**Section 3.90 Collateral**

a) Pursuant to the Acts listed in Section 40.23 of the Civil Administrative Code of Illinois and rules promulgated for the administration of such Acts, certain license holders or registrants are required to post a surety bond or are permitted to pledge collateral acceptable to the Department for the purpose of providing a fund to satisfy certain specific creditors in the event of a failure.

b) Collateral shall be made payable to the Illinois Department of Agriculture, Director, as Trustee. The collateral shall be kept in the custody of the Director. Only Certificates of Deposit issued by financial institutions that are members of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation will be accepted by the Department as collateral security. Letters of Credit shall be in accordance with Article V of the Uniform Commercial Code [810 ILCS 5/Art. V]. Notice of request for cancellation and return of the collateral shall be sent by the licensee/registrant by certified mail to the Director, Illinois Department of Agriculture, P.O. Box 19281, Springfield, Illinois 62794-9281. The notice shall contain the name and address of the principal, the amount of the collateral and reason for requesting the return of the collateral.

c) In the event the amount of the collateral is changed, the licensee/registrant shall submit new collateral acceptable to the Department. The date the new collateral is to be effective shall be set by the Department and any liability accruing under the prior collateral will be transferred to the new collateral. The effective date of the new collateral shall be set whereby there is no lapse of time that claimants are not protected by pledged security. The Department will release the original collateral upon receipt of the new collateral.

d) The financial institution shall pay directly to the purchaser that amount of interest that will enable the Certificate of Deposit to be withdrawn at full face value at any time. In the event the business fails, the Trustee shall liquidate the Certificate of Deposit and any interest accrued will be paid to the Trustee. When the Trustee liquidates the Certificate of Deposit, the financial institution will be notified in writing of such action by certified or registered mail or by personal demand by an authorized representative of the Department.

e) In the event of a failure of any licensee or registrant and where the Department's investigation reveals claims against the collateral, the Department of Agriculture shall liquidate the collateral to the extent necessary to satisfy claimants. The Department shall establish and deposit funds received from a liquidated collateral into an interest-bearing trust account in a federally insured financial institution until payment to claimants is made. The funds in a trust account shall be paid to claimants with valid claims by check written by the Department. An accounting of the funds which are deposited in the trust account shall be maintained by the Department on a separate accounting record for each trust account, identifiable as to the source of such funds, and any accrued interest shall be prorated among the identified funds in amounts equal to the same percentage as each identified fund is to the total trust account. Accrued interest from funds in a trust account shall be available for payment of valid claims. In determining the type of account in which to deposit trust funds, the Department shall consider interest rates, the anticipated period of time before payment to claimants with valid claims will be made, maturity dates and any other factors which could affect the maximization of funds for the benefit of claimants. Reports shall be made to the Comptroller of funds held in such accounts in accordance with the State Comptroller Act. When requested, the Trustee will provide a breakdown of how the trust account was distributed.

f) In the event of a failure of a licensee/registrant and where the Department's investigation reveals no valid claims against the collateral, the procedure as set forth in Section 3.140 shall be followed.

(Source: Amended at 22 Ill. Reg. 11698, effective June 25, 1998)