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Requirements for Grain Dealers

State of Montana

Failure and Liquidation

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Requirements for Grain Dealers

STATE OF MONTANA

Current with legislation from the 2013 Regular Sess. and the 2012 general election

MCA 80-4-416

80-4-416. Deposit of deficiency funds and liquidation funds

Revenue based on actual expenses received from the liquidation of commodity dealers and public warehouse operators, as authorized in 80-4-538 and 80-4-612, and from deficiency fees, authorized in 80-4-503, must be deposited in the account established in 80-4-415 and is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of this chapter. Funds deposited under this chapter must be used to pay actual expenses incurred in the liquidation of commodity dealers and public warehouse operators or for the correction of storage deficiencies. Actual expenses include but are not limited to legal fees, court costs, travel expenses, per diem, and communication.

MCA 80-4-419

80-4-419. Bankruptcy as grounds for cancellation

- (1) If a commodity dealer files for bankruptcy, a contract or any part of a contract for delivery of a commodity may be canceled without penalty to the producer if the cancellation involves only the remaining unperformed portions of the contract. A cancellation under this section:
 - (a) is not a breach of contract;
 - (b) is allowed even if not explicitly provided for in the contract.
- (2) In the event of a cancellation, a commodity dealer remains responsible for payment that is due to the producer for delivered portions of the contract.

MCA 80-4-612

80-4-612. Commodity dealer defaults--remedies

- (1) If the department finds that a commodity dealer has failed to comply with the terms of a written contract or has failed to pay for a commodity purchase under an oral agreement in the manner and within the time provided in 80-4-608, the department may petition the district court of the first judicial district, Lewis and Clark County, for an order authorizing the department to seize and take possession of:
 - (a) any agricultural commodities in the facilities owned, operated, or controlled by the commodity dealer;
 - (b) all books, papers, and property used in connection with the operation of the commodity dealer business; and
 - (c) any material that pertains in any way to that business.

(2) If during or after an audit or at any other time the department has evidence that the commodity dealer is insolvent or is unable to satisfy the claims of all commodity dealer creditors covered by the bond, the department may petition the district court of the first judicial district, Lewis and Clark County, for the appointment of the department to operate or liquidate the business of the commodity dealer.

(3) All necessary expenses incurred by the department in carrying out the provisions of this part may be recovered at the discretion of the department from:

(a) the bond;

(b) the assets of the licensee;

(c) the agricultural commodities delivered for purchase but not yet paid for; or

(d) in a separate civil action brought by the department in the first judicial district court.

(4) The department is authorized to include as part of the recoverable expenses the cost of adequate liability insurance necessary to protect the department, its officers, and others engaged in carrying out the provisions of this part.