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Requirements for Grain Dealers

State of Washington

Indemnity Fund

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Requirements for Grain Dealers

STATE OF WASHINGTON

Current with legislation from 2014

West's RCWA 22.09.405

22.09.405. Grain indemnity fund program--Activation--In lieu of other security

(1) The provisions of this section and RCW 22.09.416 through 22.09.471 constitute the grain indemnity fund program. RCW 22.09.416 through 22.09.471 shall take effect on a date specified by the director but within ninety days after receipt by the director of a petition seeking implementation of the grain indemnity fund program provided for in this chapter and a determination by the director, following a public hearing on said petition, that a grain indemnity fund program is in the interest of the agricultural industry of this state. The petition shall be signed by licensees of at least thirty-three percent of the grain warehouses and thirty-three percent of the grain dealers. At least sixty days in advance, the director shall notify each licensed warehouse and grain dealer of the effective date of the grain indemnity fund program provisions.

(2) The grain indemnity fund program, if activated by the director, shall be in lieu of the bonding and security provisions of RCW 22.09.090 and 22.09.095.

West's RCWA 22.09.411

22.09.411. Grain indemnity fund program--Fund established--Contents, deposits, disbursements, use

(1) There is hereby established a fund to be known as the grain indemnity fund. The grain indemnity fund shall consist of assessments remitted by licensees pursuant to the provisions of RCW 22.09.416 through 22.09.426.

(2) All assessments shall be paid to the department and shall be deposited in the grain indemnity fund. The state treasurer shall be the custodian of the grain indemnity fund. Disbursements shall be on authorization of the director. No appropriation is required for disbursements from this fund.

(3) The grain indemnity fund shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the grain indemnity fund, provided however, that moneys equivalent to one-half of the interest earned by the fund for deposit to the general fund may be paid to the department to defray costs of administering the warehouse audit program. The state of Washington shall not be liable for any claims presented against the fund.

West's RCWA 22.09.416

22.09.416. Grain indemnity fund program--Assessments

(1) Every licensed warehouse and grain dealer and every applicant for any such license shall pay assessments to the department for deposit in the grain indemnity fund according to the provisions of RCW 22.09.405 through 22. 09.471 and rules promulgated by the department to implement this chapter.

(2) The rate of the assessments shall be established by rule, provided however, that no single assessment against a licensed warehouse or grain dealer or applicant for any such license shall exceed five percent of the bond amount that would otherwise have been required of such grain dealer, warehouse operator, or license applicant under RCW 22.09.090.

West's RCWA 22.09.421

22.09.421. Grain indemnity fund program--Initial assessment--Effect on preceding security--New applicants for warehouse or grain dealer licenses

(1) The department shall establish the initial assessment within sixty days of the activation of the grain indemnity fund program pursuant to RCW 22.09.405. Immediately upon promulgation of the rule, the department shall issue notice to each licensed warehouse and grain dealer of the assessment owed. The initial assessment and assessments issued thereafter shall be paid within thirty days of the date posted on the assessment notice.

(2) The surety bond or other security posted by a licensed warehouse or grain dealer in effect immediately preceding the effective date of the grain indemnity fund program, shall remain in full force and effect and shall not be released until thirty days after the initial assessment is paid. A certificate of deposit or other security in effect immediately preceding the effective date of the grain indemnity fund program shall remain on deposit until the initial assessment is paid and until such certificate of deposit or other security is released by the department following a prompt determination that no outstanding claims are pending against the security.

(3) Each new applicant for a warehouse or grain dealer license shall pay the assessment imposed pursuant to RCW 22.09.416 at the time of application. No license to operate as a grain dealer or grain warehouse or both shall be issued until such assessment is paid.

Notwithstanding the provisions of RCW 22.09.416(2), new applicants shall pay annual assessments into the grain indemnity fund for an equivalent number of years as those participating at the inception of the grain indemnity fund program and who continue to participate in the grain indemnity fund program.

West's RCWA 22.09.426

22.09.426. Grain indemnity fund program--Annual assessments--Limitations

The assessments imposed pursuant to RCW 22.09.416 shall be imposed annually, under rules promulgated by the department, until such time as the grain indemnity fund balance, less any outstanding claims, reaches three million dollars. For any year in which the grain indemnity fund balance, less any outstanding claims, exceeds three million dollars on the annual assessment date, no assessment shall be imposed by the department, except as provided in RCW 22.09.421(3) or 22.09.431.

West's RCWA 22.09.431

22.09.431. Grain indemnity fund program--Additional security

The department may, when it has reason to believe that a licensee does not have the ability to pay producers for grain purchased, or when it determines that the licensee does not have a sufficient net worth to outstanding financial obligations ratio, require from the licensee the payment of an additional assessment or, at the department's option, the posting of a bond or other additional security in an amount to be prescribed by rule. The additional assessment or other security may exceed the maximum amount set forth in RCW 22.09.416. Failure of the licensee to timely pay the additional assessment or post the additional bond or other security constitutes grounds for suspension or revocation of a license issued under this chapter.

West's RCWA 22.09.436

22.09.436. Grain indemnity fund program--Advisory committee

- (1) There is hereby created a grain indemnity fund advisory committee consisting of six members to be appointed by the director. The director shall make appointments to the committee no later than seven days following the date this section becomes effective pursuant to RCW 22.09.405. Of the initial appointments, three shall be for two-year terms and three shall be for three-year terms. Thereafter, appointments shall be for three-year terms, each term ending on the same day of the same month as did the term preceding it. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.
- (2) The committee shall be composed of two producers primarily engaged in the production of agricultural commodities, two licensed grain dealers, and two licensed grain warehouse operators.
- (3) The committee shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. Each committee member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel and subsistence expense under RCW 43.03.050 and 43.03.060. The expenses of the committee and its operation shall be paid from the grain indemnity fund.
- (4) The committee shall have the power and duty to advise the director concerning assessments, administration of the grain indemnity fund, and payment of claims from the fund.

West's RCWA 22.09.441

22.09.441. Grain indemnity fund program--Processing of claims

In the event a grain dealer or warehouse fails, as defined in *RCW 22.09.011(21), or otherwise fails to comply with the provisions of this chapter or rules promulgated hereunder, the department shall process the claims of depositors producing written evidence of ownership disclosing a storage obligation or written evidence of a sale of commodities for damages caused by the failure, in the following manner:

- (1) The department shall give notice and provide a reasonable time, not to exceed thirty days, to depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of sale of commodities to file their written verified claims with the department.
- (2) The department may investigate each claim and determine whether the claimant's commodities are

under a storage obligation or whether a sale of commodities has occurred. The department shall notify each claimant, the grain warehouse operator or grain dealer, and the committee of the department's determination as to the validity and amount of each claimant's claim. A claimant, warehouse operator, or grain dealer may request a hearing on the department's determination within twenty days of receipt of written notification and a hearing shall be held by the department pursuant to chapter 34.05 RCW. Upon determining the amount and validity of the claim, the director shall pay the claim from the grain indemnity fund.

(3) The department may inspect and audit a failed warehouse operator, as defined by *RCW 22.09.011(21) to determine whether the warehouse operator has in his or her possession, sufficient quantities of commodities to cover his or her storage obligations. In the event of a shortage, the department shall determine each depositor's pro rata share of available commodities and the deficiency shall be considered as a claim of the depositor. Each type of commodity shall be treated separately for the purpose of determining shortages.

West's RCWA 22.09.446

22.09.446. Grain indemnity fund program--Failure to file claim in time

If a depositor or creditor, after notification, refuses or neglects to file in the office of the director his or her verified claim against a warehouse operator or grain dealer as requested by the director within thirty days from the date of the request, the director shall thereupon be relieved of responsibility for taking action with respect to such claim later asserted and no such claim shall be paid from the grain indemnity fund.

West's RCWA 22.09.451

22.09.451. Grain indemnity fund program--Payment limitations

Subject to the provisions of RCW 22.09.456 and 22.09.461 and to a maximum payment of seven hundred fifty thousand dollars on all claims against a single licensee, approved claims against a licensed warehouse operator or licensed grain dealer shall be paid from the grain indemnity fund in the following amounts:

- (1) Approved claims against a licensed warehouse operator shall be paid in full;
- (2) Approved claims against a licensed grain dealer for payments due within thirty days of transfer of title shall be paid in full for the first twenty-five thousand dollars of the claim. The amount of such a claim in excess of twenty-five thousand dollars shall be paid to the extent of eighty percent;
- (3) Approved claims against a licensed grain dealer for payments due between thirty and ninety days of transfer of title shall be paid to the extent of eighty percent;
- (4) Approved claims against a licensed grain dealer for payments due after ninety days from transfer of title shall be paid to the extent of seventy-five percent;
- (5) In the event that approved claims against a single licensee exceed seven hundred fifty thousand dollars, recovery on those claims shall be prorated.

West's RCWA 22.09.456

22.09.456. Grain indemnity fund program--Additional payment limitations

In addition to the payment limitations imposed by RCW 22.09.451, payment of any claim approved before the grain indemnity fund first reaches a balance of one million two hundred fifty thousand dollars, shall be limited to the following amounts:

- (1) For claims against a licensed grain warehouse, payment shall not exceed the lesser of seven hundred fifty thousand dollars or an amount equal to the licensee's total bushels of licensed storage space multiplied by the rate of eighteen cents.
- (2) For claims against a licensed grain dealer, payment shall not exceed the lesser of seven hundred fifty thousand dollars or an amount equal to six percent of the gross purchases of the licensee during the licensee's immediately preceding fiscal year.
- (3) The unpaid balance of any claim subject to this section shall be paid when the grain indemnity fund first reaches a balance of one million two hundred fifty thousand dollars, provided that the total paid on the claim shall not exceed the limits specified in RCW 22.09.451.

West's RCWA 22.09.461

22.09.461. Grain indemnity fund program--Payment of claims--Restrictions, priority

The requirement that the state of Washington pay claims under this chapter only exists so long as the grain indemnity fund contains sufficient money to pay the claims. Under no circumstances whatsoever may any funds (other than assessment amounts and other money obtained under this chapter) be used to pay claims. In the event that the amount in the grain indemnity fund is insufficient to pay all approved claims in the amount provided for under RCW 22.09.451 or 22.09.456, the claims shall be paid in the order in which they were filed with the department, until such time as sufficient moneys are available in the grain indemnity fund to pay all of the claims.

West's RCWA 22.09.466

22.09.466. Grain indemnity fund program--Debt and obligation of grain dealer or warehouse operator--Recovery by director

Amounts paid from the grain indemnity fund in satisfaction of any approved claim shall constitute a debt and obligation of the grain dealer or warehouse operator against whom the claim was made. On behalf of the grain indemnity fund, the director may bring suit, file a claim, or intervene in any legal proceeding to recover from the grain dealer or warehouse operator the amount of the payment made from the grain indemnity fund, together with costs and attorneys' fees incurred. In instances where the superior court is the appropriate forum for a recovery action, the director may elect to institute the action in the superior court of Thurston county.

West's RCWA 22.09.471

22.09.471. Grain indemnity fund program--Proceedings against licensee

The department may deny, suspend, or revoke the license of any grain dealer or warehouse operator who fails to timely pay assessments to the grain indemnity fund or against whom a claim has been made, approved, and paid from the grain indemnity fund. Proceedings for the denial, suspension, or revocation shall be subject to the provisions of chapter 34.05 RCW.