

## CHAPTER 69-07-02 LICENSING

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### **69-07-02-01. License application.**

An application for a license must be submitted on a form provided by the commission. Every business organization or sole proprietor using a trade name other than its given name must be registered and in good standing with the secretary of state. The application must be complete and must include:

1. The required license fee.
2. A surety bond, which must be countersigned by an authorized resident agent unless the bonding company is based in a state having reciprocity with North Dakota.
3. A copy of any receipt or credit-sale contract to be used by the licensee.
4. Certificate of continuous insurance in the required amount.
5. Partnerships applicants shall file a copy of their partnership agreement if the partnership is not registered with the secretary of state.

**History:** Amended effective May 1, 1984; February 1, 1991; August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-07, 60-02.1-07

### **69-07-02-02. Grain warehouse - Bonds.**

A licensee's required minimum bond is determined by the licensee's total physical capacity licensed in the state, the length of time the license has been licensed, the licensee's annual grain purchase volume, and the licensee's scale ticket conversion policy. A licensee's required minimum bond may not be less than \$50,000.

1. If no special circumstances described in this section applies, the required bond is based on capacity and years licensed.

a.

	< 7 years	≥ 7 years
Capacity to 100,000 bushels	\$65,000	\$50,000
From 100,001 bushels through 125,000 bushels	\$81,250	\$62,500
From 125,001 bushels through 150,000 bushels	\$97,500	\$75,000
From 150,001 bushels through 175,000 bushels	\$113,750	\$87,500
From 175,001 bushels through 200,000 bushels	\$130,000	\$100,000

From 200,001 bushels through 225,000 bushels	\$146,250	\$112,500
From 225,001 bushels through 250,000 bushels	\$162,500	\$125,000
From 250,001 bushels through 275,000 bushels	\$178,750	\$137,500
From 275,001 bushels through 300,000 bushels	\$195,000	\$150,000
From 300,001 bushels through 325,000 bushels	\$211,250	\$162,500
From 325,001 bushels through 350,000 bushels	\$227,500	\$175,000
From 350,001 bushels through 375,000 bushels	\$243,750	\$187,500
From 375,001 bushels through 400,000 bushels	\$260,000	\$200,000
From 400,001 bushels through 425,000 bushels	\$276,250	\$212,500
From 425,001 bushels through 450,000 bushels	\$292,500	\$225,000
From 450,001 bushels through 475,000 bushels	\$308,750	\$237,500
From 475,001 bushels through 500,000 bushels	\$325,000	\$250,000

- b. If a licensee's total capacity is more than five hundred thousand bushels, additional bond is required. The additional required bond is six thousand five hundred dollars for each twenty-five thousand bushels of capacity or fraction of twenty-five thousand bushels of capacity over five hundred thousand bushels, if licensed less than seven years, and five thousand dollars for each twenty-five thousand bushels of capacity or fraction of twenty-five thousand bushels of capacity over five hundred thousand bushels, if licensed seven years or more.
2. If the total annual grain purchase volume of a licensee is more than seven times the licensee's bonded capacity, additional bond coverage is required. The additional required bond is five thousand dollars for each twenty-five thousand bushels or fraction of twenty-five thousand bushels by which the licensee's total annual purchase volume exceeds seven times the licensee's bonded capacity. The application of this section to a new licensee will be based upon the licensee's projected annual grain purchase volume.
3. A required bond may be reduced based on a licensee's conversion policy. The required bond is reduced by thirty percent for a licensee that establishes and follows a conversion policy approved by the public service commission of ten days or less, and by fifteen percent for a licensee that establishes and follows a conversion policy approved by the public service commission of eleven to twenty-one days. A reduction under this subsection cannot be used to reduce a required minimum bond to an amount less than fifty thousand dollars.
4. Except as provided in subsection 5, the bond of a warehouseman may not exceed two million dollars.
5. The commission may require an increase in the amount of any bond when necessary to accomplish the purposes of North Dakota Century Code chapter 60-02.

**History:** Amended effective May 1, 1984; August 1, 1999; July 1, 2015.

**General Authority:** NDCC 60-02-03

**Law Implemented:** NDCC 60-02-02, 60-02-07, 60-02-09

#### **69-07-02-02.1. Grain buyer - Bonds.**

A licensee's required minimum bond is determined by the volume of grain the licensee purchases annually in the state.

1. As used in subsection 2 "grain purchase volume" means:
  - a. A three-year rolling average of total annual grain purchase volume for a licensee licensed more than three years.
  - b. An actual three-year average of total annual grain purchase volume for a licensee licensed three years.
  - c. An actual two-year average of total annual grain purchase volume for a licensee licensed two years.
  - d. Total annual grain purchase volume for a licensee licensed one year.
  - e. The licensee's projected annual grain purchase volume for a new licensee.
2. The required minimum bond for a facility-based grain buyer is:
  - a. Fifty cents per bushel if a licensee's total annual grain purchase volume is one hundred thousand bushels or less, with a minimum of fifty thousand dollars.
  - b. If a licensee's total annual grain purchase volume is more than one hundred thousand bushels up to and including one million bushels, the required minimum bond is the amount in subdivision a plus twenty cents per bushel for each bushel by which the licensee's total annual grain purchase volume exceeds one hundred thousand bushels up to and including one million bushels.
  - c. If a licensee's total annual grain purchase volume is more than one million bushels, the required minimum bond is the amount in subdivisions a and b plus five cents per bushel for each bushel by which the licensee's total annual grain purchase volume exceeds one million bushels.
3. The required minimum bond for a roving grain buyer is:
  - a. Fifty cents per bushel if the licensee's total projected annual grain purchase volume is five hundred thousand bushels or less, with a required minimum bond of fifty thousand dollars.
  - b. If a licensee's total projected annual grain purchase volume is more than five hundred thousand bushels, the required minimum bond is the amount in subdivision a plus twenty cents per bushel for each bushel by which the licensee's total projected annual grain purchase volume exceeds five hundred thousand bushels.
4. Except as provided in subsection 5, the bond of a grain buyer may not exceed two million dollars.
5. The commission may require an increase in the amount of any bond when necessary to accomplish the purposes of North Dakota Century Code chapter 60-02.1.

**History:** Effective August 1, 1999; amended effective August 1, 2000; July 1, 2015.

**General Authority:** NDCC 60-02.1-03

**Law Implemented:** NDCC 60-02.1-03, 60-02.1-08

#### **69-07-02-02.2. Hay buyer - Bond schedule.**

The hay buyer bond is determined by the three-year rolling average of hay purchased annually in this state by the hay buyer. The bond amounts are:

Up to 2,500 tons	\$25,000
For each additional 2,500 tons or fraction thereof	\$25,000

Unless the commission determines that an increase is necessary to accomplish the purposes of North Dakota Century Code chapter 60-03, the bond of a hay buyer shall not exceed one million five hundred thousand dollars.

**History:** Effective August 1, 1999.

**General Authority:** NDCC 60-03-01.1

**Law Implemented:** NDCC 60-03-04

#### **69-07-02-03. License renewal.**

A license is an annual license that expires on July thirty-first. A licensee must submit a renewal application to the commission by July fifteenth on a form that will be provided by the commission. Every business organization or sole proprietor using a trade name must be in good standing with the secretary of state. An application that is not received in a timely manner will result in the automatic discontinuance of business on August first.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03, 60-03-01.1

**Law Implemented:** NDCC 60-02-07, 60-02.1-07, 60-03-02

#### **69-07-02-04. Business documents - Revisions.**

A licensee must promptly notify the commission of a change in ownership, name, corporate structure, or format of any receipt or credit-sale contract.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-03, 60-02.1-03

#### **69-07-02-05. Physically disconnected lease space.**

Facilities that are physically disconnected from licensed warehouse capacity may be leased to other entities for nonpublic use. These leased facilities are not part of the licensee's licensed capacity and related lease agreements must be based on the capacity of the facility involved and not on the number of bushels held in the space. The lessee is responsible for its own contents insurance, if any. The licensee need not bond the space. In case of licensee insolvency, the contents of the leased facilities are not a trust asset and the lessee is not entitled to protection for grain held therein. If the leased facilities are owned by the licensee, lease agreements must be on file at the warehouse.

**History:** Effective March 1, 2003.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-09, 60-02.1-03

#### **69-07-02-06. Universal nonpublic use.**

When an entire facility is owned under a condominium arrangement or is leased to other entities for nonpublic use, the facility is not a public warehouse and no license is required. Ownership arrangements or lease agreements must be based on the capacity of the facility involved and not on the number of bushels held in the space. Grain owners are responsible for providing their own insurance on grain held in the facility.

**History:** Effective March 1, 2003.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-09, 60-02.1-03