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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1304

02/06/2023 Authored by Nelson, N.; Anderson, P. H.; Daniels; Jacob; Burkel and others
The bill was read for the first time and referred to the Committee on Agriculture Finance and Policy

1.1 A bill for an act
1.2 relating to agriculture; modifying bond and financial statement exemptions for
1.3 licensed grain buyers; amending Minnesota Statutes 2022, section 223.17,
1.4 subdivisions 4, 6.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 223.17, subdivision 4, is amended to read:

1.7 Subd. 4. Bond. (a) Except as provided in paragraphs (c) to (e), before a grain buyer's
1.8 license is issued, the applicant for the license must file with the commissioner a bond in a
1.9 penal sum prescribed by the commissioner but not less than the following amounts:

1.10 (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;

1.11 (2) \$20,000 for grain buyers whose gross annual purchases are more than \$100,000 but
1.12 not more than \$750,000;

1.13 (3) \$30,000 for grain buyers whose gross annual purchases are more than \$750,000 but
1.14 not more than \$1,500,000;

1.15 (4) \$40,000 for grain buyers whose gross annual purchases are more than \$1,500,000
1.16 but not more than \$3,000,000;

1.17 (5) \$50,000 for grain buyers whose gross annual purchases are more than \$3,000,000
1.18 but not more than \$6,000,000;

1.19 (6) \$70,000 for grain buyers whose gross annual purchases are more than \$6,000,000
1.20 but not more than \$12,000,000;

2.1 (7) \$125,000 for grain buyers whose gross annual purchases are more than \$12,000,000
2.2 but not more than \$24,000,000; and

2.3 (8) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

2.4 (b) The amount of the bond shall be based on the most recent gross annual grain purchase
2.5 report of the grain buyer.

2.6 (c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with the
2.7 commissioner. This bond shall remain in effect for the first year of the license. Thereafter,
2.8 the licensee shall comply with the applicable bonding requirements contained in paragraph
2.9 (a), clauses (1) to (8).

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

2.13 (e) A grain buyer who purchases grain immediately upon delivery solely with cash; a
2.14 check; a certified check; a cashier's check; or a postal, bank, or express money order is
2.15 exempt from this subdivision if the grain buyer's gross annual purchases are \$1,000,000 or
2.16 less.

2.17 (f) Bonds must be continuous until canceled. To cancel a bond, a surety must provide
2.18 90 days' written notice of the bond's termination date to the licensee and the commissioner.

2.19 Sec. 2. Minnesota Statutes 2022, section 223.17, subdivision 6, is amended to read:

2.20 Subd. 6. **Financial statements.** (a) Except as allowed in paragraph (c), a grain buyer
2.21 licensed under this chapter must annually submit to the commissioner a financial statement
2.22 prepared in accordance with generally accepted accounting principles. The annual financial
2.23 statement required under this subdivision must also:

2.24 (1) include, but not be limited to the following:

2.25 (i) a balance sheet;

2.26 (ii) a statement of income (profit and loss);

2.27 (iii) a statement of retained earnings;

2.28 (iv) a statement of changes in financial position; and

2.29 (v) a statement of the dollar amount of grain purchased in the previous fiscal year of the
2.30 grain buyer;

3.1 (2) be accompanied by a compilation report of the financial statement that is prepared
3.2 by a grain commission firm or a management firm approved by the commissioner or by an
3.3 independent public accountant, in accordance with standards established by the American
3.4 Institute of Certified Public Accountants;

3.5 (3) be accompanied by a certification by the chief executive officer or the chief executive
3.6 officer's designee of the licensee, and where applicable, all members of the governing board
3.7 of directors under penalty of perjury, that the financial statement accurately reflects the
3.8 financial condition of the licensee for the period specified in the statement;

3.9 (4) for grain buyers purchasing under \$7,500,000 of grain annually, be reviewed by a
3.10 certified public accountant in accordance with standards established by the American Institute
3.11 of Certified Public Accountants, and must show that the financial statements are free from
3.12 material misstatements; and

3.13 (5) for grain buyers purchasing \$7,500,000 or more of grain annually, be audited by a
3.14 certified public accountant in accordance with standards established by the American Institute
3.15 of Certified Public Accountants and must include an opinion statement from the certified
3.16 public accountant.

3.17 (b) Only one financial statement must be filed for a chain of warehouses owned or
3.18 operated as a single business entity, unless otherwise required by the commissioner. All
3.19 financial statements filed with the commissioner are private or nonpublic data as provided
3.20 in section 13.02.

3.21 (c) A grain buyer who purchases grain immediately upon delivery solely with cash; a
3.22 check; a certified check; a cashier's check; or a postal, bank, or express money order is
3.23 exempt from this subdivision if the grain buyer's gross annual purchases are \$1,000,000 or
3.24 less.

3.25 (d) The commissioner shall annually provide information on a person's fiduciary duties
3.26 to each licensee. To the extent practicable, the commissioner must direct each licensee to
3.27 provide this information to all persons required to certify the licensee's financial statement
3.28 under paragraph (a), clause (3).