

CHAPTER 114**(SB 184)**

AN ACT relating to grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 251.370 is amended to read as follows:

- (1) A licensee using paper scale tickets, settlement sheets, or purchase contracts shall comply with the following requirements:
 - (a) Documents shall be pre-numbered sequentially; and
 - (b) Settlement sheet information shall be cross-referenced with scale tickets.
- (2) A licensee using electronic scale tickets, settlement sheets, purchase contracts, or other documents shall conform to the formats and procedures required by the department.
- (3) A licensee shall provide, and make available to the department or the board, a complete and accurate set of business records, including:
 - (a) Records of all transactions, including records and accounts of all grains received and withdrawn or delivered;
 - (b) Records, filed in numerical order, of all scale tickets, warehouse receipts, and settlement sheets that have been issued, voiced, or lost; and
 - (c) Copies of contracts for the sale or storage of grain.
- (4) A licensee shall retain its business records for a minimum of four (4) years.
- (5) A licensed grain warehouse operator shall retain copies, either digitally or on paper, of warehouse receipts or other documents evidencing ownership of any grain, or any liability of the grain warehouse operator, so long as such documents evidence a valid ownership interest or debt. A licensee shall retain copies of such documents for a period of not less than four (4) years from the date when the ownership interest or debt was extinguished.
- (6) A licensee's accounting functions shall be performed in conformity with generally accepted accounting principles.
- (7) A licensee's business records shall accurately identify any liens or encumbrances on grain that is held or owned by the licensee.
- (8) *Upon request by the board, a licensee or applicant for a license shall provide to the department either:*
 - (a) *A review engagement report issued by an independent certified public accountant stating whether, based on the review, he or she is aware of any material modifications that should be made to the financial statements in order for them to be in accordance with the applicable reporting framework; or*
 - (b) *An audit and written report issued by an independent certified public accountant expressing an opinion whether the financial statements are presented fairly, in all material aspects, in accordance with the applicable financial reporting framework*~~{A licensee shall provide to the department at least once annually, and upon request, an audited financial statement that is certified by the licensee, its owner, or other officer to be an accurate reflection of the licensee's financial condition, except when exempted by KRS 251.440(5)}.~~
- (9) The board, in conjunction with the department, shall have authority to promulgate administrative regulations setting forth additional recordkeeping requirements for licensees.

➔Section 2. KRS 251.440 is amended to read as follows:

- (1) Application for license as a grain warehouse operator or grain dealer shall:
 - (a) Set forth the name of the applicant, its principal officer, if a corporation, or the active members of a partnership if a partnership;

- (b) Identify the location or locations of the principal office or place of business and the locations in this state at which applicant proposes to engage in this business;~~and~~
 - (c) Be accompanied by a bond as set forth in KRS 251.365. The bond shall run to the Commonwealth of Kentucky and be for the benefit of all persons storing grain in the licensee's warehouse or selling grain to the licensee; *and*
 - (d) *Be accompanied by a compilation of financial statements issued by a certified public accountant who has stated in writing whether he or she is independent from ownership and management, or one (1) of the documents identified in KRS 251.370(8), provided, however, a grain dealer license applicant whose total annual purchases in each of the last three (3) years did not exceed fifty thousand (50,000) bushels shall be exempt from the requirement set forth in this subsection.*
- (2) The department may deny a license to any applicant or revoke the existing license if the applicant or licensee:
- (a) Furnishes false or misleading information or conceals a material fact on the application or other supporting documents;
 - (b) Has been convicted of fraud or deceptive practice;
 - (c) Is currently adjudicated incompetent by a court of competent jurisdiction;
 - (d) Fails to maintain an asset to liability ratio of not less than one to one (1:1) or fails to post additional surety to cover the deficiency;
 - (e) Violates a provision of this chapter; or
 - (f) For other good cause shown.
- (3) Any person denied a license or whose license has been revoked for these reasons shall:
- (a) Be given written notice within thirty (30) working days of receipt of application or prior to revocation; and
 - (b) May request a hearing by writing to the board. Upon request, a hearing shall be conducted in accordance with KRS Chapter 13B.
- (4) The department shall not approve an application for a grain warehouse operator's license without first verifying that the *application meets the requirements of this section*~~[applicant has a current audited financial statement and proof of insurance against risk of loss that is sufficient to cover all grain stored by the grain warehouse operator].~~
- (5) The department shall not approve an application for a grain dealer's license without first verifying that the *application meets the requirements of this section*~~[applicant has a current audited financial statement. This requirement shall not apply to a grain dealer license applicant whose total annual purchases in each of the last three (3) years did not exceed fifty thousand (50,000) bushels].~~
- (6) *The department shall keep confidential, and not disclose to anyone other than the applicant or licensee, the documents identified in this section and Section 1 of this Act.*

Signed by Governor April 24, 2020.