

203.3 License required — financial responsibility.

1. A person shall not engage in the business of a grain dealer in this state without having obtained a license issued by the department.

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the grain dealer purchases any grain by credit-sale contract, or if the value of grain purchased by the grain dealer from producers during the grain dealer's previous fiscal year exceeds five hundred thousand dollars. Any other grain dealer may elect to be licensed as a class 1 grain dealer.

b. A class 2 license is required for any grain dealer not holding a class 1 license. A class 2 licensee whose purchases from producers during a fiscal year exceed a limit of five hundred thousand dollars in value shall file within thirty days of the date the limit is reached a complete application for a class 1 license. If a class 1 license is denied, the person immediately shall cease doing business as a grain dealer.

3. An application for a license to engage in business as a grain dealer shall be filed with the department and shall be in a form prescribed by the department. The application shall include the name of the applicant, its principal officers if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which records are maintained for transactions of the grain dealer. The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a written request filed with the department, the department or a designated employee may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least seventy-five thousand dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than thirty-seven thousand five hundred dollars.

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer, except as provided in section 203.15, may elect to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this subsection.

c. A grain dealer shall submit a report to the department according to procedures required by the department, if the grain dealer provides a bond based in part on the number of bushels of unpaid grain purchased by the grain dealer, as provided in rules adopted by the department, in order to satisfy the current assets to current liabilities ratio requirement of this section. The report shall contain information required by the department, including the number of bushels of unpaid grain purchased by the grain dealer. The grain dealer shall submit the report not

more than once each month. However, the department may require that a grain dealer submit a report on a more frequent basis, if the department has good cause.

d. The grain dealer shall have and maintain current assets equal to at least one hundred percent of current liabilities or provide a bond under the following conditions:

(1) A grain dealer with current assets equal to at least fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. After the amount of the bond equals one million dollars, the grain dealer may elect to base the remainder of the amount of the bond on the number of bushels of unpaid grain being purchased by the grain dealer, as provided for by rules which shall be adopted by the department. The remaining amount shall equal two thousand dollars for each one thousand dollars of the highest amount of bushels of unpaid grain purchased by the grain dealer during each month.

(2) A grain dealer with current assets equal to less than fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than thirty consecutive days in a twelve-month period.

5. In order to receive and retain a class 2 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least thirty-seven thousand five hundred dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than seventeen thousand five hundred dollars.

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this section.

c. A grain dealer shall submit a report to the department according to procedures required by the department, if the grain dealer provides a bond based in part on the number of bushels of unpaid grain purchased by the grain dealer, as provided in rules adopted by the department, in order to satisfy the current assets to current liabilities ratio requirement of this section. The report shall contain information required by the department, including the number of bushels of unpaid grain purchased by the grain dealer. The grain dealer shall submit the report not more than once each month. However, the department may require that a grain dealer submit a report on a more frequent basis, if the department has good cause.

d. The grain dealer shall have and maintain current assets equal to at least one hundred percent of current liabilities or provide a bond under the following conditions:

(1) A grain dealer with current assets equal to at least fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. After the amount of the bond equals one million dollars, the grain dealer may elect to base the remainder of the amount of the bond on the number of bushels of unpaid grain being purchased by the grain dealer, as provided for by rules which shall be adopted

by the department. The remaining amount shall equal two thousand dollars for each one thousand dollars of the highest amount of bushels of unpaid grain purchased by the grain dealer during each month.

(2) A grain dealer with current assets equal to less than fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than thirty consecutive days in a twelve-month period.

6. The department shall adopt rules relating to the form and time of filing of financial statements. The department may require additional information or verification with respect to the financial resources of the applicant and the applicant's ability to pay producers for grain purchased from them.

7. *a.* When the net worth or current ratio of a licensee in good standing is less than that required by this section, the grain dealer shall correct the deficiency or file a deficiency bond or an irrevocable letter of credit within thirty days of written notice by the department. Unless the deficiency is corrected or the deficiency bond or irrevocable letter of credit is filed within thirty days, the grain dealer license shall be suspended.

b. If the department finds that the welfare of grain producers requires emergency action, and incorporates a finding to that effect in its order, immediate suspension of a license may be ordered notwithstanding the thirty-day period otherwise allowed by paragraph "a".

8. A deficiency bond or irrevocable letter of credit filed with the department pursuant to this section shall not be canceled by the issuer on less than ninety days' notice by certified mail to the secretary of agriculture and the principal.

[C75, 77, 79, 81, §542.3; 81 Acts, ch 180, §4; 82 Acts, ch 1093, §1]

83 Acts, ch 18, §1; 83 Acts, ch 54, §1; 83 Acts, ch 175, §1, 2; 84 Acts, ch 1224, §1; 85 Acts, ch 234, §1, 2; 86 Acts, ch 1152, §3, 4; 87 Acts, ch 147, §2, 3; 89 Acts, ch 143, §201, 202, 301, 302, 401, 402; 92 Acts, ch 1239, §56, 57

C93, §203.3

94 Acts, ch 1086, §1 – 4; 2008 Acts, ch 1083, §3, 4

Referred to in §203.2A, 203.4, 203.6, 203.8, 203.9, 203.11, 203.11B, 203.12B, 203.15, 203D.1