

232.22 LICENSES, BONDING CLAIMS, DISBURSEMENTS.

Subdivision 1. **Licenses.** An application for a public grain warehouse operator's license must be filed with the commissioner and the license issued before the purchase or storage of grain may be commenced. All grain warehouses located within the same home rule charter or statutory city or town and owned and operated by the same person may be covered by a single license.

Subd. 2. **Renewal.** A license must be renewed annually. If a business 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. The licenses may be combined into one joint license.

Subd. 3. **Fees; grain buyers and storage account.** (a) There is created in the agricultural fund an account known as the grain buyers and storage account. The commissioner shall set the fees for examinations, certifications, and licenses under sections 232.20 to 232.24 at levels necessary to pay the costs of administering and enforcing sections 232.20 to 232.24. All money collected pursuant to sections 232.20 to 232.24 shall be paid by the commissioner into the state treasury and credited to the grain buyers and storage account. Money in the account, including interest, is appropriated to the commissioner for the administration and enforcement of sections 232.20 to 232.24.

(b) All money collected pursuant to chapter 231 shall be paid by the commissioner into the grain buyers and storage account. Money in the account is appropriated to the commissioner for the administration and enforcement of chapter 231.

(c) The fees for a license to store grain are as follows:

(1) for a license to store grain, \$110 for each home rule charter or statutory city or town in which a public grain warehouse is operated;

(2) in addition to the license fee required under clause (1), a person with a license to store grain in a public grain warehouse is subject to an examination fee for each licensed location, as follows:

| Bushel Capacity | Examination Fee |
|------------------------|-----------------|
| Less than 150,001 | \$ 300 |
| 150,001 to 250,000 | \$ 425 |
| 250,001 to 500,000 | \$ 545 |
| 500,001 to 750,000 | \$ 700 |
| 750,001 to 1,000,000 | \$ 865 |
| 1,000,001 to 1,200,000 | \$ 1,040 |
| 1,200,001 to 1,500,000 | \$ 1,205 |
| 1,500,001 to 2,000,000 | \$ 1,380 |
| More than 2,000,000 | \$ 1,555 |

(3) the fee for supplemental examinations required by the commissioner under section 232.24 is \$55 per hour per examiner.

(d) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

Subd. 4. **Bonding.** (a) Before a license is issued, except as provided under paragraph (c), the applicant for a public grain warehouse operator's license shall file with the commissioner a bond in a penal sum prescribed by the commissioner based on the annual average storage liability as stated on the statement of grain in storage report or on the gross annual grain purchase report, whichever is greater, and applying the following amounts:

- (1) \$10,000 for storages with annual average storage liability of more than \$0 but not more than \$25,000;
- (2) \$20,000 for storages with annual average storage liability of more than \$25,001 but not more than \$50,000;
- (3) \$30,000 for storages with annual average storage liability of more than \$50,001 but not more than \$75,000;
- (4) \$50,000 for storages with annual average storage liability of more than \$75,001 but not more than \$100,000;
- (5) \$75,000 for storages with annual average storage liability of more than \$100,001 but not more than \$200,000;
- (6) \$125,000 for storages with annual average storage liability of more than \$200,001 but not more than \$300,000;
- (7) \$175,000 for storages with annual average storage liability of more than \$300,001 but not more than \$400,000;
- (8) \$225,000 for storages with annual average storage liability of more than \$400,001 but not more than \$500,000;
- (9) \$275,000 for storages with annual average storage liability of more than \$500,001 but not more than \$600,000;
- (10) \$325,000 for storages with annual average storage liability of more than \$600,001 but not more than \$700,000;
- (11) \$375,000 for storages with annual average storage liability of more than \$700,001 but not more than \$800,000;
- (12) \$425,000 for storages with annual average storage liability of more than \$800,001 but not more than \$900,000;
- (13) \$475,000 for storages with annual average storage liability of more than \$900,001 but not more than \$1,000,000; and
- (14) \$500,000 for storages with annual average storage liability of more than \$1,000,000.

(b) Bonds must be continuous until canceled. To cancel a bond, a surety must provide 90 days' written notice of the bond's termination date to the licensee and the commissioner.

(c) In lieu of the bond required by this subdivision, the applicant may deposit with the commissioner of management and budget an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

Subd. 5. **Statement of grain in storage; reports.** (a) All public grain warehouse operators must by February 15 of each year file with the commissioner on a form approved by the commissioner a report showing the annual average liability of all grain outstanding on grain warehouse receipts, open storage, and grain stored for feed processing that occurred during the preceding calendar year. This report shall be used for the purpose of establishing the penal sum of the bond.

(b) Warehouse operators that are at a maximum bond and want to continue at maximum bond do not need to file this report.

(c) It is a violation of this chapter for any public grain warehouse operator to fail to file the report required in paragraph (a).

(d) Every public grain warehouse operator shall keep in a place of safety complete and accurate records and accounts relating to any grain warehouse operated. The records shall reflect each commodity received and shipped daily, the balance remaining in the grain warehouse at the close of each business day, a listing of all unissued grain warehouse receipts in the operator's possession, a record of all grain warehouse receipts issued which remain outstanding and a record of all grain warehouse receipts which have been returned for cancellation. Copies of grain warehouse receipts or other documents evidencing ownership of grain by a depositor, or other liability of the grain warehouse operator, shall be retained as long as the liability exists but must be kept for a minimum of three years.

(e) Every public grain warehouse operator must maintain in the grain warehouse at all times grain of proper grade and sufficient quantity to meet delivery obligations on all outstanding grain warehouse receipts.

Subd. 6. **Bond claims.** A person claiming to be damaged by a breach of the conditions of a bond of a licensed public grain warehouse operator may file a written claim with the commissioner stating 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 has reason to believe that a claim is valid, the commissioner may immediately suspend the license of the public grain warehouse operator and the licensee must 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. 6a. **Bond determinations.** If a public grain warehouse operator is licensed under both this chapter and chapter 223, the warehouse shall have its bond determined by its gross annual grain purchase amount or its annual average grain storage value, whichever is greater. For those entities licensed under this chapter and chapter 223, the entire bond shall be available to any claims against the bond for claims filed under this chapter and chapter 223.

Subd. 7. **Bond disbursement.** (a) The bond of a public grain warehouse operator must be conditioned that the public grain warehouse operator issuing a grain warehouse receipt is liable to the depositor for the delivery of the kind, grade and net quantity of grain called for by the receipt.

(b) Upon notification of default, the commissioner shall determine the validity of all claims and notify all parties having filed claims. Any 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. If the commissioner determines it is 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 warehouse operator in default. The commissioner may participate in any resulting court proceeding as an interested party.

(c) For the purpose of determining the amount of bond disbursement against all valid claims under a condition one bond, all grain owned or stored in the public grain warehouse shall be sold and the combined proceeds deposited in a special fund. Payment shall be made from the special fund satisfying the valid claims of grain warehouse receipt holders.

(d) If a public grain warehouse operator has become liable to more than one depositor or producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay, beyond the proceeds of the special fund, the entire liability to all valid claimants, the proceeds of the bond and special fund shall be apportioned among the valid claimants on a pro rata basis.

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

(f) The bond disbursement shall occur 200 days from the date the commissioner publishes a public notice of a claim. At the end of this time period, the commissioner shall initiate bond payments on all valid claims received by the department.

History: 1982 c 424 s 130; 1982 c 508 s 3; 1983 c 300 s 27; 1983 c 374 s 16,17,20; 1999 c 231 s 171; 1Sp2005 c 1 art 1 s 87; 2012 c 244 art 1 s 59-62; 2013 c 114 art 2 s 55; 2015 c 44 s 30; 2017 c 88 art 2 s 75; 1Sp2019 c 1 art 4 s 15,16