

The National Agricultural
Law Center



University of Arkansas • Division of Agriculture

An Agricultural Law Research Project

Requirements for Grain Dealers

State of Missouri

Failure/Liquidation

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Requirements for Warehouses

STATE OF MISSOURI

Current with legislation from the 2014 Reg.Sess.

V.A.M.S. 276.501

276.501. Insolvency, director may request ex parte order to be named trustee and be given immediate possession--procedure--order, contents--dealer may file response, when--hearing, when--notice, duties of director--director not to operate business, liability limited--appointment of receiver--recovery of expenses

1. If at any time the director has evidence that a dealer is insolvent or is unable to satisfy the claims of all sellers, the director may petition the circuit court in the county where the dealer's principal place of business is located, for an ex parte order authorizing the director or his authorized agent to seize, and take title and possession, as trustee, of any grain in the dealer's possession or under the dealer's control, and of all pertinent records and property as provided for in subsection 2 of this section.

2. Upon receipt of the director's verified petition setting forth the circumstances of the dealer's failure to comply with sections 276.401 to 276.582, and further stating reasons why immediate possession by the director or his authorized agent is necessary for the protection of grain sellers or sureties, the court is authorized to issue an ex parte order authorizing the director or his authorized agent to take immediate possession for the purposes stated in this section. A copy of the petition and order shall be sent to the dealer. If appropriate, the court may order the director's taking possession of only grain-related assets and not the entire business of the dealer. Such order may include, but is not limited to, the following:

- (1) The director locking down and securing, by padlocks or other appropriate means, the grain storage bins, scales, offices, equipment and rolling stock of the dealer;
- (2) Removing and excluding the dealer, or any and all of the dealer's employees, from the facility;
- (3) Prohibiting the dealer from engaging in any grain-related business transactions whatever during the director's possession of the grain-related assets of the dealer's business;
- (4) Authorizing all financial institutions to place all business accounts of the dealer under the director's authority and to freeze all transactions involving such accounts except to honor outstanding checks written previous to the issuance of the court's order. If it appears that the dealer has conducted, in part, his grain dealer business through the use of personal accounts as opposed to business accounts, or intermingled two or more such accounts, the court may authorize the applicable financial institutions to place such personal accounts, as well as the business accounts, under the authority of the director in order to allow the director to accurately determine the extent of all grain-related obligations incurred by the dealer, the correct status of same and the dealer's resources to pay his grain-related obligations;
- (5) Authorizing the director to redeliver or sell depositor or dealer-owned grain, as appropriate in the circumstances and setting forth the conditions for doing such;
- (6) Authorizing the director to deposit all grain-related assets and proceeds therefrom in an

interest-bearing escrow account to be disbursed only upon orders of the court;

(7) Directing the dealer to provide the director with all grain-related business documents which come into his possession subsequent to the director's possession of the grain-related assets, as well as any other grain-related documents which the dealer may have knowledge of and which are not at the dealer's facility.

3. At any time within ten days after the director or his authorized agent takes possession, the dealer may file with the court a response to the petition of the director stating reasons why the director or his authorized agent should not be allowed to retain possession. The court shall set the matter for hearing on a date not more than fifteen days from the date of the filing of the dealer's response. The order placing the director or his authorized agent in possession shall not be stayed nor set aside until such time as the court, after hearing, determines that possession should be restored to the dealer.
4. Upon taking possession, the director shall give written notice of his action to the surety on the bond of the dealer and may notify all known sellers as shown by the dealer's records.
5. The director or his authorized agent shall retain possession obtained under this section until such time as the dealer or the surety on the bond shall have satisfied the claims of all sellers, or until such time as the director or his authorized agent is ordered by the court to surrender possession. At no time while the director or his authorized agent is in possession of a dealer's business, as authorized by this section, shall the director, or his authorized agent be required to operate the dealer's business; nor shall the director or his authorized agent be liable for any claims which have arisen or could arise from the nonoperation of the dealer's business.
6. If at any time, the director, whether or not he or his authorized agent has possession as authorized by this section, has evidence that a dealer is insolvent or is unable to satisfy the claims of all sellers, the director may petition the circuit court for the appointment of a receiver to operate or liquidate the business of the dealer in accordance with law.
7. All necessary expenses incurred by the director, his authorized agents or any receiver appointed under this section, in carrying out the provisions of this section may be recovered from the dealer in a separate civil action brought by the director in the circuit court or as part of the seizure or receivership action filed under this section. If the director or any of his authorized agents seize and take possession of the grain, records or property at the dealer's facility, the dealer may be assessed and shall pay as part of the necessary expenses incurred a fee of one hundred dollars per person for each day or part thereof that each such person performs such activities. The cost of liability insurance necessary to protect the director, the receiver, and others engaged in carrying out the provisions of this section, may be recovered as part of the necessary expenses.