

## HOUSE REPUBLICAN STAFF ANALYSIS

Bill:	House File 999/Senate File 608	House Ag Committee:	<b>PASSED</b>	02-18-2025	<b>21-1</b>
Committee:	Ways & Means/Agriculture	House Ways/Means:	<b>PASSED</b>	04-2-2025	<b>24-0</b>
Floor Manager:	Rep. Mommsen	House Floor:			
Date:	May 8, 2025	Senate Floor:	<b>PASSED</b>	04-07-2025	<b>39-08</b>
Staff:	Lew Olson (1-3096)	Governor:			

### Grain Indemnity Program Updates

**House File 999/Senate File 608** (previously HF 508, HSB 131) proposes to make a number of modernizing changes to the state grain indemnity program. The measure proposes new definitions and regulations surrounding credit-sale contracts sale of grain, specifically extending grain indemnity coverage to deferred pricing credit sales contracts, but not to deferred payment credit-sales contracts since the language explicitly differentiates between deferred-pricing and deferred-payment contracts. The bill further extends indemnity coverage to grain seller repayment situations for dollar value loss.

The two bills, while companions and having a number of identical provisions, there are several markedly different provisions.

- The Senate File SF 608 proposes to extend grain indemnity coverage to all form of credit sales contracts (both deferred pricing and deferred payment) while HF 999 only covers deferred pricing credit sales transaction. Current law exclude all forms of credit sale transactions.
- HF 999 proposes to increase fund balance trigger when reinstatement of fund assessment fees occurs from below \$3-million to below \$8-million, while SF 608 increases it from below \$3-million to below \$5-million.
- Likewise, HF 999 proposes to increase fund balance trigger when collection of fund assessment fees are waived from above \$8-million to above \$16-million, while SF 608 increases it from above \$6-million to above \$12-million.
- HF 999 bifurcates the percentage of covered grain sale losses (up to a maximum loss of \$300,000 i) covered by the grain indemnity program to:
  - 90% as current law specifies for delivered grain sales, and
  - 70% for credit sale deferred pricing grain transactions,
  - But it does not cover credit sale deferred payment transactions.
- SF 608 covers both grain sales and all forms of credit sale grain transaction (both deferred pricing and deferred payment).

**Because of these differences between the two bills, the Bill manager will:**

- First amend HF 999 with **H 1290** so that it is identical to SF 608 in order to substitute SF 608 for HF 999.

- Then amend SF 608 with H \_\_\_\_ which has language that is largely identical to HF 999 with several IDALS suggested changes and negotiated changes.
  - The two major changes to HF 999 verbiage incorporated into the strikes after the enacting clause amendment to SF 608 is that it:
    - Increases the maximum loss cap that indemnity payment can be made to per producer from current law \$300,000 to \$400,000; and
    - Increases the percentage loss recovery for deferred pricing credit sales contracts from HF-999 70% to 75%.

#### **Key Aspects --**

- Defines 'deferred-payment contract'; and defines 'deferred-pricing contract' under credit-sale contracts, and clarifies fee payment timelines.
- Establishes that indemnity fees will only be assessed on grain sold; and sold under credit sale contracts deferred-pricing contracts but not deferred-payment contracts.
- Strikes provision of current law that allowed the use of grain indemnity fund moneys to fund IDALS administration (personnel and office expense) of grain indemnity program and regulation of grain dealers.
- Extends Indemnity coverage to grain seller repayment for dollar value loss.
- Increases the thresholds for waiving and reinstating indemnity fees from \$8 million to \$16 million and from \$3 million to \$8 million, respectively.
- Clarifies the process for indemnification claims, prioritizing depositors and sellers while specifying differing payout limits based on the type of contract—
  - Cash sale and depositor covered grain getting 90% of price for dollar value losses amounting up to \$400,000, and
  - Deferred pricing covered grain getting 75% of price for dollar value losses up to \$400,000.

## **Section by Section Analysis of H \_\_\_\_**

**Action 1** of amendment H \_\_\_\_ strikes everything after the enacting clause and inserts the following--

### **Section 1—Credit-Sale Contract Definitions**

Amends section 203.1, subsection 3, Code 2025, to define 'contract sale contracts' which is composed both of 'deferred payment contracts' and 'deferred price contracts'.

### **Section 2—Deferred Pricing & Deferred Payment Contract Definitions**

Amends section 203.1, subsection 3, Code 2025 to create new subsections 4A, and 4B, that respectively define 'Deferred-payment contracts' and 'Deferred pricing contract' with the former being a credit-sale contract where the price of the grain that was delivered is established within 30 days after delivery but payment has not occurred; and the latter where the credit-sale contract in which the price is established more than 30 days after delivery.

### **Section 3—Unqualified Audit Opinion Required for All Licensed Grain Buyers**

Amends section 203.3, subsection 4, paragraph b, Code 2025, to require all licensed grain buyers to submit a financial statement that is accompanied by an unqualified opinion based on an audit performed by a certified accountant licensed in this state.

### **Section 4—Grain Dealers Must Submit Financial Statement Accompanied by Unqualified Opinion**

Amends section 203.3, subsection 5, paragraph b, Code 2025, to remove confusing qualified opinion verbiage and replace that language with *'A grain dealer shall submit financial statements to the department in addition to the financial statement accompanied by an unqualified opinion...'*

Section 5—Licensed Grain Dealer Payment Specifications

Amends section 203.8, subsection 1, Code 2025, to modify when grain payment is required for delivered grain from within 30 days when not immediately demanded by seller to *'...the last date scheduled for payment ...according to the grain dealer's standards business operation.'* It also repositions verbiage concerning IDALS promulgation and rules adoption providing for a grain dealer's payment by check and electronic fund transfer.

Section 6—Grammar Correction Removal of Unnecessary 'a'

Amends section 203.15, unnumbered paragraph one, Code 2025, to remove the word 'a'.

Section 7— Licensed Grain Dealer Credit Sales Contract Specifics

Amends section 203.15, subsections 1, 3, 4, & 6, Code 2025, to include provisions concerning credit sales contract, both deferred payment and deferred pricing contracts to provide that the codified definition of such contracts would supersede the meaning of those terms in the contracts, the grain dealer must provide written notice to IDALS that it was engaging in grain sale purchases by credit sale contracts on forms specified by IDALS.

Subsection 6 is changed to delete existing language that requires a grain dealer purchasing grain through a credit-sale contract to provide notice to the grain seller that the grain is not covered by grain indemnity program and replace that language with verbiage that non-credit sale grain sales indemnity losses may be file a claim for 90% of losses up to limit of \$400,000 of losses. Credit sale deferred pricing contract grain sellers may file a claim for up to 75% losses to a limit of \$300,000 of deferred pricing contract losses. Credit-sale deferred payment contract are not covered by the grain indemnity program and coverage.

Section 8-- Unqualified Audit Opinion Required for All Grain Warehouse Operators

Amends section 203C.6, subsection 4, paragraph b, Code 2025, to require all licensed grain warehouse operators to submit a financial statement that is accompanied by an unqualified opinion based on an audit performed by a certified accountant licensed in this state.

Section 9—Grain Warehouse Operator Must Submit Financial Statement Accompanied by Unqualified Opinion

Amends section 203.3, subsection 5, paragraph b, Code 2025, to remove confusing qualified opinion verbiage and replace that language with *'A grain warehouse operator shall submit financial statements to the department in addition to the financial statement accompanied by an unqualified opinion...'*

Section 10—Grain Depositor and Sellers Indemnification Program Definitions

Amends section 203D. 1, Code 2025, by **adding** four new subsections—**2A** defines 'Deferred-payment contracts' as defined by section 2 of this bill; **2B** defines 'Deferred-pricing contracts' as defined by section 2 of this bill; and **8A** defines 'Indemnity fee(s) means-- a participation fee and per bushel fee as provided by Code section 203D.3 and 203D.3A; and **14** that deals with 'Repayment losses' from circumstance when a grain seller suffers actual losses because they were forced to disgorge/repay grain payments from a grain purchaser because of the grain purchaser's bankruptcy Courts proceedings (Clawbacks).

Section 11— 'Purchased Grain Definitions for Grain Indemnity Program Coverage

Amends section 203D.1, subsection 14 and 16 Code 2025, with subsection 14 dealing with-- purchased grain definition being modified to include grain purchased under a deferred pricing contract, but not applying to grain under a deferred payment contract; and subsection 16 specifying that 'seller' does not include a person who sells grain pursuant to a deferred payment contract.

Section 12—Deletes Verbiage that Allowed Grain Indemnity Fees Moneys for Administrative Expense Use

Amends section 203D.3, subsection 1, and 4, Code 2025, that allowed Grain Indemnity Fees moneys to be used for program administrative (office/personnel) expenses, but allows compensation of departmental receivership

costs, departmental representation by Attorney General expenses or outside counsel in legal or administrative proceedings.

*Section 13—IDALS to Collect Participation Fees and Per Bushel Fees for Indemnity Program Use*

Amends section 203D.3A, unnumbered paragraph 1, Code 2025, to include updated language referring to 'participation fees' and 'per bushel fees' as aspects of indemnity fees and replaced the word 'established' with 'imposed'.

*Section 14—'Anniversary Date' Verbiage*

Amends section 203D.3A, subsection 1, paragraph a, subparagraph (1), Code 2025, to add verbiage concerning anniversary date for when grain dealer participation fees are due for renewal of such licenses. This action replaces similar existing language struck by section 10 of HF 508 as introduced.

*Section 15—Quarterly Participation Fees*

Amends section 203D.3A, subsection 1, paragraph b, Code 2025, to clarify intent of the law that participation fees may be paid either on annual installment by the anniversary date, or by four quarterly installments due on 12/15; 3/15; 6/15; and 9/15 of each year. Existing language concerning anniversary date in this section is struck as it is repositioned in the prior section (section 14) of this bill.

*Section 16-- Quarterly Per-Bushel Fees*

Amends section 203D.3A, subsection 2, Code 2025, to clarify intent of the law that per bushel fees shall be remitted by four quarterly installments with each installment occurring in the month succeeding the last assessment quarter due on 12/15; 3/15; 6/15; and 9/15 of each year. This section includes a number of changes made to modernize existing text to improve clarity of the provisions.

*Section 17—'Indemnity' Term added to Existing Indemnity Fee Provisions*

Amends section 203D.5, subsection 1, unnumbered paragraph 1, Code 2025, to add the word 'Indemnity' to five places in this paragraph to clarify what fee is being addressed by this section of the Code.

*Section 18—Increases of Indemnity Fund Triggers for Imposition and Waiving of Participation & Per-Bushel Fees*

Amends section 203D.5, subsections 4 and 5, Code 2025, to increase the Indemnity fund unencumbered balance thresholds when participation fees and per-bushel fees are waived (from exceeds \$8-million to exceeds \$16-million) and imposed (from less than \$3-million to less than \$8-million). This section also specifies that the waiver applies to any purchased grain that is unpriced on the last date of the assessment year.

*Section 19—Claims to Be Filed According to Rules Adopted by IDALS*

Amends section 203D.6, subsection 1, Code 2025, to add verbiage that a person who files a claim to the grain indemnity fund must do so according to rules adopted by the Iowa Department of Agriculture and Land Stewardship (IDALS). IDALS may identify each claim and associated claimant by a unique number that may be a federal tax identification number. Current provisions provide that claims be filed as prescribed by the 'Board'.

*Section 20—Indemnity Fund Claim Coverage Details*

Amends section 203D.6, subsection 4, 5, 6, 8, and 9, Code 2025 with:

- Subsections 4 specifying that losses must be 'incurred dollar value loss' of: deposited grain, sold grain, and segregated credit sales by deferred pricing which is covered and deferred payment contracts that are not covered by grain indemnity coverage.
- Subsections 5 & 6 specifying that seller and depositor claims for corn and soybeans shall be based on #2-corn and #2-yellow soybeans. This verbiage is to resolve the value of special grain sales such as organic grain to limit potential exposure to the fund in such claims since these grain sales pay the same per-bushel fee assessment.
- Subsection 8 specifies a cumulative covered loss cap of \$400,000 for all types of covered loss with indemnity of 90% for each depositor and paid seller including repayment loss for such transaction; and

75% for grain sold under deferred pricing contracts including repayment actual dollar loss for repayment loss for this type of transaction. This subsection further new language that further specifies the primacy of claims should the fund balance be insufficient to satisfy all claims: sellers and depositors of grain will be addressed first and once those claims are satisfied then deferred pricing contract losses will be addressed. Grain sold under deferred payment contract are explicitly not covered by the grain indemnity fund.

- Subsection 9 deals with modernizing code language concerning subrogation losses wherein a grain seller suffer dollar loss value due to grain payment disgorgement extracted by bankruptcy court action against the grain purchaser.

#### Section 21—Indemnity Fund not Liable for Expired Claims

Amends section 203D.6, subsection 10, paragraph b, Code 2025 to replace the term ‘payment’ with the term ‘indemnification’.

#### Section 22—Indemnification of Repayment Losses (Clawbacks) Against the Fund

Creates a new Code section 203D,6A that proposes extensive and detailed provisions concerning grain seller eligibility for Grain Indemnity fund claims for dollar value losses due to a bankruptcy Court ‘clawing back’ grain sale proceeds that a producer received prior to a grain dealer insolvency and Court bankruptcy proceedings.

This section provides that—

- The special repayment process allows such a seller to recover the dollar value loss of the grain dealer payment that the seller was forced to repay to the grain dealer’s bankruptcy estate.
- To be timely, a seller must file a repayment claim with DALS not later than 60 days after the repayment loss is finalized by a bankruptcy court.
- IDALS may provide notice of the repayment claim process to a seller who may file a repayment claim.
- If IDALS chooses to provide a notice to the seller, IDALS has discretion to determine a reasonable method and manner of providing such notice.
- The indemnity board must determine that a repayment claim is eligible for payment from the indemnity fund, including whether the repayment claim derives from a covered transaction.
- IDALS is required to deliver notice to a seller filing a repayment claim regarding the indemnity board’s determination in the same manner as for an ordinary loss.
- Indemnification for repayment claims is up to a dollar value loss up to \$400,000 with indemnification per claimant as specified by section 20 of this bill (new Code section 203D.6, subsection 8).
- The dollar value loss of a repayment claim is the amount the seller has paid to the grain dealer bankruptcy estate that the seller previously received from the grain dealer’s purchase of the grain.
- If Indemnity Fund moneys are insufficient to pay all claims against the fund, IDALS may temporarily defer payments based on insufficient moneys in the indemnity fund on a prioritized basis until sufficient moneys exist.
- Repayment claim shall expire if five years after the board determines that the repayment claim is eligible, and the claimant has failed to do any of the following:
  - a) Provide for the fund’s subrogation or render all necessary assistance to the department and the board in securing the department’s rights of subrogation as required.
  - b) Provide necessary documentation or information required by the board in order to process the repayment claim.
  - c) The fund is not liable for the payment of an expired repayment claim.

#### Section 23—Emergency Rules within 30-Days of Enactment

Provides implementation instructions to IDALS to devise and adopt emergency rules within 30-days of enactment/immediate effective date to effectuate the bill's provisions upon filing. Further require IDALS to double-barrel the rule by filing notice of intended action.

*Section 24—Assessment of Indemnity Fees on Covered Credit Sale Contracts*

Provides implementation instructions to IDALS to implement grain indemnity assessments upon covered credit sale contract commencing September 1<sup>st</sup> of the first assessment quarter.

*Section 25-Immediate Effective Date upon Enactment Concerning Section 20/Emergency Rules*

*Section 26—Applicability Of Repayment Indemnity Process*

Specifies that the process of providing repayment indemnity applies to repayment losses occurring after grain dealer bankruptcy occurred on or after October 24, 2022. Any repayment loss incurred prior to July 1, 2025, the end of the claim period is August 29, 2025.

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## **Amendment Analysis**

### ***Conforming Amendment to HF 999***

**H 1290**, to HF 999 by Mommsen is a conforming amendment to make HF 999 identical to SF 608.

### ***Amendments to H \_\_\_\_ or SF 608***

**None** filed as of 10 pm 5/7/2025