

The National Agricultural
Law Center



University of Arkansas • Division of Agriculture

An Agricultural Law Research Project

Requirements for Grain Dealers

State of Tennessee

Failure and Liquidation

www.NationalAgLawCenter.org



Requirements for Grain Dealers

STATE OF TENNESSEE

Current with legislation from the 2014 Second Regular Sess.

T. C. A. § 43-32-108 **§ 43-32-108. Insolvency**

(a) If it is discovered that any commodity dealer or warehouseman is insolvent, or that its continuance in business will seriously jeopardize the interest of its creditors or commodities depositors, it is the duty of the commissioner to close that dealer or warehouseman and to take charge of all the property and effects thereof, and to notify the surety. Upon taking charge of any such dealer or warehouseman, the commissioner shall, as soon as practicable, ascertain by a thorough examination into its affairs, its actual financial condition, and whenever the commissioner becomes satisfied that the commodity dealer or warehouseman cannot resume business or liquidate its indebtedness to the satisfaction of its creditors, the commissioner shall report the fact of its insolvency to the attorney general and reporter, who shall immediately upon receipt of this notice institute proper proceedings in the proper court for the purpose of having a receiver appointed.

(b) With the exception of incidental commodity dealers, nonsecured, if a commodity dealer or warehouseman fails or refuses to make payment for or deliver to a producer for commodities when requested, the producer shall notify the commissioner in writing of the failure or refusal within one hundred sixty (160) days of the date of sale or the date of delivery of the commodities to the commodity dealer or warehouseman, whichever is later, but in case of deferred pricing, delayed pricing, priced later, or similar contractual arrangements, no more than two hundred seventy (270) days after the date of delivery. The commissioner, upon receiving this notice, shall take whatever action is necessary. The producer furnishing written notice within the prescribed length of time is entitled to the benefits of the commodity dealer's or warehouseman's bond if such bond is required in accordance with § 43-32-106. However, if a producer fails to furnish written notice to the commissioner within the prescribed time, then that producer is not entitled to any benefits under the commodity dealer's or warehouseman's bond and part 2 of this chapter. Commodity dealer liability under price later contracts, open price contracts, deferred price contracts, or similar agreements shall accrue under the bond in effect at the date of default as determined by the commissioner.

(c) With the exception of incidental commodity dealers, nonsecured, when the commissioner has determined that a commodity dealer has defaulted payment to producers for commodities that the dealer has purchased from them, or that a warehouseman failed to deliver value for commodities stored, the commissioner shall determine through appropriate legal procedures the producers and the amount of defaulted payment, and as trustee of the bond, shall immediately after such determination call for the commodity dealer's surety bond or bonds to be paid to the commissioner for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds, then the surety shall be obligated to pay only the amount of the default.

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