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Requirements for Grain Dealers

State of South Carolina

Bonding

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Requirements for Grain Dealers

STATE OF SOUTH CAROLINA

Current with legislation from 2013 Reg. Sess.

Code 1976 § 46-41-60

§ 46-41-60. Bond or equivalent security required.

(1) Before any license shall be issued the applicant shall make and deliver to the commissioner a surety bond or equivalent security in the amount of twenty-five thousand dollars or an amount equal to the maximum amount of business done or estimated to be done in any month by the applicant, whichever is less, executed by a surety corporation authorized to transact business in the State or provided by equivalent security approved by the commissioner with the advice of the State Treasurer. Such bond or equivalent security shall be upon a form prescribed or approved by the commissioner and shall be conditioned to secure the faithful accounting for any payment to producers, their agents or representatives, of the proceeds of all agricultural products handled or sold by such dealer.

(2) The amount of such bond or equivalent security shall, upon the order of the commissioner at any time, be increased, if in his discretion the commissioner finds such increase to be warranted by the volume of agricultural product being handled by the principal or maker of such bond or equivalent security. In the same manner, the amount of such bond or equivalent security may be decreased when a decrease in volume of products handled warrants such decrease in bond or equivalent security. The provisions shall apply to any bond or equivalent security, regardless of the anniversary date of its issuance, expiration, or renewal.

(3) In order to effectuate the purposes of this section, the commissioner or his agents may require from any licensee verified statements of the volume of his business, and failure to furnish such statement or make and deliver a new or additional bond or equivalent security shall be cause for suspension of license. If, at a hearing after reasonable notice, the commissioner finds such failure to be wilful, the license may be revoked.

Code 1976 § 46-41-70

§ 46-41-70. Proceedings upon complaint for breach of condition of bond.

Any person claiming himself to be damaged by any breach of the conditions of a bond given by a licensed dealer in agricultural products or by any alleged injurious practice or transaction by a dealer in agricultural products may enter a complaint to the Commissioner, which complaint shall be a written statement of the facts constituting such complaint. Such complaint shall be filed within six months from the date of the last transaction between the complaining producer and the dealer complaint against. Upon filing such complaint, the Commissioner shall investigate the charges made; whereupon, if in the opinion of the Commissioner the facts contained in the complaint warrant such action, a copy of the complaint shall be forwarded by the Commissioner to such dealer who shall be called upon to answer the complaint in writing within a reasonable time to be prescribed by the Commissioner. At his

discretion the Commissioner may order a hearing before him giving the complainant and the respondent notice of the time and place of such hearing. At the conclusion of such hearing the Commissioner shall report his findings and make his order upon the matters complained of to the complainant and the respondent in each case, who shall then have fifteen days in which to make effective and satisfy the Commissioner's order. If such settlement is not effected within such time, the Commissioner or the producer may maintain a civil action against the principal and surety on the bond of the party against whom the order was directed, setting forth briefly in the complaint in such civil action the causes for which damages are complained. In any such suit, if the party who was successful before the Commissioner finally prevails, he shall be allowed court costs and a reasonable attorney's fee to be taxed and collected as a part of the cost of the suit. If the order of the Commissioner is against the producer and if the producer is not satisfied with such ruling, he may commence and maintain an action against the principal and surety on the bond of the parties complained of and the party prevailing shall be entitled to court costs and attorney's fee to be taxed and collected as a part of the suit. If the bond thus posted is insufficient to pay in full the valid claims of producers, the Commissioner shall direct that the proceeds of such bond be divided pro rata among such producers.