

FIRST REGULAR SESSION

# HOUSE BILL NO. 915

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOBBS (Sponsor),  
MUNZLINGER AND GUERNSEY (Co-sponsors).

2284L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 276.436, 276.441, and 276.446, RSMo, and to enact in lieu thereof one new section relating to grain dealers.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 276.436, 276.441, and 276.446, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 276.436, to read as follows:

276.436. 1. The total amount of the surety bond required of a dealer licensed pursuant to sections 276.401 to 276.582 shall [be established by the director by rule, but in no event shall such bond] **not** be less than [twenty] **fifty** thousand dollars nor more than [three hundred thousand] **one million** dollars, except as authorized by other provisions of sections 276.401 to 276.582.

2. The formula for determining the amount of bond shall be [established by the director by rule and shall be] computed at a rate of no less than the principal amount to the nearest one thousand dollars, equal to not less than [one] **two** percent [and not more than five percent] of the aggregate dollar amount paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the dealer's last completed fiscal year, or, in the case of a dealer who has been engaged in business as a grain dealer for less than one year or who has not previously engaged in such business, not less than [one] **two** percent [and not more than five percent] of the estimated aggregate dollar amount to be paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal year.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           3. Any licensed grain dealer or applicant who has, at any time, a net worth less than the  
18 amount required by subsection 7 of section 276.421, shall be required to obtain a surety bond in  
19 the amount of one thousand dollars for each one thousand dollars or fraction thereof of the net  
20 worth deficiency. Failure to post such additional bond is grounds for refusal to license or the  
21 suspension or revocation of a license issued under sections 276.401 to 276.582. This additional  
22 bond can be in addition to or greater than or both in addition to and greater than the maximum  
23 bond as set by this section.

24           4. The director may, when the question arises as to a grain dealer's ability to pay for grain  
25 purchased, require a grain dealer to post an additional bond in a dollar amount deemed  
26 appropriate by the director. Such additional bond can be in addition to or greater than or both  
27 in addition to and greater than the maximum bond as set by this section. The director must  
28 furnish to the dealer, by certified mail, a written statement of the reasons for requesting  
29 additional bond and the reasons for questioning the dealer's ability to pay. Failure to post such  
30 additional bond is a ground for modification, suspension or revocation by the director of a license  
31 issued under sections 276.401 to 276.582. The determination of insufficiency of a bond and of  
32 the amount of the additional bond shall be based upon evidence presented to the director that a  
33 dealer:

- 34           (1) Is or may be unable to meet his dollar or grain obligations as they become due;  
35           (2) Has acted or is acting in a way which might lead to the impairment of his capital;  
36           (3) As a result of his activity, inactivity, or purchasing and pricing practices and  
37 procedures, including, but not limited to, the dealer's deferred pricing or deferred payment  
38 practices and procedures, is or may be unable to honor his grain purchase obligations arising out  
39 of his dealer business. The amount of the additional bond required under this subsection shall  
40 not exceed the amount of the dealer's current loss position. Current loss position shall be the  
41 sum of the dealer's current liabilities less current assets or the amount by which he is currently  
42 unable to meet the grain purchase obligations arising out of his dealer business.

43           5. One bond, cumulative as to minimum requirements, may be given where a dealer has  
44 multiple licenses; except however, that in computing the amount of the single bond the grain  
45 dealer may add together the total purchases of grain of all locations to be covered thereby and  
46 use the aggregate total purchases for the fiscal year for the purpose of computing bond.  
47 However, this single cumulative bond must be at least equal to [twenty] **fifty** thousand dollars  
48 per dealer license issued up to the [three hundred thousand] **one million** dollar maximum bond  
49 amount specified in subsection 1 of this section. When a grain dealer elects to provide a single  
50 bond for a number of licensed locations, the total assets of all the licensed locations shall be  
51 subject to liabilities of each individual licensed location.

52           6. Failure of a grain dealer to provide and file a bond and financial statement and to keep  
53 such bond in force shall be grounds for the suspension or revocation, by the director, of a license  
54 issued under sections 276.401 to 276.582.

55           7. A dealer shall be required to post additional surety bond when he surpasses the  
56 estimated aggregate dollar amount to be paid for grain purchased as set forth in subsection 2 of  
57 this section. Such additional bond shall be determined by the director so as to effectively protect  
58 sellers of grain dealing with such dealer.

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2                   [276.441. 1. Any grain dealer who is of the opinion that his net worth is  
3 sufficient to guarantee payment for grain purchased by him may make a formal,  
4 written request to the director that he be relieved of the obligation of filing a bond  
5 in excess of the minimum bond of twenty thousand dollars. Such request shall  
6 be accompanied by a financial statement of the applicant, prepared within four  
7 months of the date of such request and accompanied by such additional  
8 information concerning the applicant and his finances as the director may require  
9 which may include the request for submission of a financial statement audited by  
a public accountant.

10                   2. If such financial statement discloses a net worth equal to at least five  
11 times the amount of the bond otherwise required by sections 276.401 to 276.582,  
12 and the director is otherwise satisfied as to the financial ability and resources of  
13 the applicant, the director may waive that portion of the required bond in excess  
14 of twenty thousand dollars for each license issued.]

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2                   [276.446. Any grain dealer whose total purchases of grain within  
3 Missouri and those states with whom Missouri has entered into contracts or  
4 agreements as authorized by section 276.566 during any fiscal year, do not  
5 exceed an aggregate dollar amount of four hundred thousand dollars may satisfy  
6 the bonding requirements of sections 276.401 to 276.581 by filing with the  
7 director a bond at the rate of one thousand dollars for each twenty thousand  
8 dollars or fraction thereof of the dollar amount to be purchased, with a minimum  
bond of ten thousand dollars required.]

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