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Requirements for Grain Warehouses:

South Carolina



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Current through chapters 113-132 of the Second Regular Session.

§ 39-22-10. Authority to grant licenses; minimum requirements to be met and maintained.

The department may license a qualified warehouse facility for the storage of cotton and grain or other nonperishable agricultural products as defined by regulation. A license must be granted only to those applicants who have met the minimum requirements of this chapter and whose warehouse facility is suitable for the storage of agricultural commodities for which it is intended. A license may be revoked or suspended at any time the warehouseman does not meet the minimum standards as required by this chapter.

§ 39-22-15. “Loss” defined.

For purposes of this chapter, “loss” means any monetary loss over and beyond the amount protected by a warehouseman’s bond sustained as a result of storing a commodity in a state-licensed warehouse including, but not limited to, any monetary loss over and beyond the amount protected by a warehouseman’s bond sustained as a result of the warehouseman’s bankruptcy, embezzlement, or fraud.

§ 39-22-20. Bonding or security requirements of applicants for warehouse license.

To safeguard the interest of holders of warehouse receipts issued under this chapter, Chapter 19 of this title, and Chapter 7 of Title 36, the department shall require a surety bond or equivalent security from the applicant for a warehouse license for the faithful performance of his duties. The bond or other security must be in an amount of twenty-five thousand dollars for each warehouse. The bond must provide that the warehouseman personally shall account for and pay over, according to law, all money and property received by him and, in cases of default, the surety shall pay all damages, costs, and expenses resulting from the default. In the event of a default, the holder of the warehouse receipt may proceed directly against the warehouseman or

surety or both on the bond to recover the loss and a surety or other insurer who has been required to respond financially upon the action must be subrogated to all rights of the holder of the warehouse receipt.

The department shall assist the warehousemen in obtaining their individual bonds at the best available rate under a group plan, when possible.

§ 39-22-30. Department to promulgate regulations.

The department shall promulgate regulations to implement the provisions of this chapter.

§ 39-22-40. Term “cotton” to refer to all nonperishable farm products.

The provisions of this chapter referring to cotton also refer to all nonperishable farm products as defined by the Commissioner of Agriculture.

§ 39-22-50. Chapter inapplicable to “linters” cotton.

Cotton designated as “linters” may not be received for storage under the provisions of this chapter.

§ 39-22-60. Department to accept federal standards and classifications of cotton.

The Department of Agriculture shall accept as authoritative the standards and classifications of cotton established by the federal government.

§ 39-22-70. Receipt of lint cotton.

A receipt for lint cotton must be issued under the seal and signature of the Commissioner of Agriculture or his deputy in the name of the State, stating the location of the warehouse, the name of the manager, the tag number on the bale and the weight, grade, and staple to enable delivery on surrender of the receipt of the identical cotton for which it was given. The grade and staple may be omitted at the request of the depositor. The receipt may be issued in bearer or order form.

§ 39-22-80. Requirements for warehouse receipt forms; electronic warehouse receipts exempt; notice to depositor; consent for transfers to other parties.

The warehouse receipt forms must be designed or otherwise approved by the commissioner. All orders for the printing of warehouse receipts and bale tags must be preapproved by the department. The receipts must be numbered and the warehouse receiving the forms shall account for each receipt. The receipts may have the lithographed or engraved signature of the commissioner but they must be signed with pen and ink, indelible pencil, or mechanical device approved by the commissioner, by the authorized manager of the licensed warehouse. However, the Commissioner of Agriculture is authorized to accept and process Electronic Warehouse Receipts (EWR) from qualified providers, as defined by pertinent federal regulations governing EWR, and in so doing, is further authorized to exempt EWR from the provisions of this chapter to the extent these provisions are in conflict with pertinent federal regulations governing EWR, or to the extent that application of the provisions of this chapter renders acceptance and processing of EWR by the department impracticable. If a warehouseman elects to utilize electronic warehouse receipts, he must provide written notice to the depositor that the EWR have been issued to the depositor, the numbers of the EWR so issued and that the receipts are being held on his behalf and cannot be transferred to any other party without the depositor's written consent. The consent must be on a form approved by the commissioner and

it must be signed in the presence of the warehouseman, and attested to by him. Provided, however, that a warehouseman may accept a notarized copy of the written notice form.

§ 39-22-90. Prohibited acts; penalties.

(A) It is unlawful for:

(1) the manager or owner of a warehouse or an agent or employee to issue or aid in issuing a receipt for a commodity, knowing that the commodity has not been actually placed in the warehouse under the control of the manager or owner of the commodity;

(2) a person to induce a warehouseman to issue a receipt for a commodity, knowing that the commodity has not been actually placed in the warehouse under the control of the manager or owner of the commodity;

(3) a person to knowingly issue a warehouse receipt in a name other than that of the lawful owner of the commodity, or his designee, for which the receipt is given;

(4) a person to knowingly deliver an agricultural commodity to a warehouse or dealer on which a lien is outstanding without giving written notice to the warehouseman or dealer of the lien;

(5) a person to induce a warehouseman to deliver a commodity without first obtaining warehouse receipts issued for it;

(6) a manager, owner, or employee of a warehouse to knowingly deliver a commodity without first obtaining warehouse receipts issued for it;

(7) a warehouse auditor who, upon the auditing of a warehouse in the state warehouse system, finds items (2) and (5) of this section to have been violated to fail to report the violation on his regular report of the inspection, regardless of whether or not the violation is corrected before the report is filed;

(8) a person to issue or aid in issuing a duplicate or additional receipt for cotton or other commodity, knowing that the former receipt or any part of it is outstanding unless a receipt has become lost or destroyed and the goods are delivered or a duplicate receipt is issued in accordance with the provisions of law covering those cases.

(9) a warehouseman to issue an electronic warehouse receipt without providing written notice to the depositor of such issuance, or for a warehouseman to transfer any such electronic warehouse receipt without the depositor having consented thereto in writing on a form provided by the commissioner.

(B) A person who violates the provisions of item (1), (2), (3), (4), or (9) of subsection (A) of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both. Each transfer of an electronic warehouse receipt in violation of item (9) is a separate offense.

A person who violates the provisions of item (5) or (6) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

A person who violates the provisions of item (7) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, for each violation.

A person who violates the provisions of item (8) of this section is guilty of forgery and, upon conviction, must receive the penalty provided for a conviction of that crime.

§ 39-22-100. State guarantee; limitations.

The weights, classes, and grades of cotton, if shown on a warehouse receipt issued for the cotton, or other nonperishable farm products on storage are guaranteed by the State under this chapter only in favor of those who loan money on or buy cotton stored in warehouses. The State is not responsible for fluctuations in weight resulting from ordinary climatic conditions.

§ 39-22-110. Required identification tags on bales.

Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must be printed on the tag. The county of origin may appear on the tag. The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets these requirements. If the PBI tag does not meet these requirements, the warehouseman may affix a sticker to the PBI tag or bale of cotton adjacent to the PBI tag that meets these requirements.

§ 39-22-120. Warehouse insurance requirements.

Each licensed warehouseman shall insure and keep insured against loss or damage by fire, theft, burglary, and other hazards which are commonly insured against, under "extended coverage" provisions, for its full value, all cotton and other products on storage unless requested by the depositor in writing not to insure the cotton or other products and in that instance when the cotton or other products are not insured a statement to that effect must be plainly and conspicuously inserted on the face of the receipt. In case of loss, the warehouseman shall collect the insurance due and pay it ratably to those lawfully entitled to payment. The warehouseman may accept contracts for the storage of cotton submitted by the Commodity Credit Corporation and other United States governmental agencies without being required to carry insurance on the cotton. As a condition of license, each warehouseman shall maintain on file with the department a current certificate of insurance setting forth the policy number, the agent and underwriter, the provisions and limits of coverage, and the date the policy expires.

§ 39-22-130. Inspection of warehouses; inventory.

Each warehouse must be inspected, the inventory taken, and the records checked at least once in every three months.

§ 39-22-140. Sums collected under this chapter to be deposited annually.

All sums collected under this chapter must be transferred annually to a special account in the State Treasury according to the provisions of Section 39-22-150.

§ 39-22-150. Disposition of net revenues derived from operation of state warehouse system; additional fee on items for which warehouse receipts have been issued; use of funds generated by fee; guaranty fund; claims against fund.

All net revenues derived from operation of the state warehouse system must be transferred annually to a special account in the State Treasury until the sum of three million dollars accrues. When the fund reaches three million dollars, these transfers shall cease; however, all interest and investment revenue shall accrue solely to the fund and be returned annually to the fund. In order to support the increase of this fund, the funds must be invested at interest by the State Treasurer who shall credit the interest earned on the funds to the increase of the fund up to and above three million dollars. In addition to the interest, the commissioner shall assess an amount ratably against each warehouseman in this State issuing warehouse receipts a special additional fee not to exceed ten cents a bale of cotton or one cent a bushel of soybeans and one-half cent a bushel of any other stored feed grains or oil seeds for which warehouse receipts have been issued. The additional assessment may be charged not more than once for each receipt issued on a bale of cotton or bushel of grain. When the fund has reached the total sum of one million five hundred thousand dollars, the special additional assessment must be discontinued. If the fund is reduced to below one million dollars, the assessment must be resumed. The funds must be used to guarantee state warehouse receipts in excess of an amount recovered from the bonds required by this chapter, and to protect and reimburse depositors against losses as defined in Section 39-22-15. If there is an insufficient amount of money in the fund to cover all claims against the fund, payments must be made on a pro rata basis up to one hundred percent of the total loss of each claimant. If payment is not received in the amount of one hundred percent, then additional amounts must be paid as funds become available until payment of one hundred percent of the total is attained. The state's guarantee of warehouse receipts is based on monies available through the required bonds and the fund. Upon approval of a claim to the fund and before payment from the fund, the claimant shall subrogate his interest, if any, to the department in a cause of action against all parties relating to the claim. In no event may the funds be available for the reimbursement of an insurer or surety on the bonds required by this chapter, Chapter 19 of this title, or Chapter 7 of Title 36, who has paid a loss under this chapter. All income, interest, or otherwise, derived from this guaranty fund must be reinvested in the fund. Fifty thousand dollars of the income must be paid into the general fund of the State. Any of the funds not appropriated for the employment of additional auditors for the warehousemen and Dealers and Handlers Division of the Department of Agriculture must be returned to the fund.

§ 39-22-160. Annual report of commissioner.

The Commissioner of Agriculture shall make an annual report to the General Assembly setting forth (1) the number and location of each warehouse where cotton has been received for storage, (2) the cotton on storage and that delivered on presentation of receipts, and (3) monies received and disbursed.

§ 39-22-170. State's liability limited.

The extent of the state's liability is limited to the amount of monies available through the guaranty fund and, therefore, no debt or other liability may be created against the State by reason of the licensing of a warehouse under this chapter except as provided by this chapter.

§ 39-22-180. Warehouseman authorized to enter into agreement required by Commodity Credit Corporation; resolution of conflicting provisions.

It is lawful for a warehouseman licensed by the commissioner to operate a state warehouse to execute and enter into an agreement or contract required by the Commodity Credit Corporation or other agency of the United States government when the agreement or contract is necessary to secure the support price for certain stored commodities. Whenever the contract or agreement conflicts with the provisions of the state warehouse system or the Uniform Commercial Code - Documents of Title the conflicting provisions are suspended, but only to the extent that the suspension of the conflicting provisions is a minimum requirement of the agency of the United States government.

§ 39-22-190. Record keeping requirements for warehousemen.

All warehousemen licensed to store grain shall maintain current and complete records at all times with respect to all feed grains and oil seeds on forms approved by the Department of Agriculture pursuant to regulations promulgated by the department including grain owned by him as well as other feed grains or oil seeds not subject to the terms of the state warehouse system, stored in or handled through the warehouse. The records must include, but not be limited to, a daily record showing:

- (1) the total quantity of each kind and class of feed grains or oil seeds received and delivered and the quantity of each kind and class of feed grains or oil seeds remaining in the warehouse at the close of each business day;
- (2) the warehouseman's total storage obligations for each kind and class of feed grains or oil seeds at the close of each business day.

Incoming feed grains or oil seeds must be documented as to ownership and as to whether the feed grains or oil seeds are owned by the warehouseman or someone else. Feed grains or oil seeds received may be purchased by the warehouse before or upon arrival at the elevator or warehouse and after they have been in storage for a time. All operations must be documented properly to reflect ownership, quantity of feed grains, or oil seeds received, quantity delivered, and quantity in storage in the warehouse.

§ 39-22-200. Issuance of receipts; receipts not to be issued in name of warehouse; exceptions.

A state warehouse receipt must be issued by the warehouseman to a person storing commodities who requests it. If no receipt is issued to the storing party directly, one must be written to show ownership and held at the warehouse office properly locked and secured. No receipt may be issued in the name of the storing warehouse, or its owners, on commodities being purchased by the warehouse until the commodity has been paid for in full, even if a contract has been executed establishing that the title to the commodity has passed to the warehouse or its owners unless the buyer and seller execute an affidavit within the contract stating that the seller conveys title and ownership of the commodity and forfeits all of his rights under the Dealer and Handler Guaranty Fund. The affidavit must be in bold print on the face of the contract and must further state that the seller has read the contract in full, understands it, and waives all rights to contest his knowledge of any part of the contract. Those provisions do not reduce the responsibility of the warehouseman to keep proper records as required by Section 39-22-190.

§ 46-42-10. Responsibility, training, and certification of persons engaged in sampling, grading, and inspection of grains and oilseeds.

All dealers and handlers engaged in the grading of grain and oilseeds shall be responsible for the proper grade determination as set forth by the official United States Standards for grain or those approved by the Commissioner of Agriculture. All persons engaged in grading of grains and oilseeds shall be certified or supervised by a person certified by the South Carolina Department of Agriculture. Training and certification of persons engaged in sampling, grading and inspection of grains and oilseeds shall be made available by the South Carolina Department of Agriculture.

§ 46-42-20. Equipment and procedures used in sampling, grading, and inspection of grains and oilseeds.

All equipment used and procedures employed in the sampling, grading and inspection of grains and oilseeds shall be capable of consistently producing results in accordance with those specified by the United States Grain Standards Act or those approved by the Commissioner of Agriculture. The Commissioner of Agriculture (Commissioner) or his agent may inspect all equipment and procedures and may condemn equipment and suspend certificates when inaccuracies occur.

§ 46-42-30. Portion of sample to be retained for checking when discount or weight deduction is assessed.

If requested by the deliverer of grain or oilseed on which a discount or weight deduction is assessed, one-half must be placed and sealed in a tamper-proof container provided by the Department of Agriculture and the container must be returned to the deliverer of the grain or oilseed sampled, tested or graded. Records shall be maintained for a period of one year on each lot of grain or oilseed for which a grade is determined by the dealer and handler in order to assist the Commissioner in evaluation grading performance. The Commissioner may suspend or revoke a grader's certificate when he deems the grader incapable of competent performance.

§ 46-42-40. Laws governing weighing devices, personnel, and procedures.

All weighing devices used by grain or oilseed dealers and handlers shall be those approved by weights and measures laws. Personnel and procedures shall conform to the provisions of the Public Weighmasters Law.

§ 46-42-50. Printout or punch ticket required; design; contents; to serve as receipt.

Dealers and handlers shall be required to issue a printout or punch ticket of a design approved by the Commissioner for each lot of grain or oilseed received into custody of such dealers and handlers. The printout or punch ticket shall contain all weighing, grading and disposition information needed for proper identity, including:

- (1) Date;
- (2) Name and address of the dealer and handler and his public weighmaster number;
- (3) owner of commodity;
- (4) vehicle identity;
- (5) gross, tare and net weight or in the case of hopper weighing, net weight of load

- (6) type commodity;
- (7) percentage of moisture;
- (8) percentage of foreign material, other factors determined (specify);
- (9) grade assigned;
- (10) disposition of commodity;
- (11) signature of person weighing and grading.

The printout or punch ticket shall serve as a receipt that grain or oilseed was received into custody by the dealer or handler issuing the printout or punch ticket, unless otherwise stated on the ticket.

§ 46-42-70. Promulgation of regulations.

The Department of Agriculture shall promulgate regulations to implement the provisions of this chapter.

§ 46-42-80. Penalties for violation of chapter.

Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed one thousand dollars or imprisoned for a term not to exceed six months or both.