

Article 38A.

Cotton Warehouse Act.

§ 106-451.6. Short title.

The provisions of this Article may be known and designated as the "North Carolina Cotton Warehouse Act". (1987, c. 840, s. 1.)

§ 106-451.7. Definitions.

As used in the Article, unless the context otherwise requires:

- (1) "Board" means the North Carolina Board of Agriculture.
- (2) "Commissioner" means the North Carolina Commissioner of Agriculture.
- (3) "Person" means an individual, partnership, firm, corporation, association, or two or more people having a joint or common interest.
- (4) "Producer" means a farmer or grower of cotton.
- (5) "Receipt" means a warehouse receipt issued pursuant to this Article.
- (6) "Warehouse" means any building, structure or other protected enclosure in which cotton is or may be stored for hire.
- (7) "Warehouseman" means a person licensed by North Carolina Department of Agriculture and Consumer Services to engage in the business of storing cotton for hire. (1987, c. 840, s. 1; 1997-261, s. 54.)

§ 106-451.8. Board of Agriculture makes rules.

The Board is empowered to make and enforce such rules and regulations as may be necessary to make effective the provisions of this Article, including fees for inspection of warehouses. (1987, c. 840, s. 1.)

§ 106-451.9. Commissioner of Agriculture to administer and enforce Article.

The Commissioner of Agriculture shall have the following powers and duties under this Article:

- (1) To administer and enforce the provisions of this Article.
- (2) To assign and reassign the administrative and enforcement duties and functions assigned to him in this Article to one or more divisions within the Department of Agriculture and Consumer Services.
- (3) To delegate to any division head and other officer or employee of the Department of Agriculture and Consumer Services any of the powers and duties given to the Department by statute or by rules promulgated pursuant to this Article.
- (4) To investigate and determine upon application, whether the warehouse is suitable for the proper storage of cotton.
- (5) To conduct investigations of the daily operations of every State licensed warehouse.
- (6) To prescribe, within the limits of this Article, the duties of the warehousemen with respect to their care of and responsibility for cotton stored in licensed warehouses.
- (7) To issue licenses for the operation of warehouses under this Article.

- (8) To cooperate or enter into formal agreements with any other agency of this State or its subdivisions or with any agency of any other state or of the federal government for the purpose of administering or enforcing any of the provisions of this Article. (1987, c. 840, s. 1; 1997-261, s. 55.)

§ 106-451.10. Licensing of warehousemen.

(a) The Commissioner, or his designated representative, is authorized, upon application to him, to issue to any person a license for the conduct of a cotton warehouse in accordance with this Article and such rules and regulations as may be made hereunder: Provided, that each such warehouse be found suitable for the proper storage of cotton, and that such person agree, as a condition to the granting of the license, to comply with and abide by all terms of this Article and the rules and regulations prescribed hereunder. All licenses issued pursuant to this Article shall expire on December 31 of each year. Any warehouseman may renew his license by filing a renewal application with the Commissioner on or before January 1 of each year.

- (b) Each license application and license renewal application must include:
- (1) A current financial statement prepared by a certified public accountant;
 - (2) Proof of the bond required by G.S. 106-451.11;
 - (3) A license fee of one hundred dollars (\$100.00); and
 - (4) A certificate of insurance if insurance is required. (1987, c. 840, s. 1.)

§ 106-451.11. Bond required.

(a) Any person applying for a license to conduct a warehouse pursuant to this Article shall, as a condition to the granting thereof, execute and file with the Commissioner a good and sufficient bond to the State to secure the faithful performance of his obligations as a warehouseman. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State and shall contain such terms and conditions as the Commissioner may prescribe to carry out the purposes of this Article. Whenever the Commissioner, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

(b) The Board may require as a condition to the granting of a license that the warehouseman maintain casualty insurance on the cotton stored in a warehouse licensed under this Article. (1987, c. 840, s. 1.)

§ 106-451.12. Action on bond by person injured.

Any person injured by the breach of any obligation to secure which a bond is given, under the provisions of this Article, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach. (1987, c. 840, s. 1.)

§ 106-451.13. Suspension and revocation of license.

The Commissioner, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this Article, for any violation of or failure to comply with any provision of this Article or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. (1987, c. 840, s. 1.)

§ 106-451.14. License to classify, grade and weigh cotton stored.

The Commissioner or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any cotton stored or to be stored in a warehouse licensed under this Article, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this Article and of the rules and regulations prescribed hereunder. (1987, c. 840, s. 1.)

§ 106-451.15. Suspension and revocation of license to classify, grade or weigh.

Any license issued to any person to inspect, sample, or classify, or to weigh cotton under this Article may be suspended or revoked by the Commissioner or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh the cotton correctly, or has violated any of the provisions of this Article or of the rules and regulations prescribed hereunder or that he has used his license or allowed it to be used for any improper purpose whatever. (1987, c. 840, s. 1.)

§ 106-451.16. Delivery to warehouse presumed for storage.

Any cotton delivered to a warehouse under this Article shall be presumed to be delivered for storage. (1987, c. 840, s. 1.)

§ 106-451.17. Deposit of cotton deemed subject to Article.

Any producer who deposits cotton for storage in a warehouse licensed under this Article shall be deemed to have deposited the same subject to the provisions of this Article and the rules and regulations prescribed hereunder. (1987, c. 840, s. 1.)

§ 106-451.18. Receipts for cotton stored.

For all cotton stored in a warehouse licensed under this Article original receipts shall be issued by the warehouseman conducting the same, but no receipt shall be issued except for cotton actually stored in the warehouse at the time of the issuance thereof. (1987, c. 840, s. 1.)

§ 106-451.19. Contents of receipts.

Every receipt issued for cotton stored in a warehouse licensed under this Article shall contain the information required under the United States Warehouse Act, 7 U.S.C. § 214, et seq., and the regulations promulgated thereunder. (1987, c. 840, s. 1; 2006-112, s. 57.)

§ 106-451.20. Issuance of further receipt with original outstanding.

While an original receipt issued under this Article is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the cotton covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued. (1987, c. 840, s. 1.)

§ 106-451.21. Delivery of products stored on demand; conditions to delivery.

A warehouseman conducting a warehouse licensed under this Article, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the cotton stored therein upon a demand made either by the holder of a receipt for such cotton or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such endorsements as would be necessary for the negotiation of the receipt; and (c) a readiness and willingness to sign, when the cotton is delivered, an acknowledgment that it has been delivered if such signature is requested by the warehouseman. (1987, c. 840, s. 1.)

§ 106-451.22. Cancellation of receipt on delivery of cotton stored.

A warehouseman conducting a warehouse licensed under this Article shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the cotton for which the receipt is issued. (1987, c. 840, s. 1.)

§ 106-451.23. Records; report to Commissioner; compliance with provisions of Article, rules, and regulations.

Every warehouseman conducting a warehouse licensed under this Article shall keep in a place of safety complete and correct records of all cotton stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Commissioner concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this Article and the rules and regulations made hereunder. (1987, c. 840, s. 1.)

§ 106-451.24. Examination of books, records, etc., of warehousemen.

The Commissioner is authorized through officials, employees, or agents of the Department of Agriculture and Consumer Services designated by him to examine all books, records, papers, and accounts of warehouses and all cotton stored in warehouses licensed under this Article and of the warehousemen conducting such warehouse relating thereof. (1987, c. 840, s. 1; 1997-261, s. 109.)

§ 106-451.25. Inspectors to be bonded.

Each inspector employed by the Commissioner for the inspection and examination of warehouses licensed under this Article shall be bonded in an amount not less than five thousand dollars (\$5,000), or in such greater amount as the Commissioner deems necessary, for the faithful

performance of his duties and for the proper accounting of all funds coming into his hands. The cost of the bond shall be paid by the Department of Agriculture and Consumer Services. (1987, c. 840, s. 1; 1997-261, s. 109.)

§ 106-451.26. Liability of officials and employees.

No action may be brought in any court of this State against any State official or State employee on account of any act or omission in connection with the administration of this Article unless it be shown that such official or employee acted in bad faith and with corrupt intent. (1987, c. 840, s. 1.)

§ 106-451.27: Repealed by Session Laws 2014-100, s. 2.2(j), effective July 1, 2014.

§ 106-451.28. Violation a misdemeanor; fraudulent or deceptive acts.

Any person who shall violate any provision of this Article or who shall engage in any fraudulent or deceptive practice in the operation of a warehouse licensed under this Article shall be guilty of a Class 1 misdemeanor. (1987, c. 840, s. 1; 1993, c. 539, s. 786; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 106-451.29 through 106-451.39. Reserved for future codification purposes.