

2-2448. Surety bond, liability insurance, letter of credit or escrow account required for pesticide business license. (a) Except as provided by subsection (b), the secretary shall not issue a pesticide business license until the applicant has furnished proof of financial responsibility by one of the following:

(1) A surety bond in an amount not less than \$6,000 per year. The bond shall be executed by a corporate surety and shall state the effective date and the expiration date. The surety bond shall be executed on a form approved by the secretary. The applicant shall be named as the principal in the bond. Such bond shall be to the state of Kansas and shall be conditioned upon compliance by the principal and by the principal's officers, agents, representatives and employees, with the provisions of this act and acts amendatory thereof and supplemental thereto. It shall be unlawful for any licensed person to use the words "bond" or "bonded" in advertising or in publicizing such person's operations in connection with the application of pesticides unless such bond is a performance bond and that fact and the amount of such bond are specified.

(2) A certificate of liability insurance. The certificate of liability insurance shall be executed by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall state the effective date and the expiration date of the policy. Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. The liability insurance policy shall provide: (A) Coverage for not less than \$25,000 for bodily injury liability for each occurrence; and (B) coverage for not less than \$5,000 for property damage liability for each occurrence. In addition to the coverage specified above, if the applicant for a pesticide business license is an aerial applicator, the liability insurance policy shall provide coverage for any pesticide such applicant will be applying and for comprehensive chemical coverage. Pesticide application equipment, if required to be registered under K.S.A. 2-2456, and amendments thereto, shall be covered. The insurer shall notify the secretary, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as a prerequisite of licensure, not later than 10 days before the expiration, reduction or cancellation takes effect. Upon expiration, reduction or cancellation of the liability insurance, the secretary shall suspend such pesticide applicator's business license until the insurance requirement is met by the licensee for the current license period. The certificate shall be executed on a form approved by the secretary.

(3) A \$6,000 letter of credit from a Kansas financial institution, as defined in K.S.A. 16-117, and amendments thereto. The letter of credit shall be executed on a form approved by the secretary. The letter of credit shall state the effective date and the expiration date and shall be valid through the term of the applicant's business license. Upon cancellation of the letter of credit, the secretary shall suspend such pesticide applicator's business license until the letter of credit requirement is met by the licensee for the current license period.

(4) Maintaining a minimum balance of \$6,000 in an escrow account in a Kansas financial institution as defined in K.S.A. 16-117, and amendments thereto. The escrow account shall maintain the minimum balance through the term of the applicant's business license. The secretary shall be notified in writing by the financial institution within 10 days if the amount in the escrow account falls below the \$6,000 minimum balance. Upon notification, the secretary shall suspend such pesticide applicator's business license until the escrow account minimum balance is at \$6,000.

(b) Before June 1, 1994, the financial responsibility and proof of financial responsibility required pursuant to this section prior to March 1, 1994, shall continue to apply to any pesticide business holding a valid pesticide business license on February 28, 1994, and no different or additional financial responsibility or proof of financial responsibility shall be required of such business. On or before June 1, 1994, each pesticide business licensed before March 1, 1994, shall furnish to the secretary proof of financial responsibility conforming to the requirements of this section as amended by this act.

(c) The requirements of this section as amended by this act shall apply to any applicant applying for an original pesticide business license on or after March 1, 1994, and no different or additional financial responsibility or proof of financial responsibility shall be required of such applicant.

History: L. 1976, ch. 1, § 11; L. 1982, ch. 8, § 1; L. 1989, ch. 6, § 17; L. 1994, ch. 199, § 2; April 21.