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Commodity Dealer Bond Change.doc

*** Bill No. ***

Introduced By *****

By Request of the (Agency or Department)

A Bill for an Act entitled: "An Act Allowing the Option for Full Bonding of Commodities Purchased, Amending 80-4-601"

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-4-601, MCA, is amended to read:

"80-4-601. Commodity dealer license requirements -- financial responsibility. (1) A person may not engage in the business of a commodity dealer in this state without first having obtained a license issued by the department.

(2) An application for a license to engage in business as a commodity dealer must be filed with the department and must be on a form prescribed by the department.

(3) A license application must include the following:

(a) the name of the applicant;

(b) the names of the officers and directors if the applicant is a corporation;

(c) the names of the partners if the applicant is a partnership;

(d) the location of the principal places of business;

(e) a sufficient and valid bond as specified in 80-4-604;

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(f) the number and description of trucks or tractor-trailer units owned or leased by the applicant that will be used in the transportation of agricultural commodities purchased pursuant to the provisions of this part;

(g) a complete financial statement prepared by a licensed accountant according to generally accepted accounting principles, setting forth the applicant's assets, liabilities, and net worth. The commodity dealer shall have and maintain current assets equal to or greater than current liabilities. Applicants not having adequate current assets equal to or greater than current liabilities may provide the department with additional bonding, or an equivalent in the form of a certificate of deposit or irrevocable letter of credit, in the amount of \$2,000 for each \$1,000 of deficit. The bond or equivalent must be in addition to the bond amount required in 80-4-604.

(h) any other reasonable information the department finds necessary to carry out the provisions and purpose of this part.

(4) (a) In order to receive and retain a commodity dealer's license, a commodity dealer shall have and maintain net assets of at least \$50,000 or maintain a bond in the amount of \$2,000 for each \$1,000 or fraction thereof of net assets deficiency. However, a minimum of \$10,000 net assets is required by a commodity dealer to qualify for a license. Assets must be shown at original cost less depreciation, except that upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal. In determining total net assets,

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credit may be given for insurable property, such as buildings, machinery, equipment, and merchandise inventory, only to the extent that such property is protected by insurance against loss or damage by fire. The insurance must be in the form of lawful policies issued by one or more insurance companies authorized to do business and subject to service of process in suits brought in this state. A bond submitted for purposes of this subsection is in addition to any bond otherwise required under this part.

(b) Alternatively, a company may deficiency bond in an amount equal to 110% of the amount they intend to purchase. If at anytime they have unpaid contracts for over 90% of their bond they must increase their bond amount to make the unpaid contracts fall below 90% of bonding level.

(5) The department shall adopt rules relating to the form and time of filing of financial statements. The department may require additional information or verification regarding the financial resources of the applicant and the applicant's ability to pay producers for agricultural commodities purchased from them."

{*Internal References to 80-4-601: None* }

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