

**WHOLESALE POTATO DEALERS (EXCERPT)**  
**Act 158 of 1964**

**290.459 Surety bond or irrevocable letter of credit generally.**

Sec. 9.

(1) The bond or irrevocable letter of credit described in section 8 shall provide coverage for or payment for an amount representing the wholesale potato dealer's business transacted with growers within the state subject to the limits imposed in subsection (7). Liability for acts under a bond or payment pursuant to the irrevocable letter of credit shall be only for the period the license is in force.

(2) Liability under the bond or payment pursuant to the irrevocable letter of credit shall be for a minimum of 1 year beginning with the effective date of coverage and shall be considered continuous or automatically extended thereafter until terminated or canceled as provided under the terms of the bond or letter of credit.

(3) A bond shall not be canceled and the amount of a bond shall not be reduced unless the surety company notifies the director in writing not less than 60 days before the effective date of cancellation or reduction.

(4) A letter of credit shall be irrevocable. The issuing financial institution shall notify the director in writing not less than 60 days before the irrevocable letter expires or if the financial institution has refused to renew a letter of credit to the wholesale potato dealer in compliance with this section.

(5) The cancellation or expiration of the bond or irrevocable letter of credit operates as an automatic suspension of the wholesale potato dealer license unless security has been replaced within the 60-day period or unless the wholesale potato dealer has ceased business and has voluntarily relinquished the license. The wholesale potato dealer may request a hearing with the director to appeal the automatic suspension of the license if the request is in writing and received by the director within 10 days after the automatic suspension. If a bond or irrevocable letter of credit is obtained by the person after the 60-day period, he or she may reapply for licensure as a wholesale potato dealer. The director shall submit to existing state industry trade publications the name of the person and the effective date of occurrence of the following circumstances:

(a) Licenses which are revoked or suspended.

(b) Reapplications for licensure under this subsection.

(6) A bond or irrevocable letter of credit shall not be released by the director during the claim period described in section 12(1) or while there are any verified claims pending. If the director is satisfied no claims reasonably exist, the bond or irrevocable letter of credit shall be released promptly.

(7) The amount of coverage of the bond or the amount in which the irrevocable letter of credit is issued by the financial institution shall be double the amount paid for all Michigan grown potatoes purchased from or handled for growers during the month in which the maximum volume of Michigan grown potatoes was bought or handled during the past calendar year except that the bond or irrevocable letter of credit shall not be in an amount less than \$10,000.00, or more than \$100,000.00. The total liability of the surety issuing the bond or the amount available against a sight draft drawn by the director against a financial institution issuing the letter of credit for claims of growers arising out of transactions involving wholesale potato dealers is limited to the amount of the bond or letter of credit.

(8) In the case of a person initially entering business as a wholesale potato dealer, the director shall determine the amount of the bond or irrevocable letter of credit from the estimated amount of business to be done annually by the applicant.

(9) If during a licensing year the bond or irrevocable letter of credit filed by a licensee becomes less than required by this act due to an increase in the dollar volume of potato purchases, the director may issue an order requiring the licensee to increase a bond or file an additional letter of credit to cover the increase in gross dollar volume. Failure of a wholesale potato dealer to comply with an order of the director issued under this subsection is grounds for suspension or revocation of a license.

**History:** 1964, Act 158, Eff. Aug. 28, 1964 ;-- Am. 1965, Act 88, Imd. Eff. June 28, 1965 ;-- Am. 1967, Act 160, Eff. Nov. 2, 1967 ;-- Am. 1968, Act 63, Eff. May 31, 1968 ;-- Am. 1978, Act 4, Imd. Eff. Feb. 7, 1978 ;-- Am. 1982, Act 22, Eff. Sept. 4, 1982 ;-- Am. 1992, Act 171, Eff. Oct. 20, 1992

**Compiler's Notes:** Section 2 of Act 22 of 1982 provides: "This amendatory act shall take effect 6 months after it is enacted into law, and shall apply only to licenses granted or renewed after the effective date." This amendatory act was enacted into law on March 4, 1982, and took immediate effect.