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Requirements for Grain Dealers

State of Washington

Lien

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Requirements for Grain Dealers

STATE OF WASHINGTON

Current with legislation from 2014

West's RCWA 22.09.371 **22.09.371. Depositor's lien**

- (1) When a depositor stores a commodity with a warehouse operator or sells a commodity to a grain dealer, the depositor has a first priority statutory lien on the commodity or the proceeds therefrom or on commodities owned by the warehouse operator or grain dealer if the depositor has written evidence of ownership disclosing a storage obligation or written evidence of sale. The lien arises at the time the title is transferred from the depositor to the warehouse operator or grain dealer, or if the commodity is under a storage obligation, the lien arises at the commencement of the storage obligation. The lien terminates when the liability of the warehouse operator or grain dealer to the depositor terminates or if the depositor sells his or her commodity to the warehouse operator or grain dealer, then thirty days after the date title passes. If, however, the depositor is tendered payment by check or draft, then the lien shall not terminate until forty days after the date title passes.
- (2) The lien created under this section shall be preferred to any lien or security interest in favor of any creditor of the warehouse operator or grain dealer, regardless of whether the creditor's lien or security interest attached to the commodity or proceeds before or after the date on which the depositor's lien attached under subsection (1) of this section.
- (3) A depositor who claims a lien under subsection (1) of this section need not file any notice of the lien in order to perfect the lien.
- (4) The lien created by subsection (1) of this section is discharged, except as to the proceeds therefrom and except as to commodities owned by the warehouse operator or grain dealer, upon sale of the commodity by the warehouse operator or grain dealer to a buyer in the ordinary course of business.

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.