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Requirements for Grain Dealers

State of Michigan

Bonding

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Requirements for Grain Dealers

STATE OF MICHIGAN

Current with legislation from the 2014 Reg.Sess..

M.C.L.A. 285.63

285.63. License; requirement; conduct governed by act; grounds for refusal of license; bond; offenses and penalties; inspection of books and records; injunctive relief

- (1) A person shall not act or offer to act as a grain dealer in this state without a license from the department issued under this act.
- (2) A grain dealer shall not process or store farm produce, issue a warehouse receipt, charge or collect a fee for storage of farm produce, issue a price later agreement, or issue an acknowledgment of receipt for delivery of farm produce except in compliance with this act.
- (3) Subject to subsection (4), the department may refuse to issue or renew a license to a grain dealer unless the grain dealer meets at least 1 of the following at the time the grain dealer submits the application:
 - (a) Has allowable net assets of more than \$1,000,000.00.
 - (b) Has allowable net assets of \$50,000.00 or more and handled 500,000 or fewer bushels of farm produce in the grain dealer's most recent fiscal year.
 - (c) Has allowable net assets of \$50,000.00 or more, and the allowable net assets equal or exceed the product of 10 cents multiplied by the number of bushels of farm produce handled by the grain dealer in the grain dealer's most recent completed fiscal year.
- (4) If a grain dealer fails to meet any of the allowable net asset requirements under subsection (3), the department may issue or renew the license if the grain dealer provides the department with a negotiable bond issued by a surety authorized to conduct business in this state, or proof of establishment of a restricted account in a financial institution that conducts business in this state, acceptable to the department and of which the department is the sole beneficiary, that is in an amount equal to the amount by which the grain dealer's allowable net assets failed to meet the allowable net asset requirement applicable under subsection (3).
- (5) A person who acts or offers to act as a grain dealer without a license is guilty of a misdemeanor. Each day that the person acts or offers to act as a grain dealer without a license is a separate misdemeanor.
- (6) If the director has probable cause to believe that a person is acting or offering to act as a grain dealer without a license, the director may review the books and records relating to the operations of the person.
- (7) Upon application of the department, a court in this state shall issue a temporary or permanent injunction enjoining a person from acting as a grain dealer without a license, issuing a warehouse receipt or price later agreement without a license, or interfering with an employee of the department or a receiver appointed under this act that is performing his or her duties under this act.

M.C.L.A. 285.88

285.88. Bond of grain merchandiser or farm produce trucker

- (1) Before a license is issued to a grain merchandiser or farm produce trucker, the grain merchandiser or farm produce trucker shall provide a bond to the department in the amount of \$100,000.00.
- (2) A bond provided under this section shall name the department as payee, be executed by the applicant as principal, and be issued by a surety authorized to conduct business in this state. The department shall prescribe the form and terms and conditions of the bond.
- (3) A bond provided under this section shall secure the faithful performance of the grain merchandiser or farm produce trucker of his or her obligations in any farm produce transaction outstanding on or after the effective date of the bond and outstanding at the time the license of the grain merchandiser or farm produce trucker is revoked or the bond is canceled as provided in this act, whichever occurs first. The bond shall secure the faithful performance by the grain merchandiser or farm produce trucker of those obligations whether the grain merchandiser or farm produce trucker is licensed or not.
- (4) The total aggregate liability of a surety under a bond provided under this section is limited to the amount of the bond without regard to the number of claimants involved in a transaction in which a claim on the bond is made. The liability of a surety on a bond provided under this section shall not accumulate for any successive license period.
- (5) A grain merchandiser or farm produce trucker required to provide a bond to the department under this section may at his or her option provide the department with a certificate of deposit or other security acceptable to the department in lieu of all or part of the bond, payable to the department as trustee. The principal amount of the certificate of deposit or other security provided, or the aggregate amount of the bond provided and the principal amount of the certificate of deposit or other security provided, shall be the same as the amount of the bond otherwise required under this section. The interest on the certificate of deposit or other security provided under this subsection shall be made payable to the grain merchandiser or farm produce trucker or other purchaser of the certificate of deposit or other security. The certificate of deposit or other security shall remain on deposit until it is released, canceled, or discharged as provided for by rule of the department. The provisions of this section that apply to a bond required under this section apply to a certificate of deposit or other security provided under this subsection.
- (6) If the department determines that a bond previously provided under this section is insufficient, the department shall require that the grain merchandiser or farm produce trucker provide an additional bond. The additional bond shall be in an amount determined by the department and conform with all other requirements of this section.
- (7) A grain merchandiser or farm produce trucker shall not cancel a bond required by this section without the consent of the department and the department's prior approval of a substitute bond.
- (8) The surety on a bond required by this section may not cancel the bond unless it sends a notice of intent to cancel to the department more than 60 days before it cancels the bond. If the department receives a notice from a surety under this subsection, it shall promptly notify the grain merchandiser or farm produce trucker that provided the bond. The department shall revoke the license of a grain merchandiser or farm produce trucker who fails to provide a new bond within 60 days after the department receives notice of intent to cancel from a surety.