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Requirements for Grain Dealers

State of Idaho

Licensing

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Requirements for Grain Dealers

STATE OF IDAHO

Current through the 2014 2nd Reg. Sess. Of the 62nd Idaho Legislature

I.C. § 69-503

§ 69-503. License requirements--Financial responsibility

- (1) A person shall not engage in the business of a commodity dealer in this state without having obtained a license issued by the department.
- (2) The type of license required shall be determined as follows:
 - (a) A class 1 license is required if the commodity dealer purchases agricultural commodities by credit-sale contract or if the value of the agricultural commodities purchased by the commodity dealer from producers during the previous twelve (12) month period exceeds two hundred and fifty thousand dollars (\$250,000), or if the value of the agricultural commodities expected to be purchased by the commodity dealer from the producers during the succeeding twelve (12) month period will exceed two hundred and fifty thousand dollars (\$250,000). Any other commodity dealer may elect to be licensed as a class 1 commodity dealer.
 - (b) A class 2 license is required for any commodity dealer if the value of the agricultural commodities purchased by the commodity dealer from producers during the previous twelve (12) month period exceeds ten thousand dollars (\$10,000) and is less than two hundred and fifty thousand dollars (\$250,000), or if the value of the agricultural commodities expected to be purchased by the commodity dealer from producers during the succeeding twelve (12) month period will be more than ten thousand dollars (\$10,000) but less than two hundred and fifty thousand dollars (\$250,000). A class 2 licensee whose purchases from producers exceed two hundred and fifty thousand dollars (\$250,000) in value during any twelve (12) month period shall immediately apply for a class 1 license. If a class 1 license is denied, the person shall immediately cease doing business as a commodity dealer.
- (3) An application for a license to engage in business as a commodity dealer shall be filed with the department and shall be on a form prescribed by the department. A separate license is required for each location at which records are maintained for transactions of the commodity dealer.
- (4) A license application shall include the following:
 - (a) The name of the applicant;
 - (b) The names of the officers and directors if the applicant is a corporation;
 - (c) The names of the partners if the applicant is a partnership;
 - (d) The location of the principal place of business; and
 - (e) Any other reasonable information the department finds necessary to carry out the provisions and purposes of this chapter.
- (5) A license applicant shall further provide a sufficient and valid bond as specified in section 69-506, Idaho Code.
- (6) A license applicant shall further provide a complete financial statement setting forth the applicant's assets, liabilities and net worth. This financial statement shall be prepared by an independent certified

public accountant or a licensed public accountant according to generally accepted accounting principles. The commodity dealer shall have and maintain current assets equal to or greater than current liabilities. Assets shall be shown at original cost less depreciation. Upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal.

(7) In order to receive and retain a commodity dealer's license the following additional conditions must be satisfied:

(a) For a class 1 license a commodity dealer shall have and maintain a net worth of at least fifty thousand dollars (\$50,000) or maintain a bond in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of net worth deficiency; however, a person shall not be licensed as a class 1 commodity dealer if the person has a net worth of less than twenty-five thousand dollars (\$25,000). A bond submitted for purposes of this subsection shall be in addition to any bond otherwise required under the provisions of this chapter.

(b) For a class 2 license a commodity dealer shall have and maintain a net worth of at least twenty-five thousand dollars (\$25,000) or maintain a bond in the amount of two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or fraction thereof of net worth deficiency; however, a person shall not be licensed as a class 2 commodity dealer if the person has a net worth of less than ten thousand dollars (\$10,000). A bond submitted for purposes of this subsection shall be in addition to any bond otherwise required under the provisions of this chapter.

(8) The department may require additional information or verification regarding the financial resources of the applicant and the applicant's ability to pay producers for agricultural commodities purchased from them.

(9) Any commodity dealer that accepts physical delivery of a commodity purchased directly from producers, for which the producers have not been paid, must insure the value of all commodities in his possession at full market price for insurable physical perils until all liabilities to producers have been paid.

I.C. § 69-504

§ 69-504. License issuance--Renewal--Expiration

(1) The department shall issue a license when the applicant has filed the application and complied with the terms and conditions of the provisions of this chapter and the rules of the department. The license shall expire on December 31 of each year.

(2) A commodity dealer's license may be renewed annually by submitting all necessary licensing materials required by the provisions of this chapter. This material shall be received by the department before December 31 of each year.

(3) A commodity dealer's license which has expired may be reinstated by the department upon receipt of all necessary licensing materials required by the provisions of this chapter and a reinstatement fee in the amount of five hundred dollars (\$500); providing, that this material is filed within thirty (30) days from the date of expiration of the commodity dealer's license. At the end of the thirty (30) day reinstatement period, a commodity dealer's license shall terminate. All license applications received after the thirty (30) day reinstatement period shall be considered original applications and, after the five hundred dollar (\$500) reinstatement fee has been remitted to the department, license fees shall be assessed according to section 69-508(1), Idaho Code.

(4) A license may terminate upon request of the licensee unless a complaint has been filed against the licensee alleging a violation of any provision of this chapter. A commodity dealer's license is not

transferable between legal entities.

(5) If an applicant has had a license revoked under the provisions of chapter 2 or 5, title 69, Idaho Code, or the United States warehouse act within the past three (3) years or been convicted of a violation of the provisions of chapter 2 or 5, title 69, Idaho Code, or the United States warehouse act¹ within the past three (3) years, the department may deny a commodity dealer's license to the applicant.

(6) Any partnership with a partner or any corporation, limited liability company or any association which has an officer, director or majority stockholder owning at least ten percent (10%) of issued stock who has had a license revoked under the provisions of chapter 2 or 5, title 69, Idaho Code, or the United States warehouse act within the previous three (3) years or has been convicted of a felony involving violations of the provisions of chapter 2 or 5, title 69, Idaho Code, or the United States warehouse act, may be denied a commodity dealer's license by the department.

I.C. § 69-507

§ 69-507. Suspension or revocation of a license

The director may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license issued to any commodity dealer under the provisions of this chapter for any violation of or failure to comply with any provisions of this chapter or the rules and regulations made hereunder. Pending investigation, the director whenever he deems necessary may temporarily suspend a license without a hearing.

I.C. § 69-508

§ 69-508. License fees

(1) The department shall assess and collect an annual fee for each commodity dealer's license on an original application according to the following schedule:

(a) For a class 1 license the fee shall be three hundred sixty dollars (\$360).

(b) For a class 2 license the fee shall be one hundred eighty dollars (\$180).

(2) The department shall assess and collect an annual fee for the renewal of each commodity dealer's license according to the following schedule:

(a) For a class 1 license the renewal fee shall be sixty-five dollars (\$65.00).

(b) For a class 2 license the renewal fee shall be thirty-five dollars (\$35.00).

(3) All license fees, assessments and moneys collected by the director under the provisions of this chapter shall be deposited into the commodity indemnity fund to be used for the purposes set forth in section 69-256, Idaho Code.

I.C. § 69-509

§ 69-509. Posting of license

The commodity dealer's license shall be posted in a conspicuous location at his place of business.

I.C. § 69-510

§ 69-510. Payment of purchase price

A person required to be licensed as a commodity dealer under the provisions of this chapter shall pay the purchase price to the owner or his agent for agricultural commodities upon delivery or demand by the owner or agent, but not later than thirty (30) days after delivery by the owner or agent, unless otherwise agreed to by the parties in writing. As used in this section, “delivery” means the transfer of title to and possession of agricultural commodities by the owner or agent to the commodity dealer or to another person in accordance with the agreement of the owner or agent and the commodity dealer. As used in this section, “payment” means the actual payment or tender of payment by the commodity dealer to the owner or agent of the agreed purchase price.

I.C. § 69-519

§ 69-519. License denial

- (1) Any person against whose commodity dealer bond a claim has been ordered collected or has actually been collected shall not be licensed by the department for a period of three (3) years from the date of such order or collection. License denial may be waived if the person can show to the satisfaction of the director that full settlement of all claims against the bond has been made. A change in a person's business name shall not absolve any unsettled claim against that person's prior bond.
- (2) The director shall, after a public hearing, have the right to deny or refuse to issue a license or renewal thereof to an applicant when it is determined that public interest is best served by that denial or refusal.
- (3) Upon refusal or denial of a license pursuant to subsection (2) of this section, an applicant may reapply for a license or renewal after a period of ninety (90) days at which time a new hearing will be held to review the application.
- (4) The applicant shall have the right of appeal on any decision to refuse or deny a license under subsection (2) of this section to a court of competent jurisdiction.