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HOUSE BILL 2556

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State of Washington

61st Legislature

2010 Regular Session

By Representatives Fagan and Chandler

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1 AN ACT Relating to financial security requirements under chapter  
2 22.09 RCW; and amending RCW 22.09.060 and 22.09.090.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 22.09.060 and 1988 c 95 s 2 are each amended to read  
5 as follows:

6 (1) Except as otherwise provided in ((RCW 22.09.405(2))) this  
7 section, no warehouse or grain dealer license may be issued to an  
8 applicant before a bond, certificate of deposit, or other security is  
9 given to the department as provided in RCW 22.09.090((7)) or ((in RCW))  
10 22.09.095.

11 (2) No warehouse license may be issued to an applicant before a  
12 certificate of insurance as provided in RCW 22.09.110 has been filed  
13 with the department.

14 (3) Grain dealers may be exempted by rule from the bonding  
15 requirements of this section if the grain dealer does not do more than  
16 one hundred thousand dollars in business annually and makes payments  
17 solely in coin or currency of the United States at the time of  
18 obtaining possession or control of grain. ((However,)) A cashier's

1 check, certified check, or bankdraft may be considered as cash for  
2 purposes of this section.

3 (4) The bonding and security requirements of this section do not  
4 apply to:

5 (a) Participants in the grain indemnity fund program, as provided  
6 in RCW 22.09.405(2).

7 (b) Any warehouse license holder who receives grain exclusively  
8 from licensed grain dealers who themselves have obtained the security  
9 required under this section for grain dealers.

10 **Sec. 2.** RCW 22.09.090 and 1987 c 509 s 2 are each amended to read  
11 as follows:

12 (1) Except as provided in RCW 22.09.060, an applicant for a  
13 warehouse or grain dealer license pursuant to the provisions of this  
14 chapter shall give a bond to the state of Washington executed by the  
15 applicant as the principal and by a corporate surety licensed to do  
16 business in this state as surety.

17 (2) The bond required under this section for the issuance of a  
18 warehouse license shall be in the sum of not less than fifty thousand  
19 dollars nor more than seven hundred fifty thousand dollars. The  
20 department shall, after holding a public hearing, determine the amount  
21 that will be required for the warehouse bond which shall be computed at  
22 a rate of not less than fifteen cents nor more than thirty cents per  
23 bushel multiplied by the number of bushels of licensed commodity  
24 storage capacity of the warehouses of the applicant furnishing the  
25 bond. The applicant for a warehouse license may give a single bond  
26 meeting the requirements of this chapter, and all warehouses operated  
27 by the (~~warehouseman~~) warehouse worker are deemed to be one warehouse  
28 for the purpose of the amount of the bond required under this  
29 subsection. Any change in the capacity of a warehouse or addition of  
30 any new warehouse involving a change in bond liability under this  
31 chapter shall be immediately reported to the department.

32 (3) The bond required under this section for the issuance of a  
33 grain dealer license shall be in the sum of not less than fifty  
34 thousand dollars nor more than seven hundred fifty thousand dollars.  
35 The department shall, after holding a public hearing, determine the  
36 amount that will be required for the dealer bond which shall be  
37 computed at a rate not less than six percent nor more than twelve

1 percent of the sales of agricultural commodities purchased by the  
2 dealer from producers during the dealer's last completed fiscal year or  
3 in the case of a grain dealer who has been engaged in business as a  
4 grain dealer less than one year, the estimated aggregate dollar amount  
5 to be paid by the dealer to producers for agricultural commodities to  
6 be purchased by the dealer during the dealer's first fiscal year.

7 (4) An applicant making application for both a warehouse license  
8 and a grain dealer license may satisfy the bonding requirements set  
9 forth in subsections (2) and (3) of this section by giving to the state  
10 of Washington a single bond for the issuance of both licenses, which  
11 bond shall be in the sum of not less than fifty thousand dollars nor  
12 more than seven hundred fifty thousand dollars. The department shall,  
13 after holding a public hearing, determine the amount of the bond which  
14 shall be computed at a rate of not less than fifteen cents nor more  
15 than thirty cents per bushel multiplied by the number of bushels of  
16 licensed commodity storage capacity of the warehouses of the applicant  
17 furnishing the bond, or at the rate of not less than six percent nor  
18 more than twelve percent of the gross sales of agricultural commodities  
19 of the applicant whichever is greater.

20 (5) The bonds required under this chapter shall be approved by the  
21 department and shall be conditioned upon the faithful performance by  
22 the licensee of the duties imposed upon him by this chapter. If a  
23 person has applied for warehouse licenses to operate two or more  
24 warehouses in this state, the assets applicable to all warehouses, but  
25 not the deposits except in case of a station, are subject to the  
26 liabilities of each. The total and aggregate liability of the surety  
27 for all claims upon the bond is limited to the face amount of the bond.

28 (6) Any person required to submit a bond to the department under  
29 this chapter has the option to give the department a certificate of  
30 deposit or other security acceptable to the department payable to the  
31 director as trustee, in lieu of a bond or a portion thereof. The  
32 principal amount of the certificate or other security shall be the same  
33 as that required for a surety bond under this chapter or may be in an  
34 amount which, when added to the bond, will satisfy the licensee's  
35 requirements for a surety bond under this chapter, and the interest  
36 thereon shall be made payable to the purchaser of the certificate or  
37 other security. The certificate of deposit or other security shall  
38 remain on deposit until it is released, canceled, or discharged as

1 provided for by rule of the department. The provisions of this chapter  
2 that apply to a bond required under this chapter apply to each  
3 certificate of deposit or other security given in lieu of such a bond.

4 (7) The department may, when it has reason to believe that a grain  
5 dealer does not have the ability to pay producers for grain purchased,  
6 or when it determines that the grain dealer does not have a sufficient  
7 net worth to outstanding financial obligations ratio, or when it  
8 believes there may be claims made against the bond in excess of the  
9 face amount of the bond, require a grain dealer to post an additional  
10 bond in a dollar amount deemed appropriate by the department or may  
11 require an additional certificate of deposit or other security. The  
12 additional bonding or other security may exceed the maximum amount of  
13 the bond otherwise required under this chapter. Failure to post the  
14 additional bond, certificate of deposit, or other security constitutes  
15 grounds for suspension or revocation of a license issued under this  
16 chapter.

17 (8) Notwithstanding any other provisions of this chapter, the  
18 license of a ((~~warehouseman~~)) warehouse worker or grain dealer shall  
19 automatically be suspended in accordance with RCW 22.09.100 for failure  
20 at any time to have or to maintain a bond, certificate of deposit, or  
21 other security or combination thereof in the amount and type required  
22 by this chapter. The department shall remove the suspension or issue  
23 a license as the case may be, when the required bond, certificate of  
24 deposit, or other security has been obtained.

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