

GRAIN DEALERS ACT (EXCERPT)
Act 141 of 1939

285.86a Lien; claimant; provisions; enforcement of claims; assignment of applicable lien to claimant in adversary proceeding; liquidation of farm produce assets; reduction of amount of claim; priority of lien.

Sec. 26a. (1) Each of the following has a lien on all of the farm produce assets of a grain dealer:

(a) A lender or other claimant that possesses a warehouse receipt that covers farm produce owned or stored by the grain dealer.

(b) A claimant that possesses a written acknowledgement or other written evidence of ownership of farm produce, other than a warehouse receipt, that establishes that the grain dealer has a storage obligation for the farm produce.

(c) A claimant that surrendered a warehouse receipt as part of a farm produce sales transaction, if the claimant was not paid in full for the farm produce and the grain dealer failed within 21 days after the surrender of the warehouse receipt.

(d) A claimant that possesses any other written evidence of the sale of farm produce to the grain dealer for which the claimant was not paid in full.

(2) All of the following apply to a lien that exists under subsection (1):

(a) The lien secures all claims described in subsection (3) and attaches to the farm produce assets of the grain dealer.

(b) The lien takes effect at the time the farm produce is delivered to the grain dealer for sale or storage under a bailment agreement or at the time money is advanced by the lender.

(c) The lien terminates at the time the liability of the grain dealer to the claimant is discharged. However, the priority of each lien among the respective claimants does not relate to the date the claim arises but is subject to the priorities described in subsection (3).

(d) In the event of a failure of a grain dealer, the lien claims of all claimants of that grain dealer are considered assigned by operation of this section to the department, and in the event of a failure and subsequent liquidation, the lien attaches to assets or proceeds of assets that are either received or liquidated by the department.

(3) Except as provided in subsection (4), and subject to subsection (6), in the event of a failure of a grain dealer, the director shall enforce the claims of each lienholder under this section against the farm produce assets of the grain dealer and allocate the proceeds as follows:

(a) The director shall give first priority to allocating the proceeds equally to claimants described in subsection (1)(a), (b), and (c).

(b) If any proceeds remain after satisfying the claims described in subdivision (a), the director shall give second priority to allocating the remaining proceeds first to claimants that possess secured price later agreements and then to all remaining claimants that possess price later agreements.

(c) If any proceeds remain after satisfying the claims described in subdivisions (a) and (b), the director shall give third priority to allocating the remaining proceeds to claimants that possess acknowledgment forms, similar farm produce delivery contracts, or other written evidence of the sale of farm produce and that completed delivery and pricing of the farm produce in the 30-day period preceding the date of the failure of the grain dealer.

(d) If any proceeds remain after satisfying the claims described in subdivisions (a) to (c), the director shall give fourth priority to allocating the remaining proceeds on a pro rata basis to all other claimants that possess written evidence of the sale of farm produce to the grain dealer.

(e) If any proceeds remain after satisfying the claims described in subdivisions (a) to (d), the director shall distribute those proceeds jointly to the grain dealer and any secured parties.

(4) In the event that an adversary proceeding is commenced to recover farm produce assets on which a lien described in this section is attached and the department declines to enter the proceeding, the director, if he or she receives an application from a claimant that holds a lien under this section, shall assign to the claimant the applicable lien to permit the claimant to pursue the claimant's lien in the adversary proceeding, to the extent that assignment will not delay the resolution of the proceeding, the prompt liquidation of the assets, or the ultimate distribution of the assets of all claimants.

(5) In the event of the failure of a grain dealer, the department shall liquidate the farm produce assets of the grain dealer to satisfy valid claims of claimants described in subsection (3) by taking possession of all farm produce in the grain dealer facility, distributing or selling the farm produce, and distributing the proceeds under subsection (3).

(6) The director may reduce the amount of a claim described in this section to reflect the liabilities owed to

the grain dealer by the claimant.

(7) A lien that exists under subsection (1) has priority over a conflicting security interest in or agricultural lien on the same collateral, except that a conflicting security interest or agricultural lien on the collateral that is perfected on the effective date of this section has priority over a lien that exists under subsection (1) for a period of 1 year after the effective date of this section.

History: Add. 2016, Act 263, Eff. Sept. 26, 2016.