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Requirements for Grain Dealers

State of Washington

Failure and Liquidation

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Requirements for Grain Dealers

STATE OF WASHINGTON

Current with legislation from 2014

West's RCWA 22.09.150

22.09.150. Rights and duties of warehouse operator--Delivery of stored commodities--Damages

- (1) The duty of the warehouse operator to deliver the commodities in storage is governed by the provisions of this chapter and the requirements of Article 7 of Title 62A RCW. Upon the return of the receipt to the proper warehouse operator, properly endorsed, and upon payment or tender of all advances and legal charges, the warehouse operator shall deliver commodities of the grade and quantity named upon the receipt to the holder of the receipt, except as provided by Article 7 of Title 62A RCW.
- (2) A warehouse operator's duty to deliver any commodity is fulfilled if delivery is made pursuant to the contract with the depositor or if no contract exists, then to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. Where delivery is made within forty-eight hours excluding Saturdays, Sundays, and legal holidays after facilities for receiving the commodity are provided, the delivery is deemed to comply with this subsection.
- (3) No warehouse operator may fail to deliver a commodity as provided in this section, and delivery shall be made at the warehouse or station where the commodity was received unless the warehouse operator and depositor otherwise agree in writing.
- (4) In addition to being subject to penalties provided in this chapter for a violation of this section, if a warehouse operator unreasonably fails to deliver commodities within the time as provided in this section, the person entitled to delivery of the commodity may maintain an action against the warehouse operator for any damages resulting from the warehouse operator's unreasonable failure to so deliver. In any such action the person entitled to delivery of the commodity has the option to seek recovery of his or her actual damages or liquidated damages of one-half of one percent of the value for each day's delay after the forty-eight hour period.

West's RCWA 22.09.391

22.09.391. Depositor's lien--Liquidation procedure

Upon the failure of a grain dealer or warehouse operator, the statutory lien created in RCW 22.09.371 shall be liquidated by the department to satisfy the claims of depositors in the following manner:

- (1) The department shall take possession of all commodities in the warehouse, including those owned by the warehouse operator or grain dealer, and those that are under warehouse receipts or any written evidence of ownership that discloses a storage obligation by a failed warehouse operator, including but not limited to scale weight tickets, settlement sheets, and ledger cards. These commodities shall be distributed or sold and the proceeds distributed to satisfy the outstanding warehouse receipts or other written evidences of ownership. If a shortage exists, the department shall distribute the commodities or the proceeds from the sale of the commodities on a prorated basis to the depositors. To the extent the

commodities or the proceeds from their sale are inadequate to satisfy the claims of depositors with evidence of storage obligations, the depositors have a first priority lien against any proceeds received from commodities sold while under a storage obligation or against any commodities owned by the failed warehouse operator or grain dealer.

(2) Depositors possessing written evidence of the sale of a commodity to the failed warehouse operator or grain dealer, including but not limited to scale weight tickets, settlement sheets, deferred price contracts, or similar commodity delivery contracts, who have completed delivery and passed title during a thirty-day period immediately before the failure of the failed warehouse operator or grain dealer have a second priority lien against the commodity, the proceeds of the sale, or warehouse-owned or grain dealer-owned commodities. If the commodity, commodity proceeds, or warehouse-owned or grain dealer-owned commodities are insufficient to wholly satisfy the claim of depositors possessing written evidence of the sale of the commodity to the failed warehouse operator or grain dealer, each depositor shall receive a pro rata share thereof.

(3) Upon the satisfaction of the claims of depositors qualifying for first or second priority treatment, all other depositors possessing written evidence of the sale of the commodity to the failed warehouse operator or grain dealer have a third priority lien against the commodity, the proceeds of the sale, or warehouse-owned or grain dealer-owned commodities. If the commodities, commodity proceeds, or warehouse-owned or grain dealer-owned commodities are insufficient to wholly satisfy these claims, each depositor shall receive a pro rata share thereof.

(4) The director of agriculture may represent depositors whom, under RCW 22.09.381, the director has determined have claims against the failed warehouse operator or failed grain dealer in any action brought to enjoin or otherwise contest the distributions made by the director under this section.