

1562.2000 SHORTAGES OF GRAIN.

Whenever it appears that a warehouse operator does not have on hand grain of sufficient quality and quantity to cover the outstanding warehouse receipt obligations, notice must be given by the commissioner to the warehouse operator requiring that the shortage be corrected immediately. If the warehouse operator fails to comply with that order and the commissioner determines that the interests of depositors may be threatened, then the commissioner shall seal the warehouse to prevent any further removal of grain until the shortage is corrected.

If it appears that the warehouse operator is in default to warehouse receipt holders and unable to correct the default within a reasonable time the commissioner shall make arrangements to protect the warehouse receipt holders by either redelivering the grain, on a pro rata basis, to each warehouse receipt holder of record or liquidating the grain inventory, depositing the proceeds in an interest bearing trust account, and distributing the proceeds, on a pro rata basis, to each warehouse receipt holder of record. The proceeds must remain in the trust account until the bond disbursement date, if applicable. Valid claims by warehouse receipt holders in excess of the amount in the trust account will be applied against the storage bond. The warehouse operator, the operator's surety, and each warehouse receipt holder of record must be notified of the shortage and the proposed action to be taken by the commissioner to protect warehouse receipt holders. Notice must be mailed to each warehouse receipt holder's last known address as evidenced by the records of the warehouse operator.

If any interested party files a written objection to the department's proposed action within ten days of receipt of the commissioner's notice, the commissioner shall apply to the district court for the appointment of a trustee or receiver to manage and supervise the operations of the grain warehouse operator in default.

An audit or other investigation of the affairs of the warehouse operator must be made by the commissioner for the purpose of determining the amount of the shortage and computing the loss sustained by each depositor.

Statutory Authority: *MS s 16A.128; 223.19; 232.22; 232.24; 236.08*

History: *12 SR 2392*

Published Electronically: *July 24, 2008*