

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1009

Page 1, line 2, replace "and" with "1",

Page 1, line 2, after "4.1-01-17" insert "4.1-83-22, 4.1-83-23, 4.1-83-28, and"

Page 5, after line 16, insert the following:

SECTION 14. AMENDMENT. Section 4.1-83-22 of North Dakota Century Code is amended and reenacted as follows:

"4.1-83-22. Appointment of trustee.

1. Upon the insolvency of a livestock dealer, the agriculture commissioner may ~~apply to the district court of the county in which the dealer maintains its principal place of business for appointment as the trustee.~~ shall make notice to the livestock dealer and may immediately suspend, close, or take control of assets held in the trust fund as described in 4.1-83-21, or take any combination of these actions as the commissioner deems necessary to begin an orderly liquidation of those trust fund assets as provided in this chapter.
2. ~~Upon notice to the livestock dealer, as the court shall prescribe, but not exceeding ten days, or upon a written waiver of notice by the dealer, the court shall hear and make a determination regarding the application in a summary manner.~~
3. ~~If the court determines that the livestock dealer is insolvent within the meaning of this chapter and that it would be in the best interest of persons holding claims against the dealer for the purchase price of livestock sold to the dealer or to the dealer's agent that the agriculture commissioner execute the trust, the court shall issue an order appointing the commissioner as the trustee, without bond.~~
4. ~~Upon being appointed as the trustee~~ establishing the trust fund, the agriculture commissioner shall perform the duties of a trustee as set forth in this chapter."

SECTION 15. AMENDMENT. Section 4.1-83-23 of the North Dakota Century Code is amended and reenacted as follows:

"4.1-83.23. Possession of records and property – Notice to file claims.

1. a. ~~Upon being appointed trustee~~ establishing the trust fund, the agriculture commissioner shall take possession of all accounts and records pertaining to the livestock dealer's business. After reviewing the records, the agriculture commissioner may return to the dealer any records that are not necessary to the settlement of claims under this chapter.
- b. ~~Upon being appointed trustee~~ establishing the trust fund, the agriculture commissioner shall take possession of all livestock purchased by the dealer under the dealer's license and remaining in the dealer's possession.

2. The agriculture commissioner, as trustee, shall publish a notice once each week for three consecutive weeks in the official newspaper of each county in which the livestock dealer was conducting business, directing any person having a claim against the dealer to file the claim and all supporting documentation with the commissioner no later than forty-five days from the last date of publication. Any person failing to meet the filing requirements set forth in the notice is barred from participating in any funds marshalled by the agriculture commissioner under this chapter."

SECTION 16. AMENDMENT. Section 4.1-83-28 of the North Dakota Century Code is amended and reenacted as follows:

"4.1-83-28. Report of amounts payable – Distribution of trust fund.

1. Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary to pay the outstanding claims, the agriculture commissioner shall file with the court claimants a report showing the amount payable on each claim, after recognition of all proper liens, pledges, assignments, and deductions.
2. If the trust fund is insufficient to pay all claims in full, the agriculture commissioner shall prorate the fund among the claimants.
3. ~~The court shall notify the claimants by mail regarding the proposed distribution and direct that the claimants show cause why the report and distribution should not be approved.~~
4. After holding a hearing on the matter, the court agriculture commissioner shall:
 - a. Approve or modify the report;
 - b. Issue an order directing that the trust fund be distributed. and
 - c. Discharge the agriculture commissioner from all duties as trustee."

Renumber accordingly.

Emergency Clause

NORTH DAKOTA CROP PROTECTION PRODUCT HARMONIZATION AND REGISTRATION BOARD

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