

**251.640 Assessment of grain producers -- Deduction of assessment -- Collection -- Restraining order or preliminary injunction against purchaser.**

- (1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that all producers of grain shall be assessed at a rate of .0025 times the gross value of all marketed grain and provide for the collection of the assessment for the purpose of financing or contributing to the financing of the Kentucky grain insurance fund, which is hereby created.
- (2) Upon the establishment of the Kentucky Grain Insurance Corporation, the Commissioner shall notify by certified mail, all persons in this state engaged in the business of purchasing grain from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the purchase price of the grain. The deducted assessment shall, on or before the fifteenth day of the month following the end of the month in which the grains are sold to the purchaser, be remitted by the purchaser to the grain insurance fund. The books and records of all purchasers of grain, which shall clearly indicate the producer assessment, shall at all times be open for inspection by the Commissioner of Agriculture or his duly authorized agents during regular business hours. The Commissioner or his agents may take steps as are reasonably necessary to verify the accuracy of books and records of purchasers of grain.
- (3)
  - (a) Beginning with the first assessment levied on or after June 25, 2009, no assessments shall be collected by the department under paragraph (b) of this subsection unless the board has certified that the fund is less than three million dollars (\$3,000,000). For subsequent assessments, the provisions and amounts specified in paragraph (b) of this subsection apply.
  - (b) If and when the fund is more than ten million dollars (\$10,000,000), no fees shall be assessed by the department unless the amount in the fund drops below ten million dollars (\$10,000,000). If the fund is more than ten million dollars (\$10,000,000), no later than April 30 of each year, the board shall meet and certify the fund is in excess of ten million dollars (\$10,000,000). Upon this certification, no assessment shall be assessed or collected for that licensed year. If at any time after the board has certified the ten million dollars (\$10,000,000) amount, the board receives notification of the fund being less than eight million dollars (\$8,000,000), the board shall within thirty (30) days certify that the fund has less than eight million dollars (\$8,000,000), and the assessment shall be reinstated. Upon notification from the board, the department shall within thirty (30) days reinstate the assessment fee of .0025 times the gross value of the grain purchased.
- (4) Any producer upon and against whom the assessment is levied and collected under the provisions of this section, if dissatisfied with the assessment, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection

or compensation provided for by the grain insurance corporation.

- (5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, or 251.600 to 251.740, the grain insurance corporation may make application to the Franklin Circuit Court for an order enjoining the acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.
- (6) The assessments by the department in accordance with this section are in addition to any other fees or assessments required by law.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 61, sec. 3, effective June 25, 2009. -- Amended 2006 Ky. Acts ch. 214, sec. 2, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 125, sec. 6, effective June 20, 2005. -- Amended 1990 Ky. Acts ch. 396, sec. 5, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 81, sec. 3, effective July 15, 1986. -- Created 1984 Ky. Acts ch. 389, sec. 5, effective July 13, 1984.