

Effective 7/1/2014

Superseded 3/18/2016

32B-8a-401 Notification of creditors -- Escrow -- Priority of payments.

- (1) Before the filing of a transfer application with the department, if the intended transfer of a retail license involves consideration:
 - (a) the transferor shall provide the transferee a list of creditors who have a claim against the transferor;
 - (b) the transferee shall provide a copy of the notice of intended transfer to each creditor on the list provided under Subsection (1)(a);
 - (c) the transferor and the transferee shall establish an escrow with a person who is not a party to the transfer to act as escrow holder;
 - (d) the transferee shall deposit with the escrow holder the full amount of the consideration; and
 - (e) the transferor and transferee shall enter into an agreement that:
 - (i) the consideration is deposited with the escrow holder;
 - (ii) requires the escrow holder to distribute the consideration within a reasonable time after the completion of the transfer of the retail license; and
 - (iii) directs the escrow holder to distribute the consideration in accordance with Subsection (2).
- (2) Subject to the other requirements of this section, if a creditor with a claim against the transferor files the claim with the escrow holder before the escrow holder is notified by the department that the transfer is approved, the escrow holder shall distribute the consideration in the following order:
 - (a) to the payment of:
 - (i) the United States for a claim based on income or withholding taxes; and
 - (ii) a claim based on a tax other than specified in Subsection 32B-8a-201(3);
 - (b) to the payment of a claim for wages, salaries, or fringe benefits earned or accrued by an employee of the transferor before the transfer or opening of the escrow for the transfer of the retail license;
 - (c) to the payment of a claim of a secured creditor to the extent of the proceeds that arise from the sale of the security;
 - (d) to the payment of a claim on a mechanics lien;
 - (e) to the payment of:
 - (i) escrow fees;
 - (ii) a claim for prevailing brokerage fees for services rendered; and
 - (iii) a claim for reasonable attorney fees for services rendered;
 - (f) to the payment of claims:
 - (i) of a landlord, to the extent of proceeds on past due rent or lease requirements;
 - (ii) for goods sold and delivered to the retail licensee for resale at the transferor's licensed premises; and
 - (iii) for services rendered, performed, or supplied in connection with the operation of the transferor's licensed business;
 - (g) to the payment of other types of claims that are reduced to court-ordered judgments, including a claim for court-ordered support of a minor child; and
 - (h) to the payment of all other claims.