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## **Requirements for Grain Dealers**

### **State of Indiana**

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## Requirements for Grain Dealers

### STATE OF INDIANA

*Current with legislation from the 2014 Second Regular Sess and Second Regular Technical Sess*

#### **IC 26-3-7-16.8** **26-3-7-16.8 Liens on grain assets**

- (a) A lien against all grain assets of a licensee or a person who is required to be licensed under this chapter attaches in favor of the following:
- (1) A lender or other claimant that has a receipt for grain owned or stored by the licensee.
  - (2) A claimant that has a ticket or written evidence, other than a receipt, of a storage obligation of the licensee.
  - (3) A claimant that surrendered a receipt as part of a grain sales transaction if:
    - (A) the claimant was not fully paid for the grain sold; and
    - (B) the licensee failed less than twenty-one (21) days after the surrender of the receipt.
  - (4) A claimant that has other written evidence of a sale to the licensee of grain for which the claimant has not been fully paid.
- (b) A lien under this section attaches and is effective at the earliest of the following:
- (1) the delivery of the grain for sale, storage, or under a bailment;
  - (2) the commencement of the storage obligation; or
  - (3) the advancement of funds by a lender.
- (c) A lien under this section terminates when the licensee discharges the claim.
- (d) If a licensee has failed, the lien that attaches under this section is assigned to the agency by operation of this section. If a failed licensee is liquidated, a lien under this section continues to attach as a claim against the assets or proceeds of the assets of the licensee that are received or liquidated by the agency.
- (e) Except as provided in subsection (g), if a licensee has failed, the power to enforce the lien on the licensee's grain assets transfers by operation of this section to the director and rests exclusively with the director who shall allocate and prorate the proceeds of the grain assets as provided in subsections (f) and (h).
- (f) The priority of a lien that attaches under this section is not determined by the date on which the claim arose. If a licensee has failed, the director shall enforce lien claims and allocate grain assets and the proceeds of grain assets of the licensee in the following order of priority:
- (1) First priority is assigned to the following:
    - (A) A lender or other claimant that has a receipt for grain owned or stored by the licensee.
    - (B) A claimant that has a ticket or written evidence, other than a receipt, of a storage obligation of the licensee.
    - (C) A claimant that surrendered a receipt as part of a grain sales transaction if:
      - (i) the claimant was not fully paid for the grain sold; and
      - (ii) the licensee failed less than twenty-one (21) days after the surrender of the

receipt.

If there are insufficient grain assets to satisfy all first priority claims, first priority claimants shall share pro rata in the assets.

(2) Second priority is assigned to all claimants who have written evidence of the sale of grain, such as a ticket, a deferred pricing agreement, or similar grain delivery contract, and who completed delivery less than thirty (30) days before the licensee's failure. Claimants under this subdivision share pro rata in the remaining assets if all claimants under subdivision (1) have been paid but insufficient assets remain to fully satisfy all claimants under this subdivision.

(3) Third priority is assigned to all other claimants that have written evidence of the sale of grain to the failed licensee. Claimants under this subdivision share pro rata in the distribution of the remaining grain assets.

(g) If a claimant under this section brings an action to recover grain assets that are subject to a lien under this section and the agency does not join the action, the director shall, upon request of the claimant, assign the lien to the claimant in order to allow the claimant to pursue the claim to the extent that the action does not delay the resolution of the matter by the agency, the prompt liquidation of the assets, or the ultimate distribution of assets to all claimants.

(h) If:

(1) a claimant engaged in farming operations granted to one (1) or more secured parties one (1) or more security interests in the grain related to the claimant's claim under this section; and

(2) one (1) or more secured parties described in subdivision (1) have given to:

(A) the licensee prior written notice of the security interest under IC 26-1-9.1-320(a)(1) or IC 26-1-9-307(1)(a) before its repeal; and

(B) the director prior written notice of the security interest with respect to the grain described in subdivision (1) sufficient to give the director a reasonable opportunity to cause the issuance of a joint check under this subsection;

the director shall pay the claimant described in subdivision (1) the portion of the proceeds of grain assets under subsection (e) to which the claimant is entitled under this section by issuance of a check payable jointly to the order of the claimant and any secured party described in subdivision (1) who has given the notices described in subdivision (2). If only one (1) secured party described in subdivision (1) is a payee, the rights of the secured party in the check shall be to the extent of the indebtedness of the claimant to the secured party. If two (2) or more secured parties described in subdivision (1) are payees, the nature, extent, and priority of their respective rights in the check are determined in the same manner as the nature, extent, and priority of their respective security interest under IC 26-1-9.1.