

HOUSE BILL NO. 5001

September 14, 2023, Introduced by Reps. Puri and Witwer and referred to the Committee on Appropriations.

A bill to amend 2003 PA 198, entitled
"Farm produce insurance act,"
by amending section 7 (MCL 285.317), as amended by 2016 PA 264.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) A board of directors shall govern and administer
2 the authority. The board shall consist of the following 10 members:
3 (a) The director, or ~~his or her~~ **the director's** designee, is a
4 nonvoting member and the chairperson and secretary of the board.
5 This member ~~shall~~ **must** not receive per diem or other compensation
6 or reimbursement for expenses for serving on the board.

1 (b) One nonvoting member appointed by the governor with the
2 advice and consent of the senate, from recommendations received
3 from the largest Michigan organization representing the interests
4 of licensees in ~~Michigan, this state~~, as determined by the
5 director.

6 (c) Three voting members appointed by the governor with the
7 advice and consent of the senate for staggered terms, from
8 recommendations received from the largest Michigan organization
9 representing general farm interests in ~~Michigan, this state~~, as
10 determined by the director. Only a producer is eligible for
11 appointment under this subdivision. For the first board, the
12 governor shall appoint 1 voting member appointed under this
13 subdivision for a term of 1 year, 1 voting member for a term of 2
14 years, and 1 voting member for a term of 3 years.

15 (d) One voting member appointed by the governor with the
16 advice and consent of the senate, from recommendations received
17 from the largest Michigan organization exclusively representing the
18 interests of corn producers in ~~Michigan, this state~~, as determined
19 by the director. Only a producer is eligible for appointment under
20 this subdivision.

21 (e) One voting member appointed by the governor with the
22 advice and consent of the senate, from recommendations received
23 from the largest Michigan organization exclusively representing the
24 interests of soybean producers in ~~Michigan, this state~~, as
25 determined by the director. Only a producer is eligible for
26 appointment under this subdivision.

27 (f) One voting member appointed by the governor with the
28 ~~consent and advice~~ **and consent** of the senate, from recommendations
29 received from the largest Michigan organization exclusively

1 representing dry bean producers in Michigan, ~~this state~~, as
2 determined by the director. Only a producer is eligible for
3 appointment under this subdivision.

4 (g) One voting member appointed by the governor with the
5 advice and consent of the senate, from recommendations received
6 from the largest Michigan organization representing the interests
7 of agricultural lenders in Michigan, ~~this state~~, as determined by
8 the director.

9 (h) One voting member appointed by the governor with the
10 ~~consent and advice~~ **and consent** of the senate, from recommendations
11 received from the largest Michigan organization exclusively
12 representing wheat producers in Michigan, ~~this state~~, as determined
13 by the director. Only a producer is eligible for appointment under
14 this subdivision. For the first appointment under this subdivision,
15 the governor shall appoint the voting member for a term of 2 years.

16 (2) Except as provided in subsection (1)(b) and (c) for the
17 first board, and except as provided in subsection (1)(h), each
18 member of the board appointed by the governor shall serve for a 3-
19 year term and may be reappointed for 1 or more additional terms.
20 The governor may remove a member appointed by the governor from the
21 board for good cause.

22 (3) The governor shall fill a vacancy on the board for an
23 unexpired term for the remainder of the term and in the same manner
24 as an original appointment. A vacancy does not impair the right of
25 a quorum to exercise all the rights and perform all the duties of
26 the board.

27 (4) Five voting members constitute a quorum. The affirmative
28 vote of 5 or more voting members is necessary for an action of the
29 board other than adjournment of a meeting of the board. An

1 adjournment of a meeting of the board requires a vote of a majority
2 of voting members present at the meeting and voting.

3 (5) The board shall hold an annual meeting and at least 1
4 additional meeting each calendar year. The secretary of the board
5 shall provide written notice of each meeting to the members of the
6 board at least 5 days before the meeting.

7 (6) A member of the board may waive any notice required by
8 this section, before or after the date and time stated in the
9 notice, in writing and delivered, mailed, or electronically
10 transmitted to the authority for inclusion in the minutes or filing
11 with the records of the authority.

12 (7) A board member's attendance at a meeting waives any
13 objection to ~~any~~**either** of the following:

14 (a) No notice or a defective notice of a meeting, unless the
15 member at the beginning of the meeting objects to holding the
16 meeting or transacting business at the meeting.

17 (b) Consideration of any particular matter at a meeting that
18 is not within the purpose or purposes described in the notice,
19 unless the member objects to considering the matter when it is
20 presented.

21 (8) The board shall do all of the following:

22 (a) Elect from among its members a vice-chairperson and
23 treasurer.

24 (b) Create forms ~~7~~ and establish policies and procedures to
25 implement this act.

26 (c) Establish the amount of the producer premium under section
27 11 and collect and deposit all producer premiums into the fund.

28 (d) Establish the amount of the administrative premium under
29 section 10; collect and deposit all administrative premiums into

1 the fund; and enter into a memorandum of understanding with the
2 director that provides for reimbursement of the director for
3 producer security activities from the proceeds of the
4 administrative premiums.

5 (e) Take any legal action it considers necessary to compel a
6 failed licensee to repay the fund for any payment made from the
7 fund to a claimant for a valid claim against that licensee.

8 (f) Take any legal action it considers necessary to compel a
9 claimant to participate in any legal proceeding in relation to the
10 claim or the failure of a licensee.

11 (g) Within 5 business days of receiving notice of failure of a
12 licensee, publish notice of the failure in a manner described in
13 the grain dealers act.

14 (h) Request the services of the department or arrange for
15 legal services through the department of attorney general if the
16 board considered it necessary in the execution of its duties.

17 (i) Procure insurance against any loss in connection with its
18 operations, in amounts and from insurers as determined by the
19 board.

20 (j) Borrow money from a bank, ~~an~~ insurance company, ~~an~~
21 investment company, or any other person, and pay or include in the
22 loan any financing charges or interest, consultant, advisory, or
23 legal fees, and other expenses the board determines are appropriate
24 in connection with the loan. Any loan contract must provide for a
25 term of not more than 40 years, allow prepayment without penalty,
26 and plainly state that the loan is not a debt of this state but the
27 sole obligation of the authority, payable solely from the fund or
28 from any appropriation from this state made to the authority for
29 repayment of the loan.

1 (k) Employ personnel as required in the judgment of the board
2 and fix and pay compensation from money available to the authority
3 from the administrative expenses account described in section 9(2).

4 (l) Make, execute, and carry out any contract, agreement, or
5 other instrument or document with a governmental department or
6 other person it determines is necessary or convenient to accomplish
7 the purposes of this act.

8 (m) If requested by the director and approved by the board,
9 make payment from the fund to compensate a claimant for a valid
10 claim.

11 (9) The board may do any of the following:

12 (a) Establish policies and procedures in connection with the
13 performance of the functions and duties of the authority.

14 (b) Adopt a policy establishing a code of ethics for its
15 employees and board members, consistent with 1973 PA 196, MCL
16 15.341 to 15.348.

17 (c) Accept gifts, devises, bequests, grants, loans,
18 appropriations, revenue sharing, other financing and assistance,
19 and any other aid from any source and deposit them in the fund and
20 agree to and comply with any conditions attached to them.

21 (10) A voting member may receive per diem compensation and
22 mileage reimbursement for attending meetings of the board or while
23 engaged in the performance of ~~his or her~~ **the member's** duties on
24 behalf of the authority, in amounts established by the board, and
25 may receive reimbursement for other expenses approved by the board.
26 The amounts established by the board ~~shall~~ **must** not exceed ~~the~~
27 ~~maximum commission of agriculture rates~~ **\$75.00** for per diem
28 compensation and mileage reimbursement. A voting member shall not
29 receive any other compensation for serving on the board or for

1 services performed for the authority.

2 (11) The department shall inspect the books and records of a
3 licensee during normal business hours to verify whether the
4 licensee is complying with the provisions of this act.

5 (12) A licensee shall make its books and records available to
6 the department for the inspections and verifications described in
7 sections 10(6) and 11(4). Financial information submitted to the
8 department or the authority by a licensee for purposes of this
9 subsection and sections 10(6) and 11(4) is confidential and is not
10 subject to the disclosure requirements of the freedom of
11 information act, 1976 PA 442, MCL 15.231 to 15.246, except that
12 disclosure of financial information may be made in any of the
13 following circumstances:

14 (a) With the written consent of the licensee.

15 (b) Pursuant to a court proceeding.

16 (c) The disclosure is made to the director or an agent or
17 employee of the department.

18 (d) The disclosure is made to an agent or employee of a state
19 or the federal government authorized by law to see or review the
20 information.

21 (e) The information is disclosed in the form of an information
22 summary or profile, or as part of a statistical study that includes
23 data on more than 1 grain dealer, that does not identify the grain
24 dealer to which any specific information applies.