

Farm Service Agency, USDA

§ 738.13

§ 738.9 Lost or destroyed warehouse license.

Upon satisfactory evidence of the loss or destruction of a license issued to a warehouseman, a duplicate thereof may be issued under the same number.

§ 738.10 Unlicensed warehousemen must not represent themselves as licensed.

No warehouse or its warehouseman or any other person shall be designated or represented as licensed under the act, and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such person or warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

§ 738.11 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the act shall, before such license is granted, file with the Secretary or his designated representative a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall:

Faithfully perform during the period of 1 year commencing _____, or until the termination of said license(s) in the event of termination prior to the end of the 1 year period, all obligations of a licensed warehouseman under the terms of the act and regulations thereunder relating to the above-named products; and

Faithfully perform during said 1 year period and thereafter, whether or not said warehouse(s) remain(s) licensed under the Act, such delivery obligations and further obligations as a warehouseman as exist at the beginning of said 1 year period or are assumed during said period and prior to termination of said license(s) under contracts with the respective depositors of such products in the warehouse(s);

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the act and regulations and contracts shall include obligations

under any and all modifications of the Act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby waived.

[28 FR 5637, June 8, 1963. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 738.12 Basis of amount of bond; additional amounts.

(a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of \$15 per 1,000 pounds or fraction thereof of the maximum number of pounds of wool that the warehouse will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the Administrator but not less than \$5,000 nor more than \$50,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and the regulations in this part for the said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under §§ 738.11 through 738.15.

(b) In case of a deficiency in net assets as required by § 738.5, there shall be added to the amount of the bond fixed in accordance with paragraph (a) of this section, an amount equal to such deficiency.

(c) If the Secretary or his designated representative finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs (a) and (b) of this section a further amount fixed by him to meet such conditions.

§ 738.13 Amendment of license.

If application is made under § 738.3 for an amendment of a license, and no bond previously filed by the warehouseman under §§ 738.11 through 738.15 covers obligations arising under such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that such amendment will be granted upon compliance by such warehouseman with the act, file with the

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Secretary, within a time, if any, fixed in such notice a bond complying with the act, unless bond in sufficient amount has been filed since the filing of such application. In the discretion of the Secretary, or his designated representative, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and the regulations in this part may be filed in lieu of a new bond.

§ 738.14 New bond required each year.

Whenever a license has been issued for a period longer than 1 year, such license shall not be effective beyond 1 year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary or his designated representative, prior to the date on which that license would have expired had it been issued for but 1 year, subject to the provisions of § 738.13.

§ 738.15 Approval of bond.

No bond, amendment, or continuation thereof shall be deemed accepted for the purposes of the act and the regulations in this part until it has been approved by the Secretary or his designated representative.

WAREHOUSE RECEIPTS

§ 738.16 Form.

(a) Every receipt, whether negotiable or nonnegotiable, issued for wool stored in a warehouse, shall, in addition to complying with the requirements of section 18 of the act, embody within its written or printed terms of the following:

(1) The name of the warehouseman and the designation, if any, of the warehouse; (2) the number of the license issued to the warehouseman (3) a statement whether the warehouseman is incorporated or unincorporated, and, if incorporated, under what laws; (4) in the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship;

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(5) a statement, conspicuously placed, whether the wool is insured by the warehouseman and, if insured, to what extent and whether against fire, lightning, or otherwise; (6) the kind of wool; (7) a blank space designated for the purpose in which, if the wool is not commingled, a careful estimate of the shrinkage of the wool may be stated, or in which, if the wool is commingled, a careful estimate of the shrinkage of the wool shall be stated; (8) if the wool is not commingled, its identification in accordance with § 738.34; (9) if the wool is commingled, a clear and conspicuous notation to that effect, and the designation of the lot or pile of which it is a part on the face of the receipt; and (10) the words "Negotiable" or "Non-negotiable" and "Original" or "Copy" according to the nature of the receipt, clearly and conspicuously printed thereon.

(b) Every receipt, whether negotiable or nonnegotiable, issued for wool stored in a warehouse shall specify a period, not exceeding 1 year, for which the wool is accepted for storage under the act and the regulations in this part. Upon demand and surrender of the old receipt, by the lawful holder thereof, at or before the expiration of the specified period, and cancelation of the receipt, the warehouseman, upon such lawful terms and conditions as he may grant at such time to other depositors of wool in his warehouse, if he then continues to act as a licensed warehouseman, shall issue a new receipt for a further specified period not exceeding 1 year and shall indicate thereon the date when the wool was first received.

(c) Every negotiable receipt issued for wool stored in a warehouse shall, in addition to complying with the requirements of paragraph (a) of this section, embody within its written or printed terms the following: (1) If the wool covered by such receipt was graded by a licensed grader or weighed by a licensed weigher, a statement to that effect; (2) a form of indorsement which may be used by the depositor or the lawful holder of the receipt, or the authorized agent of either, for showing the ownership of, and liens, mortgages, or other encumbrances on, the wool covered by the receipt.