



# The National Agricultural Law Center

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## Requirements for Grain Dealers:

*Virginia*



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# A National Agricultural Law Center Research Publication

## Requirements for Grain Dealers: Virginia

### Fast Find:

- 1) Licensing: [VA. Code Ann. §§ 3.2-4754 to 4755; 4760 to 4761](#)
- 2) Bonding: [VA. Code Ann. §§ 3.2-4755 to 4757](#)
- 3) Auditing: [VA. Code Ann. §§ 3.2-4759; 4762](#)
- 4) Indemnity Fund:
- 5) Failure/Liquidation:
- 6) Prompt Payment:
- 7) Penalties: [VA. Code Ann. § 3.2-4763](#)
- 8) Lien:

### VA. Code Ann. Tit. 3.2, Sub-Tit. III, Ch. 47, Art. 4

*The statutes and Constitution are current through the 2023 Regular Session and 2023 Special Session I.*

#### § 3.2-4753. Definitions

As used in this article, unless the context requires a different meaning:

“Cash buyer” means any person who pays the producer, or his representative, at the time of obtaining title, possession or control of grain, the agreed price of such grain in coin or currency, certified checks, cashier’s checks, or drafts issued by a bank.

“Contract” means a binding agreement between the grain dealer and the producer that describes the terms and conditions of the delivery of grain and the purchase price.

“Deferred payment” means that the purchase price for grain delivered by the producer is fixed and specified in the contract, but payment is not received by the producer until a mutually agreed upon subsequent date.

“Full market value” means the value recognized as the average weekly price per bushel for the Commonwealth as quoted by the Department.

“Grain” means grains including corn (maize), wheat, rye, oats, barley, flaxseed, soybeans, and sunflower.

“Grain bank” means grain owned by a producer and held temporarily by the dealer for use in the formulation of feed and returned to the producer on demand as feed or whole grain.



“Grain dealer” means any person who buys, solicits for sale or resale, processes for sale or resale, contracts for storage or exchange, or transfers grain of a Virginia producer. The term shall exclude farmers or groups of farmers buying grain for consumption on their farms.

“Grain exchange” means grain owned by a producer and held temporarily by the dealer for use in the formulation of processed flour to be returned to the producer on demand as flour or whole grain.

“Loss” means any monetary loss to a producer as a result of doing business with a dealer that shall include bankruptcy, embezzlement, theft or fraud.

“Price later” means that the actual purchase price is not fixed at the time of delivery, but allows the producer to choose a bid price on any business day during a stated time period as agreed between the parties.

“Producer” means any person in Virginia who produces grain.

“Storage” or “holding” means any method by which grain owned by another is held for the owner by a person who is not the direct owner, except for transportation thereof.

### **§ 3.2-4754. License required; application for license or renewal**

A. No person shall act as a grain dealer without first having obtained a license.

B. Every grain dealer proposing to transact business within the Commonwealth shall annually on or before January 1, file a written application for a license or for the renewal of a license with the Commissioner. The application shall be on a form furnished by the Commissioner and shall contain the following information and such other relevant information as the Commissioner shall require:

1. The name and address of the applicant and that of its local agent or agents, if any, and the location of its principal place of business within the Commonwealth;
2. The kinds of grain the applicant proposes to handle; and
3. The type of grain business proposed to be conducted.

### **§ 3.2-4755. License and renewal fee; bond or irrevocable letter of credit required; exemption**

A. All applications a for license or license renewal shall be accompanied by a license fee of \$40, \$10 for each branch location and agent, and a good and sufficient bond in an amount of \$2,000 or an amount equal to the maximum amount of gross business done in any month in the Commonwealth during the preceding year by the applicant, whichever is greater, but in no event shall the amount of bond required exceed \$40,000. An irrevocable letter of credit for the full amount of required bond may be submitted in lieu of a surety bond. A person, who upon written request



shows proof satisfactory to the Commissioner that he is a cash buyer, shall be exempted from the bonding or irrevocable letter of credit requirements. The exemption shall be granted within 20 days of the receipt of the exemption request, unless the Commissioner requests the dealer to provide additional necessary information or unless the request is denied.

B. Any licensed grain dealer who fails to apply and qualify for the renewal of a license on or before the date of expiration, shall pay a penalty of \$25, which shall be added to the original license fee and shall be paid by the applicant before the renewal may be issued.

### **§ 3.2-4756. Execution, terms and form of bond or irrevocable letter of credit; action on bond or irrevocable letter of credit; investigation of complaints**

The bond shall be executed by the applicant as principal and by a surety company authorized and qualified to do business in the Commonwealth as surety. An irrevocable letter of credit may be issued on such terms as the Commissioner may require. The Commissioner shall be designated as the trustee of the bond or beneficiary of the irrevocable letter of credit, and a copy of the bond or irrevocable letter of credit shall be filed with him. The bond shall be in a form prescribed or approved by the Commissioner and shall be conditioned to secure the faithful accounting for payment to producers, agents or representatives, of all grain purchased, stored, handled or sold by the dealer. Any producer claiming to be injured by the nonpayment, fraud, deceit or negligence of any dealer may bring action upon the bond against the principal, or the surety, or both in an appropriate court. In the event the Commissioner receives written complaint from an injured producer of nonpayment, fraud, deceit or negligence of a dealer, the Commissioner may investigate such complaint and make recommendations to the surety company as to the culpability of the dealer, if any.

### **§ 3.2-4757. Duties and powers of Commissioner with respect to bonds**

The Commissioner may accept the proceeds from any bond on which he is trustee or any letter of credit on which he is beneficiary, and deposit the proceeds in the state treasury at interest in favor of the claimants. The Commissioner may institute and prosecute suits or action in the name of the Commonwealth on behalf of claimants known and approved by him in any appropriate court for any purpose in connection with the collection or distribution of the proceeds. It shall be the duty of any person having a claim against a grain dealer to notify the Commissioner of his claim. The Commissioner shall have no duty to prosecute any claim unless he has received such notice and believes the claim is valid. If the Commissioner believes the claim to be invalid, he shall notify the claimant. The claimant shall then have his remedy pursuant to § 3.2-4756. The Commissioner may appeal a decision of any court that is contrary to any distribution recommended or authorized by him.

### **§ 3.2-4758. Grain Dealers Licensing and Bonding Fund established; disposition of fees and penalties**

There is hereby created in the state treasury a special nonreverting fund to be known as the Grain Dealers Licensing and Bonding Fund, hereafter



referred to as “the Fund.” The Fund shall be established on the books of the Comptroller. All fees and penalties for renewals payable under this article shall be collected by the Commissioner and paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the sole purpose of enforcement of this article.

### **§ 3.2-4759. Records to be kept by dealers**

A. Every grain dealer in the Commonwealth shall keep such records of grain transactions for such reasonable periods of time and in accordance with good business practices as may be required by the Board.

B. Written agreements, in addition to such other information as may be required, shall contain the following:

1. The seller’s name and address;
2. The conditions of delivery;
3. The amount and kind of grain delivered;
4. The price per bushel or basis of value; and
5. The date payment is to be made.

### **§ 3.2-4760. Grounds for refusal or revocation of license**

The Commissioner may refuse to grant or renew any license, or revoke any license if he finds that the grain dealer:

1. Has not satisfied a final money judgment entered against him;
2. Has failed to promptly and properly account and pay for in full within 10 calendar days of the receipt of the grain from the producer, unless a written agreement signed by both parties expressly provides or permits otherwise. The prompt and proper accounting of and payment for grain shall include the following:

a. Any grain dealer who purchases grain from a producer shall deliver to the producer or his duly authorized representative the full amount of the purchase price, within the time specified in this subdivision. Payment shall occur either by transferring a check in the full amount to the producer or his authorized agent at the point of transfer of possession, wiring transfer funds to the producer’s account for the full purchase price, or by depositing a check in the United States mail for the full amount properly addressed to the producer and in an envelope postmarked within the time specified in this section.

b. Any grain dealer who sells grain deposited in his grain storage facility by a producer shall promptly notify the producer or his



duly authorized representative of the sale, and shall deliver to the producer or his authorized representative the full amount of the purchase price within the time specified in this subdivision. The time limit may be extended for good cause and with the written consent of the depositor. Nonpayment by the purchaser shall not constitute “good cause” under this section.

c. Any grain dealer who enters into a deferred payment, price later, or contract transaction with a producer shall have the transaction in writing and signed by both parties and shall deliver a copy of the transaction to the producer or his duly authorized representative. Upon conclusion of the written agreement transaction, the dealer shall deliver to the producer or his authorized representative the full amount of the purchase price within the time specified in this subdivision;

3. Has failed to maintain business records of his grain transactions as required;
4. Has failed to post current discounts where they can readily be reviewed by the producer or his representative;
5. Upon the request of the producer or his representative, has failed to notify the producer or his representative at the time of delivery of all discounts and deductions applied;
6. Has failed to file annually with the Commissioner the discount schedules for each grain purchased, including the effective date of the purchase, or has failed to make available upon request of the Commissioner during normal business hours any changes in the discount schedules that have been filed;
7. Has engaged in fraudulent or deceptive practices in the transaction of his business as a dealer;
8. Has failed to state on producers receipts the type of grain transactions that shall include storage, grain bank, grain exchange, price later, deferred payment, and contract;
9. Has failed to maintain a bond or letter of credit as required; or
10. Has violated any regulation adopted by the Board.

### **§ 3.2-4761. Procedure for refusal or revocation of license; notice of hearing**

Before the Commissioner refuses or revokes a license, he shall give 10 days’ notice by registered mail to the applicant or licensee of the time and place of hearing. The applicant or licensee may appear at the hearing in person, or with counsel and produce witnesses. If the Commissioner finds the applicant or licensee in violation of any act provided in § 3.2-4760, he may refuse, suspend, or revoke the license and shall give immediate notice of his action to the applicant or licensee.



### **§ 3.2-4762. Commissioner's authority to investigate**

The Commissioner may conduct investigations relative to the complaint or matter being investigated, and he shall have free and unimpeded access during normal business hours to all buildings, yards, warehouses, storage and transportation facilities in which grain is kept, stored, handled, or transported, or where records of grain transactions are kept.

### **§ 3.2-4763. Violation a misdemeanor; illegal acts relating to issuance of receipts or removal of grain under storage, exchange or grain bank a felony**

A. Any person who violates any of the provisions of this article or the regulations adopted by the Board is guilty of a Class 1 misdemeanor.

B. Any grain dealer or employee or manager for a grain dealer who: (i) issues any storage, grain exchange or grain banking receipts for any grains that are not in a storage facility at the time of issuing such receipt; (ii) issues any grain receipt, including a scale ticket, that is in any respect fraudulent in its character, either as to its date or to the quantity, quality or inspected grade of such grain; or (iii) removes any grain from a storage facility, except to preserve the grain from fire or other damage or to move from storage to another facility operated by the grain dealer and licensed by the grain dealer, without the permission of the producer or his agent is guilty of a Class 6 felony.

