

CHAPTER 72

LICENSING AND BONDING

Authority

N.J.S.A. 4:11-20 and 4:11-33.1.

Source and Effective Date

R.1993 d.378, effective July 2, 1993.
See: 25 N.J.R. 1802(a), 25 N.J.R. 3453(c).

Executive Order No. 66(1978) Expiration Date

Chapter 72, Licensing and Bonding, expires on July 2, 1998.

Chapter Historical Note

Subchapter 2 became effective prior to September 1, 1969.

Subchapters 1 and 3 became effective July 23, 1969.

1978 Revisions: Amendments which deleted Subchapter 2 became effective November 21, 1978 as R.1978 d.402. See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

1980 Revisions: Amendments became effective February 1, 1980 as R.1980 d.57. See: 12 N.J.R. 2(a), 12 N.J.R. 103(a).

1983 Revisions: This chapter was readopted in compliance with Executive Order 66(1978) effective September 1, 1983 as R.1983 d.396. See: 15 N.J.R. 1051(b), 15 N.J.R. 1574(c).

1988 Revisions: This chapter was readopted pursuant to Executive Order 66(1978) effective July 8, 1988 as R.1988 d.371. See: 20 N.J.R. 955(a), 20 N.J.R. 1872(a).

Pursuant to Executive Order No. 66(1978), Chapter 72 was readopted as R.1993 d.378. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. COMMISSION MERCHANTS, DEALERS, BROKERS, AGENTS

2:72-1.1 Bond requirement

The bond required in Title 4, Chapter 11, Article 2, Section 20 of the Revised Statutes shall be equal to the maximum calendar month purchases multiplied by the number of days before payment is made on those purchases divided by 30.

Amended by R.1980 d.57, effective February 1, 1980.
See: 12 N.J.R. 2(a), 12 N.J.R. 103(a).

SUBCHAPTER 2. (RESERVED)

Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority delegated at N.J.S.A. 4:11-20 and were filed and became effective prior to September 1, 1969. Amendments which deleted this subchapter were filed and became effective on November 21, 1978, as R.1978 d.402. See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

Authority

N.J.S.A. 4:11-29.

SUBCHAPTER 3. COMMISSION MERCHANTS, DEALERS AND BROKERS RECORD OF TRANSACTION

Authority

Unless otherwise noted, all provisions of this Subchapter 3 of Chapter 72 were adopted pursuant to authority delegated at N.J.S.A. 4:11-30.

2:72-3.1 Dealer's record of transaction; copy to grower

(a) Every dealer, cash buyer or agent purchasing, receiving or obtaining an agricultural commodity from a grower shall, simultaneously with the purchasing, receiving or obtaining of the agricultural commodity, make a correct record stating in detail for each commodity the following:

1. Name and address of the dealer;
2. Name and address of the grower;
3. Date on which the transaction occurred;
4. Terms of the sale (how purchased; FOB Farm, grade arrival, delivered, destination, platform, or any other such method.);

5. Price of the sale (If the price to be paid is based upon a market quotation for such commodity, the record shall specify the date and location of the market to be used in arriving at the purchase price.);

6. Name of the commodity, number of containers, size, and net weight, and grade of commodity, where applicable.

NOTE:—Egg Dealer—exception under item 5 of “Dealers record of transaction”

(b) Where more than one agricultural commodity is purchased, received or obtained from a grower on a particular date, such information may be set forth on a single record.

(c) A copy of the record containing the above information required in subsection (a) of this Section shall be issued to the grower upon purchase, receipt or obtaining of the agricultural commodity by the dealer, cash buyer or agent.

(d) The dealer, cash buyer or agent shall retain in his possession for a period of not less than one year the aforementioned records.

NOTE:—This item should clarify the basis for establishing acceptance and liability for payment in connection with the prices stipulated and may also include when payment is to be made.

(e) Invoices following the first transaction with a farmer need not stipulate the terms of the sale on each invoice of receipt unless the original terms are changed by mutual agreement. On such occasion, the new terms are to be stipulated in accompaniment with the statement that “these terms are continued in force until changed by a succeeding invoice noting the change”.

2:72-3.2 Commission merchant's record of transaction; copy to grower

(a) Every commission merchant upon entering into an agreement with the grower or receiving an agricultural commodity from a grower shall, simultaneously with the entry into the agreement or upon receipt of the agricultural commodity, make a correct record stating in detail for each commodity the following:

1. Name and address of commission merchant;
2. Name and address of grower;
3. Date on which the said agreement is entered into or date upon which the agricultural commodity is received (whichever is earlier);
4. Terms of the sale and charges to be paid by the grower in connection with the sale;
5. The lot number or other identifying mark for each consignment, which shall appear on all tags and other records needed to show what the commodity actually sold for;

6. Name of the commodity, number of containers, size and net weight and grade of commodity, where applicable.

(b) Where more than one agricultural commodity is purchased, received or obtained from a grower on a particular date, such information may be set forth on a single record.

(c) A copy of the record containing the above information shall be issued to the grower upon entry into an agreement with the commission merchant or upon receipt of the agricultural commodity by the commission merchant.

(d) The commission merchant shall retain in his possession for a period of not less than one year the aforementioned records.

2:72-3.3 Broker's memorandum of sale

(a) Every broker upon negotiating the sale of an agricultural commodity on behalf of a grower shall, simultaneously with the negotiation of said sale of the agricultural commodity, make a correct record stating in detail for each commodity the following:

1. Name and address of broker;
2. Name and address of grower and the purchaser;
3. Date on which the transaction occurred;
4. Name of commodity;
5. Terms of the sale;
6. Date of delivery;
7. Price of the sale. If the price to be paid is based upon a market quotation for such commodity, the record shall specify the date and location of the market to be used in arriving at the purchase price.

(b) A copy of the record containing the above information shall be issued to both the grower and the purchaser upon negotiation of the sale of the agricultural commodity by the broker.

(c) The broker shall retain in his possession for a period of not less than one year the aforementioned records.

2:72-3.4 Certified weights for each load of hay, grain and straw

Every commission merchant, dealer, broker or cash buyer dealing in hay, grain and straw obtain a certified vehicle tare weight and gross weight for each load hauled or bought.

STATEMENT

In reference to the entire matter of records, this Department recognizes that the statute requires they be adapted to the particular business as commission merchant, dealer or broker which the licensee is conducting and that in each case they must fully and clearly disclose all facets of his transactions.