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An Agricultural Law Research Project

## **Requirements for Grain Dealers**

### **State of Montana**

*Prompt Payment*

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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 80-4-422**

#### **80-4-422. Delayed payment or purchase contracts**

- (1) A commodity dealer who purchases agricultural commodities by purchase contract shall maintain books, records, and other documents as required by the department to establish compliance with the provisions of this section.
- (2) In addition to other required information, a purchase contract must contain or provide for all of the following:
  - (a) the seller's and purchaser's name and address;
  - (b) the conditions of delivery;
  - (c) the amount and kind of agricultural commodities delivered;
  - (d) the price per unit or basis of value;
  - (e) the date payment is to be made; and
  - (f) a notice of financial risk involved in the delayed payment contract, in a form the department shall adopt pursuant to the rulemaking authority provided in 80-4-403.
- (3) Title to all agricultural commodities sold by purchase contract is in the purchaser as of the time the agricultural commodities are delivered to and in physical control of the purchaser unless the contract provides otherwise. The contract must be signed by both parties and executed in duplicate. One copy must be retained by the commodity dealer, and one copy must be provided to the seller. Upon revocation, suspension, or termination of a commodity dealer's or warehouse operator's license, the department may advance the payment date for all delayed payment contracts to a date not later than 30 days following the effective date of the revocation, suspension, or termination. When not otherwise provided, the purchase price for all agricultural commodities must be determined as of the effective date of revocation, suspension, or termination in accordance with all other provisions of the contract. However, if the business of the commodity dealer is sold to another licensed commodity dealer, purchase contracts may be assigned to the purchasing commodity dealer.
- (4) Any contract that does not satisfy the conditions imposed by this part is considered a sale other than a purchase contract and is subject to the provisions of 80-4-608.

#### **MCA 80-4-607**

#### **80-4-607. Insufficient checks--prohibition**

No person engaged in business as a commodity dealer may draw or deliver any check, draft, or order for payment of money upon any bank for the purchase of agricultural commodities when at the time of drawing or delivery the maker or drawer does not have sufficient funds or has failed to arrange for credit with the bank or depository for payment in full upon presentation of the check, draft, or order for

payment of money. The word “credit” as used in this section means an arrangement or understanding with the bank or depository for payment of the check, draft, or order.

#### **MCA 80-4-608**

#### **80-4-608. Payment of purchase price--definitions**

(1) A person required to be licensed as a commodity dealer shall pay 90% of the purchase price to the owner or the owner's agent for agricultural commodities upon delivery and demand by the owner or agent and the remaining 10% not later than 30 days after delivery by the owner or agent unless otherwise agreed to in writing by the parties. Title to agricultural commodities sold to a commodity dealer under this section transfers to the commodity dealer upon physical delivery of the commodity.

(2) As used in this section, the following definitions apply:

(a) “Delivery” means the transfer by the seller of title to and possession of agricultural commodities to the commodity dealer or to another person in accordance with the agreement between the seller and the commodity dealer.

(b) “Payment” means the actual payment or tender of payment of the agreed purchase price by the commodity dealer to the seller.