

## **Procedure for Failure and Claims Hearing**

1. Indiana Grain Buyers Warehouse Licensing Agency (“Agency”) shall take possession of the licensee’s failing business for the purposes of settling the outstanding amounts.
2. The Director shall provide written notice of the failure to surety on bond or bank for a letter of credit.
3. The Agency shall conduct an audit or investigation of the grain and proceeds from the sale of grain to determine the amount of the shortage and commute the amount due to each depositor as shown by the licensee’s records.
4. The Agency shall redeliver stored grain on a pro rata basis to all valid owners of grain bank or stored grain.
5. The Agency shall sell remaining grain and the proceeds of the sale shall be deposited into an interest bearing trust account for the benefit of valid claimants.
6. The Agency will notify depositors (via mail at last known address by licensee’s records) who are owed grain and or proceeds from the sale of grain. The notification will include a Statement of Proof of Loss, which the depositor shall fill out, and will provide the date and location of the claims hearing.
7. The Agency will also publish notice of the claims hearing in local newspapers.
8. At the claims hearing, the Administrative Law Judge will review the Statements of Proof of Loss submitted by claimants along with other evidence provided to determine the validity of the claims.
9. Depositors have 15 days to bring a claim to the agency if they are not present at the hearing.
10. After the appropriate time has passed for administrative review, the Administrative Law Judge shall issue a finding of fact and final order.
11. The Agency shall distribute the available proceeds from sale of grain and then the cash deposit, letter of credit or bond on a pro rata basis to valid claimants.
12. For unfulfilled obligations the Director shall, establish a date upon which the loss is discovered, price the grain at that date and treat all outstanding grain obligations that were not covered by grain on hand or proceeds as being sold on that date and determine that depositor’s loss will be the loss sustained on that date.
13. In the event that depositors are not paid in full for their claims, the Director shall forward to the Indiana Grain Indemnity Board a list of depositors who are still owed money and the balance of their claim still due to them.

## **Indiana Grain Indemnity Fund**

1. After the Agency has submitted the information to the Indiana Grain Indemnity Corporation, the Indiana Grain Indemnity Board (“Board”) shall determine the valid claims and the amount of financial loss that were incurred due to the failure.
2. Valid claims shall be compensated within ninety days (90) of the Board’s approval of a claim except as specified in IC 26-4-6-3(b).
3. Claimants who incurred a storage loss due to the failure are entitled to be compensated by the Board for one hundred percent (100%) of the storage loss incurred less all credits and offsets and any producer premium that would have been due on the sale of the grain.
4. Claimants who incurred a financial loss due to the failure are entitled to be compensated by the Board for eighty percent (80%) of the loss incurred less all credits and offsets and any producer premium that would have been due on the sale of the grain.
  - For grain that has been priced, the loss shall be the value of the priced grain less any outstanding charges.
  - For grain sold to a grain buyer who is also a warehouse operator and that has not been priced, the loss shall be established using the priced determined for the storage obligations.
  - For grain sold to a grain buyer who is not a warehouse operator and that has not been priced, the loss shall be established using a price determined using the same procedures used by the Agency.
5. Once compensated, a claimant may be required to subrogate all the claimant’s rights to collect on a bond and all the claimant’s rights to any other compensation arising from the failure.