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## **Requirements for Grain Dealers**

**State of Louisiana**

*Penalties*

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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.<sup>1</sup>
- (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- (1) Repealed by Acts 2010, No. 767, § 2, eff.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. 3:3406**

#### **§ 3406. Powers and duties of the commissioner**

A. The commissioner shall administer and enforce this Chapter in accordance with the rules and regulations promulgated by the commission. In the administration and enforcement of this Chapter, the commissioner and his duly constituted representatives are specifically authorized to do the following:

(1) Enter the premises of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, at any reasonable time during normal working hours, for the purpose of making any examination or any inspection of the premises and the contents thereof as may be necessary.

(2) Examine, copy, and audit the accounts, books, and records, including stock records, position records, balance sheets, scale tickets, and warehouse receipts of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, including all warehouses or grain dealers, or both, licensed under the United States Warehouse Act, as amended, and any applicant for licensure under this Chapter, or as otherwise permitted under this Chapter.

(3) Weigh and ascertain, by grading, the quality of any agricultural product regulated under this Chapter and certify such weight and grade.

B. The commissioner shall appoint and employ all personnel necessary for the efficient and proper administration of this Chapter, except as provided in R.S. 3:3404(B).

### **LSA-R.S. 3:3414.4**

#### **§ 3414.4. Prompt payment for cotton; suit on bond; private action; attorney fees**

A. Any cotton merchant or cotton agent who purchases cotton from a producer shall pay the producer for the cotton within ten working days after the day the cotton is delivered, or pursuant to the contract of sale.

B. Any producer from whom cotton was purchased or contracted to be purchased and to whom money is due for cotton sold for future delivery as a result of the nonperformance of the cotton merchant or cotton agent shall have recourse on the bond or alternate security required to be furnished by this Chapter to the extent of the loss suffered by the producer, but such recovery against the bonding company or alternate security shall not exceed the amount of the bond or the alternate security.

Limitation of liability as to the bonding company or alternate security shall not restrict suits against the cotton merchant or cotton agent for losses incurred in excess of the amount of the bond or alternate security. Suit may be brought in any parish where the crop or any part thereof was grown or any other venue authorized by law. One or more recoveries upon such bond or alternate security shall not vitiate same, but no recovery nor the aggregate of multiple recoveries upon such bond or alternate security shall ever exceed the full amount thereof. Upon suits being filed in excess of the amount of the bond or alternate security, the commission may require a new bond or other security in an amount sufficient to secure the aggregate amount of such suits, and if such additional security is not given within thirty days of demand therefor, the commission may cancel the license of the cotton merchant. In the case of the insolvency of a cotton merchant, any cotton producer or cotton landowner having contracts for future delivery shall be entitled to participate in the bond or alternate security funds to the extent of his pro rata losses under his contract.

C. Should the bond or alternate security proceeds be insufficient to satisfy all claims in full, any producer who has received only partial satisfaction shall retain all other rights possessed under the law without prejudice.

D. The commission may bring an action on the bond on behalf of the cotton producers or cotton landowners in any court of competent jurisdiction.

#### **LSA-R.S. 3:3424**

#### **§ 3424. Prohibited acts; criminal penalties**

A. It shall be unlawful for any warehouse to sell, alienate, encumber, transfer title to, pledge, mortgage, or hypothecate in any manner any agricultural commodity or other farm product, or any portion thereof, which has been deposited by the owner thereof specifically for any type of storage, under any type of warehouse receipt or under a scale ticket marked "storage", and which is not the property of the warehouse, without the specific written authorization of the owner thereof. The sale, alienation, encumbrance, transfer of title, pledging, mortgaging, or hypothecation of any such agricultural commodity or other farm product without the written authorization of the owner thereof shall be presumptive evidence of the warehouseman's criminal intent to deprive such owner of his agricultural commodity or other farm product, or the market value thereof, and the warehouse and warehouseman shall be subject, upon conviction, to a fine of not more than ten thousand dollars, imprisonment for not more than ten years, or both.

B. Any grain dealer who intentionally violates R.S. 3:3413(B) by maintaining a risk position in excess of thirty percent of its current net worth shall be subject, upon conviction, to a fine of not more than ten thousand dollars, imprisonment for not more than ten years, or both.

C. Any warehouseman, cotton merchant, or cotton agent, or grain dealer who is found to have willfully submitted false reports of any kind required by this Chapter or by rule or regulation of the commission shall be subject, upon conviction, to the penalties for perjury established under R.S. 14:123.

D. The willful failure of a cotton merchant or a cotton agent to pay for cotton delivered which was purchased by the cotton merchant or cotton agent from a cotton producer in this state shall be fraudulent conduct for the purposes of R.S. 14:67.