

SENATE BILL REPORT

SHB 2556

As Reported by Senate Committee On:
Agriculture & Rural Economic Development, February 25, 2010

Title: An act relating to financial security requirements under chapter 22.09 RCW

Brief Description: Regarding financial security requirements under chapter 22.09 RCW.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Fagan and Chandler).

Brief History: Passed House: 2/10/10, 96-0.

Committee Activity: Agriculture & Rural Economic Development: 2/18/10, 2/25/10 [DP].

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler, Ranking Minority Member; Becker, Haugen, Morton and Shin.

Staff: Bob Lee (786-7404)

Background: Public grain warehouses are entities that receive grains, peas, and lentils from the public for storage, handling, conditioning, or shipment for compensation. To reduce the potential for loss by depositors resulting from the financial failure of a grain warehouse, the warehouse must be licensed under either state or federal law. To receive an annual license under state law, a grain warehouse must submit an application to the Department of Agriculture. The application requires information regarding the capacity and location of warehouse facilities, and a financial statement to determine whether the minimum net worth requirements are met. These financial statements are not subject to public disclosure.

Before a license may be issued, the warehouse must secure a bond, or provide a certificate of deposit or other security acceptable to the department. The amount of the required bond is based on the capacity of the warehouse but the minimum bond is \$50,000 and the maximum bond is \$750,000. The amount of the bond is to be computed at a rate of not less than 15 cents and not more than 30 cents per bushel as determined by rule adopted by the department. Any warehouse that conditions less than 300 tons of an agricultural commodity for compensation is exempt.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 1983 following the bankruptcy of the Coast Trading Company in 1982, the Legislature established licensing and bonding requirements for grain dealers that were previously applicable only to grain warehouses. This legislation was in response to losses incurred by farmers who were unsecured creditors and received only a prorated share of funds that remained after secured creditors were fully satisfied. In addition, a first priority depositor's lien was established for a limited duration to help producers reduce losses when they deliver grain to an entity that subsequently fails.

A grain dealer is an entity with a place of business located in the state that solicits, contracts for, or obtains from a producer, title, possession, or control of any agricultural commodity for purposes of resale. Grain dealers must be licensed under state or federal law. Grain dealers also must submit an application to the Department of Agriculture that includes the business location and a financial statement to determine whether the applicant meets minimum net worth requirements.

Before a license may be issued, the grain dealer is to obtain a bond based upon the dollar volume of agricultural commodities purchased by the dealer from producers for the prior fiscal year. The minimum bond is \$50,000 and the maximum bond is \$750,000. The amount of the bond is computed at a rate of not less than 6 percent nor more than 12 percent of the prior year's volume of purchases of agricultural commodities.

Grain warehouses and grain dealers have the option to provide a certificate of deposit in lieu of the required bond in the same amount.

When the department has reason to believe that the grain dealer does not have the ability to pay producers for the grain that has been purchased, the department may require the grain dealer to post additional security.

Summary of Bill: When a warehouse that is required to obtain a license only receives grain from licensed grain dealers who meet the financial security deposit requirements as a grain dealer, then that warehouse is exempt from the bonding requirements.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The bill was requested by a grain warehouse in Clarkston, Washington who felt that it was unnecessary for a warehouse that buys exclusively from bonded grain dealers to also be required to have a bond.

OTHER: More time is needed to consult with other grain warehouses and with grain producer organizations.

Persons Testifying: PRO: Representative Fagan, prime sponsor.

OTHER: Dan Coyne, Washington State Council of Farmer Cooperatives; Jim Jesernig, Washington Association of Wheat Growers.