indemnity shall be established for the benefit of producers who have delivered commodities to a chartered or licensed public warehouse for storage ~~as provided in the Public Warehouse and Commodity Indemnity Act.~~ The Indemnity shall compensate producers for losses to their commodity while it is in the control of a chartered or licensed public warehouse, except losses covered by insurance as provided in Section 9-26 of this title.

B. When the Indemnity reaches ~~Ten Million Dollars (\$10,000,000.00)~~ Six Million Dollars (\$6,000,000.00), the two-mill assessment ~~as provided in the Public Warehouse and Commodity Indemnity Act~~ shall cease, ~~unless the Ten Million Dollars (\$10,000,000.00) is attained prior to the end of a harvest season,~~

~~at which time the assessment shall continue until the end of that harvest season.~~ If the balance of the Indemnity thereafter becomes less than ~~Ten Million Dollars (\$10,000,000.00)~~ Six Million Dollars (\$6,000,000.00), the two-mill assessment shall be reinstated on an annual basis as necessary to attain a balance of ~~Ten Million Dollars (\$10,000,000.00)~~ Six Million Dollars (\$6,000,000.00) in the Indemnity. The Department shall have authority to invest the assessments. All proceeds of the investment shall be placed in the Indemnity. ~~Two percent (2%) of Fifty Thousand Dollars (\$50,000.00)~~ from the interest income for each year on the total proceeds in the Indemnity shall be paid to the Department annually for the conducting of warehouse examinations necessary for the protection of the Indemnity. The balance of the accrued interest each year may not be utilized for any purpose not listed in this subsection and shall remain a part of the Indemnity.

C. When a loss is incurred upon the commodity of a producer, ~~which has been~~ delivered to a warehouseman, or after receipt of the notice pursuant to Section 9-24 of this title, the producer shall present ~~his~~ any claim of such producer to the ~~Department~~ Board. To verify the claim, the producer shall present a receipt or any additional evidence ~~or both such receipt and evidence of loss that required by the Department might deem necessary~~ Board. All producer claim payments shall be made by the ~~Department~~ Board from the Indemnity as soon as practicable and not later than one (1) year following the date of claim. The price per bushel of a commodity shall be established on the day of the loss or seizure and shall be for the full market value on that day. If there is an insufficient amount of cash in the Indemnity to cover all claims for a certain year, payments shall be made on a pro rata basis up to one hundred percent (100%) of the total loss of each producer. If payment is not received in the amount of one hundred percent (100%) of total loss for a certain year, then such additional amounts shall be paid

as funds become available in succeeding years until repayment of one hundred percent (100%) of total loss is attained. If, at any time, a producer receives payment totaling more than one hundred percent (100%) of total loss, ~~such~~ the excess payment shall ~~immediately~~ be returned to the Indemnity within thirty (30) days of the payment. Upon final payment of a claim to a producer from the Indemnity, the producer shall subrogate ~~his~~ any interest, ~~if any,~~ of the producer to the Department in a cause of action against any and all parties, to the amount of the loss that the producer was reimbursed by the Indemnity.

D. The producer shall, within one hundred twenty (120) days of the order of the Board establishing the date of loss, present the claim ~~of the producer~~ to the Board. If ~~such~~ the claim of loss is not presented within the time and in the manner required ~~by this section,~~ the claim shall be forever barred and ~~said~~ the producer shall forfeit all rights to remuneration or payment ~~as provided in the Public Warehouse and Commodity Indemnity Act~~ in this section.

E. If ~~at any time~~ state funds are appropriated to the Indemnity ~~for the purposes specified by this section,~~ the Board shall establish the rules and procedures necessary to ensure that the State General Revenue Fund shall be reimbursed, from the assessments, in an amount equal to the total appropriation made to the Indemnity. The reimbursement shall be made in a timely manner, provided the intents and purposes of this section to compensate producers for their losses ~~as specified in this section~~ shall not be adversely affected.

F. The monies deposited in the Indemnity shall at no time become part of the general budget of the Department or any other state agency. Except as otherwise provided in this section, no monies from the Indemnity shall be transferred for any purpose to any other state agency or any account of the Department or be used

for the purpose of contracting with any other state agency or  
reimbursing any other state agency for any expense.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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