Chapter 22.09 RCW
AGRICULTURAL COMMODITIES

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RCW 22.09.011 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agricultural commodities," or "commodities," means: (a) Grains for which inspection standards have been established under the United States grain standards act; (b) pulses and similar commodities for which inspection standards have been established under the

agricultural marketing act of 1946; and (c) other similar agricultural products for which inspection standards have been established or which have been otherwise designated by the department by rule for inspection services or the warehousing requirements of this chapter.

(2) "Appeal inspection" means, for commodities covered by federal standards, a review of original inspection or reinspection results by an authorized United States department of agriculture inspector. For commodities covered under state standards, an appeal inspection means a review of original or reinspection results by a supervising inspector. An appeal inspection may be performed either on the basis of the official file sample or a new sample obtained by the same means as the original if the lot remains intact.

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

(4) "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.

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

(6) "Depositor" means (a) any person who deposits a commodity with a Washington state licensed warehouse operator 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 warehouse operator 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 Washington producer whose agricultural commodity has been sold to or is under the control of a grain dealer, whose place of business is located outside the state of Washington.

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

(8) "Exempt grain dealer" means a grain dealer who purchases less than one hundred thousand dollars of covered commodities annually from producers, and operates under the provisions of RCW 22.09.060.

(9) "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.

(10) "Grain dealer" means any person who, through his or her 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.

(11) "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.

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

(13) "Original inspection" means an initial, official inspection of a grain or commodity.

(14) "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.

(15) "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.

(16) "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 warehouse operator for the immediate or impending shipment of the commodity.

(17) "Reinspection" means an official review of the results of an original inspection service by an inspection office that performed that original inspection service. A reinspection may be performed either on the basis of the official file sample or a new sample obtained by the same means as the original if the lot remains intact.

(18) "Scale weight ticket" means a load slip or other evidence of deposit, serially numbered, not including warehouse receipts as defined in subsection (25) 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.

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

(20) "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 34.05 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.

(21) "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.

(22) "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.

(23) "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.

(24) "Warehouse operator" means any person owning, operating, or controlling a warehouse in the state of Washington.

(25) "Warehouse receipt" means a negotiable or nonnegotiable warehouse receipt as provided for in Article 7 of Title 62A RCW. [2011 c 336 s 598; 1994 c 46 s 3; 1989 c 354 s 44; 1988 c 254 s 11; 1987 c 393 s 19; 1983 c 305 s 16.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—1994 c 46: See note following RCW 15.58.070.

Severability—1989 c 354: See note following RCW 15.36.012.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.020 Department authority—Rules. The department shall administer and carry out the provisions of this chapter and rules adopted hereunder, and it has the power and authority to:

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

(2) Supervise the inspection and grading of 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, inspect, and audit, during ordinary business hours, any warehouse licensed 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 received, handled, conditioned, stored, or

shipped, 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;

(11) Adopt rules establishing inspection standards and procedures for grains and commodities;

(12) 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;

(13) Adopt all the necessary rules for carrying out the purpose and provisions of this chapter. The adoption of rules under the provisions of this chapter shall be subject to the provisions of chapter 34.05 RCW, the Administrative Procedure Act. 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 or her 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. [2011 c 336 s 599; 1989 c 354 s 45; 1983 c 305 s 17; 1963 c 124 s 2.]

Severability—1989 c 354: See note following RCW 15.36.012.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.030 Warehouse license or licenses required. 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, 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, but any person operating two or more warehouses that constitute a station may license the warehouses under one state license. All the assets of a given station that is licensed under one state license 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. [1983 c 305 s 18; 1975 1st ex.s. c 7 s 20; 1963 c 124 s 3.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.035 Grain dealer license required, exception. 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. [1983 c 305 s 19.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.040 Application for warehouse license. 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 location of the headquarters or main office of the applicant;

(7) The bushel storage capacity of each such warehouse to be licensed;

(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;

(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 34.05 RCW. All financial statement information required by this subsection shall be confidential information not subject to public disclosure;

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

(11) Whether the applicant has previously been denied a grain dealer or warehouse operator 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. [2011 c 336 s 600; 1987 c 393 s 17; 1983 c 305 s 20; 1979 ex.s. c 238 s 13; 1975 1st ex.s. c 7 s 21; 1963 c 124 s 4.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.045 Application for grain dealer license. 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 34.05 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 34.05 RCW. All financial statement information required by this subsection shall be confidential information not subject to public disclosure;

(8) Whether the applicant has previously been denied a grain dealer or warehouse operator 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. [2011 c 336 s 601; 1987 c 393 s 18; 1983 c 305 s 21.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.050 Warehouse license fees—Penalty. Any application for a license to operate a warehouse shall be accompanied by a license fee of one thousand nine hundred dollars for a terminal warehouse, one thousand five hundred dollars for a subterminal warehouse, and seven hundred dollars for a 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 the station by the applicable terminal, subterminal, or country warehouse license fee.

If an application for renewal of a warehouse license or licenses is not received by the department prior to the renewal date or dates established by the director by rule, 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 or she has not acted as a warehouse operator subsequent to the expiration of his or her prior license. [2012 c 123 s 1; 2011 c 336 s 602; 1997 c 303 s 6; 1994 c 46 s 4; 1991 c 109 s 25; 1986 c 203 s 13; 1983 c 305 s 22; 1979 ex.s. c 238 s 14; 1963 c 124 s 5.]

Effective date—1997 c 303 ss 6 and 7: "Sections 6 and 7 of this act take effect July 1, 1998." [1997 c 303 s 8.]

Findings—1997 c 303: See note following RCW 43.135.055.

Effective date—1994 c 46: See note following RCW 15.58.070.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.055 Grain dealer—Exempt grain dealers—License fees—Penalty. An application for a license to operate as a grain dealer shall be accompanied by a license fee of one thousand seven hundred fifty dollars. The license fee for exempt grain dealers shall be five hundred dollars.

If an application for renewal of a grain dealer or exempt grain dealer license is not received by the department before the renewal date or dates established by the director by rule, 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 or she has not acted as a grain dealer or exempt grain dealer after the expiration of his or her prior license. [2012 c 123 s 2; 2011 c 336 s 603; 1997 c 303 s 7; 1994 c 46 s 5; 1991 c 109 s 26; 1988 c 95 s 1; 1986 c 203 s 14; 1983 c 305 s 23.]

Effective date—1997 c 303 ss 6 and 7: See note following RCW 22.09.050.

Findings—1997 c 303: See note following RCW 43.135.055.

Effective date—1994 c 46: See note following RCW 15.58.070.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.060 Bond or certificate of deposit and insurance prerequisite to license—Exemption. Except as provided in RCW 22.09.405(2), no warehouse or grain dealer license may be issued to an applicant before a bond, certificate of deposit, or other security is given to the department as provided in RCW 22.09.090, or in RCW 22.09.095. No warehouse license may be issued to an applicant before a certificate of insurance as provided in RCW 22.09.110 has been filed with the department. Grain dealers may be exempted by rule from the bonding requirement if the grain dealer does not do more than one hundred thousand dollars in business annually and makes payments solely in coin or currency of the United States at the time of obtaining possession or control of grain. However, a cashier's check,

certified check, or bankdraft may be considered as cash for purposes of this section. [1988 c 95 s 2; 1987 c 509 s 1; 1983 c 305 s 24; 1975 1st ex.s. c 7 s 22; 1963 c 124 s 6.]

Severability—1987 c 509: "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." [1987 c 509 s 22.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.070 Warehouse licenses—Issuance—Posting—Duration. 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 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 the office of the licensed warehouse or if a station license, in the main office at the station. The license automatically expires on the date set by rule by the director unless it has been revoked, canceled, or suspended by the department before that date. Fees shall be prorated where necessary to accommodate the staggering of renewal dates of a license or licenses. [1991 c 109 s 27; 1983 c 305 s 25; 1963 c 124 s 7.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.075 Grain dealer licenses—Issuance—Posting—Duration. 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 a date set by rule by the director unless it has been revoked, canceled, or suspended by the department before that date. Fees shall be prorated where necessary in order to accommodate staggered renewal of a license or licenses. [1991 c 109 s 28; 1983 c 305 s 26.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.080 Licenses—Denial—Suspension—Revocation. The department is authorized to deny, suspend, or revoke a license after a hearing in any case in which it is determined that there has been a violation or refusal to comply with the requirements of this chapter, rules adopted hereunder, or the provisions of Article 7 of Title 62A RCW as enacted or hereafter amended. All hearings for the denial, suspension, or revocation of a license shall be subject to chapter 34.05 RCW (Administrative Procedure Act) as enacted or hereafter amended. [1979 ex.s. c 238 s 15; 1963 c 124 s 8.]

RCW 22.09.090 Bond requisites—Certificate of deposit or other security—Additional security—Suspension of license for failure to maintain. (1) An applicant for a warehouse or grain dealer license pursuant to the provisions of this chapter shall give a bond to the state of Washington executed by the applicant as the principal and by a corporate surety licensed to do business in this state as surety.

(2) The bond required under this section for the issuance of a warehouse 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 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 applicant furnishing the bond. The applicant for a warehouse license may give a single bond meeting the requirements of this chapter, and all warehouses operated by the warehouse operator are deemed to be one warehouse for the purpose of the amount of the bond required under this subsection. Any change in the capacity of a warehouse or addition of any new warehouse involving a change in bond liability under this chapter shall be immediately reported to the department.

(3) The bond required under this section 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 chapter shall be approved by the department and shall be conditioned upon the faithful performance by the licensee of the duties imposed upon him or her 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 is limited to the face amount of 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 or other security acceptable to the department payable to the director as trustee, in lieu of a bond or a portion thereof. The principal amount of the certificate or other security 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 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 or other security. The certificate of deposit or other security 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 or other security 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 or other security. The additional bonding or other security may exceed the maximum amount of the bond otherwise required under this chapter. Failure to post the additional bond, certificate of deposit, or other security constitutes grounds for suspension or revocation of a license issued under this chapter.

(8) Notwithstanding any other provisions of this chapter, the license of a warehouse operator or grain dealer shall automatically be suspended in accordance with RCW 22.09.100 for failure at any time to have or to maintain a bond, certificate of deposit, or other security or combination thereof in the amount and type required by this chapter. The department shall remove the suspension or issue a license as the case may be, when the required bond, certificate of deposit, or other security has been obtained. [2011 c 336 s 604; 1987 c 509 s 2; 1983 c 305 s 27; 1975 1st ex.s. c 7 s 23; 1969 ex.s. c 132 s 2; 1963 c 124 s 9.]

Severability—1987 c 509: See note following RCW 22.09.060.

Severability—1983 c 305: See note following RCW 20.01.010.

Grain indemnity fund program: See RCW 22.09.405 through 22.09.471.

RCW 22.09.095 Single bond by multiple applicants. (1) Two or more applicants for a warehouse or grain dealer license may provide a single bond to the state of Washington, executed by a corporate surety licensed to do business in this state and designating each of the applicants as a principal on said bond.

(2) The department shall promulgate rules establishing the amount of the bond required under this section. In no event shall that amount be less than ten percent of the aggregate amount of each of the bonds that would be required of the applicants under RCW 22.09.090 or less than the amount that would be required under RCW 22.09.090 for the

applicant having the highest bond requirement under that section. [1987 c 509 s 3.]

Severability—1987 c 509: See note following RCW 22.09.060.

Grain indemnity fund program: See RCW 22.09.405 through 22.09.471.

RCW 22.09.100 Bonds—Duration—Release of surety—Cancellation by surety. (1) 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 warehouse operator or grain dealer license of each principal on the bond is revoked or otherwise canceled.

(2) The surety on a bond, as provided in this chapter, shall be released and discharged from all liability to the state, as to a principal whose license is revoked or canceled, which liability accrues after the expiration of thirty days from the effective date of the revocation or cancellation of the license. The surety on a bond under this chapter shall be released and discharged from all liability to the state accruing on the bond after the expiration of ninety days from the date upon which the surety lodges with the department a written request to be released and discharged. Nothing in this section shall operate to relieve, release, or discharge the surety from any liability which accrues 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 the notification of cancellation in writing to any other governmental agency requesting it. Upon receiving any such request, the department shall promptly notify the principal or principals who furnished the bond, and unless the principal or principals file a new bond on or before the expiration of the respective thirty or ninety-day period, the department shall forthwith cancel the license of the principal or principals whose bond has been canceled. [2011 c 336 s 605; 1987 c 509 s 4; 1983 c 305 s 28; 1963 c 124 s 10.]

Severability—1987 c 509: See note following RCW 22.09.060.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.110 Casualty insurance required—Certificate to be filed. All commodities in storage in a warehouse shall be kept fully insured for the current market value of the commodity for the license period against loss by fire, lightning, internal explosion, windstorm, cyclone, and tornado. Evidence of the insurance coverage in the form of a certificate of insurance approved by the department shall be filed by the warehouse operator 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 until the certificate of insurance is received. [2011 c 336 s 606; 1983 c 305 s 29; 1963 c 124 s 11.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.120 Insurance—Cancellation procedure—Suspension of license. (1) Upon the existence of an effective policy of insurance as required in RCW 22.09.110, the insurance company involved shall be required to give thirty days' advance notice to the department by registered mail or certified mail return receipt requested of any cancellation of the policy. In the event of any cancellation, the department, without hearing, shall immediately suspend the license of such person, and the suspension shall not be removed until satisfactory evidence of the existence of an effective policy of insurance, conditioned as above set out, has been submitted to the department. [1963 c 124 s 12.]

RCW 22.09.130 Rights and duties of warehouse operator—Duty to serve—Receipts—Special binning—Unsuitable commodities—Put through commodities. (1) Every warehouse operator shall receive for handling, conditioning, storage, or shipment, so far as the capacity and facilities of his or her warehouse will permit, all commodities included in the provisions of this chapter, in suitable condition for storage, tendered him or her 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 provided in this chapter or a scale weight ticket. Warehouse operators 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 of the commodity must be credited to the depositor in the books of the warehouse operator as soon as possible, but in no event later than seven days from the date of 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 or her 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 or her 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 warehouse operator may refuse to accept for storage, commodities that are wet, damaged, insect-infested, or in other ways unsuitable for storage.

(4) Terminal and subterminal warehouse operators 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. [2011 c 336 s 607; 1983 c 305 s 30; 1981 c 296 s 38; 1979 ex.s. c 238 s 16; 1963 c 124 s 13.]

Severability—1983 c 305: See note following RCW 20.01.010.

Severability—1981 c 296: See note following RCW 15.08.010.

RCW 22.09.140 Rights and duties of licensees—Partial withdrawal—Adjustment or substitution of receipt—Liability to third parties. When partial withdrawal of his or her commodity is made by a depositor, the warehouse operator shall make appropriate notation

thereof on the depositor's nonnegotiable receipt or on other records, or, if the warehouse operator has issued a negotiable receipt to the depositor, he or she shall claim, cancel, and replace it with a negotiable receipt showing the amount of such depositor's commodity remaining in the warehouse, and for his or her failure to claim and cancel, upon delivery to the owner of a commodity stored in his or her warehouse, a negotiable receipt issued by him or her, the negotiation of which would transfer the right to possession of such commodity, a warehouse operator shall be liable to anyone who purchases such receipt for value and in good faith, for failure to deliver to him or her all the commodity specified in the receipt, whether such purchaser acquired title to the negotiable receipt before or after delivery of any part of the commodity by the warehouse operator. [2011 c 336 s 608; 1963 c 124 s 14.]

RCW 22.09.150 Rights and duties of warehouse operator—Delivery of stored commodities—Damages. (1) The duty of the warehouse operator to deliver the commodities in storage is governed by the provisions of this chapter and the requirements of Article 7 of Title 62A RCW. Upon the return of the receipt to the proper warehouse operator, properly endorsed, and upon payment or tender of all advances and legal charges, the warehouse operator shall deliver commodities of the grade and quantity named upon the receipt to the holder of the receipt, except as provided by Article 7 of Title 62A RCW.

(2) A warehouse operator's duty to deliver any commodity is fulfilled if delivery is made pursuant to the contract with the depositor or if no contract exists, then to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. Where delivery is made within forty-eight hours excluding Saturdays, Sundays, and legal holidays after facilities for receiving the commodity are provided, the delivery is deemed to comply with this subsection.

(3) No warehouse operator may fail to deliver a commodity as provided in this section, and delivery shall be made at the warehouse or station where the commodity was received unless the warehouse operator and depositor otherwise agree in writing.

(4) In addition to being subject to penalties provided in this chapter for a violation of this section, if a warehouse operator unreasonably fails to deliver commodities within the time as provided in this section, the person entitled to delivery of the commodity may maintain an action against the warehouse operator for any damages resulting from the warehouse operator's unreasonable failure to so deliver. In any such action the person entitled to delivery of the commodity has the option to seek recovery of his or her actual damages or liquidated damages of one-half of one percent of the value for each day's delay after the forty-eight hour period. [2011 c 336 s 609; 1983 c 305 s 31; 1979 ex.s. c 238 s 17; 1963 c 124 s 15.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.160 Rights and duties of licensees—Disposition of hazardous commodities. (1) If a warehouse operator discovers that as a result of a quality or condition of a certain commodity placed in

his or her warehouse, including identity preserved commodities as provided for in RCW 22.09.130(2), of which he or she had no notice at the time of deposit, such commodity is a hazard to other commodities or to persons or to the warehouse he or she may notify the depositor that it will be removed. If the depositor does not accept delivery of such commodity upon removal the warehouse operator may sell the commodity at public or private sale without advertisement but with reasonable notification of the sale to all persons known to claim an interest in the commodity. If the warehouse operator after a reasonable effort is unable to sell the commodity, he or she may dispose of it in any other lawful manner and shall incur no liability by reason of such disposition.

(2) At any time prior to sale or disposition as authorized in this section, the warehouse operator shall deliver the commodity to any person entitled to it, upon proper demand and payment of charges.

(3) From the proceeds of sale or other disposition of the commodity the warehouse operator may satisfy his or her charges for which otherwise he or she would have a lien, and shall hold the balance thereof for delivery on the demand of any person to whom he or she would have been required to deliver the commodity. [2011 c 336 s 610; 1963 c 124 s 16.]

RCW 22.09.170 Rights and duties of warehouse operator—Special disposition of commodities under written order. If the owner of the commodity or his or her authorized agent gives or furnishes to a licensed warehouse operator a written instruction or order, and if the order is properly made a part of the warehouse operator's records and is available for departmental inspection, then the warehouse operator:

(1) May receive the commodity for the purpose of processing or conditioning;

(2) May receive the commodity for the purpose of shipping by the warehouse operator for the account of the depositor;

(3) May accept an agricultural commodity delivered as seed and handle it pursuant to the terms of a contract with the depositor and the contract shall be considered written instructions pursuant to this section. [2011 c 336 s 611; 1983 c 305 s 32; 1963 c 124 s 17.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.175 Presumptions regarding commodities—Approval of contracts. (1) A commodity deposited with a warehouse operator without a written agreement for sale of the commodity to the warehouse operator 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 warehouse operator 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. [2011 c 336 s 612; 1983 c 305 s 33.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.180 Rights and duties of licensees—Records, contents—Itemized charges. (1) The licensee shall maintain complete records at all times with respect to all agricultural commodities handled, stored, shipped, or merchandised by him or her, including commodities owned by him or her. The department shall adopt rules specifying the minimum recordkeeping requirements necessary to comply with this section.

(2) The licensee shall maintain an itemized statement of any charges paid by the depositor. [2011 c 336 s 613; 1983 c 305 s 34; 1975 1st ex.s. c 7 s 24; 1963 c 124 s 18.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.190 Rights and duties of warehouse operator—Rebates, preferences, etc., prohibited. No warehouse operator subject to the provisions of this chapter 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 or she demands, collects, or receives from any other person for doing for him or her 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. [2011 c 336 s 614; 1983 c 305 s 35; 1963 c 124 s 19.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.195 Rights and duties of warehouse operator—RCW 22.09.190 inapplicable to contracts with governmental agencies. RCW 22.09.190 does not apply to contracts entered into with a governmental agency, state or federal, for the handling, conditioning, storage, or shipping of agricultural commodities. [1983 c 305 s 36; 1979 ex.s. c 238 s 24.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.200 Rights and duties of licensees—Reports to department. Each 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 commodity inspection program for the protection of depositors of commodities and for persons or agencies who deal in commodities. [1983 c 305 s 37; 1963 c 124 s 20.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.220 Rights and duties of licensees—Premises, construction and maintenance. A warehouse or station shall be constructed and maintained in a manner adequate to carry out the provisions of this chapter. [1963 c 124 s 22.]

RCW 22.09.230 Rights and duties of warehouse licensees—Signs—Use of "Washington Bonded Warehouse." Every warehouse licensee shall post at or near the main entrance to each of his or her warehouses a sign as prescribed by the department which shall include the words "Washington Bonded Warehouse." It is unlawful to display such sign or any sign of similar appearance or bearing the same words, or words of similar import, when the warehouse is not licensed and bonded under this chapter. [2011 c 336 s 615; 1983 c 305 s 39; 1963 c 124 s 23.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.240 Rights and duties of warehouse operator—Schedule of rates—Posting—Revision. Every warehouse operator shall annually, during the first week in July, publish by posting in a conspicuous place in each of his or her warehouses the schedule of 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 after thirty days' written notice to the director and proper posting of the changes on the licensee's premises. [2011 c 336 s 616; 1991 c 109 s 29; 1983 c 305 s 40; 1963 c 124 s 24.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.250 Rights and duties of warehouse operator—Unlawful practices. It is unlawful for a warehouse operator to:

(1) Issue a warehouse receipt for any commodity that he or she does not have in his or her warehouse at the time the receipt is issued;

(2) Issue warehouse receipts in excess of the amount of the commodities held in the licensee's warehouse to cover 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 or her for deposit, 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 warehouse operator;

(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 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;

(7) Issue a warehouse receipt or scale weight ticket that exceeds the amount 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 that has been contaminated with an agricultural pesticide or filth rendering it unfit for human consumption, if the commodities are commingled with any uncontaminated commodity;

(10) Terminate storage of a commodity in his or her warehouse without giving thirty days' written notice to the depositor. [2011 c 336 s 617; 1983 c 305 s 41; 1963 c 124 s 25.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.260 Deposit of commodities unfit for human consumption—Notice. No depositor may knowingly deliver for handling, conditioning, storage, or shipment any commodity treated with an agricultural pesticide or contaminated with filth rendering it unfit for human consumption without first notifying the warehouse operator. [2011 c 336 s 618; 1983 c 305 s 42; 1963 c 124 s 26.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.290 Warehouse receipts—Required terms. (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 as described 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. A commodity in a special pile or bin shall not be removed or relocated without canceling the outstanding receipt and issuing a new receipt showing the change;

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

(c) A clause reserving for the warehouse operator 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.) are deemed to fulfill the requirements of this chapter so far as it pertains to the issuance of warehouse receipts. [2011 c 336 s 619; 1989 c 354 s 46; 1983 c 305 s 43; 1979 ex.s. c 238 s 19; 1963 c 124 s 29.]

Severability—1989 c 354: See note following RCW 15.36.012.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.300 Warehouse receipts—Forms, numbering, printing, bond—Compliance with Article 7 of Title 62A RCW—Confiscation. (1) All warehouse receipts issued under this chapter shall be upon forms prescribed by the department and supplied only to licensed warehouse operators at cost of printing, packing, and shipping, as determined by the department. They shall contain the state number of such license and shall be numbered serially for each state number and the original negotiable receipts shall bear the state seal. Requests for such receipts shall be on forms furnished by the department and shall be accompanied by payment to cover cost: PROVIDED, That the department by order may allow a warehouse operator to have his or her individual warehouse receipts printed, after the form of the receipt is approved as in compliance with this chapter, and the warehouse operator's printer shall supply an affidavit stating the amount of receipts printed, numbers thereof: PROVIDED FURTHER, That the warehouse operator must supply a bond in an amount fixed by the department and not to exceed five thousand dollars to cover any loss resulting from the unlawful use of any such receipts.

(2) All warehouse receipts shall comply with the provisions of Article 7 of Title 62A RCW as enacted or hereafter amended, except as to the variety of wheat as set forth in RCW 22.09.290(1)(b) herein, and with the provisions of this chapter where not inconsistent or in conflict with Article 7 of Title 62A RCW. All receipts remaining unused shall be confiscated by the department if the license required herein is not promptly renewed or is suspended, revoked, or canceled. [2011 c 336 s 620; 1979 ex.s. c 238 s 20; 1963 c 124 s 30.]

RCW 22.09.310 Warehouse receipts—Dealing in unauthorized receipts prohibited—Penalty. Any person, or any agent or servant of 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 is guilty of a class C felony and is punishable as provided in chapter 9A.20 RCW. [1983 c 305 s 44; 1963 c 124 s 31.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.320 Warehouse receipts—Lost or destroyed receipts. In case any warehouse receipt issued by a licensee shall be lost or destroyed, the owner thereof shall be entitled to a duplicate receipt from the licensee upon executing and delivering to the warehouse operator issuing such receipt, a bond in double the value of the commodity covered by such lost receipt, with good and sufficient surety to indemnify the warehouse operator against any loss sustained by reason of the issuance of such duplicate receipt, and such duplicate receipt shall state that it is issued in lieu of the former receipt, giving the number and date thereof. [2011 c 336 s 621; 1963 c 124 s 32.]

RCW 22.09.330 Scale weight tickets not precluded. Nothing in this chapter may be construed to prevent the issuance of scale weight tickets showing when and what quantities of commodities were received

and the condition thereof upon delivery. [1983 c 305 s 45; 1963 c 124 s 33.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.340 Examination of receipts and commodities—Request—Fee—Access to bins—Records and accounts—Out-of-state offices. (1) Upon the request of any person or persons having an interest in a commodity stored in any public warehouse and upon payment of fifty dollars in advance by the person or persons, the department may cause the warehouse to be inspected and shall check the outstanding negotiable and nonnegotiable warehouse receipts, and scale weight tickets 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 fifty dollars, the person or persons having an interest in the commodity stored in the warehouse and requesting 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 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 the inspections shall be provided.

(3) The property, books, records, accounts, papers, and proceedings of every such warehouse operator shall at all reasonable times be subject to inspection by the department. The warehouse operator 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 warehouse operator for a period of at least three years from the date of deposit.

(4) Any warehouse operator 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. [2011 c 336 s 622; 1983 c 305 s 46; 1963 c 124 s 34.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.345 Inspections—Notice, when issued—Failure to comply, penalty—Court order—Costs, expenses, attorneys' fees. (1) The department may give written notice to the warehouse operator or

grain dealer to submit to inspection, and/or furnish required reports, documents, or other requested information, under such conditions and at such time as the department may deem necessary whenever a warehouse operator or grain dealer fails to:

(a) Submit his or her 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 warehouse operator 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 warehouse operator'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 warehouse operator 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. [2011 c 336 s 623; 1987 c 393 s 20; 1983 c 305 s 47.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.350 Remedies of department on discovery of shortage. (1) Whenever it appears that there is evidence after any investigation that a warehouse operator has a shortage, the department may levy a fine of one hundred dollars per day until the warehouse operator 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 warehouse operator, the department may, in lieu of levying a fine or further fines, give notice to the warehouse operator to comply with all or any of the following requirements:

(a) Cover 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 warehouse operator until there is no longer a shortage.

(3) If the warehouse operator fails to comply with the terms of 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 as shown by the license application, 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 warehouse operator, and of all books, papers, and property of all kinds used in connection with the conduct or the operation of the warehouse operator's warehouse business, and the books, papers, records, and property that pertain specifically, exclusively, and directly to that business; and

(b) Enjoining the warehouse operator from interfering with the department in the discharge of its duties as required by this section. [2011 c 336 s 624; 1983 c 305 s 48; 1963 c 124 s 35.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.361 Seizure of commodities or warehouse operator's records—Department duties—Warehouse operator's remedies—Expenses and attorneys' fees. (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 warehouse operator, or books, papers, and property of any kind used in connection with the conduct of a warehouse operator's warehouse business, the department shall:

(a) Give written notice of its action to the surety on the bond of the warehouse operator and may notify the holders of record, as shown by the warehouse operator'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 warehouse operator's records, if practicable. The department shall notify the warehouse operator and the surety on his or her 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 warehouse operator.

(b) Retain possession of the commodities in the warehouse or warehouses, and of the books, papers, and property of the warehouse operator, until the warehouse operator 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 warehouse operator 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 or her 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. [2011 c 336 s 625; 1983 c 305 s 49.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.371 Depositor's lien. (1) When a depositor stores a commodity with a warehouse operator or sells a commodity to a grain dealer, the depositor has a first priority statutory lien on the commodity or the proceeds therefrom or on commodities owned by the warehouse operator or grain dealer if the depositor has written evidence of ownership disclosing a storage obligation or written evidence of sale. The lien arises at the time the title is transferred from the depositor to the warehouse operator or grain dealer, or if the commodity is under a storage obligation, the lien arises at the commencement of the storage obligation. The lien terminates when the liability of the warehouse operator or grain dealer to the depositor terminates or if the depositor sells his or her commodity to the warehouse operator or grain dealer, then thirty days after the date title passes. If, however, the depositor is tendered payment by check or draft, then the lien shall not terminate until forty days after the date title passes.

(2) The lien created under this section shall be preferred to any lien or security interest in favor of any creditor of the warehouse operator or grain dealer, regardless of whether the creditor's lien or security interest attached to the commodity or proceeds before or after the date on which the depositor's lien attached under subsection (1) of this section.

(3) A depositor who claims a lien under subsection (1) of this section need not file any notice of the lien in order to perfect the lien.

(4) The lien created by subsection (1) of this section is discharged, except as to the proceeds therefrom and except as to commodities owned by the warehouse operator or grain dealer, upon sale of the commodity by the warehouse operator or grain dealer to a buyer in the ordinary course of business. [2011 c 336 s 626; 1987 c 393 s 21; 1983 c 305 s 50.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.381 Depositors' claims, processing by department. In the event of a failure of a grain dealer or warehouse operator, 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 warehouse operator of the department's determination as to the status and amount of each claimant's claim. A claimant, failed warehouse operator, or grain dealer may request a hearing on the department's determination within twenty days of receipt of written notification, and a hearing shall be held in accordance with chapter 34.05 RCW.

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

(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. [2011 c 336 s 627; 1983 c 305 s 51.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.391 Depositor's lien—Liquidation procedure. Upon the failure of a grain dealer or warehouse operator, the statutory lien created in RCW 22.09.371 shall be liquidated by the department to satisfy the claims of depositors in the following manner:

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

(2) Depositors possessing written evidence of the sale of a commodity to the failed warehouse operator or grain dealer, including but not limited to scale weight tickets, settlement sheets, deferred price contracts, or similar commodity delivery contracts, who have completed delivery and passed title during a thirty-day period immediately before the failure of the failed warehouse operator or

grain dealer have a second priority lien against the commodity, the proceeds of the sale, or warehouse-owned or grain dealer-owned commodities. If the commodity, commodity proceeds, or warehouse-owned or grain dealer-owned commodities are insufficient to wholly satisfy the claim of depositors possessing written evidence of the sale of the commodity to the failed warehouse operator or grain dealer, each depositor shall receive a pro rata share thereof.

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

(4) The director of agriculture may represent depositors whom, under RCW 22.09.381, the director has determined have claims against the failed warehouse operator or failed grain dealer in any action brought to enjoin or otherwise contest the distributions made by the director under this section. [2011 c 336 s 628; 1987 c 393 s 22; 1983 c 305 s 52.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.405 Grain indemnity fund program—Activation—In lieu of other security. (1) The provisions of this section and RCW 22.09.416 through 22.09.471 constitute the grain indemnity fund program. RCW 22.09.416 through 22.09.471 shall take effect on a date specified by the director but within ninety days after receipt by the director of a petition seeking implementation of the grain indemnity fund program provided for in this chapter and a determination by the director, following a public hearing on said petition, that a grain indemnity fund program is in the interest of the agricultural industry of this state. The petition shall be signed by licensees of at least thirty-three percent of the grain warehouses and thirty-three percent of the grain dealers. At least sixty days in advance, the director shall notify each licensed warehouse and grain dealer of the effective date of the grain indemnity fund program provisions.

(2) The grain indemnity fund program, if activated by the director, shall be in lieu of the bonding and security provisions of RCW 22.09.090 and 22.09.095. [1987 c 509 s 7.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.411 Grain indemnity fund program—Fund established—Contents, deposits, disbursements, use. (1) There is hereby established a fund to be known as the grain indemnity fund. The grain indemnity fund shall consist of assessments remitted by licensees pursuant to the provisions of RCW 22.09.416 through 22.09.426.

(2) All assessments shall be paid to the department and shall be deposited in the grain indemnity fund. The state treasurer shall be the custodian of the grain indemnity fund. Disbursements shall be on

authorization of the director. No appropriation is required for disbursements from this fund.

(3) The grain indemnity fund shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the grain indemnity fund, provided however, that moneys equivalent to one-half of the interest earned by the fund for deposit to the general fund may be paid to the department to defray costs of administering the warehouse audit program. The state of Washington shall not be liable for any claims presented against the fund. [1991 sp.s. c 13 s 67; 1987 c 509 s 8.]

Effective dates—1991 sp.s. c 13: See note following RCW 18.04.105.

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.416 Grain indemnity fund program—Assessments. (1) Every licensed warehouse and grain dealer and every applicant for any such license shall pay assessments to the department for deposit in the grain indemnity fund according to the provisions of RCW 22.09.405 through 22.09.471 and rules promulgated by the department to implement this chapter.

(2) The rate of the assessments shall be established by rule, provided however, that no single assessment against a licensed warehouse or grain dealer or applicant for any such license shall exceed five percent of the bond amount that would otherwise have been required of such grain dealer, warehouse operator, or license applicant under RCW 22.09.090. [2011 c 336 s 629; 1987 c 509 s 9.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.421 Grain indemnity fund program—Initial assessment—Effect on preceding security—New applicants for warehouse or grain dealer licenses. (1) The department shall establish the initial assessment within sixty days of the activation of the grain indemnity fund program pursuant to RCW 22.09.405. Immediately upon promulgation of the rule, the department shall issue notice to each licensed warehouse and grain dealer of the assessment owed. The initial assessment and assessments issued thereafter shall be paid within thirty days of the date posted on the assessment notice.

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

(3) Each new applicant for a warehouse or grain dealer license shall pay the assessment imposed pursuant to RCW 22.09.416 at the time

of application. No license to operate as a grain dealer or grain warehouse or both shall be issued until such assessment is paid.

Notwithstanding the provisions of RCW 22.09.416(2), new applicants shall pay annual assessments into the grain indemnity fund for an equivalent number of years as those participating at the inception of the grain indemnity fund program and who continue to participate in the grain indemnity fund program. [1987 c 509 s 10.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.426 Grain indemnity fund program—Annual assessments—Limitations. The assessments imposed pursuant to RCW 22.09.416 shall be imposed annually, under rules promulgated by the department, until such time as the grain indemnity fund balance, less any outstanding claims, reaches three million dollars. For any year in which the grain indemnity fund balance, less any outstanding claims, exceeds three million dollars on the annual assessment date, no assessment shall be imposed by the department, except as provided in RCW 22.09.421(3) or 22.09.431. [1987 c 509 s 11.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.431 Grain indemnity fund program—Additional security. The department may, when it has reason to believe that a licensee does not have the ability to pay producers for grain purchased, or when it determines that the licensee does not have a sufficient net worth to outstanding financial obligations ratio, require from the licensee the payment of an additional assessment or, at the department's option, the posting of a bond or other additional security in an amount to be prescribed by rule. The additional assessment or other security may exceed the maximum amount set forth in RCW 22.09.416. Failure of the licensee to timely pay the additional assessment or post the additional bond or other security constitutes grounds for suspension or revocation of a license issued under this chapter. [1987 c 509 s 12.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.436 Grain indemnity fund program—Advisory committee. (1) There is hereby created a grain indemnity fund advisory committee consisting of six members to be appointed by the director. The director shall make appointments to the committee no later than seven days following the date this section becomes effective pursuant to RCW 22.09.405. Of the initial appointments, three shall be for two-year terms and three shall be for three-year terms. Thereafter, appointments shall be for three-year terms, each term ending on the same day of the same month as did the term preceding it. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.

(2) The committee shall be composed of two producers primarily engaged in the production of agricultural commodities, two licensed grain dealers, and two licensed grain warehouse operators.

(3) The committee shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. Each committee member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel and subsistence expense under RCW 43.03.050 and 43.03.060. The expenses of the committee and its operation shall be paid from the grain indemnity fund.

(4) The committee shall have the power and duty to advise the director concerning assessments, administration of the grain indemnity fund, and payment of claims from the fund. [2011 c 336 s 630; 1987 c 509 s 13.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.441 Grain indemnity fund program—Processing of claims. In the event a grain dealer or warehouse fails, as defined in *RCW 22.09.011(21), or otherwise fails to comply with the provisions of this chapter or rules promulgated hereunder, the department shall process the claims of depositors producing written evidence of ownership disclosing a storage obligation or written evidence of a sale of commodities for damages caused by the failure, in the following manner:

(1) The department shall give notice and provide a reasonable time, not to exceed thirty days, to depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of sale of commodities to file their written verified claims with the department.

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

(3) The department may inspect and audit a failed warehouse operator, as defined by *RCW 22.09.011(21) to determine whether the warehouse operator has in his or her possession, sufficient quantities of commodities to cover his or her storage obligations. In the event of a shortage, the department shall determine each depositor's pro rata share of available commodities and the deficiency shall be considered as a claim of the depositor. Each type of commodity shall be treated separately for the purpose of determining shortages. [2011 c 336 s 631; 1987 c 509 s 14.]

***Reviser's note:** RCW 22.09.011 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (21) to subsection (9).

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.446 Grain indemnity fund program—Failure to file claim in time. If a depositor or creditor, after notification,

refuses or neglects to file in the office of the director his or her verified claim against a warehouse operator or grain dealer as requested by the director within thirty days from the date of the request, the director shall thereupon be relieved of responsibility for taking action with respect to such claim later asserted and no such claim shall be paid from the grain indemnity fund. [2011 c 336 s 632; 1987 c 509 s 15.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.451 Grain indemnity fund program—Payment limitations. Subject to the provisions of RCW 22.09.456 and 22.09.461 and to a maximum payment of seven hundred fifty thousand dollars on all claims against a single licensee, approved claims against a licensed warehouse operator or licensed grain dealer shall be paid from the grain indemnity fund in the following amounts:

(1) Approved claims against a licensed warehouse operator shall be paid in full;

(2) Approved claims against a licensed grain dealer for payments due within thirty days of transfer of title shall be paid in full for the first twenty-five thousand dollars of the claim. The amount of such a claim in excess of twenty-five thousand dollars shall be paid to the extent of eighty percent;

(3) Approved claims against a licensed grain dealer for payments due between thirty and ninety days of transfer of title shall be paid to the extent of eighty percent;

(4) Approved claims against a licensed grain dealer for payments due after ninety days from transfer of title shall be paid to the extent of seventy-five percent;

(5) In the event that approved claims against a single licensee exceed seven hundred fifty thousand dollars, recovery on those claims shall be prorated. [2011 c 336 s 633; 1987 c 509 s 16.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.456 Grain indemnity fund program—Additional payment limitations. In addition to the payment limitations imposed by RCW 22.09.451, payment of any claim approved before the grain indemnity fund first reaches a balance of one million two hundred fifty thousand dollars, shall be limited to the following amounts:

(1) For claims against a licensed grain warehouse, payment shall not exceed the lesser of seven hundred fifty thousand dollars or an amount equal to the licensee's total bushels of licensed storage space multiplied by the rate of eighteen cents.

(2) For claims against a licensed grain dealer, payment shall not exceed the lesser of seven hundred fifty thousand dollars or an amount equal to six percent of the gross purchases of the licensee during the licensee's immediately preceding fiscal year.

(3) The unpaid balance of any claim subject to this section shall be paid when the grain indemnity fund first reaches a balance of one million two hundred fifty thousand dollars, provided that the total paid on the claim shall not exceed the limits specified in RCW 22.09.451. [1987 c 509 s 17.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.461 Grain indemnity fund program—Payment of claims—Restrictions, priority. The requirement that the state of Washington pay claims under this chapter only exists so long as the grain indemnity fund contains sufficient money to pay the claims. Under no circumstances whatsoever may any funds (other than assessment amounts and other money obtained under this chapter) be used to pay claims. In the event that the amount in the grain indemnity fund is insufficient to pay all approved claims in the amount provided for under RCW 22.09.451 or 22.09.456, the claims shall be paid in the order in which they were filed with the department, until such time as sufficient moneys are available in the grain indemnity fund to pay all of the claims. [1987 c 509 s 18.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.466 Grain indemnity fund program—Debt and obligation of grain dealer or warehouse operator—Recovery by director. Amounts paid from the grain indemnity fund in satisfaction of any approved claim shall constitute a debt and obligation of the grain dealer or warehouse operator against whom the claim was made. On behalf of the grain indemnity fund, the director may bring suit, file a claim, or intervene in any legal proceeding to recover from the grain dealer or warehouse operator the amount of the payment made from the grain indemnity fund, together with costs and attorneys' fees incurred. In instances where the superior court is the appropriate forum for a recovery action, the director may elect to institute the action in the superior court of Thurston county. [2011 c 336 s 634; 1987 c 509 s 19.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.471 Grain indemnity fund program—Proceedings against licensee. The department may deny, suspend, or revoke the license of any grain dealer or warehouse operator who fails to timely pay assessments to the grain indemnity fund or against whom a claim has been made, approved, and paid from the grain indemnity fund. Proceedings for the denial, suspension, or revocation shall be subject to the provisions of chapter 34.05 RCW. [2011 c 336 s 635; 1987 c 509 s 20.]

Severability—1987 c 509: See note following RCW 22.09.060.

RCW 22.09.520 Deposits as bailments. Whenever any commodity shall be delivered to a warehouse under this chapter, and the scale ticket or warehouse receipt issued therefor provides for the return of a like amount of like kind, grade, and class to the holder thereof, such delivery shall be a bailment and not a sale of the commodity so delivered. In no case shall such commodities be liable to seizure upon process of any court in an action against such bailee, except action by the legal holder of the warehouse receipt to enforce the terms

thereof. Such commodities, in the event of failure or insolvency of such bailee, shall be applied exclusively to the redemption of such outstanding warehouse receipts and scale weight tickets covering commodities so stored with such bailee. The commodities on hand in any warehouse or warehouses with a particular license, as provided in RCW 22.09.030, shall be applied to the redemption and satisfaction of warehouse receipts and scale weight tickets which were issued pursuant to the particular license. Commodities in special piles or special bins shall be applied exclusively against the warehouse receipts or scale weight tickets issued therefor. [1987 c 393 s 23; 1963 c 124 s 52.]

RCW 22.09.570 Action on bond by director—Authorized—Grounds. The director may bring action upon the bond of a warehouse operator or grain dealer against both principal against whom a claim has been made and the 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 adopted hereunder. Recovery for damages against a warehouse operator or grain dealer on a bond furnished under RCW 22.09.095 shall be limited to the bond amount that would be required for that warehouse operator or grain dealer under RCW 22.09.090. [2011 c 336 s 636; 1987 c 509 s 5; 1983 c 305 s 56; 1975 1st ex.s. c 7 s 29.]

Severability—1987 c 509: See note following RCW 22.09.060.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.580 Action on bond by director—Failure of depositor creditor to file claim upon request—Effect. If a depositor creditor after notification fails, refuses, or neglects to file in the office of the director his or her verified claim against a warehouse operator or grain dealer bond as requested by the director within thirty days from the date of the request, the director shall thereupon be relieved of further duty or action under this chapter on behalf of the depositor creditor. [2011 c 336 s 637; 1983 c 305 s 57; 1975 1st ex.s. c 7 s 30.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.590 Action on bond by director—Records as to depositor creditors missing or information incomplete—Effect. 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 the depositor creditors, the director after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make demand on a warehouse operator's or grain dealer's bond on the basis of information then in his or her possession, and thereafter shall not be liable or responsible for claims or the handling of claims that may subsequently appear or be discovered. [2011 c 336 s 638; 1983 c 305 s 58; 1975 1st ex.s. c 7 s 31.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.600 Action on bond by director—Powers of director. Upon ascertaining all claims and statements in the manner set forth in this chapter, the director may then make demand upon the warehouse operator's or grain dealer's bond on behalf of those claimants whose claims and statements have been filed, and has the power to settle or compromise 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. [2011 c 336 s 639; 1983 c 305 s 59; 1975 1st ex.s. c 7 s 32.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.610 Action on bond by director—When authorized—New bond, when required—Penalty for failure to file. Upon the refusal of the surety company to pay the demand, the director may thereupon bring an action on the warehouse operator's or grain dealer's bond in behalf of the depositor creditors. Upon any action being commenced on the bond, the director may require the filing of a new bond, and immediately upon the recovery in any action on the bond, a new bond shall be filed. The failure to file the new bond or otherwise satisfy the security requirements of this chapter within ten days in either case constitutes grounds for the suspension or revocation of the license of any principal on the bond. [2011 c 336 s 640; 1987 c 509 s 6; 1983 c 305 s 60; 1975 1st ex.s. c 7 s 33.]

Severability—1987 c 509: See note following RCW 22.09.060.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.615 Action by depositor upon licensee's bond. (1) If no action is commenced 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 or her bond has a right of action upon the licensee's bond for the recovery of his or her damages. The depositor shall give the department immediate written notice of the commencement of any such action.

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

(3) Whenever the claimed shortage exceeds the amount of the bond, it is not necessary for any depositor suing on the bond to join other depositors in the suit, and the burden of establishing proration is on the surety as a matter of defense. [2011 c 336 s 641; 1983 c 305 s 53; 1963 c 124 s 37. Formerly RCW 22.09.370.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.620 Payment for agricultural commodities purchased—Time requirements. Every warehouse operator or grain dealer must pay for agricultural commodities purchased by him or her at the time and in the manner specified in the contract with the depositor, but if no

time is set by the contract, then within thirty days after taking possession for purpose of sale or taking title of the agricultural product. [2011 c 336 s 642; 1983 c 305 s 62; 1975 1st ex.s. c 7 s 34.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.630 Payment violations—Recovery by department—Charges to depositors. When a violation has occurred which results in improper payment or nonpayment and a claim is made to the department and the payment is secured through the actions of the department the following charges will be made to the depositor for the action of the department in the matter:

(1) When reported within thirty days from time of default, no charge.

(2) When reported thirty days to one hundred eighty days from time of default, five percent.

(3) When reported after one hundred eighty days from time of default, ten percent. [1975 1st ex.s. c 7 s 35.]

RCW 22.09.640 Publication and distribution of list of licensed warehouses. Notwithstanding the provisions of chapter 42.56 RCW, the department shall publish annually and distribute to interested parties, a list of licensed warehouses showing the location, county, capacity, and bond coverage for each company. [2005 c 274 s 240; 1979 ex.s. c 238 s 25.]

RCW 22.09.650 Remedies of department as to stations. When a station 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 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 34.05 RCW. [1983 c 305 s 63; 1979 ex.s. c 238 s 26.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.660 Emergency storage situation—Forwarding to other warehouses. Upon determining that an emergency storage situation appears to exist, the director may authorize the warehouse operator to forward grain that is covered by negotiable receipts to other licensed warehouses for storage without canceling and reissuing the negotiable receipts pursuant to conditions established by rule. [2011 c 336 s 643; 2003 c 13 s 1; 1983 c 305 s 64.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.710 Designation of inspection points and terminal warehouses. The department may designate a warehouse located at an inspection point as a terminal warehouse. The department shall, by rule, designate inspection points which shall be provided with state/federal inspection and weighing services commencing July 1, 1979. The revenue from inspection and weighing shall equal the cost of providing such services. Where the department after hearing determines that such cities are no longer necessary as inspection points it may by rule change such designated inspection points by removing one or more locations. [1979 ex.s. c 238 s 21; 1963 c 124 s 38. Formerly RCW 22.09.380.]

RCW 22.09.720 Grades and standards of commodities—Regulations. The grades and standards established by the United States department of agriculture as of September 30, 1988, for all commodities included within the provisions of this chapter are hereby adopted as the grades and standards for such commodities in this state: PROVIDED, That the department is hereby authorized to adopt by regulation any new or future amendments to such federal grades and standards. The department is also authorized to issue regulations whether or not in accordance with the federal government and to prescribe therein grades and standards which it may deem suitable for inspection of commodities in the state of Washington. In adopting any new or amendatory regulations the department shall give appropriate consideration, among other relevant factors, to the following:

(1) The usefulness of uniform federal and state grades;

(2) The common classifications given such commodities within the industry;

(3) The utility of various grades;

(4) The kind and type of grades requested by those dealing with the particular type of commodity; and

(5) The condition of the commodity with regard to its wholesomeness and purity. [1989 c 354 s 47; 1963 c 124 s 39. Formerly RCW 22.09.390.]

Severability—1989 c 354: See note following RCW 15.36.012.

RCW 22.09.730 Inspection or grading of commodities—Methods. Inspection or grading of a lot, partial lot, or sample of a commodity tendered for inspection or grading under this chapter shall consist of taking and examining a representative sample thereof and making such tests as are necessary to determine its grade, condition, or other qualitative measurement. Commodities tendered for inspection must be offered and made accessible for sampling at inspection points during customary business hours.

(1) No inspector shall issue a certificate of grade, grading factors, condition, or other qualitative measurement for any commodity unless the inspection or grading thereof be based upon a correct and representative sample of the commodity and the inspection is made under conditions which permit the determination of its true grade or quality, except as provided in subsections (2) and (3) of this section. No sample shall be deemed to be representative unless it is of the size and procured in accordance with the uniform methods prescribed by the department.

(2) An inspection may be made of a submitted sample of a commodity, provided that the certificate issued in such case clearly shows that the inspection or grading covers only the submitted sample of such commodity and not the lot from which it is purportedly drawn.

(3) When commodities are tendered for inspection in such a manner as to make the drawing of a representative sample impossible, a qualified inspection may be made. In such case, the certificate shall clearly show the condition preventing proper sampling such as heavily loaded car, truck, barge, or other container, or other condition. [1989 c 354 s 48; 1963 c 124 s 40. Formerly RCW 22.09.400.]

Severability—1989 c 354: See note following RCW 15.36.012.

RCW 22.09.740 Inspection or grading of commodities—File samples, retention. From all commodities inspected, samples may be drawn, which samples, unless returned by agreement to the applicant, shall become the property of the state and subject to disposition by the department. Upon request the department may transmit a portion of such samples to interested parties upon payment of a reasonable fee set by regulation. Official state file samples shall be retained for periods prescribed by state or federal regulation. [1989 c 354 s 49; 1963 c 124 s 41. Formerly RCW 22.09.410.]

Severability—1989 c 354: See note following RCW 15.36.012.

RCW 22.09.750 Inspection or grading of commodities—Powers and duties of inspectors at terminal warehouses—Recordkeeping. The department's inspectors shall, at terminal warehouses, have exclusive control of the weighing, inspecting, and grading of the commodities that are included within the provisions of this chapter: PROVIDED, That official supervision of weighing under the United States grain standards act shall be deemed in compliance with this section. The action and the certificates of the inspectors in the discharge of their duties, as to all commodities inspected or weighed by them, shall be accepted as prima facie evidence of the correctness of the above activity. Suitable books and records shall be maintained in which shall be entered a record of each inspection activity and the fees assessed and collected. These books and records shall be available for inspection by any party of interest during customary business hours. The records shall be maintained for periods set by regulation. [1989 c 354 s 50; 1983 c 305 s 54; 1963 c 124 s 42. Formerly RCW 22.09.420.]

Severability—1989 c 354: See note following RCW 15.36.012.

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.760 Inspection or grading of commodities—No inspection if commodity is to be loaded into defective container. No inspection shall be made of any commodity which is to be loaded into a vessel, vehicle, or other container, if it appears that the hold, compartment, or other enclosure into which the commodity is to be

loaded is in such condition as to contaminate the commodity or lower the grade. [1963 c 124 s 43. Formerly RCW 22.09.430.]

RCW 22.09.770 Inspection or grading of commodities—Unlawful practices—Penalty. Any department employee who shall, directly or indirectly, accept any money or other consideration for any neglect of duty or any improper performance of duty as such department employee; or any person who shall knowingly cause or attempt to cause the issuance of a false or incorrect grade or weight certificate under this chapter by deceptive loading, handling, or sampling of commodities or by submitting commodities for inspection knowing that it has been so loaded, handled, or sampled, or by any other means; shall be deemed guilty of a misdemeanor. [1963 c 124 s 44. Formerly RCW 22.09.440.]

RCW 22.09.780 Inspection or grading of commodities. (1) In case any owner, consignee, or shipper of any commodity included under the provisions of this chapter, or his or her agent or broker, or any warehouse operator shall be aggrieved at the grading of such commodity, the person may request a reinspection or appeal inspection within three business days from the date of certificate. The reinspection or appeal may be based in the official file sample or upon a new sample drawn from the lot of the grain or commodity if the lot remains intact and available for sampling. The reinspection or appeal inspection shall be of the same factors and scope as the original inspection.

(2) For commodities inspected under federal standards, the reinspection and appeal inspection procedure provided in the applicable federal regulations shall apply. For commodities inspected under state standards, the department shall provide a minimum of a reinspection and appeal inspection service. The reinspection shall consist of a full review of all relevant information and a reexamination of the commodity to determine the correctness of the grade assigned or other determination. The reinspection shall be performed by an authorized inspector of the department other than the inspector who performed the original inspection unless no other inspector is available. An appeal inspection shall be performed by a supervisory inspector.

(3) If the grading of any commodity for which federal standards have been fixed and the same adopted as official state standards has not been the subject of a hearing, in accordance with subsection (2) of this section, any interested party who is aggrieved with the grading of such commodity, may, with the approval of the secretary of the United States department of agriculture, appeal to the federal grain supervisor of the supervision district in which the state of Washington may be located. Such federal grain supervisor shall confer with the department inspectors and any other interested party and shall make such tests as he or she may deem necessary to determine the correct grade of the commodity in question. Such federal grade certificate shall be prima facie evidence of the correct grade of the commodity in any court in the state of Washington. [2011 c 336 s 644; 1989 c 354 s 51; 1963 c 124 s 45. Formerly RCW 22.09.450.]

Severability—1989 c 354: See note following RCW 15.36.012.

RCW 22.09.790 Inspection or grading of commodities—Fees and charges. (1) The department shall fix the fees for inspection, grading, and weighing of the commodities included under the provisions of this chapter, which fees shall be sufficient to cover the cost of such service. The fees for inspection, weighing, and grading of such commodities shall be a lien upon the commodity so weighed, graded, or inspected which the department may require to be paid by the carrier or agent transporting the same and treated by it as an advanced charge, except when the bill of lading contains the notation "not for terminal weight and grade," and the commodity is not unloaded at a terminal warehouse.

(2) The department is authorized to make any tests relating to grade or quality of commodities covered by this chapter. The department may inspect and approve facilities and vessels to be used in transporting such commodities and provide any other necessary services. It may fix and charge a reasonable fee to be collected from the person or his or her agent requesting such service.

(3) The department shall so adjust the fees to be collected under this chapter as to meet the expenses necessary to carry out the provisions hereof, and may prescribe a different scale of fees for different localities. The department may also prescribe a reasonable charge for service performed at places other than terminal warehouses in addition to the regular fees when necessary to avoid rendering the services at a loss to the state. [2011 c 336 s 645; 1963 c 124 s 46. Formerly RCW 22.09.460.]

RCW 22.09.800 Inspection or grading of commodities—Scales and weighing. If any terminal warehouse at inspection points is provided with proper scales and weighing facilities, the department may weigh the commodity upon the scales so provided. The department at least once each year shall cause to be examined, tested, and corrected, all scales used in weighing commodities in any of the cities designated as inspection points in this chapter or such places as may be hereinafter designated, and after such scale is tested, if found to be correct and in good condition, to seal the weights with a seal provided for that purpose and issue to the owner or proprietor a certificate authorizing the use of such scales for weighing commodities for the ensuing year, unless sooner revoked by the department. If such scales be found to be inaccurate or unfit for use, the department shall notify the party operating or using them, and the party thus notified shall, at his or her own expense, thoroughly repair the same before attempting to use them and until thus repaired or modified to the satisfaction of the department the certificate of such party shall be suspended or revoked at the discretion of the department. The party receiving such certificate shall pay to the department a reasonable fee for such inspection and certificate to be fixed by the department. It shall be the duty of the department to see that the provisions of this section are strictly enforced. [2011 c 336 s 646; 1963 c 124 s 47. Formerly RCW 22.09.470.]

RCW 22.09.810 Inspection or grading of commodities—Inspection of commodities shipped to or from places other than inspection points. In case any commodity under the provisions of this chapter is sold for delivery on Washington grade to be shipped to or from places not

provided with state inspection under this chapter, the buyer, seller, or persons making delivery may have it inspected by notifying the department or its inspectors, whose duty it shall be to have such commodity inspected, and after it is inspected, to issue to the buyer, seller, or person delivering it, without undue delay, a certificate showing the grade of such commodity. The person or persons, or his or her agent, calling for such inspection shall pay for such inspection a reasonable fee to be fixed by the department. [2011 c 336 s 647; 1963 c 124 s 48. Formerly RCW 22.09.480.]

RCW 22.09.820 Inspection or grading of commodities—Unloading commodity without inspection or weighing. When commodities are shipped to points where inspection is provided and the bill of lading does not contain the notation "not for terminal weight and grade" and the commodity is unloaded by or on account of the consignee or his or her assignee without being inspected or weighed by a duly authorized inspector under the provisions of this chapter, the shipper's weight and grade shall be conclusive and final and shall be the weight and grade upon which settlement shall be made with the seller, and the consignee or his or her assignee, by whom such commodities are so unlawfully unloaded shall be liable to the seller thereof for liquidated damages in an amount equal to ten percent of the sale price of such commodities computed on the basis of the shipper's weight and grade. [2011 c 336 s 648; 1963 c 124 s 49. Formerly RCW 22.09.490.]

RCW 22.09.830 Grain inspection revolving fund—Hop inspection fund—Grain warehouse audit account. (1) All moneys collected as fees for weighing, grading, and inspecting commodities and all other fees collected under the provisions of this chapter, except as provided in subsections (2) and (3) of this section, shall be deposited in the grain inspection revolving fund, which is hereby established. The state treasurer is the custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the director of the department of agriculture. The revolving fund is subject to the allotment procedure provided in chapter 43.88 RCW, but no appropriation is required for disbursements from the fund. The fund shall be used for all expenses directly incurred by the grain inspection program in carrying out the provisions of this chapter.

(2) All fees collected for the inspection, grading, and testing of hops shall be deposited into the hop inspection fund, which is hereby established, and shall be retained by the department for the purpose of inspecting, grading, and testing hops. Any moneys in any fund retained by the department on July 1, 1963, and derived from hop inspection and grading shall be deposited to this hop inspection fund. For the purposes of research which would contribute to the development of superior hop varieties and to improve hop production and harvest practices, the department may expend up to twenty percent of the moneys deposited in the hop inspection fund during the fiscal year ending June 30th immediately preceding the year in which such expenditures are to be made. No expenditures shall be made under the provisions of this subsection when the hop inspection fund is, or the director may reasonably anticipate that it will be, reduced below twenty thousand dollars as the result of such expenditure or other

necessary expenditures made to carry out the inspection, grading, and testing of hops.

(3) All moneys collected by the grain warehouse audit program, including grain warehouse license fees pursuant to RCW 22.09.050 and 22.09.055, shall be deposited by the director into the grain warehouse audit account, hereby created within the agricultural local fund established in RCW 43.23.230. Moneys collected shall be used to support the grain warehouse audit program. [2012 c 25 s 4. Prior: 1994 sp.s. c 6 s 901; 1994 c 46 s 6; 1989 c 354 s 52; 1981 c 297 s 25; 1963 c 124 s 50. Formerly RCW 22.09.500.]

Severability—Effective date—1994 sp.s. c 6: See notes following RCW 28A.310.020.

Effective date—1994 c 46: See note following RCW 15.58.070.

Severability—1989 c 354: See note following RCW 15.36.012.

Severability—1981 c 297: See note following RCW 15.36.201.

RCW 22.09.840 Fumigated conveyances to be labeled. It shall be unlawful to ship commodities in closed conveyances which have been fumigated without labeling such railroad car, vehicle, or other conveyance to show that it has been fumigated. The label shall show the type of fumigant used and the date of application. [1963 c 124 s 53. Formerly RCW 22.09.530.]

RCW 22.09.850 Railroads to provide side tracks and track scales—Weighing of cars. Any railroad delivering commodities covered by this chapter in cars at designated inspection points shall provide convenient and suitable side tracks at such places as the department may approve. All cars billed for inspection shall be placed on such side tracks and the department shall be notified by the railroad in accordance with department regulations. Such railroad company shall provide suitable track scales for weighing cars of commodities upon the request of interested persons. Upon request, the department may weigh, or supervise the weighing of all cars of commodities received over the line of such railroad. Such weighing shall be conditioned upon the weighing of such cars after unloading to determine the actual weight of commodities delivered. [1963 c 124 s 28. Formerly RCW 22.09.280.]

RCW 22.09.860 Police protection of terminal yards and tracks. All railroad companies and warehouse operators operating in the cities provided for inspection by this chapter shall furnish ample and sufficient police protection to all their several terminal yards and terminal tracks to securely protect all cars containing commodities while the same are in their possession. They shall prohibit and restrain all unauthorized persons, whether under the guise of sweepers, or under any other pretext whatever, from entering or loitering in or about their railroad yards or tracks and from entering any car of commodities under their control, or removing commodities therefrom, and shall employ and detail such number of security guards

as may be necessary for the purpose of carrying out the provisions of this section. [2013 c 23 s 39; 2011 c 336 s 649; 1963 c 124 s 27. Formerly RCW 22.09.270.]

RCW 22.09.870 Injunctions. The director may bring an action in the name of the state to temporarily and/or permanently enjoin the violation of any provision of this chapter or any rule adopted pursuant to this chapter in the superior court in the county in which such violation occurs notwithstanding the existence of any other remedy at law. [1963 c 124 s 54. Formerly RCW 22.09.540.]

RCW 22.09.880 Cooperation with governmental agencies and private associations. 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. 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 comparable provisions of the law of the states of Idaho or Oregon. [1983 c 305 s 55; 1979 ex.s. c 238 s 22; 1963 c 124 s 55. Formerly RCW 22.09.550.]

Severability—1983 c 305: See note following RCW 20.01.010.

RCW 22.09.890 General penalty. A violation of any provision or section of this chapter, where no other penalty is provided for, and the violation of any rule or regulation adopted hereunder shall constitute a misdemeanor. [1963 c 124 s 58. Formerly RCW 22.09.560.]

RCW 22.09.895 Civil penalty. Every person who fails to comply with this chapter, or any rule adopted under it, may be subjected to a civil penalty, as determined by the director, in an amount of not more than one thousand dollars for every such violation. Each and every violation shall be a separate and distinct offense. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this chapter and may be subject to the penalty provided for in this section. [1987 c 393 s 24.]

RCW 22.09.900 Continuation of rules adopted pursuant to repealed chapter. The repeal of chapter 22.08 RCW and the enactment of this chapter shall not be deemed to have repealed any rules adopted under the provisions of chapter 22.08 RCW and in effect immediately prior to such repeal and not inconsistent with the provisions of this chapter. For the purpose of this chapter it shall be deemed that such rules have been adopted under the provisions of this chapter pursuant to the

provisions of chapter 34.05 RCW concerning the adoption of rules. [1963 c 124 s 56.]

RCW 22.09.910 Savings—1963 c 124. The enactment of this chapter shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in existence on July 1, 1963. [1963 c 124 s 57.]

RCW 22.09.920 Construction as to Article 7 of Title 62A RCW. Nothing in this chapter, with the exception of RCW 22.09.290(1)(b), shall be deemed to repeal, amend, or modify Article 7 of Title 62A RCW. [1979 ex.s. c 238 s 23; 1963 c 124 s 59.]

RCW 22.09.930 Effective date—1963 c 124. The effective date of this chapter shall be July 1, 1963. [1963 c 124 s 60.]