

CHAPTER 223

COMMISSION MERCHANTS

223.15 Citation.
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NOTE: For penalties for violation of the provisions of this chapter, see section 235.13.

- 223.01 [Repealed, 1982 c 635 s 9]
- 223.02 [Repealed, 1982 c 635 s 9]
- 223.03 [Repealed, 1982 c 635 s 9]
- 223.04 [Repealed, 1982 c 635 s 9]
- 223.05 [Repealed, 1982 c 635 s 9]
- 223.06 [Repealed, 1981 c 90 s 5]
- 223.07 [Repealed, 1982 c 635 s 9]
- 223.08 [Repealed, 1982 c 635 s 9]
- 223.09 [Repealed, 1982 c 635 s 9]
- 223.10 [Repealed, 1982 c 635 s 9]
- 223.11 [Repealed, 1982 c 635 s 9]
- 223.12 [Repealed, 1981 c 90 s 5]

223.15 CITATION.

Sections 223.15 to 223.19 may be cited as the grain buyers act.

History: 1982 c 635 s 2

NOTE: This section is repealed by Laws 1982, Chapter 635, Section 9 effective July 1, 1983.

223.16 DEFINITIONS.

Subdivision 1. **Applicability.** For the purpose of sections 223.15 to 223.19 the terms defined in this section have the meanings given them.

Subd. 2. **Bond.** "Bond" means an obligation acceptable to and running to the state, as obligee, for the purpose of indemnifying producers of grain against the breach of a contract by a grain buyer.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's designee.

Subd. 4. **Grain.** "Grain" means any cereal grain, coarse grain or oilseed in unprocessed form for which a standard has been established by the United States secretary of agriculture or the Minnesota board of grain standards.

Subd. 5. **Grain buyer.** "Grain buyer" means a person who purchases grain from a producer with the exception of a person who purchases seed grain for crop production or who purchases grain as feed for the person's own livestock.

Subd. 6. **Grain warehouse.** "Grain warehouse" means an elevator, flour, cereal or feed mill, malthouse or warehouse in which grain belonging to a person other than the warehouse operator is received for purchase or storage.

Subd. 7. **Itinerant grain buyer.** "Itinerant grain buyer" means a person who travels from place to place to purchase grain for resale using a truck, semitrailer or trailer owned or operated by that person.

Subd. 8. **Nonwarehouse grain buyer.** "Nonwarehouse grain buyer" means a person without a private or public grain warehouse license who is licensed to engage in the business of purchasing grain for resale, excluding an itinerant grain

buyer. A nonwarehouse grain buyer need not use his own vehicles to transport the purchased grain.

Subd. 9. **Person.** "Person" means a corporation, company, joint stock company or association, partnership, firm or individual and includes their agents, trustees, assignees or duly appointed receivers.

Subd. 10. **Private grain warehouse operator.** "Private grain warehouse operator" means a person licensed to operate a grain warehouse for the sole purpose of purchasing, handling, processing and shipping grain or its byproducts who is not licensed by the commissioner to accept grain belonging to others for storage. "Private grain warehouse operator" includes any person licensed under the United States Warehouse Act, Title 7, United States Code, Chapter 10.

Subd. 11. **Producer.** "Producer" means a person who owns or manages a grain producing or growing operation and holds or shares the responsibility for marketing the grain produced.

Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator" means a person operating a grain warehouse in which grain belonging to persons other than the grain warehouse operator is accepted for storage or purchase or who offers grain storage or warehouse facilities to the public for hire.

Subd. 13. **Semitrailer.** "Semitrailer" means a vehicle described in section 168.011, subdivision 14, used to haul grain.

Subd. 14. **Trailer.** "Trailer" means a vehicle described in section 168.011, subdivision 13, used to haul grain.

Subd. 15. **Truck.** "Truck" means a single unit vehicle described in section 168.011, subdivision 10, used to haul grain.

History: 1982 c 635 s 3

NOTE: This section is repealed by Laws 1982, Chapter 635, Section 9 effective July 1, 1983.

223.17 LICENSES; BONDING; CLAIMS; DISBURSEMENTS.

Subdivision 1. **Licenses.** An application for a grain buyer's license must be filed with the commissioner and the license issued before any grain may be purchased. The types of grain buyers' licenses are:

- (a) private grain warehouse operator's license;
- (b) public grain warehouse operator's license;
- (c) nonwarehouse grain buyer's license; and
- (d) itinerant grain buyer's license.

Public grain warehouse operators' licenses cover both grain buying and grain storage. The applicant for a grain buyer's license shall identify all grain buying locations owned or controlled by the grain buyer and all vehicles owned or controlled by the grain buyer used to transport purchased grain.

Subd. 2. **License renewal.** A license must be renewed annually. If a person receives more than one license from the commissioner, the licenses shall be issued at the same time, but only after all conditions for each license are met. Multiple licenses should be combined into one license if possible.

Subd. 3. **Grain buyers and storage fund; fees.** The commissioner shall set the fees for inspections and licenses under sections 223.15 to 223.19 at levels necessary to pay the expenses of administering and enforcing sections 223.15 to 223.19.

There is created in the state treasury the grain buyers and storage fund. Money collected pursuant to sections 223.15 to 223.19 shall be paid into the state treasury and credited to the grain buyers and storage fund and is appropriated to the commissioner for the administration and enforcement of sections 223.15 to 223.19.

Subd. 4. **Bond.** Before a license is issued, the applicant for a grain buyers license shall file with the commissioner a bond in a penal sum prescribed by the commissioner but not more than the following amounts:

(a) \$10,000 for each private or public grain warehouse up to a maximum of five grain warehouses;

(b) \$10,000 for each semitrailer used by an itinerant grain buyer up to a maximum of five semitrailers;

(c) \$5,000 for each truck used by an itinerant grain buyer up to a maximum of five trucks;

(d) \$5,000 for each trailer used by an itinerant grain buyer up to a maximum of five trailers; and

(e) \$50,000 for each nonwarehouse grain buyer.

In lieu of the bond required by this subdivision the applicant may deposit with the state treasurer cash, a certified check, a cashier's check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit, in the same amount as would be required for a bond.

Subd. 5. **Voluntary extension of credit.** Upon demand by a seller of grain, a grain buyer shall pay 90 percent of the estimated or actual value of grain purchased at the time the physical possession of the grain is conveyed from the seller to the grain buyer. The grain buyer shall complete final settlement as rapidly as possible through ordinary diligence. Any transaction wherein this demand is not exercised constitutes a voluntary extension of credit and is not afforded protection under the grain buyer's bond.

Subd. 6. **Confidential statements required.** For the purpose of fixing or changing the amount of a required bond or for any other proper reason, the commissioner shall require financial statements from a licensee. If the licensee fails to furnish financial statements or to furnish any new bond required, the commissioner may immediately suspend the license and the licensee shall surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to chapter 14 to determine whether the license should be revoked. If no request is made within 15 days, the commissioner shall revoke the license. All financial statements submitted to the commissioner are confidential.

Subd. 7. **Bond claims.** A producer claiming to be damaged by a breach of the conditions of a bond of a licensed grain buyer may file a written claim with the commissioner. The claim must state the facts constituting the claim. The claim must be filed with the commissioner within 180 days of the breach of the conditions of the bond: If the commissioner believes that a claim is valid, the commissioner may immediately suspend the license, in which case the licensee shall surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to chapter 14 to determine whether the license should be revoked. If no request is made within 15 days, the commissioner shall revoke the license.

Subd. 8. **Bond disbursement.** (a) The bond shall provide for payment of loss caused by the grain buyer's failure to pay, upon the owner's demand, the purchase price of grain sold to the grain buyer. The bond shall be conditioned upon the grain buyer being duly licensed as provided herein. The bond shall not cover any transaction which constitutes a voluntary extension of credit.

(b) Upon notification of default, the commissioner shall determine the validity of all claims and notify all parties having filed claims. An aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding. In the absence of such a

request, or following the issuance of a final order in a contested case, the surety company shall issue payment to those claimants entitled to payment. When the commissioner determines it necessary, the commissioner may apply to the district court for an order appointing a trustee or receiver to manage and supervise the operations of the grain buyer in default. The commissioner may participate in any resulting court proceeding as an interested party.

(c) If a grain buyer has become liable to more than one producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all producers entitled to the protection of the bond, the proceeds of the bond shall be apportioned among the bona fide claimants.

(d) The bond shall not be cumulative from one licensing period to the next. The maximum liability of the bond shall be its face value for the licensing period.

History: 1982 c 424 s 130; 1982 c 635 s 4

NOTE: This section is repealed by Laws 1982, Chapter 635, Section 9 effective July 1, 1983.

223.18 PENALTY.

A person buying grain without first obtaining a grain buyer's license is guilty of a misdemeanor. Each day of operation without a grain buyer's license constitutes a separate offense.

History: 1982 c 635 s 5

NOTE: This section is repealed by Laws 1982, Chapter 635, Section 9 effective July 1, 1983.

223.19 RULES.

The commissioner may promulgate rules to carry out the provisions of sections 223.15 to 223.19.

History: 1982 c 635 s 6

NOTE: This section is repealed by Laws 1982, Chapter 635, Section 9 effective July 1, 1983.