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## **Requirements for Grain Dealers**

**State of Montana**

*Bonding*

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## Requirements for Grain Dealers

### STATE OF MONTANA

*Current with legislation from the 2013 Regular Sess. and the 2012 general election*

#### **MCA 80-4-405**

#### **80-4-405. Maximum bond amount**

The maximum amount of any public warehouse operator bond may not exceed \$1 million and the maximum amount of a commodity dealer bond may not exceed \$1 million, except:

- (1) any bonds compensating for equity or working capital deficiencies prescribed in parts 5 and 6 of this chapter must be added to the maximum bond amount. If the public warehouse operator is also licensed as a commodity dealer, only one bond amount is required.
- (2) the maximum bond amount must be adjusted each year based upon the percentage increase or decrease in the annual average index of prices received by Montana farmers for food and feed grains as computed by the Montana crop and livestock reporting service.

#### **MCA 80-4-425**

#### **80-4-425. Action on bond by persons injured--liability of surety--statute of limitations**

- (1) All claims against a bond must be made by and through the department. A person injured by the breach of an obligation for which a bond is given to the department may file a complaint with the department. The department shall then investigate the complaint and determine whether it is valid and whether there are any other outstanding obligations due. If the department finds that there are one or more valid obligations, the department shall make demand upon the warehouse operator or commodity dealer and the commodity dealer's surety for payment. If the payment is not made promptly, the department shall commence an action on the bond to enforce payment. If the department determines that a complaint is without merit, the department shall notify the complainant of that determination in writing. The complainant may then bring a contested case under Title 2, chapter 4, part 6, to the department for a determination of whether the department should pursue the claim against the bond.
- (2) If two or more persons are injured by breach of the obligation for which the bond is given and the damages for violating the conditions of the bond exceed the specified amount of the bond, the recovery on the bond must be prorated by the surety among all of those injured.
- (3) The liability of a surety under a bond extends to all obligations from commodity dealers' or public warehouse operators' transactions entered into during the year in which the bond was in effect, up to the maximum amount of the bond. Claims must be brought against the bond within 2 succeeding license years.

**MCA 80-4-604**

**80-4-604. Bonding requirement amounts--cancellation**

- (1) An applicant for a license to operate as a commodity dealer shall, before a license may be issued, file with the department a surety bond or its equivalent, as established by department rule, payable to the state.
- (2) Except as provided in 80-4-601(5)(b):
  - (a) the bond for a commodity dealer may not exceed 2% of the value of the agricultural commodities purchased by the commodity dealer from the producer during the previous 12-month period;
  - (b) the bond for all new applicants is 2% of the estimated value of all agricultural commodities to be purchased during the coming 12-month period; and
  - (c) the minimum amount of bond required by any commodity dealer is \$20,000 and the maximum is prescribed in 80-4-405.
- (3) A surety shall notify the commodity dealer and the department by certified mail at least 60 days prior to the cancellation of the bond. A commodity dealer's bond filed with the department is continuous until canceled by the surety upon 60 days' notice; however, cancellation does not terminate any liability of the surety incurred prior to the date of cancellation.

**MCA 80-4-612**

**80-4-612. Commodity dealer defaults--remedies**

- (1) If the department finds that a commodity dealer has failed to comply with the terms of a written contract or has failed to pay for a commodity purchase under an oral agreement in the manner and within the time provided in 80-4-608, the department may petition the district court of the first judicial district, Lewis and Clark County, for an order authorizing the department to seize and take possession of:
  - (a) any agricultural commodities in the facilities owned, operated, or controlled by the commodity dealer;
  - (b) all books, papers, and property used in connection with the operation of the commodity dealer business; and
  - (c) any material that pertains in any way to that business.
- (2) If during or after an audit or at any other time the department has evidence that the commodity dealer is insolvent or is unable to satisfy the claims of all commodity dealer creditors covered by the bond, the department may petition the district court of the first judicial district, Lewis and Clark County, for the appointment of the department to operate or liquidate the business of the commodity dealer.
- (3) All necessary expenses incurred by the department in carrying out the provisions of this part may be recovered at the discretion of the department from:
  - (a) the bond;
  - (b) the assets of the licensee;
  - (c) the agricultural commodities delivered for purchase but not yet paid for; or
  - (d) in a separate civil action brought by the department in the first judicial district court.
- (4) The department is authorized to include as part of the recoverable expenses the cost of adequate liability insurance necessary to protect the department, its officers, and others engaged in carrying out the provisions of this part.

**MCA 80-4-614**

**80-4-614. Claims on bond by injured person**

A person injured by the breach of an obligation for which the bond is given may file a claim with the department. Claims will be accepted only from producers and for agricultural commodities grown in Montana.