

CHAPTER NO. 656

HOUSE BILL NO. 3085

By Representatives Litz, Davidson, Curtiss, Fraley, Yokley, Tidwell, Bone, Niceley, Harry Brooks, Swafford, Harrison, Borchert, Shaw, McCormick

Substituted for: Senate Bill No. 3184

By Senators Cooper, Burks, McLeary

AN ACT to amend Tennessee Code Annotated, Title 43, Chapter 32, relative to commodity dealers and producers.

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

SECTION 1. Tennessee Code Annotated, Section 43-32-102, is amended by inserting the following language as a new subdivision (11) and by redesignating subsequent subdivisions accordingly:

(11) "Incidental commodity dealer -- nonsecured" means a commodities dealer who purchases commodities from producers and whose total purchases during any fiscal year do not exceed one hundred thousand dollars (\$100,000), and who has notified the commissioner on the dealer's license application or renewal application that the dealer has opted not to maintain a security instrument;

SECTION 2. Tennessee Code Annotated, Section 43-32-105(e), is amended by deleting such subsection in its entirety and by substituting instead the following:

(e) For all commodity dealer or warehouseman licenses, with the exception of incidental commodity dealers – non-secured, as defined in §43-32-102(11), the application shall be accompanied by a financial statement setting forth information as prescribed by the commissioner by lawfully promulgated rule.

SECTION 3. Tennessee Code Annotated, Section 43-32-105, is amended by adding the following language as a new subsection (h):

(h) The license issued to an "incidental commodity dealer – non-secured" shall clearly state that "Producers are not eligible to receive indemnification from the Tennessee Grain Indemnity Fund if payment is not made for commodities delivered to this dealer." Additionally, this statement shall also be posted adjacent to the license issued to the dealer in the location required by this part. Such notice shall be in print no smaller than two inches (2") in letter height. This statement shall also be placed on the receipt or scale ticket issued to the seller, with a place for the seller's signature provided on each receipt or scale ticket. The signature of the seller or seller's representative shall be affixed to each receipt or scale ticket.

SECTION 4. Tennessee Code Annotated, Section 43-32-106(a), is amended by deleting the language "Every person licensed" at the beginning of the subsection and by substituting instead the language "With the exception of incidental commodity dealers – non-secured, as defined in §43-32-102(11), every person licensed".

SECTION 5. Tennessee Code Annotated, Section 43-32-108(b), is amended by deleting the language "If a commodity dealer or warehouseman" at the beginning of the first sentence of the subsection and by substituting instead the language "With the exception of incidental commodity dealers – non-secured, as defined in §43-32-102(11), if a commodity dealer or warehouseman".

SECTION 6. Tennessee Code Annotated, Section 43-32-108(c), is amended by deleting the language "When the commissioner" at the beginning of the first sentence of the subsection and by substituting instead the language "With the exception of incidental commodity dealers – non-secured, as defined in §43-32-102(11), when the commissioner".

SECTION 7. Tennessee Code Annotated, Section 43-32-108, is amended by adding the following language as a new subsection (d):

(d) Notwithstanding the provisions of subsections (b) and (c), an "incidental commodity dealer – non-secured" by opting not to maintain a security instrument causes the producers from whom such dealer purchases commodities to be ineligible to receive indemnification from the Tennessee Grain Indemnity Fund in the event such dealer fails to make payment for the commodities delivered to such dealer.

SECTION 8. Tennessee Code Annotated, Section 43-32-109 (a), is amended by deleting the language "Failure of a commodity dealer or warehouseman" at the beginning of the subsection and by substituting instead the language "With the exception of incidental commodity dealers – non-secured, as defined in §43-32-102(11), failure of a commodity dealer or warehouseman".

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 24, 2006


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 12th day of May 2006


PHIL BREDESEN, GOVERNOR