

As Reported by the Senate Agriculture Committee

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Senator Hite

**Cosponsors: Senators Burke, Balderson, LaRose, Peterson, Gentile, Cafaro,
Smith, Manning**

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A B I L L

To amend sections 926.01, 926.021, 926.06, 926.10, 1
926.17, and 926.18 of the Revised Code to revise 2
the Agricultural Commodity Handlers Law. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 926.01, 926.021, 926.06, 926.10, 4
926.17, and 926.18 of the Revised Code be amended to read as 5
follows: 6

Sec. 926.01. As used in this chapter: 7

(A) "Agricultural commodity" means ~~barley~~, corn, ~~oats~~, ~~rye~~,
~~grain sorghum~~, soybeans, wheat, ~~sunflower~~, ~~speltz~~, or any other 8
agricultural crop that the director of agriculture may designate 9
by rule. "Agricultural commodity" does not mean any grain that is 10
purchased for sale as seed. 11
12

(B) "Agricultural commodity handling" or "handling" means any 13
of the following: 14

(1) Engaging in or participating in the business of 15
purchasing from producers agricultural commodities for any use in 16
excess of thirty thousand bushels annually; 17

(2) Operating a warehouse as a bailee for the receiving, storing, shipping, or conditioning of an agricultural commodity;	18 19
(3) Receiving into a warehouse an agricultural commodity purchased under a delayed price agreement;	20 21
(4) Providing marketing functions, including storage, delayed price marketing, deferred payment, feed agreements, or any other marketing transaction whereby control is exerted over the monetary proceeds of a producer's agricultural commodities by a person other than the producer.	22 23 24 25 26
(C) "Agricultural commodity handler" or "handler" means any person who is engaged in the business of agricultural commodity handling.	27 28 29
(D) "Depositor" means:	30
(1) Any person who delivers an agricultural commodity to a licensed handler for storage, conditioning, shipment, or sale;	31 32
(2) Any owner or legal holder of a ticket or receipt issued for an agricultural commodity who is a creditor of the licensed handler for the value of the agricultural commodity;	33 34 35
(3) Any licensed handler storing an agricultural commodity that the licensed handler owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensed handler or any other licensed handler.	36 37 38 39
(E) "Receipt" means a warehouse receipt issued by a licensed handler.	40 41
(F) "Nonnegotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the depositor or to the order of any other person named in the receipt.	42 43 44 45
(G) "Negotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered	46 47

to the bearer or to the order of any person named in the receipt.	48
(H) "Ticket" means a scale weight ticket, a load slip, or any evidence, other than a receipt, given to a depositor by a licensed handler upon delivery of an agricultural commodity to the handler.	49 50 51
(I) "Warehouse" means any building, bin, protected enclosure, or similar premises under the control of a licensed or unlicensed handler used for receiving, storing, shipping, or handling an agricultural commodity.	52 53 54 55
(J) "Storage" means the deposit of an agricultural commodity into a warehouse either for the account of the licensed handler operating the warehouse or for the account of a depositor.	56 57 58
(K) "Producer" means any person who grows an agricultural commodity on land that the person owns or leases.	59 60
(L) "Agent" means any person, other than a producer, who delivers an agricultural commodity to a licensed handler, either for sale or for storage, for the account of the producer.	61 62 63
(M) "Agricultural commodity tester" or "tester" means a person who operates a moisture meter and other quality testing devices to determine the quality of an agricultural commodity.	64 65 66
(N) "Federally licensed grain inspector" means a person who is licensed by the United States department of agriculture under the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 U.S.C. 71, as amended, to test and grade grain, as "grain" is defined in that act.	67 68 69 70 71
(O) "Bailee" means a person to whom an agricultural commodity is delivered in trust for storage in a warehouse with title remaining in the name of the depositor.	72 73 74
(P) "Bailor" means a person who delivers an agricultural commodity to a bailee in trust for storage in a warehouse with title remaining in the name of the depositor.	75 76 77

(Q) "Bailment agreement" means a bailor-bailee agreement	78
between a depositor and a licensed handler as stated in the terms	79
of a receipt that is issued for an agricultural commodity in	80
storage and subject to the requirements of this chapter governing	81
the use of a receipt.	82
(R) "Delayed price agreement" means a written executory	83
contract executed by and between a licensed handler and a	84
depositor that covers the sale and transfer of title of an	85
agricultural commodity and states in its written terms the service	86
charges and the method for pricing the commodity at a later date.	87
(S) "Delayed price marketing" means the sale and transfer of	88
title of an agricultural commodity with the price to be	89
established at a later date according to the terms of a delayed	90
price agreement.	91
(T) "Deferred payment" means the deferral of payment to a	92
depositor by a licensed handler for an agricultural commodity to	93
which the licensed handler has taken title, for the purpose of	94
deferring income of the depositor from one tax year to another.	95
(U) "Feed agreement" means a written contract executed by and	96
between a licensed handler and a producer or depositor who	97
delivers an agricultural commodity to the licensed handler for	98
storage whereby each of the following applies:	99
(1) The producer or depositor transfers title to the	100
agricultural commodity to the licensed handler in exchange for a	101
nominal sum;	102
(2) The producer, upon delivery of the agricultural commodity	103
to the licensed handler, becomes a creditor of the licensed	104
handler due to the lien that arises under section 926.021 of the	105
Revised Code;	106
(3) All or part of the agricultural commodity is returned to	107
the producer at a later date and used for feed purposes.	108

(V) Notwithstanding section 1.02 of the Revised Code, "and"	109
shall not be read "or" and "or" shall not be read "and."	110
Sec. 926.021. (A) As used in this section:	111
(1) "Claimant" means a person to whom an agricultural commodity handler owes a financial obligation for agricultural commodities or the actual monetary proceeds from agricultural commodities that have been delivered to the handler.	112 113 114 115
(2) "Failure" means any of the following involving an agricultural commodity handler:	116 117
(a) An inability to satisfy claimants financially;	118
(b) A public declaration of insolvency;	119
(c) A revocation, suspension, or conditional suspension of license with outstanding indebtedness to claimants;	120 121
(d) Nonpayment in the ordinary course of business where a good faith dispute does not exist;	122 123
(e) No application for license renewal;	124
(f) Denial of license renewal;	125
(g) Voluntarily surrendering a license.	126
(3) "Agricultural commodity assets" involving an agricultural commodity handler means any of the following:	127 128
(a) All agricultural commodities owned or stored, including agricultural commodities in transit shipped by the handler but not yet paid for;	129 130 131
(b) Redeposited agricultural commodities;	132
(c) Proceeds from the sale of agricultural commodities due or to become due <u>to the depositor</u> ;	133 134
(d) The equity less any secured financing directly associated therewith in assets in hedging or speculative margin accounts held	135 136

by commodity or security exchanges or dealers representing the exchanges, and any moneys due or to become due less any secured financing directly associated therewith from any transactions on the exchanges;	137 138 139 140
(e) Any other unencumbered funds, property, or equity in funds or property, wherever located, that can be directly traced to the sale of agricultural commodities by the handler, provided both that the funds, property, or equity in funds or property shall not be considered to be encumbered unless the encumbrance results from good and valuable considerations advanced by any secured party on a good faith basis and that the encumbrance is not the result of the taking of funds, property, or equity in funds or property as additional collateral for an antecedent debt;	141 142 143 144 145 146 147 148 149
(f) Any other unencumbered funds, property, or equity in assets.	150 151
(B) A lien shall exist on all agricultural commodity assets of an agricultural commodity handler in favor of any of the following:	152 153 154
(1) Claimants, including lenders, who possess receipts covering grain owned or stored by the handler;	155 156
(2) Claimants who possess written evidence of ownership other than a receipt disclosing a storage obligation of the handler, including tickets;	157 158 159
(3) Claimants who surrendered receipts as part of an agricultural commodity sales transaction but were not paid fully for the agricultural commodity and the handler failed within twenty-one days after the surrender;	160 161 162 163
(4) Claimants who possess any other written evidence of the sale of agricultural commodities to the handler for which they were not paid fully, including the sale of agricultural commodities for a nominal sum under a feed agreement.	164 165 166 167

(C) The lien that shall secure all claims described in division (D) of this section, shall arise, attach to the agricultural commodity assets of an agricultural commodity handler, and become effective at the time of the delivery of the agricultural commodity for sale or for storage under a bailment agreement, commencement of the storage obligation, or when funds are advanced by the lender, and shall terminate when the liability of the agricultural commodity handler to the claimant is discharged, provided that the priority of each lien among the respective claimants shall not relate to the date the claim arises but shall be governed by the priorities established in division (D) of this section. In the event of a failure, the lien claims of all claimants shall be considered to be assigned by operation of this section to the department of agriculture, and in the event of a failure and subsequent liquidation, the lien shall transfer over to assets or proceeds of assets either received or liquidated by the department. <u>The lien established under this section shall have priority over all competing lien claims asserted against the agricultural commodity assets.</u>	168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186
(D) Except as provided in division (E) of this section, in the event of a failure, the director of agriculture shall possess exclusive authority to enforce the lien claims and allocate the proceeds as follows:	187 188 189 190
(1) First priority against all agricultural commodity assets shall be the following:	191 192
(a) Claimants, including lenders, who possess receipts covering grain owned or stored by the agricultural commodity handler;	193 194 195
(b) Claimants who possess written evidence of ownership other than receipts disclosing a storage obligation of the handler, including tickets;	196 197 198

(c) Claimants who surrendered receipts as part of an agricultural commodity transaction, but were not paid fully for the agricultural commodity and the handler failed within twenty-one days after the surrender.	199 200 201 202
(2) Second priority against all agricultural commodity assets shall be to claimants who possess written evidence of the sale of an agricultural commodity, including, but not limited to, tickets, delayed price agreements, or similar agricultural commodity delivery contracts who completed delivery and pricing within thirty days immediately prior to the failure of the handler.	203 204 205 206 207 208
(3) To the extent not necessary to satisfy first and second priority claimants, all other claimants who possess written evidence of the sale of agricultural commodities to the handler shall participate in the pro rata distribution of the remainder of the agricultural commodity assets in an amount not to exceed the value of each claim.	209 210 211 212 213 214
(E) In the event that any adversary proceeding is commenced to recover agricultural commodity assets upon which the lien imposed in this section is imposed and the department declines to enter the proceeding, the director, upon application to the director by any claimant, shall assign to the claimant the applicable lien to permit the claimant to pursue the claimant's lien in the adversary proceeding to the extent the action will not delay the resolution of the proceeding, the prompt liquidation of the assets, or the ultimate distribution of the assets to all claimants.	215 216 217 218 219 220 221 222 223 224
Sec. 926.06. (A) The director of agriculture may issue a handler's license, or renewal thereof, upon the payment of the prescribed application fee, if the director is satisfied that the applicant meets the standards of financial responsibility required under this section and has complied with this chapter and the	225 226 227 228 229

rules adopted under it.	230
(B)(1) On the effective date of this amendment, each <u>Each</u> applicant for a handler's license, or renewal thereof, shall have and maintain current assets equal to or greater than current liabilities and a total net worth equal to at least ten fifteen cents per bushel for the total number of bushels of agricultural commodities that the applicant handled during the immediately preceding twelve-month period to cover any indebtedness arising from the applicant's operations as a licensed handler. One year after the effective date of this amendment, the total net worth requirement shall increase to eleven cents per bushel. For the next four years, the requirement shall continue to increase by one cent per bushel each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, an applicant's total net worth shall be equal to at least fifteen cents per bushel for the total number of bushels of agricultural commodities that the applicant handled during the immediately preceding twelve month period.	231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247
(2) On the effective date of this amendment, if <u>If</u> an applicant is applying for a handler's license for the first time and did not handle any agricultural commodities during the immediately preceding twelve-month period, the applicant shall have an allowable total net worth of at least twenty five fifty thousand dollars to cover any indebtedness arising from the applicant's operations as a licensed handler. One year after the effective date of this amendment, this allowable total net worth requirement shall increase to thirty thousand dollars. For the next four years, the requirement shall continue to increase by five thousand dollars each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, an applicant's total net worth shall be at least fifty thousand dollars.	248 249 250 251 252 253 254 255 256 257 258 259 260 261

(3) On the effective date of this amendment, no <u>No</u> person shall be licensed as a handler unless the person has an allowable total net worth of at least twenty five fifty thousand dollars.	262 263 264
One year after the effective date of this amendment, this allowable total net worth requirement shall increase to thirty thousand dollars. For the next four years, the requirement shall continue to increase by five thousand dollars each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, the person's total net worth shall be at least fifty thousand dollars.	265 266 267 268 269 270 271
(4) On the effective date of this amendment, any <u>Any</u> deficiency in required total net worth may be compensated for by an indemnity agreement executed by a person pledging personal assets for the benefit of commodity creditors should the licensed handler default in the licensed handler's obligations to the creditors; a bond issued by a corporate surety company that is authorized to do business under the laws of this state; or, at the director's discretion, an irrevocable letter of credit issued by a bank or other lending institution that is authorized by this state or the United States to issue such letters of credit and is subject to service of process in this state for any suit on the bond or letter of credit. An indemnity agreement executed by a person pledging personal assets shall be accompanied by financial statements that reflect the person's financial position as an individual and comply with the requirements of division (C) of this section. A bond shall be made to the treasurer of state to be deposited in the agricultural commodity depositors fund created under section 926.16 of the Revised Code for the benefit of any person who may be injured by the handler's failure to meet obligations arising under this chapter. A letter of credit shall be issued for the benefit of the department of agriculture and the agricultural commodity depositors fund.	272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293

(5) The director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the assets for which credit may be given in determining an applicant's total net worth.	294 295 296
(6) On the effective date of this amendment, regardless <u>Regardless</u> of the total number of bushels of agricultural commodities that an applicant handled during the immediately preceding twelve-month period, the applicant's total net worth need not exceed a maximum of three <u>four</u> hundred fifty thousand dollars. One year after the effective date of this amendment, this maximum total net worth need not exceed three hundred thirty thousand dollars. For the next four years, this maximum total net worth shall continue to increase by thirty thousand dollars each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, an applicant's total net worth need not exceed four hundred fifty thousand dollars.	297 298 299 300 301 302 303 304 305 306 307 308 309
(C) In order for the director to determine if an applicant meets the standards of financial responsibility required under division (B) of this section, the applicant for a handler's license, or renewal of a handler's license, shall submit financial statements that have been prepared in accordance with generally accepted accounting principles and that have been audited or reviewed by an independent certified public accountant. The financial statements shall consist of the applicant's balance sheet, income statement, statement of retained earnings or statement of stockholder's equity, and statement of cash flows, together with any explanatory footnotes or supplementary information accompanying these statements and with the independent accountant's report on the statements.	310 311 312 313 314 315 316 317 318 319 320 321 322
The financial statements accompanying an applicant's original application shall be for a year ending within six months before the date of application. Thereafter, the applicant applying for	323 324 325

renewal shall submit such statements not later than ninety days after the end of the year covered by the statements.	326 327
The director may require an applicant for a handler's license, or renewal of a handler's license, to submit financial statements audited by an independent certified public accountant if the director determines that the financial statements initially submitted under this division are incomplete or otherwise unsatisfactory.	328 329 330 331 332 333
(D) The director may prepare and publish statistical abstracts of information obtained under this section without disclosing details that would identify a particular applicant with particular statistics. Such information otherwise is confidential for purposes of section 102.03 of the Revised Code, and records of the department of agriculture containing such information are not otherwise public records under section 149.43 of the Revised Code.	334 335 336 337 338 339 340
Sec. 926.10. The director of agriculture, by order, may refuse to grant or may suspend or conditionally suspend a handler's license, without prior hearing, when the director determines that there is reasonable cause to believe that the applicant or licensee:	341 342 343 344 345
(A) Has failed to maintain the insurance coverage required under section 926.07 of the Revised Code;	346 347
(B) Has failed to maintain accurate and complete records and accounts as required under section 926.11 of the Revised Code;	348 349
(C) Has failed to charge, collect, or remit the fee required under division (B) of section 926.16 of the Revised Code;	350 351
(D) Has refused to allow the director or the director's authorized representative to examine, at a reasonable time, the applicant's or licensee's accounting records, accounts, agricultural commodity inventories, or warehouse;	352 353 354 355

(E) Does not possess sufficient agricultural commodities to cover the outstanding receipts or tickets issued or assumed by the applicant or licensee under bailment agreements;	356 357 358
(F) Has issued a receipt in violation of this chapter or any rules adopted under it;	359 360
(G) Does not have the net assets specified in division (B) of section 926.06 of the Revised Code or has failed to obtain a bond or other protection for any deficiency in required net assets as provided in that division;	361 362 363 364
(H) Does not have the obligations for agricultural commodities purchased under delayed price agreements secured or represented as required under division (B) or (C) of section 926.29 of the Revised Code;	365 366 367 368
(I) Does not submit financial statements that comply with the requirements of division (C) of section 926.06 of the Revised Code within the applicable time period specified in that division;	369 370 371
(J) Does not notify the director of a statutory agent's change of address or of the death, removal, resignation, or revocation of the appointment of a statutory agent or does not appoint another agent in accordance with section 926.051 of the Revised Code.	372 373 374 375 376
The applicant or licensee to whom a denial, suspension, or conditional suspension order is issued shall be afforded a hearing in accordance with Chapter 119. of the Revised Code, after which the director shall issue or deny the license applied for in the pending application or reinstate or revoke the suspended or conditionally suspended license. The director may suspend, conditionally suspend, or revoke a license after a hearing held in accordance with Chapter 119. of the Revised Code for any other violations of this chapter or any rules adopted under it.	377 378 379 380 381 382 383 384 385
The director shall cause a notice to be posted on the	386

property of a person whose license has been suspended,	387
conditionally suspended, or revoked stating the limitations or	388
restrictions imposed on the person in the handling of agricultural	389
commodities as a result of the suspension, conditional suspension,	390
or revocation. The notice shall not be removed from the property	391
without written authorization from the director.	392
<u>If a handler's license is revoked, the handler immediately</u>	393
<u>shall notify, in a manner determined by the director, all parties</u>	394
<u>that are storing agricultural commodities in the handler's</u>	395
<u>warehouse and all holders of receipts issued by the handler, if</u>	396
<u>known. The handler shall liquidate the commodities in the manner</u>	397
<u>determined by the director.</u>	398
Sec. 926.17. (A) The director of agriculture shall annually	399
review the debits of and credits to the agricultural commodity	400
depositors fund created in section 926.16 of the Revised Code and	401
shall make any adjustments in the fee required under that section	402
that are necessary to maintain the fund within the limits	403
established under this section. Not later than the first day of	404
March of each year, the director shall determine the proposed	405
amount of the fee based on the expected volume of agricultural	406
commodities on which the fee is to be collected and that are	407
likely to be handled under this chapter. The director shall make	408
any changes in the previous year's fee in accordance with Chapter	409
119. of the Revised Code. The fee shall become effective on the	410
following first day of June. It shall in no case exceed one-half	411
of one cent per bushel on all agricultural commodities on which	412
the fee is to be paid.	413
(B)(1) If, at the end of any fiscal year, the fund balance	414
exceeds ten <u>fifteen</u> million dollars, less any encumbered balances	415
or pending or unsettled claims, the fee required under division	416
(B) of section 926.16 of the Revised Code shall be waived until	417

the director, with the consent of the commodity advisory commission created in section 926.32 of the Revised Code, reinstates the fee to maintain the liquidity of the fund as provided in division (B)(2) of this section.	418 419 420 421
(2) If, at any time, the director determines that the fund balance, less any encumbered balances or pending or unsettled claims, is less than eight <u>ten</u> million dollars, the director, with the consent of the commodity advisory commission, may reinstate the fee required under division (B) of section 926.16 of the Revised Code. If the director reinstates the fee, the director shall notify all licensed handlers by certified mail, return receipt requested, to begin collecting the fee not later than ninety days after being notified.	422 423 424 425 426 427 428 429 430
Sec. 926.18. (A) When a depositor has made a demand for settlement of an obligation concerning an agricultural commodity on which a fee was required to be remitted under section 926.16 of the Revised Code and the licensed handler is experiencing failure, as "failure" is defined in section 926.021 of the Revised Code, and has failed to honor the demand, the depositor, after providing the director of agriculture or the director's authorized representative with evidence of the depositor's demand and the dishonoring of that demand, may file a claim with the director not later than six months after dishonor of the demand for indemnification of the depositor's damages, from the agricultural commodity depositors fund, to be measured as follows:	431 432 433 434 435 436 437 438 439 440 441 442
(1) The commodity advisory commission created in section 926.32 of the Revised Code shall establish the dollar value of the loss incurred by a depositor holding a receipt or a ticket for agricultural commodities on which a fee was required and that the depositor delivered to the handler under a delayed price agreement, bailment agreement, or feed agreement, or that the	443 444 445 446 447 448

depositor delivered to the handler before delivery was due under a 449
contract or other agreement between the depositor and handler. The 450
value shall be based on the fair market price being paid to 451
producers by handlers for the commodities on the date on which the 452
director received notice that the receipt or ticket was dishonored 453
by the handler. All depositors filing claims under this division 454
shall be bound by the value determined by the commission. 455

(2) The dollar value of the loss incurred by a depositor who 456
has sold or delivered for sale, exchange, or solicitation or 457
negotiation for sale agricultural commodities on which a fee was 458
required and who is a creditor of the handler for all or a part of 459
the value of the commodities shall be based on the amount stated 460
on the obligation on the date of the sale. 461

(B) The agricultural commodity depositors fund shall be 462
liable to a depositor for any moneys that are owed to the 463
depositor for commodities deposited with a licensed handler 464
pursuant to a transaction for which the handler must remit a fee 465
under division (B) of section 926.16 of the Revised Code and that 466
are not recovered through other legal and equitable remedies as 467
follows: 468

(1)(a) The liability of the fund shall equal one hundred per 469
cent of the depositor's loss as determined under division (A)(1) 470
of this section if any of the following applies: 471

(i) The commodities were stored with the handler under a 472
bailment agreement. 473

(ii) Payment for the commodities was tendered by the handler 474
and subsequently dishonored, such as payment by a check for which 475
there were insufficient funds or by a check that was written on an 476
account that was frozen by the financial institution. 477

(iii) The commodities were priced ~~at the time of delivery to~~ 478
~~the handler, the delivery occurred~~ not more than thirty days prior 479

to the director's suspension of the handler's license under 480
division (E), (G), or (H) of section 926.10 of the Revised Code, 481
and the handler failed to pay for the commodities on or before the 482
date on which the suspension occurred. 483

(iv) The commodities were priced ~~at the time of delivery to~~ 484
~~the handler, the delivery occurred~~ not more than ninety days prior 485
to the director's suspension of the handler's license under 486
division (E), (G), or (H) of section 926.10 of the Revised Code, 487
the commodities were subject to a written agreement for deferred 488
payment by the handler not later than ninety days following the 489
date of delivery, and the handler failed to pay for the 490
commodities on or before the payment date established in the 491
written agreement. 492

(b) If the deposit of commodities that were the subject of 493
the depositor's loss involves circumstances other than those 494
described in division (B)(1)(a) of this section, the liability of 495
the fund shall equal one hundred per cent of the first ten 496
thousand dollars of the loss and eighty per cent of the remaining 497
dollar value of that loss as determined under divisions (A)(1) and 498
(2) of this section. 499

(2) The aggregate amount recovered by a depositor under all 500
remedies shall not exceed one hundred per cent of the value of the 501
depositor's loss. If the moneys recovered by a depositor under all 502
remedies exceed one hundred per cent of the value of the 503
depositor's loss, the depositor shall reimburse the fund in the 504
amount that exceeds the value of that loss. 505

(C) The director, with the approval recommendation of the 506
commodity advisory commission, shall determine the validity of all 507
claims presented against the fund. A claim filed under this 508
section for losses on agricultural commodities other than 509
commodities stored under a bailment agreement shall not be valid 510
unless the depositor has made a demand for settlement of the 511

obligation within twelve months after the commodities are priced.	512
Any depositor whose claim has been refused by the director and the commission may appeal the refusal either to the court of common pleas of Franklin county or the court of common pleas of the county in which the depositor resides.	513 514 515 516
The director shall provide for payment from the fund to any depositor whose claim has been found to be valid.	517 518
(D) If at any time the fund does not contain sufficient assets to pay valid claims, the director shall hold those claims for payment until the fund again contains sufficient assets.	519 520 521
Claims against the fund shall be paid in the order in which they are presented and found to be valid.	522 523
(E) If a depositor files an action for legal or equitable remedies in a state or federal court having jurisdiction in those matters that includes a claim against agricultural commodities upon which the depositor may file a claim against the fund at a later date, the depositor also shall file with the director a copy of the action filed with the court.	524 525 526 527 528 529
In the event of payment of a loss under this section, the director shall be subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor against any person regarding the loss.	530 531 532 533
The depositor shall render all necessary assistance to aid the director in securing the rights granted in this section. No action or claim initiated by the depositor and pending at the time of payment from the fund may be compromised or settled without the consent of the director.	534 535 536 537 538
(F) If, prior to June 20, 1994, a lawsuit, adversary proceeding, or other legal proceeding is brought against a depositor to recover money or payments from funds to which a depositor has a right of indemnification under this section, and	539 540 541 542

the depositor retains legal counsel resulting in a cost or expense	543
to the depositor, upon the rendering of a judgment or other	544
resolution of the lawsuit, adversary proceeding, or other legal	545
proceeding, the director, in the director's discretion and with	546
the approval of the commodity advisory commission, may authorize	547
indemnification from the fund for attorney's fees paid by the	548
depositor. Any claim made by a depositor for the payment of	549
attorney's fees under this division shall be made in the same	550
manner as a claim under division (A) of this section.	551
Attorney's fees payable under this division shall be limited	552
to the actual hourly fee charged or one hundred dollars per hour,	553
whichever is less, and to a total maximum amount of three hundred	554
dollars.	555
Section 2. That existing sections 926.01, 926.021, 926.06,	556
926.10, 926.17, and 926.18 of the Revised Code are hereby	557
repealed.	558