

CHAPTER 305

[Engrossed Substitute House Bill No. 793]

AGRICULTURAL PRODUCTS AND COMMODITIES—REVISIONS—
APPROPRIATION

AN ACT Relating to agricultural commodities; amending section 1, chapter 139, Laws of 1959 as last amended by section 1, chapter 194, Laws of 1982 and RCW 20.01.010; amending section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 194, Laws of 1982 and RCW 20.01.030; amending section 4, chapter 139, Laws of 1959 as last amended by section 3, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.040; amending section 5, chapter 232, Laws of 1963 as last amended by section 3, chapter 194, Laws of 1982 and RCW 20.01.210; amending section 16, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.211; amending section 29, chapter 139, Laws of 1959 and RCW 20.01.290; amending section 2, chapter 124, Laws of 1963 and RCW 22.09.020; amending section 3, chapter 124, Laws of 1963 as amended by section 20, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.030; amending section 4, chapter 124, Laws of 1963 as last amended by section 13, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.040; amending section 5, chapter 124, Laws of 1963 as amended by section 14, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.050; amending section 6, chapter 124, Laws of 1963 as amended by section 22, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.060; amending section 7, chapter 124, Laws of 1963 and RCW 22.09.070; amending section 9, chapter 124, Laws of 1963 as last amended by section 23, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.090; amending section 10, chapter 124, Laws of 1963 and RCW 22.09.100; amending section 11, chapter 124, Laws of 1963 and RCW 22.09.110; amending section 13, chapter 124, Laws of 1963 as last amended by section 38, chapter 296, Laws of 1981 and RCW 22.09.130; amending section 15, chapter 124, Laws of 1963 as amended by section 17, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.150; amending section 17, chapter 124, Laws of 1963 and RCW 22.09.170; amending section 18, chapter 124, Laws of 1963 as amended by section 24, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.180; amending section 19, chapter 124, Laws of 1963 and RCW 22.09.190; amending section 24, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.195; amending section 20, chapter 124, Laws of 1963 and RCW 22.09.200; amending section 21, chapter 124, Laws of 1963 as amended by section 18, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.210; amending section 23, chapter 124, Laws of 1963 and RCW 22.09.230; amending section 24, chapter 124, Laws of 1963 and RCW 22.09.240; amending section 25, chapter 124, Laws of 1963 and RCW 22.09.250; amending section 26, chapter 124, Laws of 1963 and RCW 22.09.260; amending section 29, chapter 124, Laws of 1963 as amended by section 19, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.290; amending section 31, chapter 124, Laws of 1963 and RCW 22.09.310; amending section 33, chapter 124, Laws of 1963 and RCW 22.09.330; amending section 34, chapter 124, Laws of 1963 and RCW 22.09.340; amending section 35, chapter 124, Laws of 1963 and RCW 22.09.350; amending section 37, chapter 124, Laws of 1963 and RCW 22.09.370; amending section 42, chapter 124, Laws of 1963 and RCW 22.09.420; amending section 55, chapter 124, Laws of 1963 as amended by section 22, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.550; amending section 29, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.570; amending section 30, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.580; amending section 31, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.590; amending section 32, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.600; amending section 33, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.610; amending section 34, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.620; amending section 26, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.650; amending section 9-104, chapter 157, Laws of 1965 ex. sess. as amended by section 8, chapter 41, Laws of 1981 and RCW 62A.9-104; amending section 9-310, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-310; adding new sections to chapter 20.01 RCW; adding new sections to chapter 22.09 RCW; recodifying RCW 22.09.210; recodifying RCW 22.09.270; recodifying RCW 22.09.280; recodifying RCW 22.09.370; recodifying RCW 22.09.380; recodifying RCW 22.09.390; recodifying RCW 22.09.400; recodifying RCW 22.09.410; recodifying RCW 22.09.420; recodifying RCW 22.09.430; recodifying RCW 22.09.440; recodifying RCW 22.09.450;

recodifying RCW 22.09.460; recodifying RCW 22.09.470; recodifying RCW 22.09.480; recodifying RCW 22.09.490; recodifying RCW 22.09.500; recodifying RCW 22.09.530; recodifying RCW 22.09.540; recodifying RCW 22.09.550; recodifying RCW 22.09.560; decodifying RCW 22.09.950; decodifying RCW 22.09.951; repealing section 1, chapter 124, Laws of 1963, section 51, chapter 240, Laws of 1967, section 1, chapter 65, Laws of 1971, section 19, chapter 7, Laws of 1975 1st ex. sess., section 12, chapter 238, Laws of 1979 ex. sess., section 37, chapter 296, Laws of 1981 and RCW 22.09.010; repealing section 36, chapter 124, Laws of 1963 and RCW 22.09.360; prescribing penalties; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 139, Laws of 1959 as last amended by section 1, chapter 194, Laws of 1982 and RCW 20.01.010 are each amended to read as follows:

As used in this title the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Director" means the director of agriculture or his duly authorized representative.

(2) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(3) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form (~~by or for the producer thereof~~) and livestock. When used in this chapter under the provisions of section 9 of this act, "agricultural product" means horticultural, viticultural, and berry products, hay and straw, and turf and forage seed and applies only when such products are delivered to a processor or conditioner in an unprocessed form.

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of (~~such~~) the products, or producing (~~such~~) the products for others holding the title thereof.

(5) "Consignor" means any producer, person, or his agent who sells, ships, or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale, or resale.

(6) "Commission merchant" means any person who (~~shall~~) receives on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of (~~such~~) the consignor, or who (~~shall~~) accepts any farm product in trust from the consignor thereof for the purpose of resale, or who (~~shall~~) sells or offers for sale on commission any agricultural product, or who (~~shall~~) in any way handles for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a cash buyer, as defined in subsection (10) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase(~~(-PROVIDED, That))~~). For the purposes of this chapter, the term dealer includes any person who purchases livestock on behalf of and for the account of another, or who purchases cattle in another state or country and imports these cattle into this state for resale.

(8) "Limited dealer" means any person operating under the alternative bonding provision in RCW 20.01.211(~~(-as now or hereafter amended)~~).

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product(~~(-PROVIDED, That))~~, but no broker may handle the agricultural products involved or proceeds of ((such)) the sale.

(10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession, or control of any agricultural product or who contracts for the title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of ((such)) the agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check, or bankdraft may be used for ((such)) the payment.

(11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of ((such)) that business at any location other than at the principal place of business of his employer(~~(-PROVIDED, That))~~. With the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of ((said)) that principal.

(12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year(~~(-PROVIDED, That))~~. Any retailer may occasionally wholesale any agricultural product which he has in surplus; however, such wholesaling shall not be in excess of two percent of ((such)) the retailer's gross business.

(13) "Fixed or established place of business" for the purpose of this chapter (~~shall~~) means any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered, and generally dealt in in quantities reasonably adequate for and usually carried for the requirements of such a business, and (~~which~~) that is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, (~~said~~) which personnel (~~being~~) are available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

(14) "Processor" means any person, firm, company, or other organization that purchases agricultural crops from a consignor and (~~who~~) that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes (~~such~~) those crops in any manner whatsoever for eventual resale.

(15) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor (~~which shall~~) that indicates the variety of horticultural product delivered, the number of containers, or the weight and tare thereof(:);

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records (~~which~~) that shall include variety, grade, size, and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs(~~:-PROVIDED, That~~). However, platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size, and date of delivery(:);

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product(:);

(d) The charges to be paid by the consignor as filed with the state of Washington(:);

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the grower's crop unless otherwise mutually agreed upon between grower and commission merchant.

(16) "Date of sale" means the date agricultural products are delivered to the person buying ~~((such))~~ the products.

(17) "Boom loader" means a person who owns or operates, or both, a mechanical device mounted on a vehicle and used to load hay or straw for compensation.

(18) "Conditioner" means any person, firm, company, or other organization that receives turf, forage, or vegetable seeds from a consignor for drying or cleaning.

(19) "Seed bailment contract" means any contract meeting the requirements of chapter 15.48 RCW.

(20) "Proprietary seed" means any seed that is protected under the Federal Plant Variety Protection Act.

Sec. 2. Section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 194, Laws of 1982 and RCW 20.01.030 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW or chapter 24.32 RCW, except as to that portion of the activities of ~~((such))~~ the association or federation ~~((as))~~ that involve~~((s))~~ the handling or dealing in the agricultural products of nonmembers of ~~((such))~~ the organization: PROVIDED, That ~~((such))~~ the associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if ~~((such))~~ the cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets ~~((such))~~ the processed agricultural crops on behalf of the grower or its own behalf, ~~((said))~~ the association or federation ~~((shall be))~~ is subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection ~~((shall))~~ apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW~~((:));~~

(2) Any person who sells exclusively his own agricultural products as the producer thereof~~((:));~~

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of ~~((such))~~ the public livestock market's obligation~~((: -PROVIDED, That))~~; However, any such market operating as a livestock dealer ~~((and/or))~~ or order buyer ~~((shall be))~~, or both, is subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040 ~~((as now or hereafter amended:));~~

(4) Any retail merchant having a bona fide fixed or permanent place of business in this state~~((:));~~

(5) Any person buying farm products for his own use or consumption((:));

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his operations as a licensee under that act((:));

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his operations as such licensee((:));

(8) Any person licensed under the now existing dairy laws of the state with respect to his operations as such licensee((:));

(9) Any producer who purchases less than fifteen percent of his volume to complete orders((:));

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder;

(11) Any boom loader who loads exclusively his own hay or straw as the producer thereof.

Sec. 3. Section 4, chapter 139, Laws of 1959 as last amended by section 3, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.040 are each amended to read as follows:

~~((On or after June 10, 1959;))~~ No person ((shall)) may act as a commission merchant, dealer, broker, cash buyer((or)), agent, or boom loader without a license. Any person applying for such a license shall file an application with the director on or before January 1st of each year. ((Such)) The application shall be accompanied by the following license fee:

- (1) Commission merchant, one hundred forty-five dollars;
- (2) Dealer, one hundred forty-five dollars;
- (3) Limited dealer, one hundred dollars;
- (4) Broker, one hundred dollars;
- (5) Cash buyer, forty dollars; ~~((and))~~
- (6) Agent, fifteen dollars;
- (7) Boom loader, ten dollars.

Sec. 4. Section 5, chapter 232, Laws of 1963 as last amended by section 3, chapter 194, Laws of 1982 and RCW 20.01.210 are each amended to read as follows:

(1) Before the license is issued to any commission merchant ((and/or)) or dealer, or both, the applicant shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety.

~~((Such bond shall be in the sum of seven thousand five hundred dollars for a commission merchant or any dealer handling livestock, hay, grain, or straw and a bond in the sum of three thousand dollars for any other dealer. PROVIDED, That the bond for a commission merchant, a dealer acting as a processor, or a dealer in livestock, hay, grain, or straw shall be in a minimum amount of seven thousand five hundred dollars or more based upon~~

~~the annual gross dollar volume of purchases by, or consignments to the licensee. A dealer in livestock shall increase his bond by five thousand dollars for each agent he has endorsed pursuant to RCW 20.01.090. The bond for any other dealer shall be in the minimum amount of three thousand dollars, or an increased amount based upon the annual gross dollar volume of purchases by, or consignments to, the licensee. The bond for such commission merchant or dealer shall be determined by taking the annual gross dollar volume of that commission merchant or dealer of net payment to growers and dividing that amount by fifty-two and the bond shall be in an amount to the next multiple of two thousand dollars larger than the sum. PROVIDED, That the gross dollar volume used in computing the bond requirements of a commission merchant or dealer handling horticultural products shall be based on the net proceeds due to growers. PROVIDED FURTHER, That bonds above twenty-six thousand dollars shall be not less than the next multiple of five thousand dollars above the amount secured by applying the formula except that when the bond amount reaches fifty thousand dollars any amount of bond required above this shall be on a basis of ten percent of the amount arrived by applying the formula of annual gross divided by fifty-two. Such bond shall be of a standard form and approved by the director as to terms and conditions. Said bond shall be conditioned that the principal or his or her agents will not commit any fraudulent act and will comply with the provisions of this chapter and the rules and regulations adopted hereunder. Said bond shall be to the state for the benefit of every consignor of an agricultural product in this state. The total and aggregate liability of the surety for all claims upon the bond shall be limited to the face of such bond. Every bond filed with and approved by the director shall without the necessity of periodic renewal remain in force and effect until released by notice from the director when a superseding bond has been issued and is in effect. All such sureties on a bond, as provided herein, shall also be released and discharged from all liability to the state accruing on such bond by giving notice to the principal and the director by certified mail. Upon receipt of such notice the director shall notify the surety and the principal of the effective date of termination which shall be thirty days from the receipt of such notice by the director, but this shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration period provided for above. Unless the principal shall before the expiration of such period, file a new bond, the director shall forthwith cancel the principal's license. Upon such cancellation the license and vehicle plates issued attendant to the license shall be surrendered to the director forthwith.)~~

(2) The bond shall be not less than fifteen thousand dollars for a commission merchant, or a dealer in turf, forage, or vegetable seed, hay, or straw. Except as provided in subsection (3) of this section, the bond shall be not less than three thousand dollars for any other dealer.

(3) The bond for a dealer in livestock shall be not less than seven thousand five hundred dollars. A dealer in livestock shall increase his bond by five thousand dollars for each agent he has endorsed under RCW 20.01.090.

(4) The bond for a commission merchant or dealer, other than a commission merchant or a dealer in turf, forage, or vegetable seed or a dealer in hay or straw, shall be determined by dividing the annual dollar volume of that commission merchant's or dealer's net proceeds or net payments due consignors by fifty-two and increasing that amount to the next multiple of two thousand dollars. However, bonds above twenty-six thousand dollars shall be increased to the next multiple of five thousand dollars.

(5) The bond for a commission merchant or dealer in turf, forage, or vegetable seed or a dealer in hay or straw shall be determined by dividing the annual dollar volume of that commission merchant's or dealer's net proceeds or net payments due consignors by twelve and increasing that amount to the next multiple of five thousand dollars, except that the determination of bond amounts for any portion of dollar volume directly related to proprietary seed bailment contracts shall be computed as provided in subsection (4) of this section. The bond for a new commission merchant or a dealer in turf, forage, or vegetable seed or dealer in hay or straw is subject to increase at any time during the licensee's first year of operation and shall be based on the monthly average of the volume of purchases of any three months of operation.

(6) When the annual dollar volume of any commission merchant or dealer reaches two million six hundred thousand dollars, the amount of the bond required above this level shall be on a basis of ten percent of the amount arrived at by applying the appropriate formula.

Sec. 5. Section 16, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.211 are each amended to read as follows:

In lieu of the bonding provision required by RCW 20.01.210 ((as now or hereafter amended)), any dealer who ((has not been found after a hearing to be in violation of this chapter during the two most recent years of such business operations)) buys, agrees to buy, or pays for the production or increase of any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product may file a bond in an amount equal to ((such)) the dealer's maximum monthly purchases, divided by ((thirty, and multiplied by the maximum number of days which will expire after the date of sale but before final payment is made: PROVIDED, That)) fifteen, but the minimum bond provided by this section shall be in a minimum of ((three)) seven thousand five hundred dollars.

Any dealer ((utilizing)) using the bonding provisions of this section shall file an affidavit with the director ((which)) that sets forth the dealer's maximum monthly purchases ((of the dealer and the maximum number of days which will expire from the date of sale to the date final payment is made))

from or payments to consignors. The affidavit shall be filed at the time of application and with each renewal.

Any dealer bonded under this section who is found to be in violation of this chapter shall be required to comply with the bonding requirements of RCW 20.01.210 for a minimum of two years.

Sec. 6. Section 29, chapter 139, Laws of 1959 and RCW 20.01.290 are each amended to read as follows:

In any settlement or compromise by the director with a surety company as provided in RCW 20.01.270, where there are two or more consignor creditors that have filed claims, either fixed or contingent, against a licensee's bond, ~~((such))~~ the creditors shall share pro rata in the proceeds of the bond to the extent of their actual damage. If a creditor claim is filed after the default date as provided in RCW 20.01.390 and the total of all claims exceeds the face amount of the bond, the creditor's pro rata share of the bond shall be reduced based on the following schedule:

- (1) Thirty to sixty days after default, five percent reduction;
- (2) Sixty to ninety days after default, ten percent reduction;
- (3) Ninety to one hundred twenty days after default, twenty-five percent reduction;
- (4) More than one hundred twenty days after default, no claim may be allowed.

NEW SECTION. Sec. 7. Every boom loader shall promptly make and keep for one year a complete record of all hay and straw loaded. The records shall include the date and time of loading, the name and address of the purchaser, the name and address of the driver of the vehicle being loaded, if other than the purchaser, the license number of the vehicle being loaded, the name and address of the selier, and the location of the stack.

NEW SECTION. Sec. 8. The director or his appointed officers may stop a vehicle transporting hay or straw upon the public roads of this state if there is reasonable cause to believe the carrier, seller, or buyer may be in violation of this chapter. Any operator of a vehicle failing or refusing to stop when directed to do so is guilty of a misdemeanor.

NEW SECTION. Sec. 9. Starting on the date a producer delivers any agricultural product to a processor or conditioner, the producer has a first priority statutory lien, referred to as a "processor lien." This processor lien shall continue until twenty days after payment for the product is due and remains unpaid, without filing any notice of lien, for the contract price, if any, or the fair market value of the products delivered. The processor lien attaches to the agricultural products delivered, to the processor's or conditioner's inventory, and to the processor's or conditioner's accounts receivable.

NEW SECTION. Sec. 10. For the purposes of this section and sections 11 through 14 of this act, "preparer" means a person engaged in the business of feeding livestock or preparing livestock products for market. Starting on the date a producer delivers grain, hay, or straw to a preparer, the producer has a first priority statutory lien, referred to as a "preparer lien." This preparer lien shall continue until twenty days after payment for the product is due and remains unpaid, without filing any notice of lien, for the contract price, if any, or the fair market value of the products delivered. The preparer lien attaches to the agricultural products delivered and to the preparer's accounts receivable.

NEW SECTION. Sec. 11. (1) A producer claiming a processor or preparer lien may file a statement evidencing the lien with the department of licensing after payment from the processor, conditioner, or preparer to the producer is due and remains unpaid. For purposes of this subsection and section 12 of this act, payment is due on the date specified in the contract, or if not specified, then within thirty days from time of delivery.

(2) The statement shall be in writing, verified by the producer, and shall contain in substance the following information:

(a) A true statement of the amount demanded after deducting all credits and offsets;

(b) The name of the processor, conditioner, or preparer who received the agricultural product to be charged with the lien;

(c) A description sufficient to identify the agricultural product to be charged with the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien; and

(e) The date on which payment was due for the agricultural product to be charged with the lien.

NEW SECTION. Sec. 12. (1)(a) If a statement is filed pursuant to section 11 of this act within twenty days of the date upon which payment from the processor, conditioner, or preparer to the producer is due and remains unpaid, the processor or preparer lien evidenced by the statement continues its priority over all other liens or security interests upon agricultural products, inventory, and accounts receivable, except as provided in (b) of this subsection. Such priority is without regard to whether the other liens or security interests attached before or after the date on which the processor or preparer lien attached.

(b) The processor or preparer lien shall be subordinate to liens for taxes or labor perfected before filing of the processor or preparer lien.

(2) If the statement provided for in section 11 of this act is not filed within twenty days of the date payment is due and remains unpaid, the processor or preparer lien shall thereupon become subordinate to:

(a) A lien that has attached to the agricultural product, inventory, or accounts receivable before the date on which the processor or preparer lien attaches; and

(b) A perfected security interest in the agricultural product, inventory, or accounts receivable.

NEW SECTION. Sec. 13. (1) The processor lien shall terminate six months after, and the preparer lien shall terminate fifty days after, the later of the date of attachment or filing, unless a suit to foreclose the lien has been filed before that time as provided in section 14 of this act.

(2) If a statement has been filed as provided in section 11 of this act and the producer has received payment for the obligation secured by the lien, the producer shall promptly file with the department of licensing a statement declaring that full payment has been received and that the lien is discharged. If, after payment, the producer fails to file such statement of discharge within ten days following a request to do so, the producer shall be liable to the processor, conditioner, or preparer in the sum of one hundred dollars plus actual damages caused by the failure.

NEW SECTION. Sec. 14. (1) The processor or preparer liens may be foreclosed and enforced by civil action in the superior courts.

(2) In all suits to enforce processor or preparer liens, the court shall, upon entering judgment, allow to the prevailing party as a part of the costs all moneys paid for the filing and recording of the lien and reasonable attorney fees.

NEW SECTION. Sec. 15. Sections 7 through 14 of this act shall be added to chapter 20.01 RCW.

NEW SECTION. Sec. 16. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly authorized representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(4) "Agricultural commodities," hereinafter referred to as "commodities," means, but is not limited to, all the grains, peas, beans, lentils, corn, sorghums, malt, peanuts, flax, and other similar agricultural products.

(5) "Warehouse," also referred to as a public warehouse, means any elevator, mill, subterminal grain warehouse, terminal warehouse, country warehouse, or other structure or enclosure located in this state that is used or useable for the storage of agricultural products, and in which commodities are received from the public for storage, handling, conditioning, or

shipment for compensation. The term does not include any warehouse storing or handling fresh fruits and/or vegetables, any warehouse used exclusively for cold storage, or any warehouse that conditions yearly less than three hundred tons of an agricultural commodity for compensation.

(6) "Terminal warehouse" means any warehouse designated as a terminal by the department, and located at an inspection point where inspection facilities are maintained by the department and where commodities are ordinarily received and shipped by common carrier.

(7) "Subterminal warehouse" means any warehouse that performs an intermediate function in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated before shipment to a terminal warehouse.

(8) "Station" means two or more warehouses between which commodities are commonly transferred in the ordinary course of business and that are (a) immediately adjacent to each other, or (b) located within the corporate limits of any city or town and subject to the same transportation tariff zone, or (c) at any railroad siding or switching area and subject to the same transportation tariff zone, or (d) at one location in the open country off rail, or (e) in any area that can be reasonably audited by the department as a station under this chapter and that has been established as such by the director by rule adopted under chapter 34.04 RCW, or (f) within twenty miles of each other but separated by the border between Washington and Idaho or Oregon when the books and records for the station are maintained at the warehouse located in Washington.

(9) "Inspection point" means a city, town, or other place wherein the department maintains inspection and weighing facilities.

(10) "Warehouseman" means any person owning, operating, or controlling a warehouse in the state of Washington.

(11) "Depositor" means (a) any person who deposits a commodity with a Washington state licensed warehouseman for storage, handling, conditioning, or shipment, or (b) any person who is the owner or legal holder of a warehouse receipt, outstanding scale weight ticket, or other evidence of the deposit of a commodity with a Washington state licensed warehouseman or (c) any producer whose agricultural commodity has been sold to a grain dealer through the dealer's place of business located in the state of Washington, or any producer whose agricultural commodity has been sold to or is under the control of a grain dealer, which dealer has negotiated the sale of the commodity or has control of the commodity in the state of Washington.

(12) "Historical depositor" means any person who in the normal course of business operations has consistently made deposits in the same warehouse of commodities produced on the same land. In addition the purchaser, lessee, and/or inheritor of such land from the original historical depositor with

reference to the land shall be considered a historical depositor with regard to the commodities produced on the land.

(13) "Grain dealer" means any person who, through his place of business located in the state of Washington, solicits, contracts for, or obtains from a producer, title, possession, or control of any agricultural commodity for purposes of resale, or any person who solicits, contracts for, or obtains from a Washington producer, title, possession, or control of any agricultural commodity for purposes of resale.

(14) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in and is entitled to receive all or any part of the proceeds from the sale of a commodity produced on that land.

(15) "Warehouse receipt" means a negotiable or nonnegotiable warehouse receipt as provided for in Article 7 of Title 62A RCW.

(16) "Scale weight ticket" means a load slip or other evidence of deposit, serially numbered, not including warehouse receipts as defined in subsection (15) of this section, given a depositor on request upon initial delivery of the commodity to the warehouse and showing the warehouse's name and state number, type of commodity, weight thereof, name of depositor, and the date delivered.

(17) "Put through" means agricultural commodities that are deposited in a warehouse for receiving, handling, conditioning, or shipping, and on which the depositor has concluded satisfactory arrangements with the warehouseman for the immediate or impending shipment of the commodity.

(18) "Conditioning" means, but is not limited to, the drying or cleaning of agricultural commodities.

(19) "Deferred price contract" means a contract for the sale of commodities that conveys the title and all rights of ownership to the commodities represented by the contract to the buyer, but allows the seller to set the price of the commodities at a later date based on an agreed upon relationship to a future month's price or some other mutually agreeable method of price determination. Deferred price contracts include but are not limited to those contracts commonly referred to as delayed price, price later contracts, or open price contracts.

(20) "Shortage" means that a warehouseman does not have in his possession sufficient commodities at each of his stations to cover the outstanding warehouse receipts, scale weight tickets, or other evidence of storage liability issued or assumed by him for the station.

(21) "Failure" means:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay depositors for commodities purchased by a licensee in the ordinary course of business and where a bona fide dispute does not exist between the licensee and the depositor;

(e) A failure to make application for license renewal within sixty days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

Sec. 17. Section 2, chapter 124, Laws of 1963 and RCW 22.09.020 are each amended to read as follows:

The department shall administer and carry out the provisions of this chapter and rules adopted hereunder, and it ~~((shall have))~~ has the power and authority to:

(1) Supervise the receiving, ~~((shipping,))~~ handling, conditioning, weighing, ~~((and))~~ storage, and shipping of all commodities;

(2) Supervise the inspection and grading of all commodities;

(3) Approve or disapprove the facilities, including scales, of all warehouses;

(4) Approve or disapprove all rates and charges for the handling, storage, and shipment of all commodities;

(5) Investigate all complaints of fraud in the operation of any warehouse;

(6) Examine ~~((and))~~, inspect, and audit, during ordinary business hours, any warehouse licensed ~~((hereunder))~~ under this chapter, including all commodities therein and examine, inspect, audit, or record all books, documents, and records;

(7) Examine, inspect, and audit during ordinary business hours, all books, documents, and records, and examine, inspect, audit, or record records of any grain dealer licensed hereunder at the grain dealer's principal office or headquarters;

(8) Inspect at reasonable times any warehouse or storage facility where commodities are ~~((stored;))~~ received, handled, conditioned, stored, or shipped, ~~((or received))~~ including all commodities stored therein and all books, documents, and records in order to determine whether or not such facility should be licensed pursuant to this chapter;

~~((#))~~ (9) Inspect at reasonable times any grain dealer's books, documents, and records in order to determine whether or not the grain dealer should be licensed under this chapter;

(10) Administer oaths~~((;))~~ and issue subpoenas to compel the attendance of witnesses, and/or the production of books, documents, and records anywhere in the state pursuant to a hearing relative to the purpose and provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel, as provided in chapter 2.40 RCW~~((, as enacted or hereafter amended))~~;

~~((9))~~ (11) Adopt rules regarding the identification of commodities by the use of confetti or other similar means so that such commodities may be readily identified if stolen or removed in violation of the provisions of this chapter from a warehouse or if otherwise unlawfully transported;

~~((10))~~ (12) Adopt all the necessary rules ~~((and regulations))~~ for carrying out the purpose and provisions of this chapter. The adoption of rules ~~((and regulations))~~ under the provisions of this chapter shall be subject to the provisions of chapter 34.04 RCW ~~((f))~~, the Administrative Procedure Act ~~((as enacted or hereafter amended))~~. ~~((The director))~~ When adopting rules in respect to the provisions of this chapter, the director shall hold a public hearing and shall to the best of his ability consult with persons and organizations or interests who will be affected thereby, and any final rule adopted as a result of the hearing shall be designed to promote the provisions of this chapter and shall be reasonable and necessary and based upon needs and conditions of the industry, and shall be for the purpose of promoting the well-being of the industry to be regulated and the general welfare of the people of the state.

Sec. 18. Section 3, chapter 124, Laws of 1963 as amended by section 20, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.030 are each amended to read as follows:

It shall be unlawful for any person to operate a warehouse in the state of Washington without first having obtained an annual license from the department ~~((PROVIDED, That))~~, but this chapter shall not apply to warehouses that are federally licensed under the provisions of 7 USC 241 et seq. for the handling and storage of agricultural commodities. A separate license shall be required for each warehouse that a person intends to operate ~~((PROVIDED, That))~~, but any person operating two or more warehouses ~~((which))~~ that constitute a station may license ~~((such))~~ the warehouses under one state license. All the assets of a given station ~~((;))~~ that is licensed under one state license ~~((; shall be))~~ are subject to all the liabilities of that station and for the purposes of this chapter shall be treated as a single warehouse, requiring all the stocks and obligations of the warehouses at a given station to be treated as a unit for all purposes including, but not limited to, issuance of warehouse receipts and receipt and delivery of commodities for handling, conditioning, storage, or shipment ~~((; or handling))~~.

NEW SECTION. Sec. 19. It is unlawful for any person to operate as a grain dealer in the state of Washington without first having obtained an annual license from the department. This chapter does not apply to a grain dealer that is licensed for dealing in agricultural commodities under federal law.

Sec. 20. Section 4, chapter 124, Laws of 1963 as last amended by section 13, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.040 are each amended to read as follows:

Application for a license to operate a warehouse under the provisions of this chapter shall be on a form prescribed by the department and shall include:

(1) The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation, or other entity;

(2) The full name of each member of the firm or partnership, or the names of the officers of the company, society, cooperative association, or corporation;

(3) The principal business address of the applicant in the state and elsewhere;

(4) The name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant;

(5) Whether the applicant has also applied for or has been issued a grain dealer license under the provisions of this chapter;

(6) The location of each warehouse the applicant intends to operate and the ~~((preponderate commodity expected in storage))~~ location of the headquarters or main office of the applicant;

~~((6))~~ (7) The bushel storage capacity of each such warehouse to be licensed ~~((, including a schematic diagram accurately showing the areas of storage and floor plan of the warehouse));~~

~~((7))~~ (8) The schedule of fees to be charged at each warehouse for the handling, conditioning, storage, and shipment of all commodities during the licensing period;

~~((8))~~ (9) A financial statement to determine the net worth of the applicant to determine whether or not the applicant meets the minimum net worth requirements established by the director pursuant to chapter 34.04 RCW;

~~((9))~~ (10) Whether the application is for a terminal, subterminal, or ~~((public))~~ country warehouse license;

~~((10))~~ (11) Whether the applicant has previously been denied a grain dealer or warehouseman license or whether the applicant has had either license suspended or revoked by the department;

(12) Any other reasonable information the department finds necessary to carry out the purpose and provisions of this chapter.

NEW SECTION. Sec. 21. Application for a license to operate as a grain dealer under the provisions of this chapter shall be on a form prescribed by the department and shall include:

(1) The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation, or other entity;

(2) The full name of each member of the firm or partnership, or the names of the officers of the company, society, cooperative association, or corporation;

(3) The principal business address of the applicant in the state and elsewhere;

(4) The name or names of the person or persons in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant;

(5) Whether the applicant has also applied for or has been issued a warehouse license under this chapter;

(6) The location of each business location from which the applicant intends to operate as a grain dealer in the state of Washington whether or not the business location is physically within the state of Washington, and the location of the headquarters or main office of the application;

(7) A financial statement to determine the net worth of the applicant to determine whether or not the applicant meets the minimum net worth requirements established by the director under chapter 34.04 RCW. However, if the applicant is a subsidiary of a larger company, corporation, society, or cooperative association, both the parent company and the subsidiary company must submit a financial statement to determine whether or not the applicant meets the minimum net worth requirements established by the director under chapter 34.04 RCW;

(8) Whether the applicant has previously been denied a grain dealer or warehouseman license or whether the applicant has had either license suspended or revoked by the department;

(9) Any other reasonable information the department finds necessary to carry out the purpose and provisions of this chapter.

Sec. 22. Section 5, chapter 124, Laws of 1963 as amended by section 14, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.050 are each amended to read as follows:

Any application for a license to operate a warehouse shall be accompanied by a license fee of ~~((one))~~ two hundred dollars for a terminal warehouse, ~~((twenty-five))~~ one hundred fifty dollars for a subterminal warehouse, and ~~((twenty-five))~~ fifty dollars for a ~~((public))~~ country warehouse. If a licensee operates more than one warehouse~~(:)~~ under one state license as provided for in RCW 22.09.030, the license fee shall be computed by multiplying the number of physically separated warehouses within ~~((such))~~ the station by the applicable terminal, subterminal, or ~~((public))~~ country warehouse license fee. If an application for renewal of a warehouse license or licenses is not received by the department prior to June 30th of any year, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying

that he has not acted as a warehouseman subsequent to the expiration of his prior license.

NEW SECTION, Sec. 23. An application for a license to operate as a grain dealer shall be accompanied by a license fee of one hundred dollars unless the applicant is also a licensed warehouseman, in which case the fee for a grain dealer license shall be fifty dollars.

If an application for renewal of a grain dealer license is not received by the department before June 30th of any year, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a grain dealer after the expiration of his prior license.

Sec. 24. Section 6, chapter 124, Laws of 1963 as amended by section 22, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.060 are each amended to read as follows:

No warehouse or grain dealer license (~~shall~~) may be issued to an applicant before a bond or certificate of deposit is given to the department as provided in RCW 22.09.090 (~~and~~). No warehouse license may be issued to an applicant before a certificate of insurance as provided in RCW 22.09.110 (~~have~~) has been filed with the department.

Sec. 25. Section 7, chapter 124, Laws of 1963 and RCW 22.09.070 are each amended to read as follows:

The department shall issue a warehouse license to an applicant upon its determination that the applicant has facilities adequate for handling and storage of commodities and, if applicable, conditioning, and that the application is in the proper form and upon approval of the matters contained (~~therein~~) on the application and upon a showing that (~~such~~) the applicant has complied with the provisions of this chapter and rules adopted hereunder. The licensee shall (~~forthwith~~) immediately upon receipt of (~~such~~) the license post it in a conspicuous place in the office of the licensed warehouse or if a station license, in the main office at (~~such~~) the station. (~~Such~~) The license (~~shall~~) automatically expires on June 30th (~~subsequent to~~) after the date of issuance unless it has been revoked, canceled, or suspended (~~prior thereto~~) by the department before that date.

NEW SECTION, Sec. 26. The department shall issue a grain dealer license to an applicant upon its determination that the application is in its proper form and upon approval of the matters contained on the application and upon a showing that the applicant has complied with the provisions of this chapter and rules adopted hereunder. The licensee shall immediately upon receipt of the license post it in a conspicuous place in its principal place of business. The license expires automatically on June 30th after the

date of issuance unless it has been revoked, canceled, or suspended by the department before that date.

Sec. 27. Section 9, chapter 124, Laws of 1963 as last amended by section 23, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.090 are each amended to read as follows:

(1) Before any person (~~(shall be)~~) is granted a warehouse or grain dealer license pursuant to the provisions of this chapter (~~(such)~~) the person shall give a bond to the state of Washington executed by the (~~(warehouseman)~~) applicant as the principal and by a corporate surety licensed to do business in this state as surety.

(2) The bond required for the issuance of a warehouse license shall be in the sum of not less than (~~(twenty-five)~~) fifty thousand dollars nor more than (~~(five)~~) seven hundred fifty thousand dollars. The department shall, after holding a public hearing, determine the amount (~~(of the)~~) that will be required for the warehouse bond which shall be computed at a rate of not less than fifteen cents nor more than thirty cents per bushel multiplied by the number of bushels of licensed commodity storage capacity of the warehouses of the (~~(licensee)~~) applicant furnishing the bond (~~(, or at the rate of not less than six percent nor more than twelve percent of the gross sales of agricultural commodities of such licensee, whichever is greater)~~).

~~((2) The bond shall be approved by the department and shall be conditioned upon the faithful performance by the warehouseman of the duty to keep in the warehouse for the depositor the commodity delivered, and to deliver the commodity to, or ship it for, such depositor, and such additional obligations, including merchandising, as a warehouseman may assume with the respective depositors as defined in RCW 22.09.010(9) as now or hereafter amended. In case a person has applied for licenses to conduct two or more warehouses in the state, the assets applicable to all warehouses, but not the deposits except in case of a station, shall be subject to the liabilities of each. The total and aggregate liability of the surety for all claims upon such bond shall be limited to the amount specified in the bond.~~

~~((3)) The~~ (~~(warehouseman)~~) applicant for a warehouse license may give a single bond meeting the requirements of this chapter, and all warehouses operated by the warehouseman (~~(shall be)~~) are deemed (~~(as)~~) to be one warehouse for the purpose of the amount of the bond required under (~~(such section)~~) this subsection. Any change in the capacity of a warehouse or (~~(installation)~~) addition of any new warehouse involving a change in bond liability under this chapter shall be immediately reported to the department (~~(prior to the operation thereof)~~).

(3) The bond required for the issuance of a grain dealer license shall be in the sum of not less than fifty thousand dollars nor more than seven hundred fifty thousand dollars. The department shall, after holding a public hearing, determine the amount that will be required for the dealer bond which shall be computed at a rate not less than six percent nor more than

twelve percent of the sales of agricultural commodities purchased by the dealer from producers during the dealer's last completed fiscal year or in the case of a grain dealer who has been engaged in business as a grain dealer less than one year, the estimated aggregate dollar amount to be paid by the dealer to producers for agricultural commodities to be purchased by the dealer during the dealer's first fiscal year.

(4) An applicant making application for both a warehouse license and a grain dealer license may satisfy the bonding requirements set forth in subsections (2) and (3) of this section by giving to the state of Washington a single bond for the issuance of both licenses, which bond shall be in the sum of not less than fifty thousand dollars nor more than seven hundred fifty thousand dollars. The department shall, after holding a public hearing, determine the amount of the bond which shall be computed at a rate of not less than fifteen cents nor more than thirty cents per bushel multiplied by the number of bushels of licensed commodity storage capacity of the warehouses of the applicant furnishing the bond, or at the rate of not less than six percent nor more than twelve percent of the gross sales of agricultural commodities of the applicant whichever is greater.

(5) The bonds required under this section shall be approved by the department and shall be conditioned upon the faithful performance by the licensee of the duties imposed upon him by this chapter. If a person has applied for warehouse licenses to operate two or more warehouses in this state, the assets applicable to all warehouses, but not the deposits except in case of a station, are subject to the liabilities of each. The total and aggregate liability of the surety for all claims upon the bond are limited to the amount specified in the bond.

(6) Any person required to submit a bond to the department under this chapter has the option to give the department a certificate of deposit payable to the director as trustee, in lieu of a bond or a portion thereof. The principal amount of the certificate shall be the same as that required for a surety bond under this chapter or may be in an amount which, when added to the applicant's bond, will satisfy the licensee's requirements for a surety bond under this chapter, and the interest thereon shall be made payable to the purchaser of the certificate. The certificate of deposit shall remain on deposit until it is released, canceled, or discharged as provided for by rule of the department. The provisions of this chapter that apply to a bond required under this chapter apply to each certificate of deposit given in lieu of such a bond.

(7) The department may, when it has reason to believe that a grain dealer does not have the ability to pay producers for grain purchased, or when it determines that the grain dealer does not have a sufficient net worth to outstanding financial obligations ratio, or when it believes there may be claims made against the bond in excess of the face amount of the bond, require a grain dealer to post an additional bond in a dollar amount deemed

appropriate by the department or may require an additional certificate of deposit. The additional bonding may exceed the maximum amount of the bond otherwise required under this section. Failure to post the additional bond or certificate of deposit constitutes grounds for suspension or revocation of a license issued under this chapter.

~~((4))~~ (8) Notwithstanding any other provisions of this chapter, the license of a warehouseman or grain dealer shall automatically be suspended in accordance with ~~(the provisions of)~~ RCW 22.09.100 for failure at any time to have or to maintain a bond or certificate of deposit, or both, in the amount and type required ~~(herein)~~ by this chapter. The department shall remove the suspension or issue a license as the case may be, when the required bond or certificate of deposit has been obtained.

~~((5) Any warehouseman required to submit a bond to the department pursuant to the provisions of this chapter shall have the option to file a policy of insurance with the department in lieu of the warehouseman's bond. Such insurance policy, before being accepted, shall be approved by the attorney general and the insurance commissioner of the state of Washington if they deem the coverage provided thereby is equivalent to or greater than the coverage for depositors provided by the warehouseman's bond. If such an insurance policy is accepted in place of the bond, such insurance policy, as between the department, warehouseman, and the depositors, shall be treated exactly the same as if it were a bond filed with the department. It is the intention of the legislature in this subsection to have the insurance policy replace the bond, as between the department, warehouseman, and the depositors, for all purposes as though the term bond used throughout the several sections of this chapter were to contain instead the term insurance policy:))~~

Sec. 28. Section 10, chapter 124, Laws of 1963 and RCW 22.09.100 are each amended to read as follows:

Every bond filed with and approved by the department shall without the necessity of periodic renewal remain in force and effect until such time as the warehouseman's license is revoked for cause or otherwise canceled. The surety on a bond, as provided ~~(herein)~~ in this chapter, shall be released and discharged from all liability to the state accruing on ~~(such)~~ the bond after the expiration of ~~(ninety)~~ thirty days from the date a warehouseman's license is revoked for cause or otherwise terminated or after the expiration of ninety days from the date upon which ~~(such)~~ the surety ~~(shall have)~~ lodged with the department a written request to be released and discharged~~((:))~~, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or ~~(which shall)~~ that has accrued before the expiration of the respective thirty or ninety-day period. In the event of a cancellation by the surety, the surety shall simultaneously send ~~(such)~~ the notification of cancellation in writing to any other governmental agency requesting it. ~~(The department shall promptly)~~

Upon receiving any such request, the department shall promptly notify the principal who furnished the bond, and unless the principal ((shall)) files a new bond on or before the expiration of the respective thirty or ninety-day period, ((file a new bond,)) the department shall forthwith cancel the principal's license.

Sec. 29. Section 11, chapter 124, Laws of 1963 and RCW 22.09.110 are each amended to read as follows:

All commodities in storage in a warehouse shall be kept fully insured for the current market value of ~~((such))~~ the commodity for the license period against loss by fire, lightning, internal explosion, windstorm, cyclone, and tornado. Evidence of ~~((such))~~ the insurance coverage in the form of a certificate of insurance approved by the department shall be filed by the warehouseman with the department at the time of making application for an annual license to operate a warehouse as required by this chapter. The department shall not issue a license ~~((when such))~~ until the certificate of insurance is received.

Sec. 30. Section 13, chapter 124, Laws of 1963 as last amended by section 38, chapter 296, Laws of 1981 and RCW 22.09.130 are each amended to read as follows:

(1) Every warehouseman shall receive for ~~((storage,))~~ handling, conditioning, storage, or shipment, so far as the capacity and facilities of his warehouse will permit, all commodities included in the provisions of this chapter, in suitable condition for storage, tendered him in the usual course of business from historical depositors and shall issue therefor a warehouse receipt or receipts in a form prescribed by the department as ~~((herein))~~ provided in this chapter or a scale weight ticket. Warehousemen may accept agricultural commodities from new depositors who qualify to the extent of the capacity of that warehouse. The deposit for handling, conditioning, storage, or shipment~~((, or handling))~~ of ~~((such))~~ the commodity must be credited to the depositor in the books of the warehouseman ~~((within))~~ as soon as possible, but in no event later than seven days from the date of ~~((such))~~ the deposit. If the commodity has been graded a warehouse receipt shall be issued within ten days after demand by the owner.

(2) If requested by the depositor, each lot of his commodity shall be kept in a special pile or special bin, if available, but in the case of a bulk commodity, if the lot or any portion of it does not equal the capacity of any available bin, the depositor may exercise his option to require the commodity to be specially binned only on agreement to pay charges based on the capacity of the available bin most nearly approximating the required capacity.

(3) A warehouseman may refuse to accept for storage, commodities ~~((which))~~ that are wet, damaged, insect-infested, or in other ways unsuitable for storage.

(4) Terminal and subterminal warehousemen shall receive put through agricultural commodities to the extent satisfactory transportation arrangements can be made, but may not be required to receive agricultural commodities for storage.

Sec. 31. Section 15, chapter 124, Laws of 1963 as amended by section 17, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.150 are each amended to read as follows:

(1) The duty of the warehouseman to deliver the ~~((commodity stored shall be))~~ commodities in storage is governed by the provisions of this chapter and the requirements of Article 7 of Title 62A RCW ~~((as enacted or hereafter amended))~~. Upon the return of the receipt to the proper warehouseman, properly endorsed, and upon payment or tender of all advances and legal charges, the warehouseman shall deliver commodities of the grade and quantity named ~~((therein shall be delivered))~~ upon the receipt to the holder of ~~((such))~~ the receipt, except as provided by Article 7 of Title 62A RCW ~~((as enacted or hereafter amended))~~.

(2) A warehouseman'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, ~~((such))~~ the delivery is deemed to comply with this subsection.

(3) No warehouseman ~~((shall))~~ 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 ~~((agreed))~~ the warehouseman 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 warehouseman 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 warehouseman for any damages resulting from the warehouseman'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 actual damages or liquidated damages of one-half of one percent of the value for each day's delay after ~~((such))~~ the forty-eight hour period.

Sec. 32. Section 17, chapter 124, Laws of 1963 and RCW 22.09.170 are each amended to read as follows:

~~((+))~~ If ~~((written instruction or order is given or furnished by))~~ the owner of the commodity~~(;)~~ or his authorized agent~~((directed))~~ gives or furnishes to a licensed warehouseman a written instruction or order, and if ~~((such))~~ the order is properly made a part of the warehouseman's records and is available for departmental inspection, then the warehouseman:

~~((a) May accept such deposit of a commodity for the purpose of sale to the warehouseman;~~

~~((b)) (1) May receive ((such)) the commodity for the purpose of processing or ((cleaning)) conditioning;~~

~~((c)) (2) May receive ((such)) the commodity for the purpose of shipping by the warehouseman for the account of the depositor;~~

~~((d)) (3) May accept an agricultural commodity delivered as seed and handle ~~((the same))~~ it pursuant to the terms of a contract with the depositor and the contract shall be considered written instructions pursuant to ~~((subsection (1) of))~~ this section.~~

~~((2) Commodities deposited with the warehouseman without written order, as provided for in subsection (1) of this section, must be handled and considered to be a commodity in storage.))~~

NEW SECTION. Sec. 33. (1) A commodity deposited with a warehouseman without a written agreement for sale of the commodity to the warehouseman shall be handled and considered to be a commodity in storage.

(2) A presumption is hereby created that in all written agreements for the sale of commodities, the intent of the parties is that title and ownership to the commodities shall pass on the date of payment therefor. This presumption may only be rebutted by a clear statement to the contrary in the agreement.

(3) Any warehouseman or grain dealer entering into a deferred price contract with a depositor shall first have the form of the contract approved by the director. The director shall adopt rules setting forth the standards for approval of the contracts.

Sec. 34. Section 18, chapter 124, Laws of 1963 as amended by section 24, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.180 are each amended to read as follows:

(1) The ~~((warehouseman))~~ licensee shall maintain ~~((current and))~~ complete records at all times with respect to all agricultural commodities handled, stored, shipped, or merchandised by him, including commodities owned by him. ~~((Such records shall include, but not be limited to, a daily position record showing the total quantity of each kind and class of agricultural commodity received and loaded out and the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day.~~

~~(2) No warehouse receipt issued by any warehouseman as defined in this chapter and no negotiation, transfer, or pledge of any such receipt shall be defeated by reason of the fact that the goods covered by the receipt were owned, in whole or in part, by the warehouseman at the time the receipt was issued.~~

~~(3) Every warehouseman purchasing any agricultural commodity from a depositor thereof shall promptly make and keep for one year a correct record showing in detail the following:~~

~~(a) The name and address of the depositor;~~

~~(b) The date purchased;~~

~~(c) The terms of the sale; and~~

~~(d) The quality and quantity purchased by the warehouseman, and where applicable the dockage, tare, grade, size, net weight, or quantity;))~~

The department shall adopt rules specifying the minimum record-keeping requirements necessary to comply with this section.

~~((4)) (2) The licensee shall maintain an itemized statement of any charges paid by the ((warehouseman for the account of the)) depositor.~~

~~((A copy of such record containing the above matters shall be forwarded to the depositor forthwith:))~~

Sec. 35. Section 19, chapter 124, Laws of 1963 and RCW 22.09.190 are each amended to read as follows:

No warehouseman subject to the provisions of this chapter ~~((shall))~~ may:

(1) Directly or indirectly, by any special charge, rebate, drawback, or other device, demand, collect, or receive from any person a greater or lesser compensation for any service rendered or to be rendered in the handling, conditioning, storage, or shipment of any commodity than he demands, collects, or receives from any other person for doing for him a like and contemporaneous service in the handling, conditioning, storage, or shipment of any commodity under substantially similar circumstances or conditions;

(2) Make or give any undue or unreasonable preference or advantage to any person in any respect whatsoever;

(3) Subject any particular person to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Sec. 36. Section 24, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.195 are each amended to read as follows:

RCW 22.09.190 does not apply to contracts entered into with a governmental agency, state or federal, for the handling ~~((or)),~~ conditioning, storage, or shipping of agricultural commodities.

Sec. 37. Section 20, chapter 124, Laws of 1963 and RCW 22.09.200 are each amended to read as follows:

Each ~~((warehouseman))~~ licensee shall report information to the department at such times and as may be reasonably required by the department for the necessary enforcement and supervision of a sound, reasonable, and efficient ~~((warehouse))~~ commodity inspection program for the protection of depositors of commodities and for persons~~((;))~~ or agencies~~((;))~~ who deal in ~~((such))~~ commodities.

Sec. 38. Section 21, chapter 124, Laws of 1963 as amended by section 18, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.210 are each amended to read as follows:

It is unlawful (~~((for any warehouseman to receive in any terminal warehouse any commodity that has not been weighed, inspected, and/or graded by an employee of the department under the supervision of a duly authorized inspector of the department, or))~~) to deliver out of any terminal warehouse any commodity for export that has not been weighed, inspected, and/or graded (~~((in such manner))~~) by an employee of the department under the supervision of a duly authorized inspector of the department.

Sec. 39. Section 23, chapter 124, Laws of 1963 and RCW 22.09.230 are each amended to read as follows:

Every warehouse licensee shall post at or near the main entrance to each of his warehouses a sign as prescribed by the department which shall include the words "Washington Bonded Warehouse(^(L-))." It (~~((shall be))~~) is unlawful to display such sign or any sign of similar appearance or bearing the same words, or words of similar import, when (~~((such))~~) the warehouse is not licensed and bonded under this chapter.

Sec. 40. Section 24, chapter 124, Laws of 1963 and RCW 22.09.240 are each amended to read as follows:

Every warehouseman shall annually, during the first week in July, publish by posting in a conspicuous place in each of his warehouses the schedule of (~~((storage and))~~) handling, conditioning, and storage rates filed with the department for the ensuing license year. The schedule shall be kept posted, and the rates shall not be changed during such year except upon approval of the department.

Sec. 41. Section 25, chapter 124, Laws of 1963 and RCW 22.09.250 are each amended to read as follows:

It (~~((shall be))~~) is unlawful for a warehouseman to:

(1) Issue a warehouse receipt for any commodity (~~((which))~~) that he does not have in his warehouse at the time (~~((such))~~) the receipt is issued;

(2) Issue warehouse receipts in excess of the amount of the commodities held in the licensee's warehouse to cover (~~((such))~~) the receipt;

(3) Remove, deliver, direct, assist, or permit any person to remove, or deliver any commodity from any warehouse for which warehouse receipts have been issued and are outstanding without receiving and canceling the warehouse receipt issued therefor;

(4) Sell, encumber, ship, transfer, or in any manner remove or permit to be shipped, transferred, or removed from a warehouse any commodity received by him for deposit, (~~((shipment, or))~~) handling, conditioning, or shipment, for which scale weight tickets have been issued without the written approval of the holder of the scale weight ticket and such transfer shall be

shown on the individual depositor's account and the inventory records of the warehouseman;

(5) Remove, deliver, direct, assist, or permit any person to deliver, or remove any commodities from any warehouse, whereby the amount of any fairly representative grade or class of any commodity in the warehouses of ~~((such))~~ the licensee is reduced below the amount for which warehouse receipts or scale weight tickets for the particular commodity are outstanding;

(6) Issue a warehouse receipt showing a grade or description different from the grade or description of the commodity delivered ~~((and for which such warehouse receipt is issued))~~;

(7) Issue a warehouse receipt or scale weight ticket ~~((which))~~ that exceeds ~~((in))~~ the amount ~~((from))~~ of the actual quantity of commodities delivered for storage;

(8) Fail to deliver commodities pursuant to RCW 22.09.150 upon demand of the depositor;

(9) Knowingly accept for storage any commodity destined for human consumption ~~((which))~~ that has been contaminated with an agricultural pesticide or filth rendering it unfit for human consumption, if ~~((such))~~ the commodities are commingled with any uncontaminated commodity;

(10) Terminate storage of a commodity in his warehouse without giving ~~((reasonable))~~ thirty days' written notice to the depositor.

Sec. 42. Section 26, chapter 124, Laws of 1963 and RCW 22.09.260 are each amended to read as follows:

No depositor ~~((shall))~~ may knowingly deliver for handling, conditioning, storage, or shipment~~((, or handling))~~ any commodity treated with an agricultural pesticide or contaminated with filth rendering it unfit for human consumption without first notifying the warehouseman.

Sec. 43. Section 29, chapter 124, Laws of 1963 as amended by section 19, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.290 are each amended to read as follows:

(1) Every warehouse receipt issued for commodities covered by this chapter shall embody within its written or printed terms:

(a) The grade of the commodities received as established by the official standards of this state, unless the identity of the commodity is in fact preserved in a special pile or special bin, and an identifying mark of such pile or bin shall appear on the face of the receipt and on the pile or bin. ~~((Such))~~ A commodity in ~~((such))~~ a special pile or bin shall not be removed or relocated without canceling the outstanding receipt and issuing a new receipt showing ~~((such))~~ the change;

(b) Such other terms and conditions as required by Article 7 of Title 62A RCW ~~((as enacted or hereafter amended))~~: PROVIDED, That nothing contained therein ~~((shall))~~ requires a receipt issued for wheat to specifically state the variety of wheat by name;

(c) A clause reserving for the warehouseman the optional right to terminate storage upon thirty days' written notice to the depositor and collect outstanding charges against any lot of commodities after June 30th following the date of the receipt.

(2) Warehouse receipts issued under the United States Warehouse Act (7 USCA § 241 et seq.) (~~shall be~~) are deemed to fulfill the requirements of this chapter so far as it pertains to the issuance of warehouse receipts.

Sec. 44. Section 31, chapter 124, Laws of 1963 and RCW 22.09.310 are each amended to read as follows:

Any person, or any agent or servant of (~~such~~) that person, or any officer of a corporation who prints, binds, or delivers warehouse receipt forms, except on an order or requisition signed by the director, or who uses such forms knowing that they were not so printed, bound, or delivered (~~shall be~~) is guilty of a (~~misdemeanor~~) class C felony and is punishable as provided in chapter 9A.20 RCW.

Sec. 45. Section 33, chapter 124, Laws of 1963 and RCW 22.09.330 are each amended to read as follows:

Nothing in this chapter (~~shall~~) may be construed to prevent the issuance of scale weight tickets (~~as defined in RCW 22.09.010(12)~~) showing when and what quantities of commodities were received and the condition thereof upon delivery.

Sec. 46. Section 34, chapter 124, Laws of 1963 and RCW 22.09.340 are each amended to read as follows:

(1) Upon the request of any person or persons having an interest in a commodity stored in any public warehouse and upon payment of (~~twenty-five~~) fifty dollars in advance by (~~such~~) the person or persons, the department may cause (~~such~~) the warehouse to be inspected and shall check the outstanding negotiable and nonnegotiable warehouse receipts, and scale weight tickets (~~which~~) that have not been superseded by negotiable or nonnegotiable warehouse receipts, with the commodities on hand and shall report the amount of receipts and scale weight tickets outstanding and the amount of storage, if any. If the cost of the examination is more than (~~twenty-five~~) fifty dollars, the person or persons having an interest in the commodity stored in (~~any such~~) the warehouse(;) and requesting (~~such~~) the examination, shall pay the additional cost to the department, unless a shortage is found to exist.

(2) A warehouse shall be maintained in a manner (~~which~~) that will provide a reasonable means of ingress and egress to the various storage bins and compartments by those persons authorized to make inspections, and an adequate facility to complete (~~such~~) the inspections shall be provided.

(3) The property, books, records, accounts, papers, and proceedings of every such warehouseman shall at all reasonable times be subject to (~~such~~) inspection by the department. The warehouseman shall maintain

adequate records and systems for the filing and accounting of warehouse receipts, canceled warehouse receipts, scale weight tickets, other documents, and transactions necessary or common to the warehouse industry. Canceled warehouse receipts, copies of scale weight tickets, and other copies of documents evidencing ownership or ownership liability shall be retained by the warehouseman for a period of at least three years from the date of deposit.

(4) Any warehouseman whose principal office or headquarters is located outside the state of Washington shall make available, if requested, during ordinary business hours, at any of their warehouses licensed in the state of Washington, all books, documents, and records for inspection.

(5) Any grain dealer whose principal office or headquarters is located outside the state of Washington shall make available, if requested, all books, documents, and records for inspection during ordinary business hours at any facility located in the state of Washington, or if no facility in the state of Washington, then at a Washington state department of agriculture office or other mutually acceptable place.

NEW SECTION. Sec. 47. (1) The department may give written notice to the warehouseman or grain dealer to submit to inspection under such conditions and at such time as the department may deem necessary whenever a warehouseman or grain dealer fails to:

- (a) Submit his books, papers, or property to lawful inspection or audit;
- (b) Submit required reports or documents to the department by their due date; or
- (c) Furnish the department with requested information, including but not limited to correction notices.

(2) If the warehouseman or grain dealer fails to comply with the terms of the notice within twenty-four hours from the date of its issuance, or within such further time as the department may allow, the department shall levy a fine of fifty dollars per day from the final date for compliance allowed by this section or the department. In those cases where the failure to comply continues for more than thirty days or where the director determines the failure to comply creates a threat of loss to depositors, the department may, in lieu of levying further fines petition the superior court of the county where the licensee's principal place of business in Washington is located, as shown by the license application, for an order:

- (a) Authorizing the department to seize and take possession of all books, papers, and property of all kinds used in connection with the conduct or the operation of the warehouseman's or grain dealer's business, and the books, papers, records, and property that pertain specifically, exclusively, and directly to that business; and
- (b) Enjoining the warehouseman or grain dealer from interfering with the department in the discharge of its duties as required by this chapter.

(3) All necessary costs and expenses, including attorneys' fees, incurred by the department in carrying out the provisions of this section may be recovered at the same time and as part of the action filed under this section.

Sec. 48. Section 35, chapter 124, Laws of 1963 and RCW 22.09.350 are each amended to read as follows:

(1) Whenever it appears that there is evidence after any investigation that a warehouseman has ~~((not in his possession sufficient commodities to cover the outstanding warehouse receipts, scale weight tickets, or other evidence of storage liability issued or assumed by him, or when such warehouseman refuses to submit his books, papers, or property to lawful inspection))~~ a shortage, the department may levy a fine of one hundred dollars per day until the warehouseman covers the shortage.

(2) In any case where the director determines the shortage creates a substantial or continuing threat of loss to the depositors of the warehouseman, the department may, in lieu of levying a fine or further fines, give notice to the warehouseman to comply with all or any of the following requirements:

- (a) Cover ~~((such))~~ the shortage;
- (b) Give additional bond as requested by the department;
- (c) Submit to such inspection as the department may deem necessary;

(d) Cease accepting further commodities from depositors or selling, encumbering, transporting, or otherwise changing possession, custody, or control of commodities owned by the warehouseman until there is no longer a shortage.

~~((2))~~ (3) If ~~((such))~~ the warehouseman fails to comply with the terms of ~~((such))~~ the notice provided for in subsection (2) of this section within twenty-four hours from the date of its issuance, or within such further time as the department may allow, the department may petition the superior court of the county where the licensee's principal place of business in Washington is located ~~((f))~~as shown by the license application~~((t))~~, for an order:

(a) Authorizing the department to seize and take possession of all or a portion of special piles and special bins of commodities and all or a portion of commingled commodities in the warehouse or warehouses owned, operated, or controlled by the warehouseman, and of all books, papers, and property of all kinds used in connection with the conduct or the operation of ~~((such))~~ the warehouseman's warehouse business, and the books, papers, records, and property ~~((which))~~ that pertain specifically, exclusively, and directly to that business; and

(b) Enjoining the warehouseman from interfering with the department in the discharge of its duties as required by this section.

~~((3)) Upon taking possession the department shall give written notice of its action to the surety on the bond of the warehouseman and may notify~~

~~the holders of record, as shown by the warehouseman's records, of all warehouse receipts or scale weight tickets issued for commodities, to present their warehouse receipt or other evidence of deposits for inspection, or to account for the same. The department may thereupon cause an audit to be made of the affairs of such warehouse, especially with respect to the commodities in which there is an apparent shortage, to determine the amount of such shortage and compute the shortage as to each depositor as shown by the warehouseman's records, if practicable. The department shall notify the warehouseman and the surety on his bond of the approximate amount of such shortage and notify each depositor thereby affected by sending notice to the depositor's last known address as shown by the records of the warehouseman:~~

~~(4) The department shall retain possession of the commodities in the warehouse or warehouses, and of the books, papers, and property of the warehouseman, until such time as the warehouseman or the surety on the bond shall have satisfied the claims of all holders of warehouse receipts or other evidence of deposits, or, in case the shortage exceeds the amount of the bond, the surety on the bond shall have satisfied such claims pro rata, or until such time as the department is ordered by the court to surrender possession:~~

~~(5) If during or after the audit provided for in this section, or at any other time the department has evidence that the warehouseman is insolvent or is unable to satisfy the claims of all holders of warehouse receipts or other evidence of deposits, the department may petition the superior court which authorized the department to take possession, for the appointment of a receiver to operate or liquidate the business of the warehouseman in accordance with law.~~

~~(6) At any time within ten days after the department takes possession of any commodities, or the books, papers, and property of any warehouse, the warehouseman may serve notice upon the department to appear in the superior court of the county in which such warehouse is located, at a time to be fixed by such court, which shall not be less than five, nor more than fifteen days from the date of the service of such notice, and show cause why such commodities, books, papers, and property should not be restored to his possession:~~

~~(7) All necessary expenses incurred by the department in carrying out the provisions of this section may be recovered in a separate civil action brought by the department in the said superior court or recovered at the same time and as a part of the receivership or seizure action filed under this chapter:~~

~~(8) As a part of the expenses so incurred, the department or the receiver is authorized to include the cost of adequate liability insurance necessary to protect the department, its officers, and others engaged in carrying out the provisions of this section:))~~

NEW SECTION. Sec. 49. (1) Whenever the department, pursuant to court order, seizes and takes possession of all or a portion of special piles and special bins of commodities, all or a portion of commingled commodities in a warehouse owned, operated, or controlled by a warehouseman, or books, papers, and property of any kind used in connection with the conduct of a warehouseman's warehouse business, the department shall:

(a) Give written notice of its action to the surety on the bond of the warehouseman and may notify the holders of record, as shown by the warehouseman's records, of all warehouse receipts or scale weight tickets issued for commodities, to present their warehouse receipt or other evidence of deposits for inspection, or to account for the same. The department may thereupon cause an audit to be made of the affairs of the warehouse, especially with respect to the commodities in which there is an apparent shortage, to determine the amount of the shortage and compute the shortage as to each depositor as shown by the warehouseman's records, if practicable. The department shall notify the warehouseman and the surety on his bond of the approximate amount of the shortage and notify each depositor thereby affected by sending notice to the depositor's last known address as shown by the records of the warehouseman.

(b) Retain possession of the commodities in the warehouse or warehouses, and of the books, papers, and property of the warehouseman, until the warehouseman or the surety on the bond has satisfied the claims of all holders of warehouse receipts or other evidence of deposits, or, in case the shortage exceeds the amount of the bond, the surety on the bond has satisfied the claims pro rata.

(2) At any time within ten days after the department takes possession of any commodities or the books, papers, and property of any warehouse, the warehouseman may serve notice upon the department to appear in the superior court of the county in which the warehouse is located, at a time to be fixed by the court, which shall not be less than five nor more than fifteen days from the date of the service of the notice, and show cause why such commodities, books, papers, and property should not be restored to his possession.

(3) All necessary expenses and attorneys' fees incurred by the department in carrying out the provisions of this section may be recovered in the same action or in a separate civil action brought by the department in the superior court.

(4) As a part of the expenses so incurred, the department is authorized to include the cost of adequate liability insurance necessary to protect the department, its officers, and others engaged in carrying out the provisions of this section.

NEW SECTION. Sec. 50. (1) When a depositor stores a commodity with a warehouseman 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 warehouseman 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 warehouseman 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 warehouseman or grain dealer to the depositor terminates or if the depositor sells his commodity to the warehouseman or grain dealer, then thirty days after the time of the sale. If, however, the depositor is tendered payment by check or draft, then the lien shall not terminate until forty days after the time of sale.

(2) The lien created under this section shall be preferred to any lien or security interest in favor of any creditor of the warehouseman 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 warehouseman or grain dealer, upon sale of the commodity by the warehouseman or grain dealer to a buyer in the ordinary course of business.

NEW SECTION. Sec. 51. In the event of a failure of a grain dealer or warehouseman, the department may process the claims of depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of a sale of commodities in the following manner:

(1) The department shall give notice and provide a reasonable time to depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of sale of commodities to file their 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 the commodities has occurred. The department may, in writing, notify each claimant and the failed grain dealer or warehouseman of the department's determination as to the status and amount of each claimant's claim. A claimant, failed warehouseman, 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 in accordance with chapter 34.04 RCW.

(3) The department may inspect and audit the failed warehouseman to determine whether the warehouseman has in his possession sufficient quantities of commodities to cover his 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 purpose of determining shortages.

(4) The department shall determine the amount, if any, due each claimant by the surety and make demand upon the bond in the manner set forth in this chapter.

NEW SECTION. Sec. 52. Upon the failure of a grain dealer or warehouseman, the statutory lien created in section 50 of this act 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 that are under warehouse receipts or any written evidence of ownership that discloses a storage obligation by a failed warehouseman, 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 warehouseman or grain dealer.

(2) Depositors possessing written evidence of the sale of a commodity to the failed warehouseman 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 pricing during a thirty-day period immediately before the failure of the failed warehouseman 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 warehouseman 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 warehouseman 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 section 51 of this act, the director has determined have claims against the failed warehouseman or failed grain dealer in any action brought to enjoin or otherwise contest the distributions made by the director under this section.

Sec. 53. Section 37, chapter 124, Laws of 1963 and RCW 22.09.370 are each amended to read as follows:

(1) If no action is commenced (~~(pursuant to RCW 22.09.360)~~) under RCW 22.09.570 within thirty days after written demand to the department, any depositor injured by the failure of a licensee to comply with the condition of his bond (~~((shall have))~~) has a right of action upon ((such)) the licensee's bond for the recovery of ((att)) his damages ((suffered thereby)). The depositor shall give the department immediate written notice of the commencement of any such action.

(2) Recovery under ~~((such)) the~~ bond shall be prorated when the claims exceed the liability under ~~((such)) the~~ bond.

(3) Whenever the claimed shortage exceeds the amount of ~~((such)) the~~ bond, it ~~((shall)) is~~ not ~~((be))~~ necessary for any depositor~~((s))~~ suing on ~~((such)) the~~ bond to join other depositors in ~~((such)) the~~ suit, and the burden of establishing proration ~~((shall be)) is~~ on the surety as a matter of defense.

Sec. 54. Section 42, chapter 124, Laws of 1963 and RCW 22.09.420 are each amended to read as follows:

The department's inspectors shall, at terminal warehouses, have exclusive control of the weighing, inspecting, and grading of the commodities ~~((which)) that~~ are included within the provisions of this chapter, and the action and certificates of ~~((such)) the~~ inspectors in the discharge of their duties, as to all commodities weighed or inspected by them, shall be accepted as prima facie evidence of the correctness of the above activity~~((:PROVIDED, That))~~. However, an appeal may be taken as provided in RCW ((22.09.450;)) 22.09.780 to the director of the department. Suitable books and records shall be kept in which shall be entered a record of every carload, or cargo, or part of cargo of commodities inspected or weighed by them, showing the number and initial or other designation of the vehicle or boat containing ~~((such)) the~~ carload, or cargo, or part of cargo, its weight, the kind of commodity, and its grade, the reason for ~~((such)) the~~ grade~~((:))~~ if of inferior grade, the amount of ~~((such)) the~~ dockage, the amount of fees and forfeitures and disposition of ~~((same)) them~~; and for each vehicle or cargo, or part of cargo, of commodity inspected, they shall give a certificate of inspection showing the kind and grade of the same and the reason for all grades established. They shall also keep a record of all appeals, decisions, and a complete record of every official act, which books and records shall be open to inspection by any party in interest. They shall also furnish the agent

of the railroad company, or other carrier over which ~~((such))~~ the commodity was shipped or carried, a report showing the weight thereof, if requested to do so.

Sec. 55. Section 55, chapter 124, Laws of 1963 as amended by section 22, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.550 are each amended to read as follows:

The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter and the United States Warehouse Act (7 USCA § 241 et seq.) and the United States Grain Standards Act, as amended (7 USCA § 71, et seq.). Notwithstanding any other provision of this chapter such agreements may also relate to a joint program for licensing, bonding, and inspecting stations ~~((as defined in RCW 22.09.010(8)(f)))~~. Such a program should be designed to avoid duplication of effort on the part of the licensing authority and requirements for operation, and promote more efficient enforcement of the provisions of this chapter and ~~((or))~~ comparable provisions of the law of the states of Idaho or Oregon.

Sec. 56. Section 29, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.570 are each amended to read as follows:

The director ~~((or any depositor of any agricultural commodity))~~ may bring action upon ~~((said))~~ the bond of a warehouseman or grain dealer against both principal and surety in any court of competent jurisdiction to recover the damages caused by any failure to comply with the provisions of this chapter or the rules ~~((and regulations))~~ adopted hereunder.

Sec. 57. Section 30, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.580 are each amended to read as follows:

If a depositor creditor after notification fails, refuses, or neglects to file in the office of the director his verified claim against a warehouseman or grain dealer bond as requested by the director within ~~((sixty))~~ thirty days from the date of ~~((such))~~ the request, the director shall thereupon be relieved of further duty or action ~~((hereunder))~~ under this chapter on behalf of ~~((said))~~ the depositor creditor.

Sec. 58. Section 31, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.590 are each amended to read as follows:

Where by reason of the absence of records ~~((;))~~ or other circumstances making it impossible or unreasonable for the director to ascertain the names and addresses of all ~~((said))~~ the depositor creditors, the director after exerting due diligence and making reasonable inquiry to secure ~~((said))~~ that information from all reasonable and available sources, may make demand

on ~~((said))~~ a warehouseman's or grain dealer's bond on the basis of information then in his possession, and thereafter shall not be liable or responsible for claims or the handling of claims ~~((which))~~ that may subsequently appear or be discovered.

Sec. 59. Section 32, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.600 are each amended to read as follows:

Upon ascertaining all claims and statements in the manner ~~((herein))~~ set forth in this chapter, the director may then make demand upon the warehouseman's or grain dealer's bond on behalf of those claimants whose claims and statements have been filed, and ~~((shall have))~~ has the power to settle or compromise ~~((said))~~ the claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release and discharge of the bond involved.

Sec. 60. Section 33, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.610 are each amended to read as follows:

Upon the refusal of the surety company to pay the demand, the director may thereupon bring an action on the warehouseman's or grain dealer's bond in behalf of ~~((said))~~ the depositor creditors. Upon any action being commenced on ~~((said))~~ the bond, the director may require the filing of a new bond, and immediately upon the recovery in any action on ~~((such))~~ the bond ~~((such))~~, the warehouseman or grain dealer shall file a new bond ~~((and upon))~~. The failure to file the ~~((same))~~ new bond within ten days in either case ~~((such failure shall))~~ constitutes grounds for the suspension or revocation of ~~((his))~~ the warehouseman's or grain dealer's license.

NEW SECTION. Sec. 61. RCW 22.09.370, as amended by this 1983 act, is hereby decodified and is recodified as RCW 22.09.615.

Sec. 62. Section 34, chapter 7, Laws of 1975 1st ex. sess. and RCW 22.09.620 are each amended to read as follows:

Every warehouseman or grain dealer must pay for agricultural commodities purchased by him at the time and in the manner specified in the contract with the depositor, but if no time is set by ~~((such))~~ the contract, then within thirty days after taking possession for purpose of sale or taking title of ~~((such))~~ the agricultural product.

Sec. 63. Section 26, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.650 are each amended to read as follows:

When a station ~~((as defined in RCW 22.09.010(8)(f)))~~ is licensed pursuant to this chapter, the department may assert any and all the remedies provided for in this chapter, including but not limited to those remedies provided for in RCW 22.09.350. Furthermore, if inspection of that portion of the station located in the contiguous state is refused by the licensee, the department may give notice to the licensee to submit to such inspection as the department may deem necessary.

If (~~such~~) the station refuses to comply with the terms of the notice within twenty-four hours, the director may summarily suspend the station's license pending a hearing in compliance with chapter 34.04 RCW.

NEW SECTION. Sec. 64. Upon determining that an emergency storage situation appears to exist, the director may authorize the warehouseman to forward grain that is covered by negotiable receipts to other licensed warehouses for storage without canceling and reissuing the negotiable receipts for not more than thirty days pursuant to conditions established by rule.

NEW SECTION. Sec. 65. RCW 22.09.210, as amended by this 1983 act, is hereby decodified and is recodified as RCW 22.09.700.

NEW SECTION. Sec. 66. RCW 22.09.380, 22.09.390, 22.09.400, and 22.09.410 are each hereby decodified and recodified as RCW 22.09.710, 22.09.720, 22.09.730, and 22.09.740, respectively.

NEW SECTION. Sec. 67. RCW 22.09.420, as amended by this 1983 act, is hereby decodified and is recodified as RCW 22.09.750.

NEW SECTION. Sec. 68. RCW 22.09.430, 22.09.440, 22.09.450, 22.09.460, 22.09.470, 22.09.480, 22.09.490, 22.09.500, and 22.09.530 are each hereby decodified and recodified as RCW 22.09.760, 22.09.770, 22.09.780, 22.09.790, 22.09.800, 22.09.810, 22.09.820, 22.09.830, and 22.09.840, respectively.

NEW SECTION. Sec. 69. RCW 22.09.280 is hereby decodified and is recodified as RCW 22.09.850.

NEW SECTION. Sec. 70. RCW 22.09.270 is hereby decodified and is recodified as RCW 22.09.860.

NEW SECTION. Sec. 71. RCW 22.09.540 is hereby decodified and is recodified as RCW 22.09.870.

NEW SECTION. Sec. 72. RCW 22.09.550, as amended by this 1983 act, is hereby decodified and is recodified as RCW 22.09.880.

NEW SECTION. Sec. 73. RCW 22.09.560 is hereby decodified and is recodified as RCW 22.09.890.

NEW SECTION. Sec. 74. RCW 22.09.950 and 22.09.951 are each hereby decodified.

Sec. 75. Section 9-104, chapter 157, Laws of 1965 ex. sess. as amended by section 8, chapter 41, Laws of 1981 and RCW 62A.9-104 are each amended to read as follows:

This Article does not apply

(a) to a security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(b) to a landlord's lien; or

(c) to a lien given by statute or other rule of law for services or materials or to a lien created under chapter 20.01 or 22.09 RCW except as provided in RCW 62A.9-310 on priority of such liens; or

(d) to a transfer of a claim for wages, salary or other compensation of an employee; or

(e) to a transfer by a government or governmental subdivision or agency; or

(f) to a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to an assignee who is also to do the performance under the contract or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness; or

(g) to a transfer of an interest or claim in or under any policy of insurance, except as provided with respect to proceeds (RCW 62A.9-306) and priorities in proceeds (RCW 62A.9-312); or

(h) to a right represented by a judgment (other than a judgment taken on a right to payment which was collateral); or

(i) to any right of set-off; or

(j) except to the extent that provision is made for fixtures in RCW 62A.9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(k) to a transfer in whole or in part of any claim arising out of tort; or

(l) to a transfer of an interest in any deposit account (subsection (1) of RCW 62A.9-105), except as provided with respect to proceeds (RCW 62A.9-306) and priorities in proceeds (RCW 62A.9-312).

Sec. 76. Section 9-310, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-310 are each amended to read as follows:

(1) When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest only if the lien is statutory and the statute expressly provides for such priority.

(2) A preparer lien or processor lien created pursuant to chapter 20.01 RCW or a depositor's lien created pursuant to chapter 22.09 RCW takes priority over any perfected or unperfected security interest.

NEW SECTION. Sec. 77. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 124, Laws of 1963, section 51, chapter 240, Laws of 1967, section 1, chapter 65, Laws of 1971, section 19, chapter 7, Laws of 1975 1st ex. sess., section 12, chapter 238, Laws of 1979 ex. sess., section 37, chapter 296, Laws of 1981 and RCW 22.09.010; and

(2) Section 36, chapter 124, Laws of 1963 and RCW 22.09.360.

NEW SECTION. Sec. 78. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 79. Sections 16, 19, 21, 23, 26, 33, 47, 49, 50, 51, 52, and 64 of this act are each added to chapter 22.09 RCW.

NEW SECTION. Sec. 80. There is appropriated to the department of licensing from the general fund for the biennium ending June 30, 1983, the sum of forty-nine thousand five hundred dollars, or so much thereof as may be necessary, for the operation and expenses of an automated lien filing and search system capable of filing and searching agricultural liens.

NEW SECTION. Sec. 81. Sections 16 through 80 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 19, 1983.

Passed the Senate April 13, 1983.

Approved by the Governor May 17, 1983.

Filed in Office of Secretary of State May 17, 1983.

CHAPTER 306

[Engrossed House Bill No. 804]

STATE AGENCIES—ESTABLISHMENT OF GOALS REQUIRED

AN ACT Relating to state government; and adding a new section to chapter 43.17 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. There is added to chapter 43.17 RCW a new section to read as follows:

(1) The legislature finds that the establishment of program goals and objectives by the agencies of the state will increase agency productivity, allow legislative input into expenditure decisions, and increase the accountability of state agencies.

(2) Each agency of the state shall biennially establish goals and objectives for each program administered by the agency. The goals and objectives shall be stated in terms of objective, measurable results as much as feasible. The goals and objectives shall be submitted biennially to the legislative committees on ways and means and the legislative budget committee for review and comment.