

RCW 22.09.361 Seizure of commodities or warehouse operator's records—Department duties—Warehouse operator's remedies—Expenses and attorneys' fees. (1) Whenever the department, pursuant to court order, seizes and takes possession of all or a portion of special piles and special bins of commodities, all or a portion of commingled commodities in a warehouse owned, operated, or controlled by a warehouse operator, or books, papers, and property of any kind used in connection with the conduct of a warehouse operator's warehouse business, the department shall:

(a) Give written notice of its action to the surety on the bond of the warehouse operator and may notify the holders of record, as shown by the warehouse operator's records, of all warehouse receipts or scale weight tickets issued for commodities, to present their warehouse receipt or other evidence of deposits for inspection, or to account for the same. The department may thereupon cause an audit to be made of the affairs of the warehouse, especially with respect to the commodities in which there is an apparent shortage, to determine the amount of the shortage and compute the shortage as to each depositor as shown by the warehouse operator's records, if practicable. The department shall notify the warehouse operator and the surety on his or her bond of the approximate amount of the shortage and notify each depositor thereby affected by sending notice to the depositor's last known address as shown by the records of the warehouse operator.

(b) Retain possession of the commodities in the warehouse or warehouses, and of the books, papers, and property of the warehouse operator, until the warehouse operator or the surety on the bond has satisfied the claims of all holders of warehouse receipts or other evidence of deposits, or, in case the shortage exceeds the amount of the bond, the surety on the bond has satisfied the claims pro rata.

(2) At any time within ten days after the department takes possession of any commodities or the books, papers, and property of any warehouse, the warehouse operator may serve notice upon the department to appear in the superior court of the county in which the warehouse is located, at a time to be fixed by the court, which shall not be less than five nor more than fifteen days from the date of the service of the notice, and show cause why such commodities, books, papers, and property should not be restored to his or her possession.

(3) All necessary expenses and attorneys' fees incurred by the department in carrying out the provisions of this section may be recovered in the same action or in a separate civil action brought by the department in the superior court.

(4) As a part of the expenses so incurred, the department is authorized to include the cost of adequate liability insurance necessary to protect the department, its officers, and others engaged in carrying out the provisions of this section. [2011 c 336 § 625; 1983 c 305 § 49.]

Severability—1983 c 305: See note following RCW 20.01.010.