OFA FACTSHEET

# Farmer Protection

## Grain Farmer Protection from Buyer Bankruptcy

The U.S. organic market remains a powerhouse of domestic agricultural growth, reaching a record $71.6 billion in sales in 2024. For many organic commodities, particularly organic grains and oilseeds, demand continues to outpace domestic supply, creating a persistent "organic gap."

The non-GMO and organic grain markets represent two distinct tiers of the "specialty" grain sector. While organic grain ($14 B Market) remains the "gold standard" with the highest premiums, the non-GMO market ($16 B) has carved out a niche as a more accessible, lower-input alternative for farmers, and a beneficial market for farmers during the transition to organic.

**From 2021-2023, two large organic and non-GMO grain companies declared bankruptcy, putting farmers in financial risk.**

ORGANIC FARMERS ASSOCIATION

### THE PROBLEM: GRAIN BUYER BANKRUPTCIES

In the last five years, two major grain buyer bankruptcies created market instability and severe financial hardship for family farmers. Organic and non-GMO grain markets are more susceptible to buyer bankruptcy than the conventional market because they operate as specialty niche systems inside a massive global commodity infrastructure. The unique requirements of these markets and high speed of growth can create economic strain for buyers (elevators, brokers, and processors) which can lead to insolvency.

In July 2021, Pipeline Foods located in Minnesota and incorporated in Delaware, filed for Chapter 11 bankruptcy. It had contracts with 1,461 organic and non-GMO farmers. These growers failed to receive payments for grain delivered and were held to contracts to deliver grain to a company unable to pay for it. Depending on the state, some farmers were paid a portion for the grain delivered through State Indemnity Funds or Bond Programs.

One-year later in June 2022, Midwest farmers who had been paid by Pipeline for grain they delivered in the 90 days preceding the bankruptcy received clawback letters demanding they give back their payment. For some farmers, the clawback was over $500,000. For others it totaled their entire year's harvest. The financial impact was immense.

In October 2022, another regional organic and non-GMO grain buyer, Global Processing, Inc., filed for Chapter 11 bankruptcy in Iowa. The company operated four other locations across IL and NE. Two years later, they sought clawback money exceeding $5 million from farmers in twelve Midwest states. Over 1,600 farmers had contracts with one or both of these grain buyers and suffered significant financial strain and stress.

## ORGANIC FARMERS NEED PROTECTIONS

Farmers in other sectors have protections against buyer bankruptcies. **Fruit & Vegetable farmers are protected by the PACA trust**, which puts sellers of fresh and frozen fruits and vegetables in a priority status in the event their buyers become insolvent or file for bankruptcy protection. Some states have grain indemnity funds or bonding requirements to provide protection for farmers, but they rarely cover all the claims in a large bankruptcy and rarely cover clawback claims. Grain farmers need protections like other sectors as niche markets become an increasing component of family farm viability.

## THE SOLUTION:
## GRAIN TRUST ESTABLISHMENT ACT

This bill would amend the United States Grain Standards Act to create a statutory Trust for the benefit of unpaid grain farmers. This act addresses a specific burden on commerce in grain. When grain purchasers (like elevators or mill operators) buy grain but don't pay for it immediately, they may use that grain or the resulting products as collateral for loans. If the buyer goes bankrupt or defaults, the lender's security interest often takes priority over the farmer.

**How the Trust Works:** The trust would flip this dynamic by requiring:

- Ownership in Trust: Any grain received by a buyer—along with any products made from it and the resulting cash proceeds—must be held in trust for the benefit of the seller until the seller is paid in full.
- Farmers First: This ensures that the assets are legally reserved for the unpaid farmer/seller first, rather than being used to satisfy the grain buyer's other debts or bank loans.
- Cooperative Exception: These rules would not apply to transactions between a cooperative association and its members.

**Farmers Must Protect Their Rights:** To benefit from this trust, a farmer/seller must take specific steps to preserve it if they aren't paid:

1. Written Notice: The farmer/seller must provide written notice of their intent to preserve the benefits of the trust within 30 days of a missed payment or a dishonored check.
2. Invoice Disclosure: Alternatively, farmers can preserve their rights by including a specific mandatory statement on their standard invoices that notifies the buyer that the grain is sold subject to the statutory trust under Section 23 of the U.S. Grain Standards Act.

**Enforcement:** If a buyer fails to pay, the farmer has a legal cause of action for breach of fiduciary duty.

- Liability: Buyers are personally liable until the farmer/seller is paid in full.
- Legal Recourse: U.S. District Courts would have jurisdiction over these cases, and the Secretary of Agriculture would have the power to step in to prevent the dissipation of the trust assets.

This bill would create needed protection for farmers and stability in the grain market, particularly for farmers who sell into smaller, less mature grain markets. **This bill would not score.**

### THE GRAIN TRUST ESTABLISHMENT ACT

- Puts U.S. farmers first
- Creates a legal mechanism to ensure farmers get paid for grain delivered
- Protects grain farmers from buyer bankruptcy clawback
- Is zero cost = $0
- Does not require infrastructure nor technical changes
- Does not create added cost for farmer or buyer
- Is a small lift with high results protecting family farms
- Will help establish market stability for U.S. farmers and developing grain markets

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