

Texas Grain Producer Indemnity Fund Program

FAQ

GENERAL INFORMATION ABOUT THE INDEMNITY FUND PROGRAM

What is the purpose of the Texas Grain Producer Indemnity Board and the indemnity fund program?

The Texas Grain Producer Indemnity Board (TGPIB) is the enactment of legislation (HB 1840) passed in 2011 and amended by senate bill 1099 in 2015.

The TGPIB will establish an indemnity fund program that will mitigate 85% of all verified financial losses suffered by producers of corn, sorghum, soybeans and wheat when a financial failure prevents grain buyers from paying for purchased/contracted grain or delivering unsold grain.

Who are the TGPIB board members?

The nine-member board is appointed by Texas Department of Agriculture (TDA), and includes a representative from the Corn Producers Association of Texas, Texas Agricultural Cooperative Council, Texas Farm Bureau, Texas Grain and Feed Association, Texas Grain Sorghum Producers Association, Texas Soybean Association and Texas Wheat Producers Association, as well as a member with expertise in production agriculture financing and a representative with the non-warehouse grain buying industry.

Who is a grain buyer?

A person who buys cultivated grain or seed from a grain producer, or stores unsold grain or seed for a grain producer. The term includes a purchaser, seed dealer, warehouseman, processor, or a commercial handler.

What is it going to cost; what is the assessment rate?

The rules adopted by the TGPIB set an assessment of **two tenths percent** of the gross sales price of the grain.

Once the fund reaches an amount determined by the TGPIB as sufficient to cover risks, a refund process will be initiated.



Who pays the assessment and how is it collected?

The “first point of sale” grain buyer will collect the assessment when producers sell their grain, and remit payment to the TGPIB.

What about the administrative cost to the buyer for collecting the assessment?

Grain buyers will be compensated through an administration fee set by the TGPIB for costs associated with collecting and remitting the assessment.

What if the grain buyer does not collect the assessment?

Producers who sell to grain buyers that do not collect the assessment and remit it to the TGPIB are not eligible for indemnification of financial loss.

It is the producer’s responsibility to know the assessment has been deducted through their settlement statements.

How much protection will my participation provide?

The TGPIB will establish an indemnity fund program mitigating 85 percent of the financial losses suffered by producers of corn, sorghum, soybeans and wheat when grain buyers fail to pay for grain.

How will the fund’s balance be determined?

The TGPIB annual budget will set the minimum fund balance necessary to cover all anticipated administrative and operating costs, as well as a reasonable estimate for indemnity claim payments.

Who controls the funds?

The fund is managed by the TGPIB as enabled by the Texas State Legislature.

This money will not be a part of the State Treasury and can only be used for the indemnity fund program.

How do I file a claim; what is the process?

1. The producer will submit/file a claim to the TGPIB along with documentation (settlement statements) proving delivery of the grain and the loss incurred.
2. The TGPIB will review the claims, and upon verification of claim, the producer will receive 85 percent of the value of the gross sale of the grain.

All rights to any funds, which may be recovered in a settlement relative to the loss, up to the indemnity paid to a producer, will be transferred to the TGPIB as a requirement in the settlement of the claim.

Can I get a refund?

Annually, the TGPIB will review its budget for the next year and its current financial status and, based on that review, will determine whether or not to issue refund allotments based on prior years’ producer assessment submissions. In any event, if the TGPIB has determined the TGPIB financial account is not sufficient to pay refund allotments and maintain a minimum fund balance, the TGPIB may not issue refund allotments.

What constitutes a financial failure?

A financial failure is defined as when a grain buyer:

- files for federal bankruptcy protection;
- becomes the subject of an involuntary bankruptcy proceeding;
- is found to be insolvent by a court or a state or federal licensing agency;
- is ordered by a court having jurisdiction to pay a judgment to a grain producer; or
- loses its public warehouse license under: the United States Warehouse Act (7 U.S.C. Section 241 et seq.); or Chapter 14.

NEED FOR THE INDEMNITY FUND PROGRAM

What is the need for this program; aren't producers already covered by surety bonds?

Licensed warehouses are the only grain facilities required to carry a bond, which applies only to stored grain. Other grain buyers are not licensed federally or by TDA, or any other agency and are not required to be bonded.

As updated in 2012, the current bond requirement for state-licensed warehouses is 10 cents per bushel of storage capacity with a maximum bond requirement of \$500,000, whereas federally-licensed warehouses must have a third-party surety bond based on the licensed capacity. **The \$500,000 bond does not provide adequate protection in the event of a financial failure.**

If the fund is in place it will pay 85 percent of what is not covered by the bond. The fund will also cover forward contracted grain where as a bond does not.

Why not purchase an insurance policy to cover this risk?

Currently, there is not an entity that offers an insurance policy to cover the risk of loss of grain due to bankruptcy or theft of grain. Once the grain is delivered, an individual's crop insurance coverage ends. Additionally, once the grain leaves the producer's premises, their personal insurance is not applicable.

Is this just another tax?

No. The indemnity fund is designed to protect producers, and ensures they will be paid for their grain in the event of a financial failure of a grain buyer. There is also a provision for assessments to be returned to producers as funds are available.

Will having this fund encourage producers to take more risks with less than reputable grain buyers?

Producers have the responsibility to market their grain with a grain buyer that participates in the program if they are to be covered. Producers and grain buyers will have to engage in best business practices including the use of written and signed contracts in order to have coverage.

The program will only reimburse 85 percent of a covered loss. Producers will have a 15 percent reduction in their total claim to encourage the use of sound judgment in selecting which market they will use.

As a livestock producer, does this cost me money? And why should I support this program?

Only producers of corn, sorghum, soybeans and wheat are the only ones that will pay the assessment and they are the only ones afforded the protection of the program. This is a program where producers will build a fund to protect themselves in the event of a financial failure of a grain buyer.

How will an indemnity fund benefit grain buyers?

This fund gives grain buyer's customers the peace of mind that doing business with a grain buyer that participates in the indemnity fund guarantees the producer will receive 85 percent of their crops value if that grain buyer were to fail.



GRAIN PRODUCER REFERENDUM INFORMATION

What is the purpose of the referendum?

The Texas Department of Agriculture will conduct a referendum on the establishment of a grain indemnity fund program. Eligible voters will decide if an assessment of two tenths percent of the gross sales price of grain will be collected by the TGPIB.

How does this referendum differ from the first one?

The proposed referendum differs from the 2012 proposal in a few key ways. The assessment rate is no longer a range but is now a set rate of two tenths percent of the gross sales price of the grain. With a coverage rate of 85% this new referendum is a more economical plan for covering the producer and is designed to make payments in a more timely manner.

When will the referendum be conducted?

The referendum will be conducted December 5-9, 2016.

Who can vote?

Eligible grain producers are persons including the owner of a farm on which grain (corn, sorghum, soybeans and/or wheat) is produced or the owner's tenant or sharecropper engaged in the business of producing grain or causing grain to be produced for commercial purposes.

Only a producer who has sold grain in the 36 months preceding the close of voting, is eligible to vote in the referendum.

Where do I vote?

Eligible voters can vote at their county Texas AgriLife Extension office or request a ballot from the Texas Department of Agriculture.

RISK PROTECTION VS. THE COST OF YOUR INVESTMENT:

Example: 1,000 acres of non-irrigated corn X 100 bu. Per acre production = <hr/> 100,000 bushels ; Total Production X \$5 (value at harvest) = \$500,000 Total value of corn	\$500,000 Total value of corn X 85% Indemnity Coverage = Risk protection benefit: \$425,000	X .2% (\$.002) Indemnity Assessment = Cost of the protection: \$1,000
--	--	--

Comparison:

To insure a \$200,000 farm home, the annual premium is approximately \$1,700 (and you hope you never have a loss to file a claim). While you never receive a refund for your homeowner's insurance premium, you will have the opportunity to be refunded your grain indemnity fund assessment in the future.

Visit texasgrainindemnity.org to calculate your actual investment vs. protection.