

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB183

Hearing Date: Tuesday January 27, 2015
Committee On: Agriculture
Introducer: Johnson
One Liner: Change provisions relating to the Grain Dealer Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Bloomfield, Chambers, Harr, Johnson, Kolterman, Larson, Riepe, Schilz

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

Senator Jerry Johnson
Jerry Vap
Ed Woepfel
John Hansen

Representing:

Introducer
Nebraska Public Service Commission
Nebraska Cooperative Council
Nebraska Farmers Union

Opponents:

John Meuret

Representing:

Nebraska Grain & Feed Association

Neutral:

Pat Ptacek

Representing:

Association of Nebraska Ethanol Producers

Summary of purpose and/or changes:

The primary substantive provisions of LB 183, found in Sections 2 and 4, would confine obligations covered by a grain dealer's to first purchaser payment obligations of a dealer to a grower. Additionally, the bill reduces time frames during which beneficiaries of grain dealer security may perfect claims against the dealer security. To effect these purposes, LB 183 makes the following specific changes to the Act:

First, section 2 of the bill amends existing subsection (4) of Sec. 75-903 which currently provides that the beneficiaries of the grain dealer security include producers or owners of grain filing a valid claim arising from a sale to or purchase from a grain dealer. Currently, this section provides that the liability of security covers purchases and sales made or arranged by a dealer. LB183 would narrow the beneficiaries to producers only and strike coverage for losses arising from purchases of grain from a dealer in both places. A harmonizing revision of the defined term grain dealer is made in 75-902 under section 1 of the bill.

Sec. 75-905 is revised by section 4 of the bill to require that to establish eligibility for recourse to grain dealer security, the claimant is required to demand payment for grain within 15 days of delivery (currently 30 days), attempt to negotiate the payment instrument offered by the dealer within 15 days (currently 30 days), and to notify the Public Service Commission within 15 days (currently 30 days) of any apparent loss.

Apart from the primary substantive provisions, LB183 proposes a series of secondary statutory revisions as follows:

Revises the defined term grain dealer in Sec. 54-902 to strike subdivision 5(a)(ii) thereby excluding persons from having to meet grain dealer requirement solely for the act of transporting grain into this state for sale. The revision to the definition of grain dealer would also clarify that all feeders, not just custom feeders, are excluded.

Amends Sec. 75-903 to remove a requirement that trucks owned by a grain dealer be affixed with plates issued by the Commission. To offset a small revenue loss resulting from loss of plate fees. This section is further amended to increase the annual grain dealer license fee from \$60 to \$100. Additionally, the revisions to this section strike a requirement that vehicles used by dealers to transport grain be equipped with a commercial license plate registered in Nebraska. Revisions to Sec. 75-908 under Section 5 of the bill make a harmonizing revision to remove the Carrier Enforcement division of the State Patrol and the DMV from enforcement of the Dealer Act, as deletion of the commercial plate provisions for grain dealer trucks were removed, making the involvement of these two agencies unnecessary.

Clarifies the certification of persons preparing reviewed or audited financial statements provided with application for licensure or annual renewal. Current law requires that preparer be a certified public accountant or an accountant holding a permit issued by the Nebraska State Board of Public Accountancy. LB183 would require only that a firm preparing such statements be an accounting firm recognized in the United States.

Amends Sec. 75-904 to expand the types of documents provided by a dealer to a seller evidencing a sale and delivery of grain to include receipts, contracts, bills of lading or other written communication. The revisions to this section also strike statutory prescribed elements of information that are to be included on such documents but retain that the document shall include provisions established by regulation and notification of requirements to perfect a claim against the dealer security as set out in Sec. 75-905.

Explanation of amendments:

The committee amendment (AM445) further refines the identification of credentials for those preparing audited or reviewed financial statements submitted with licensure application or annual renewal. The amendment simplifies by specifying only that the submitted financial documents shall be prepared by an independent, certified firm. AM445 also omits reference to the credentials of the individual preparing the audited or reviewed statements to avoid interpretation that Sec. 1-170 of the Public Accountancy Act applies to require Nebraska certification of the individual CPA.

Jerry Johnson, Chairperson