

203C.3 Appointment of department as receiver.

1. The department in its discretion may, following summary suspension of a license under section 203C.10, or following a suspension or revocation of a license as otherwise provided in section 203C.10 or 203C.11, file a verified petition in the district court requesting that the department be appointed as a receiver to take custody of commodities stored in the licensee's warehouse and to provide for the disposition of those assets in the manner provided in this chapter and under the supervision of the court. The petition shall be filed in the county in which the warehouse is located. The district court shall appoint the department as receiver. Upon the filing of the petition the court shall issue ex parte such temporary orders as may be necessary to preserve or protect the assets in receivership, or the value thereof, and the rights of depositors, until a plan of disposition is approved.

2. A petition filed by the department under subsection 1 shall be accompanied by the department's plan for disposition of stored commodities. The plan may provide for the pro rata delivery of part or all of the stored commodities to depositors holding warehouse receipts or unpriced scale weight tickets, or may provide for the sale under the supervision of the department of part or all of the stored commodities for the benefit of those depositors, or may provide for any combination thereof, as the department in its discretion determines to be necessary to minimize losses.

3. When a petition is filed by the department under subsection 1 the clerk of court shall set a date for hearing on the department's proposed plan of disposition at a time not less than ten nor more than fifteen days after the date the petition is filed. Copies of the petition, the notice of hearing, and the department's plan of disposition shall be served upon the licensee and upon the issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 203C.6 in the manner required for service of an original notice. A delay in effecting service upon the licensee or issuer is not cause for denying the appointment of a receiver and is not grounds for invalidating any action or proceeding in connection with the appointment.

4. The department shall cause a copy of each of the documents served upon the licensee under subsection 3 to be mailed by ordinary mail to every person holding a warehouse receipt or unpriced scale weight ticket issued by the licensee, as determined by the records of the licensee or the records of the department. The failure of any person referred to in this subsection to receive the required notification shall not invalidate the proceedings on the petition for the appointment of a receiver or any portion thereof. Persons referred to in this subsection are not parties to the action unless admitted by the court upon application therefor.

5. When appointed as a receiver under this chapter, the department shall cause notification of the appointment to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location, and in a newspaper of general circulation in this state.

6. The department may designate an employee of the department to appear on behalf of the department in any proceedings before the court with respect to the receivership, and to exercise the functions of the department as receiver under this section and section 203C.4, except that the department shall determine whether or not to petition for appointment as receiver, shall approve the proposed plan for disposition of stored commodities, shall approve the proposed plan for distribution of any cash proceeds, and shall approve the proposed final report.

7. The actions of the department in connection with petitioning for appointment as a receiver, and all actions pursuant to such appointment shall not be subject to the provisions of the administrative procedure Act.

8. A person employed or appointed by the department and carrying out the duties of the department acting as receiver under this chapter shall be deemed to be an employee of the state as defined in section 669.2. Chapter 669 is applicable to any claim as defined in section 669.2 against the person carrying out the duties of the department acting as receiver.

[C79, 81, §543.3]

86 Acts, ch 1152, §15; 89 Acts, ch 143, §501

C93, §203C.3

Referred to in §203.12A, 203.12B, 203C.12A, 602.8102(76)