



Dear Licensee:

The passing and signing of Senate File 608 has brought some significant changes to the statutes that regulate grain dealers (203), warehouse operator (203C), and the grain indemnity fund (203D). I have summarized some of the changes below. IDALS will be working on writing and submitting emergency rules to implement the new statutes. We will send out notifications once these rules have been submitted and approved. The link to the new law is noted below:

<https://www.legis.iowa.gov/docs/publications/AMDI/91/S3145.pdf>

Please review and contact our office if you have any questions. You may also want to reach out to your Certified Public Accountant regarding the change in financial statements.

REDEFINES CREDIT SALE CONTRACTS INTO TWO CATEGORIES (deferred payment and deferred pricing):

Deferred Payment contract means a contract pursuant to which the purchase price for grain is agreed to by a seller and licensed grain dealer, but payment will occur more than thirty days from the date of delivery as defined in section 203.8(2)(a).

Deferred Pricing Contract means a contract by a seller and licensed grain dealer where delivery, as defined in section 203.8(2)(a) has occurred but the purchase price has not been agreed to by the seller and licensed grain dealer.

All contract types that are not deferred payment (set price and payment more than thirty days) are combined into one category – deferred pricing. This will be important due the changes in Indemnity Fund coverage discussed later.

Due to the reclassification of credit sale contracts, new rules related to maintaining separate series of deferred payment contracts and deferred pricing contracts may be required. Regardless of credit sale contract type, title to grain transfers to grain dealer upon delivery as defined in 203.8 AND signature of both buyer and seller on the contract.

REQUIRED FINANCIAL STATEMENTS:

Eliminates the option of submitting a REVIEW type financial statement effective July 1, 2025. The only financial statement that will be accepted for a grain dealer or warehouse operator license will be an UNQUALIFIED Audit prepared by an Iowa licensed Certified Public Accountant (CPA).

Review type statements will only be accepted up to June 30, 2025. Only Unqualified audits will be accepted on or after July 1, 2025. Licensees may need to contact their CPA and inquire if the CPA firm can perform the Unqualified audits.

PAYMENT DEFINITION:

The requirement for payment within thirty days of delivery has been replaced with “last date for scheduled payments made by the licensed grain dealer to sellers for delivered grain according to the grain dealers standard business operation as proved by rules adopted by the department.” Iowa Department of Agriculture and Land Stewardship (IDALS) will be writing rules to define the “standard business operation” to clarify and standardize this term.

New rules will be implemented for payments by check, ACH and electronic funds transfer.

COVERAGE AND ELIGIBILITY SELLER NOTICE:

The grain dealer shall obtain a signed acknowledgement form the seller stating that the seller has received written notice of the Indemnity fund coverage for the specific type of credit sale contract. IDALS will be working on new language that will replace the “AVER” or “ACKNOWLEDGEMENT” statement that is directly above the seller’s signature. We would like to be able to incorporate this language into the contract so the seller does not have to sign two different forms.

The language will be different for deferred payment contracts which has 0% indemnity coverage versus a deferred pricing contract which may have 75% indemnity coverage up to maximum \$400,000 cap per claimant.

INDEMNITY FUND COVERAGE AND PERCENTAGES:

Grain Indemnity Fund coverage changes with this legislation. Deferred Pricing contracts now have coverage up to 75% of the value of #2 grain grades according to standard established by US grain inspection services. The value of any unpriced grain (deferred pricing contracts and storage in IDALS licensed warehouse) shall be set by IDALS based on the grain price paid to producers at the nearest grain terminal operator nearest the grain dealer on the incurrence date. The incurrence date is defined as the license revocation date or bankruptcy filing date.

If the grain has been priced, that price will be used unless it exceeds the value of #2 grain grade according to the standards established by US grain inspection services. IDALS would use the same

pricing format as unpriced grain. No specialty or premium prices will be used in valuing an eligible claim.

The eligible claim is limited to a maximum payout per claimant at \$400,000.00 for all types of claims. Eligible claims are storage grain at an IDALS license warehouse – 90%; priced grain – 90%; grain represented by a properly executed deferred pricing contract – 75%. All eligible grain dealer claims must have been delivered within six months of the incurrence date. Grain represented by a deferred payment contract is not eligible for any indemnity.

CLAWBACK CLAIMS:

Another new provision and potential indemnity coverage from the fund relates to money paid back to a bankruptcy estate for grain payments. This may also be referred to as a “Clawback” or “preferential payment”. The repayment or clawback claim must be filed with IDALS within sixty days after the claimant’s loss is finalized by the bankruptcy court. The eligibility requirements have the same coverage, percentages, and six month time limit from the incurrence date as traditional indemnity claims.

This new statute will also open the claim period for claimants from any bankruptcy proceedings that have been initiated since October 24, 2022, which would include the Global Processing, Inc. bankruptcy to file repayment or clawback claims. The deadline to file these claims settled prior to July 1, 2025, will be August 29, 2025. Any claims settled on or after July 1, 2025 will have sixty days to file claims.

NEW FUND RANGE:

The cap of the fund has been raised from the current \$8 million level to \$16 million and the minimum floor has been raised from the current \$3 million to \$ 8 million.

The assessments are set to end on August 31, 2025, with remittances due by September 15, 2025. The balance of the fund is estimated to be approximately \$12 to \$13 million after the last quarters remittances are received. IDALS will not recommend to the Grain Indemnity Board to re-instate the assessment or participation fees until the fund level would fall below the \$8 million level.