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Requirements for Grain Dealers

State of Louisiana

Licensing

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Requirements for Grain Dealers

STATE OF LOUISIANA

Current with legislation from the 2013 Reg.Sess.

LSA-R.S. 3:3405

§ 3405. Powers and duties of the commission

A. The commission shall:

- (1) Adopt rules and regulations necessary to enforce the provisions of this Chapter, including rules to establish criteria for granting or denying licenses. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.¹
- (2) Examine and investigate the qualifications of any applicant seeking licensure under this Chapter and determine the eligibility for licensure of each applicant.
- (3) Issue licenses to warehouses regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate, provided that the commission shall require such warehouses to be of sound construction and to be bonded and insured as required under this Chapter.
- (4) Issue licenses to grain dealers, provided that such persons shall be bonded and insured as required under this Chapter.
- (5) Require each warehouse licensed under this Chapter to use only such warehouse receipts and scale tickets as may be furnished or approved by the commission, provided that such warehouse receipts and scale tickets shall be sequentially pre-numbered.
- (6) Promulgate regulations setting forth the procedure whereby a farm product shall be regulated under this Chapter prior to the imposition of any requirement relative to the farm product.
- (7) Regularly and at least once during each license period, examine, inspect, and audit each licensee under this Chapter.
- (8) Issue licenses to cotton merchants regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate.

B. The commission may:

- (1) Repealed by Acts 2010, No. 767, § 2, eff. June 30, 2010.
- (2) Establish reasonable guidelines for and require the submission of inventory reports.
- (3) Require each person licensed under this Chapter to submit such reports as are necessary for the proper and efficient administration of this Chapter.
- (4) Declare, by regulation, any agricultural commodity or other farm product to be subject to this Chapter.
- (5) Establish and impose civil penalties for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act. Each day on which any violation occurs shall be considered a separate offense. No penalty may be imposed unless a violation is substantiated in an adjudicatory proceeding by the commission under Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950. The commission may not impose any

penalty in excess of one thousand dollars for each single day on which a violation occurs.

(6) Suspend or revoke the license of any warehouse, cotton merchant, or grain dealer licensed under this Chapter for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act, provided that no license shall be revoked in the absence of an adjudicatory proceeding by the commission in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(7) Sue on behalf of any producer, solely for the use and benefit of the producer, who is injured by the breach of any obligation secured by the bond required under this Chapter.

(8) Initiate legal proceedings seeking injunctive relief to restrain violations of this Chapter, the rules and regulations adopted by the commission, or the rulings of the commission. Venue for these proceedings shall be in the district court for the parish in which the violation occurred.

LSA-R.S. 3:3408

§ 3408. Contents of application for and renewal of warehouse license, cotton merchant license, and grain dealer license

A. The application for licensure as a warehouse, cotton merchant, or grain dealer shall contain:

(1) The name and business address of the applicant.

(2) If the applicant is a corporation or other business entity, the names and addresses of the principal officers of the corporation or other business entity.

(3) If the applicant is a trade, cooperative, or other type of association, the names and addresses of the board of directors of such association.

(4) The kinds of agricultural commodities which the applicant proposes to store or trade.

(5) The address and the capacity of the principal place of business of the applicant.

(6) The address and the capacity of any other locations within the state where the applicant will engage in the business of storing agricultural commodities or buying and selling agricultural commodities on a regular basis.

(7) A current financial statement which shall include, but not be limited to, the following:

(a) A balance sheet.

(b) A statement of income (profit and loss).

(c) A statement of retained earnings.

(d) A statement of cash flows.

(8) The financial statement shall be one of the following types of statements:

(a) A compilation, or compiled statement.

(b) A review, or reviewed statement.

(c) An audit, or audited statement.

(9) Except as otherwise provided in Chapter 2 of Title 37 of the Louisiana Revised Statutes of 1950, the financial statement shall be prepared by an accountant who is not a full-time employee of the applicant and who meets at least one of the following requirements:

(a) Is a certified public accountant.

(b) Is a graduate of an accredited four-year college or university with a degree in accounting.

(c) Has passed the examination administered by the National Society of Accountants.

(10) All financial statements shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, under penalty of perjury as provided in R.S. 14:123, that the financial statement accurately reflects the financial condition of the applicant for the

period covered in the statement. Only one financial statement shall be required for a chain of warehouses covered by a single warehouse license. The initial application for a license shall be accompanied by the warehouse's, cotton merchant's, or grain dealer's most recent financial statement. Thereafter, all financial statements shall be filed within ninety days after the close of the grain dealer's, cotton merchant's, or warehouse's fiscal year.

(11) Any additional information which the commission may require.

B. The application for annual renewal of the said licenses shall contain the same information as required under Subsection A of this Section.

LSA-R.S. 3:3411

§ 3411. License to buy or sell agricultural commodities; posting requirements for grain dealers; duration of license; bond required as a condition of a grain dealer license, time of filing, amount of bond, notice of cancellation, alternate security; failure to maintain bond and stock insurance

A. No person shall engage in the business of buying and/or selling agricultural commodities from producers unless licensed by the commission. Cotton merchants shall be licensed as provided in R.S. 3:3411.1.

B. Each applicant for a grain dealer license shall file the application described in R.S. 3:3408 and demonstrate its competency to engage in the business of buying or selling agricultural commodities prior to licensure.

C. Each license issued by the commission under this Section shall specify on the face thereof that it is a grain dealer license, and shall be posted by the licensee in its principal place of business in this state.

D. Each license issued by the commission shall be valid until June thirtieth following the date of issue and shall be renewed on or before July first of each year.

E. The fee for issuance and renewal of each license shall be two hundred dollars.

F. Prior to the issuance of the license, each applicant for a grain dealer license shall execute and file with the commission a surety bond in the amount of fifty thousand dollars, issued by a bonding or surety company authorized to do business in this state and conditioned upon (1) the faithful performance of all duties and obligations to producers, and (2) compliance with this Chapter and the rules and regulations adopted pursuant hereto. Each bond shall provide for ninety days written notice to the commission prior to cancellation.

G. The commission may accept alternate security from grain dealers in lieu of the bond required under Subsection F of this Section. The alternate security shall be in the same amount as the amount of the bond required in Subsection F of this Section and shall be in one of the following forms:

(1) A certificate of deposit from a lending institution whose deposits are insured by an agency of the federal government.

(2) An irrevocable letter of credit from a lending institution whose deposits are insured by an agency of the federal government.

(3) A first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least one hundred fifty percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security.

H. The commission shall require every licensed grain dealer to maintain a sufficient amount of provisional stock insurance issued by an insurance company authorized to do business in this state to provide adequate protection against fire and other disasters, for the full market value of all agricultural commodities physically in the possession of the grain dealer, which insurance shall provide for thirty

days written notice to the commission prior to cancellation.

I. The commission may suspend or revoke the license of any grain dealer who fails to maintain the required bond and insurance in full force and effect.

J. Each grain dealer who issues grades for grain shall employ a grain grader and sampler who is certified to grade and sample the grains for which the grain dealer issues grades.

LSA-R.S. 3:3411.1

§ 3411.1. License required prior to engaging in business of buying or selling cotton; security requirements; agent agreements

A.

(1) Any cotton merchant who purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown in this state shall be licensed by the commission before purchasing or contracting to purchase such cotton. The license shall authorize cotton merchants and their cotton agents to purchase or enter into contracts to purchase cotton grown or to be grown in this state.

(2)

(a) Each license issued by the commission under this Section shall specify on the face thereof that it is a cotton merchant license. A copy of the license shall be posted by the licensee in all places of business.

(b) Each license issued by the commission shall be valid until June thirtieth following the date of issue and shall be renewed on or before July first of each year.

(c) The fee for issuance and renewal of each license shall be two hundred dollars.

B.

(1) Before such a license shall be issued to a cotton merchant, the applicant shall furnish a bond in the amount of fifty thousand dollars conditioned upon:

(a) The good faith performance of contracts entered into with cotton farmers for cotton sold.

(b) Compliance with this Chapter and the rules and regulations adopted pursuant hereto.

(2) The premiums and all expenses of the bond shall be borne by the cotton merchant. The bond shall be signed by a surety company authorized to do business in this state with security in favor of the commission, and shall be subject to the approval of the commission as to form and sufficiency. Such bond shall be filed with the commission where it shall be subject to public inspection. Each bond shall provide for no less than ninety days written notice to the commission prior to cancellation.

C.

(1) The commission may accept alternate security from a cotton merchant in lieu of the bond required under Subsection B of this Section. The alternate security shall be in the same amount as the bond required in Subsection B of this Section and shall be either:

(a) A certificate of deposit from a lending institution whose deposits are insured by an agency of the federal government.

(b) An irrevocable letter of credit from a lending institution whose deposits are insured by an agency of the federal government.

(c) Any other security determined to be adequate by the commission.

(2) The cotton merchant shall pay all fees involved in providing such security.

D. The commission may require the cotton merchant to submit to an examination and audit of its accounts, books, and records.

E. No cotton merchant shall purchase cotton grown or to be grown by producers in this state without having obtained the prescribed license from the commission as described in Subsection A of this Section. The commission may, for cause, revoke the license.

F. Each cotton agent shall have a written notarized agency agreement with all cotton merchants on whose behalf said cotton merchant acts. No cotton agent shall purchase cotton grown or to be grown in this state until he has obtained a written notarized agency agreement in a form approved by the commission. The commission may require the cotton agent entering into an agency agreement to submit to an examination and audit of his accounts, books, and records. The cost of any examination and audit shall be borne by the cotton agent. The commission may, for cause, revoke the authority of the cotton agent under any written notarized agency agreement.

LSA-R.S. 3:3412

§ 3412. Grounds for not issuing license

The commission may refuse to issue a license to any applicant for a warehouse license, cotton merchant license, or grain dealer license if the commission finds that the warehouse proposed for licensure is not suitable for the storage of agricultural commodities, or if the commission finds that the applicant for a warehouse license, cotton merchant license, or a grain dealer license cannot demonstrate a net worth of one hundred thousand dollars, or is incompetent to conduct such warehouse, cotton merchant, or grain dealer business in accordance with this Chapter or the rules and regulations adopted pursuant hereto; or if there is any other sufficient reason within the intent of this Chapter for not issuing such warehouse, cotton merchant, or grain dealer license.