

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 37

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO BONDED WAREHOUSES; AMENDING SECTION 69-262, IDAHO CODE,
 2 TO PROVIDE THAT THE COMMODITY INDEMNITY FUND SHALL NOT BE
 3 LIABLE FOR CLAIMS THAT RESULT FROM LOSSES DUE TO UNINSURABLE
 4 PHYSICAL PERILS; AND AMENDING SECTION 69-264, IDAHO CODE, TO
 5 PROVIDE THAT THE COMMODITY INDEMNITY FUND SHALL NOT BE LIABLE
 6 FOR UNPAID AMOUNTS FOR CERTAIN CLAIMS.
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8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 69-262, Idaho Code, be, and the same is hereby amended to
 10 read as follows:

11 69-262. PROOF OF CLAIMS – PROCEDURE – HEARING – INSPECTION OF
 12 WAREHOUSE. In the event a warehouse or dealer fails, as defined in section 69-202(8), Idaho
 13 Code, the department shall process the claims of producers who have paid or owe assessments
 14 as required by this chapter. Claims against a failed warehouse or dealer shall include written
 15 evidence disclosing a storage obligation or a sale or delivery of commodities.

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

19 (2) The department shall investigate each claim and shall notify each claimant, the
 20 warehouseman or dealer, and the advisory committee of the department’s determination as to
 21 the validity and amount of each claimant’s claim. A claimant or warehouseman or dealer
 22 may request a hearing on the department’s determination within twenty (20) days of receipt of
 23 written notification and a hearing shall be held by the department pursuant to chapter 52, title
 24 67, Idaho Code. Upon determining the amount and validity of the claim, the director shall
 25 pay to the claimant an amount equal to ninety percent (90%) of the approved claim from the
 26 commodity indemnity fund. Prior to any payment from the fund to a claimant, the claimant
 27 shall be required to subrogate and assign his right to recover from any other source. The
 28 department may then pay up to ninety percent (90%) of the approved claim to the claimant.
 29 The department shall have a priority claim for that amount. The claimant shall be entitled
 30 to seek recovery of the remaining ten percent (10%) which was not originally assigned to the
 31 department. For the purpose of determining the amount of the producer’s claim, the value of
 32 a producer’s commodity shall be the lesser of: (a) the value of the commodity on the date the
 33 director declared the warehouse or dealer to have failed or to have failed to comply with the
 34 provisions of this chapter or rules promulgated thereunder; (b) the contract price as listed on a
 35 valid contract; or (c) the value of the commodity represented on the contract on the date the
 36 contract was signed. The value shall be determined by a survey of the available market price
 37 reports or markets of similar facilities within the same geographic location as the failed facility.

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

5 (4) The director shall not approve or pay any claim made on the commodity indemnity
6 fund if the claim is based on losses resulting from the deposit, sale or storage of commodities
7 in an unlicensed warehouse or dealer.

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

11 (6) The fund shall not be liable for claims that result from losses due to uninsurable
12 physical perils.

13 SECTION 2. That Section 69-264, Idaho Code, be, and the same is hereby amended to
14 read as follows:

15 69-264. MINIMUM BALANCE – SUBSEQUENT PAYMENTS. The minimum balance
16 in the commodity indemnity fund, which shall be used exclusively for purposes of paying
17 claimants pursuant to this chapter and chapter 5, title 69, Idaho Code, shall be two hundred
18 fifty thousand dollars (\$250,000). At no time shall the balance be allowed to fall below the
19 minimum balance. The director may pay claims, on a pro rata basis if necessary, until the
20 minimum balance is reached. If the director cannot fully pay a claim before the minimum
21 balance is reached, he shall, when the commodity indemnity fund contains sufficient funds, pay
22 off the claim. After three (3) years from the date a claim is approved, the fund shall not be
23 liable for any unpaid amounts.