

News from Senator

BOB DOLE



(R - Kansas)

2213 Dirksen Building, Washington, D.C. 20510

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CONTACT: BILL KATS
(202) 224-6521

DOLE INTRODUCES BILL TO PROTECT FARMERS IN ELEVATOR BANKRUPTCY PROCEEDINGS

WASHINGTON -- Senator Bob Dole (R-Kan.), chairman of the Senate Judiciary Committee subcommittee on courts, today introduced legislation to assist farmers whose crops are held as part of grain elevator bankruptcy proceedings.

The legislation, which was introduced by Dole and cosponsored by Senator Jack Danforth (R-Mo.), provides for certain amendments to the Bankruptcy Reform Act of 1978, as well as amendments to the United States Code dealing with agricultural warehouse licensing and operations.

"Over the past several years, Midwestern farmers have suffered from the unexpected insolvency of grain elevators holding vast quantities of crops," Dole said. They have seen thousands of bushels of their grain, soybeans and other cash crops tied up in grain elevator bankruptcy proceedings under circumstances that make it difficult if not impossible for them to recover their crops.

"The reasons farmers have had trouble obtaining possession of their crops from the bankruptcy courts are complex. There are difficulties in establishing ownership interests in the crops -- between 'storage contract' crops owned by the farmers and 'sales contract' crops owned by the elevators. The advent of delayed pricing agreements have complicated the farmer-warehouseman relationship. In addition, there are problems of distribution between farmers who own grain and creditors who have taken a secured interest in grain owned by the elevator. And the distribution problems are made worse when, as is frequently the case, there is a shortage of crops on hand. Faced with these conflicting pressures, bankruptcy courts are often slow to respond to farmers' needs to settle ownership and distribute grain."

The Dole Bill

The Dole bill provides for one uniform procedure for abandonment of grain assets in a proceeding filed by an insolvent commodity warehouse; the granting of a statutory lien to farm producers on crops delivered to a warehouse under a sales contract but for which a producer has not been paid; and the granting of a priority position to farm producers in any distribution of assets to unsecured creditors.

"This bill would require the trustee to begin distribution of crop assets within 80 days of the filing of the bankruptcy petition," Dole said. "The objective is to discourage delays in the distribution process, and there are provisions of my bill that imposes certain burdens on parties requesting stays of the abandonment orders."

"The crops would be distributed by a two-tiered method: 1. First, there is a pro rata distribution of grain or proceeds of grain to farmers who have stored crops with the warehouseman without transfer of title. This should be done as quickly as possible, since these crops would not be part of the bankruptcy estate. 2. After the first distribution, the trustee would be required to liquidate any remaining crop assets and divide the proceeds, pro rata, among the secured creditors.

"Those farmers who still have an unsatisfied claim against the bankrupt warehouseman after this distribution would receive a priority position in any distribution of remaining assets to unsecured creditors."

Hearings Scheduled

Senator Dole has scheduled hearings on the elevator bankruptcy matter for April 6 as part of the Judiciary Committee's subcommittee on courts' examination of the Bankruptcy Code. Dole will chair these hearings, which will hear testimony from federal and state officials and farm representatives. The Dole bill will be discussed as part of that forum.