

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 418

STATE OF NEW JERSEY

INTRODUCED MAY 3, 1954

By Mr. HAINES

Referred to Committee on Agriculture, Conservation and Economic Development

AN ACT concerning the licensing and bonding of commission merchants, dealers, brokers and agents, and amending sections 4:11-19, 4:11-20, 4:11-21 and 4:11-29 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 4:11-19 of the Revised Statutes is amended to read as fol-
2 lows:

3 4:11-19. A person before engaging in such business shall on or before
4 April 1 of each year, file an application with the secretary, on a form pre-
5 scribed by him, *and pay a \$5.00 license fee*, for a license to transact such busi-
6 ness.

7 The application shall state the nature of the business, the kinds of
8 perishable agricultural commodities which the applicant proposes to handle,
9 the full name of the person applying for the license, and if the applicant be
10 a firm, association, partnership, or corporation, the full name of each mem-
11 ber of the firm, partnership or association, or officers of the corporation,
12 and the name of the local agent of the person, firm, association, partnership
13 or corporation, the municipality and street address, if any, or post-office ad-
14 dress, where the business is to be conducted, and such other facts as the
15 secretary shall prescribe.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

16 The applicant shall satisfy the secretary of his character, financial re-
17 sponsibility and good faith in seeking to engage in the business.

1 2. Section 4:11-20 of the Revised Statutes is amended to read as fol-
2 lows:

3 4:11-20. *A license shall not be issued unless and until the applicant has*
4 *filed* [The application shall be accompanied by] a good and sufficient surety
5 bond executed in favor of the secretary in his official capacity, for the bene-
6 fit of all growers with whom the applicant shall transact business, by a
7 surety company duly authorized to transact business in this State in the sum
8 of at least \$3,000.00, [() except that any [such] bond *for a person applying*
9 [accompanying the application of any person] for a license to engage in or
10 carry on the business of agent, broker, commission merchant, or dealer for
11 the purchase of eggs only shall be in the sum of at least \$500.00 [)] , con-
12 ditioned for the payment of all moneys due and owing by the *licensee*
13 [licensee] to such grower or growers during the period that the license is
14 in force. The bond shall be executed upon a form prescribed by the secre-
15 tary and shall be subject to his approval as to form and sufficiency. The
16 applicant may in lieu of the bond deposit with the secretary United States
17 Government securities in an amount equal to the sum secured by the bond
18 required to be filed as herein provided. Such securities so deposited with
19 the secretary shall constitute a separate fund and shall be held in trust for
20 and applied exclusively to the payment of claims arising under the provi-
21 sions of this article against the licensee making such deposit for the period
22 for which such license is issued. All proceeds from surety bonds, money or
23 securities shall be distributed to the grower-creditors by the secretary.

24 The secretary may require a licensee to file an additional bond, to be
25 executed as provided in this section, in the sum to be determined by the
26 secretary, but the maximum amount of the bond shall not exceed \$25,000.00.

1 3. Section 4:11-21 of the Revised Statutes is amended to read as fol-
2 lows:

3 4:11-21. Upon the filing and approval of the application and bond or
4 securities, as the case may be, the secretary shall thereupon issue to the

5 applicant or his agent [, on payment of a license fee of two dollars,] a
6 license entitling the applicant or the agent to conduct the business of re-
7 ceiving, buying, soliciting or negotiating the sale of perishable agricultural
8 commodities on behalf of the grower, at the place named in the application,
9 which license shall expire on April 30 next following its date of issuance.

1 4. Section 4:11-29 of the Revised Statutes is amended to read as fol-
2 lows:

3 4:11-29. *The secretary shall audit claims properly filed and determine*
4 *the amounts due all such creditors.*

5 After the expiration of 90 days from the termination of [any licensed
6 period the secretary shall, by proper action, wherein all creditors who have
7 filed statements as provided in section 4:11-28 of this Title, and the surety
8 or sureties upon the bond or bonds and the licensee shall be parties, proceed
9 to determine the amount due each creditor and the judgment rendered in
10 such action shall be enforced ratably for those creditors against the surety
11 or sureties on the bond or bonds or against the securities deposited, as the
12 case may be.] *the license period or at any earlier date when all claims shall*
13 *have been filed, the secretary shall sell the securities so deposited or make*
14 *demand upon the surety for payment of an amount necessary to satisfy the*
15 *claims determined to be due or such part thereof as shall equal the amount of*
16 *the bond so filed. If the surety shall not make payment of the amount so*
17 *demand, upon the expiration of 90 days from the termination of the*
18 *license period, the secretary shall bring an action at law to recover from*
19 *the surety on said bond the amount necessary to satisfy such claims or such*
20 *part thereof as shall equal the amount of the bond, which action may be in-*
21 *stituted by the secretary in his official capacity as such on behalf of said*
22 *claimants, but without naming them as plaintiffs or defendants therein. The*
23 *moneys obtained from the sale of said securities or by action against the*
24 *surety shall be used for the satisfaction of such claims, and the secretary*
25 *shall make distribution thereof to the claimants in accordance with the*
26 *amounts determined to be due thereon, and if less than the total amount of*

27 *said claims shall be so obtained, distribution shall be made ratably to the*
28 *creditors according to said amounts.*

29 If [any grower] a creditor has reduced his claim to judgment, [such]
30 the judgment shall be presumptive proof of the amount due *him*. [such credi-
31 tor in any action brought by the secretary as herein provided.]

32 [Every bond given, or the securities deposited, pursuant to the provi-
33 sions hereof shall be applicable to the payment of all claims arising during
34 the licensed period for which such bond or bonds shall continue or such
35 securities are deposited.]

36 Claims not filed *during the license period* or within 90 days from the
37 termination of [any licensed] *the license period*, shall not be received, acted
38 upon or paid and shall not participate in the proceeds of any bond, *moneys*
39 or securities [, as the case may be.] *deposited with the secretary.*

40 The secretary may bring an action in any court of competent jurisdic-
41 tion against the licensee or surety or sureties on the bond or bonds for the
42 recovery of any money due and owing to a grower or growers as herein-
43 before provided.

1 5. *This act shall take effect immediately.*

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12 and the name of the local agent of the person, firm, association, partnership
13 or corporation, the municipality and street address, if any, or post-office ad-
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11 the purchase of eggs only shall be in the sum of at least \$500.00 [)] , con-
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15 tary and shall be subject to his approval as to form and sufficiency. The
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17 Government securities in an amount equal to the sum secured by the bond
18 required to be filed as herein provided. Such securities so deposited with
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20 and applied exclusively to the payment of claims arising under the provi-
21 sions of this article against the licensee making such deposit for the period
22 for which such license is issued. All proceeds from surety bonds, money or
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8 or sureties upon the bond or bonds and the licensee shall be parties, proceed
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10 such action shall be enforced ratably for those creditors against the surety
11 or sureties on the bond or bonds or against the securities deposited, as the
12 case may be.] *the license period or at any earlier date when all claims shall*
13 *have been filed, the secretary shall sell the securities so deposited or make*
14 *demand upon the surety for payment of an amount necessary to satisfy the*
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16 *the bond so filed. If the surety shall not make payment of the amount so*
17 *demand, upon the expiration of 90 days from the termination of the*
18 *license period, the secretary shall bring an action at law to recover from*
19 *the surety on said bond the amount necessary to satisfy such claims or such*
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25 *shall make distribution thereof to the claimants in accordance with the*
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41 tion against the licensee or surety or sureties on the bond or bonds for the
42 recovery of any money due and owing to a grower or growers as herein-
43 before provided.

SPONSOR'S STATEMENT

The purpose of this bill is to increase the license fee to an amount more in keeping with the increased cost of issuing licenses; to remove superfluous words, phrases and unnecessary requirements; and to expedite the processing of the licenses.

AMENDMENT TO
ASSEMBLY, No. 418

STATE OF NEW JERSEY

ADOPTED AUGUST 2, 1954

Amend page 4, after section 4, add as section 5:

“5. This act shall take effect immediately.”

STATE OF NEW JERSEY
Executive Department

August 2, 1954

ASSEMBLY BILL NO. 418

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the State Constitution, I am returning herewith for reconsideration and with my objections Assembly Bill No. 418.

This bill increases the annual license fee for agricultural commission merchants from \$2.00 to \$5.00 and sets out a procedure for the auditing and determination of claims of growers against licensees by the Secretary of Agriculture.

The next annual license renewal date is April 1, 1955. Because this bill recites no effective date, its effective date, under R.S. 1:2-3, would be July 4, 1955. In view of higher current costs of administration of the statute I believe that the increased license fee should apply in the 1955 renewal period.

Accordingly, I am returning Assembly Bill No. 418 with my recommendation for its revision as follows:

On page 4, add as section 5:

"5. This act shall take effect immediately."

Respectfully,

ROBERT B. MEYNER

GOVERNOR.

(SEAL)

Attest:

ROBERT J. BURKHARDT

Secretary to the Governor