



## Ohio Revised Code

### Section 943.03 Application for license.

Effective: October 17, 2011

Legislation: House Bill 229 - 129th General Assembly

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(A)(1) Application for a license as a dealer or broker shall be made in writing to the department of agriculture. The application shall state the nature of the business, the municipal corporation, township, and county, and the post-office address of the location where the business is to be conducted, the name of any employee authorized to act in the dealer's or broker's behalf, and such additional information as the department prescribes.

The applicant shall satisfy the department of the applicant's character and good faith in seeking to engage in such business. The department shall issue to the applicant a license to conduct the business of a dealer or broker at the place named in the application. Licenses, unless revoked, shall expire annually on the thirty-first day of March and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(2) No license shall be issued by the department to a dealer or broker having weighing facilities until the applicant has filed with the department a copy of a scale test certificate showing the weighing facilities to be in satisfactory condition, a copy of the license of each weigher employed by the applicant, and a certificate of inspection by the department showing livestock market facilities to be in satisfactory sanitary condition.

(3) Except as provided in division (A)(4) of this section, no license shall be issued by the department until the applicant has furnished proof of financial responsibility. Except as provided in division (C) of this section, such proof may be in the following forms:

(a) A bond of a surety company authorized to do business in this state in the form prescribed by and to the satisfaction of the department, conditioned for the payment of a judgment against the applicant furnishing the bond and arising out of the failure of such dealer or broker to pay for the livestock purchased for the dealer's or broker's own or for the accounts of others or to pay when due to the person entitled thereto the gross amount, less lawful charges, for which all of the livestock is sold. The amount of bond required, the termination of the bond, and the limitation on filing claims



against the dealer or broker or their surety shall be the same as prescribed in division (B) of this section.

(b) A deposit with a trustee acceptable to the department of the required amount in money or negotiable bonds of the United States or of this state or of a political subdivision of this state of that par or face value, or any combination thereof, for the purpose of securing the payment of a judgment against the dealer or broker furnishing the deposit and arising out of the failure of the dealer or broker to pay for the livestock purchased for the dealer's or broker's own or for the accounts of others, or to pay when due to the person entitled thereto the gross amount, less lawful charges, for which all of the livestock is sold. The deposit shall be made under a deposit agreement acceptable to the department. The deposit is not subject to attachment for any other claim or levy of execution upon a judgment based on any other claims.

(4) An applicant for a license as a dealer or broker of poultry is not required to maintain financial responsibility or furnish proof of financial responsibility.

(B) Any person damaged by failure of a dealer or broker to pay for the livestock purchased for the dealer's or broker's or for the accounts of others or to pay when due to the person entitled thereto the gross amount, less lawful charges, for which all of the livestock is sold may maintain an action against the broker or dealer and the sureties on the bonds, or the trustee, provided for in this section. The aggregate liability of the sureties or trustee for all such damage shall not exceed the amount of the bond or deposit.

Unless the person damaged files a claim with the dealer or broker and the sureties or trustee within sixty days from the date of the transaction on which the claim is based, the person shall be barred from maintaining an action on the bond or for the application of the deposit. Upon the filing of a claim, the claimant shall notify the department of that action.

The amount of the bond or deposit shall not be less than the nearest multiple of one thousand dollars above the average daily value of livestock sold by the dealer or broker for the accounts of others and livestock purchased by the dealer or broker for the dealer's or broker's or for the accounts of others on the dealer's or broker's ten largest business days during the preceding twelve months or such part thereof as the dealer or broker was purchasing, selling, or exchanging livestock. In no case



shall the amount of the bond or deposit total less than ten thousand dollars.

Whenever the amount of bond or deposit calculated as above specified exceeds fifty thousand dollars, the amount of the bond shall be fifty thousand dollars plus ten per cent of the valuation in excess of fifty thousand dollars.

In no case shall the bond or deposit covering the business of the dealer or broker be less than the amount specified above or such higher amount as may be specified by the "Packer and Stockyards Act of 1921," 42 Stat. 159, 7 U.S.C.A. 181, as amended.

Whenever in the judgment of the department the business volume of the licensee is such as to render the bond or deposit inadequate, the amount of the bond or deposit shall be adjusted, upon thirty days' notice, to meet sections 943.01 to 943.18 of the Revised Code and rules adopted under them. All of the bonds or deposit agreements shall contain a provision requiring that at least thirty days' prior notice in writing be given to the department and the packers and stockyards administration of the United States department of agriculture by the party terminating the bonds or deposit agreements in order to effect termination, except that a bond may be terminated as of the effective date of a replacement bond.

The termination of a bond shall not release the parties from any liability arising out of facts or transactions occurring prior to the termination date.

The termination of a deposit agreement shall neither release the party furnishing the deposit from any liability arising out of acts or transactions occurring prior to the termination date, nor shall the trustee permit the withdrawal of the deposit until after sixty days after the termination date, and then only if no claims under the agreement have been filed with the trustee. If any claims have been filed with the trustee, the withdrawal of the deposit shall not be permitted until the claims have been satisfied or released and evidence of the satisfaction or release filed with the trustee.

(C) If approved by the director of agriculture, in lieu of the bond or deposit required in division (A)(3) of this section, a broker or dealer subject to the "Packers and Stockyards Act of 1921," 42 Stat. 159, 7 U.S.C.A. 181, as amended, may furnish proof in a manner and form acceptable to the director that the broker or dealer has an irrevocable letter of credit on file with the packers and



stockyards administration under regulations adopted by the packers and stockyards administration in 9 C.F.R. 201.35, as amended.

(D) No licensed livestock dealer or broker shall employ as an employee a person who, as a dealer or broker, previously defaulted on contracts pertaining to the purchase, exchange, or sale of livestock until the licensee does both of the following:

(1) Increases the value of the dealer's or broker's bond, deposit, or letter of credit, in addition to the amount of any other bond, deposit, or letter of credit required by this section, by an amount equal to that owed by such person for the purchase, exchange, or sale of livestock prior to being employed by the licensee;

(2) Signs and files with the director an agreement that guarantees, without condition, all contracts pertaining to the purchase, exchange, or sale of livestock made by such person while in the employ of the licensee. The agreement shall be in addition to any other proof of financial responsibility required by this section. The director shall prescribe the form and content of the agreement.

(E) No licensed livestock dealer or broker shall employ a person whose dealer's or broker's license was revoked or is suspended.