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## **Requirements for Grain Dealers**

**State of Colorado**

*Bonding*

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## Requirements for Grain Dealers

### STATE OF COLORADO

*Current with the 2<sup>nd</sup> Regular Sess. of the Sixty-Ninth General Assembly (2014)*

#### **C.R.S.A. § 12-16-106**

#### **§ 12-16-106. Bonds and irrevocable letters of credit--exemptions**

(1)

(a) Before any license is issued to any dealer, the applicant shall file with the commissioner a bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as a surety or an irrevocable letter of credit meeting the requirements of section 11-35-101.5, C.R.S., in the sum of not less than two thousand dollars nor more than two hundred thousand dollars, at the discretion of the commissioner.

(b) Repealed by Laws 1988, S.B.39, § 4, eff. Feb. 28, 1989.

(c) The bond or irrevocable letter of credit must be conditioned upon compliance with this part 1 and upon the faithful and honest handling of farm products in accordance with this part 1 and shall cover any fees due the department of agriculture by the dealer and all costs and reasonable attorney fees incident to any suit upon the bond or irrevocable letter of credit. The bond or irrevocable letter of credit must be to the department of agriculture in favor of every producer, dealer, small-volume dealer, or owner and, in the instance of a bond, must remain in full force and effect until cancelled by the surety upon thirty days' prior written notice to the commissioner.

(d)

(I) Any producer, owner, small-volume dealer, or other dealer within the state of Colorado claiming to be injured by the fraud, deceit, or willful negligence of, or failure to comply with this part 1 by, any dealer may request the department of agriculture, as beneficiary, to demand payment on the irrevocable letter of credit or surety bond to recover the damages caused by the fraud, deceit, willful negligence, or failure to comply with this part 1.

(II) The surety on the bond or the issuer of the letter of credit is not liable to pay any claim pursuant to any action brought under this part 1 if the action is not commenced within one hundred eighty days after the date of the transaction, as that term is defined in section 12-16-215(12), on which the claim is based, or the date of the loss, as that term is defined in section 12-16-202(10), whichever is later.

(e) When any action is commenced on said bond or irrevocable letter of credit, the commissioner may require the filing of a new bond or irrevocable letter of credit, and failure of the licensee to file the new bond or irrevocable letter of credit within ten days after the commencement of said action constitutes grounds for the suspension or revocation of his license.

(f) No bond or irrevocable letter of credit shall be required of a dealer who pays for farm products in cash or with a bank-certified check, a bank cashier's check, an irrevocable

electronic funds transfer, or a money order at the time the dealer obtains from the owner thereof possession or control of the farm products, or of an applicant for a license or a licensee operating under a bond required by the United States to secure the performance of his or her obligations; except that the bond shall include all obligations pertaining to Colorado farm products, and documentary evidence shall be furnished to the commissioner that the bond required by the United States is in full force and effect.

(g) The bond or irrevocable letter of credit required by section 12-16-218 shall apply to the activities as a dealer of any person licensed pursuant to part 2 of this article. Such persons shall also be subject to the provisions of this section and section 12-16-107.

(2) Whenever the commissioner determines that a previously approved bond or irrevocable letter of credit is, or for any cause has become, insufficient, he may require an additional bond or irrevocable letter of credit or other evidence of financial responsibility to be given by a dealer to conform to the requirements of this part 1 or any rule or regulation promulgated pursuant to the provisions of this part 1. The failure of the dealer to comply with the commissioner's requirement within thirty days after written demand therefor constitutes grounds for the suspension or revocation of his license.