

CHAPTER 231**WAREHOUSES****231.01 DEFINITIONS**

A warehouse that handles and stores grain from one source and one party only, and which does not advertise to serve the public, is transacting business private in nature and is not subject to public regulation and control. OAG Jan. 4, 1949 (215-C-8).

In the instant case the operator of the warehouse does not advertise willingness to serve the public and the grain handled and stored in the warehouse comes to it from one source and one party only. The business is private in nature, not public in character, and not subject to public regulation and control as a public terminal warehouse. OAG Jan. 4, 1949 (215-C-8).

It is a fact question based upon careful analysis which determines whether in any case the relationship between a warehouseman and an owner of goods is a bailment of personal property for storage or is a rental of a place of storage. OAG Aug. 27, 1948 (645-B-14).

Where a public storage warehouse license is issued to "A" and "B" as a partnership and "B" withdraws, such a situation constitutes a change in the entity of the licensee and a new license and bond is required. OAG July 27, 1951 (645-B-16).

231.10 GENERAL DUTIES OF WAREHOUSEMEN

A warehouseman as a bailee may be, and normally as a practical business matter is, in subordinate and incidental sense, an agent of his bailor for the purpose of forwarding merchandise to the bailor's customers; and a surety on a warehouseman's bond is responsible for any loss resulting from a breach of duty on the part of its principal, the warehouseman, not only with respect to the actual function of storing goods, wares, or merchandise for profit, but also for a breach of duty in failing to remit the proceeds of C.O.D. shipments. *State v Dalrymple*, 227 M 533, 35 NW(2d) 714.

231.16 WAREHOUSEMAN TO OBTAIN LICENSE

Warehouseman holding a license under section 231.16 may also obtain a license to operate his business of a public local grain warehouse under the provisions of chapter 23. OAG April 24, 1948 (215-C-8).

Where a license is issued to a partner, and a member withdraws there is such change in the entity of the licensee that a new license and new bond are required. OAG July 27, 1951 (645-B-16).

231.17 BONDS OF WAREHOUSEMEN

A warehouseman as a bailee may be, and normally as a practical business matter is, in a subordinate and incidental sense, an agent of his bailor for the purpose of forwarding merchandise to the bailor's customers; and a surety on a warehouseman's bond is responsible for any loss resulting from a breach of duty on the part of its principal, the warehouseman, not only with respect to the actual function of storing goods, wares, or merchandise for profit, but also for a breach of duty in failing to remit the proceeds of C.O.D. shipments. *State v Dalrymple*, 227 M 533, 35 NW(2d) 714.

The bonds of public warehousemen other than grain and cold storage must be filed with the railroad and warehouse commission. OAG Sept. 22, 1949 (645-B-2).

231.18 PROCEEDINGS BEFORE THE COMMISSION; HOW COMMENCED

The statutes prescribe a procedure to be followed when a complaint is made against a licensed warehouseman as such. This procedure must be followed for three reasons: (1) to keep the commission informed as to the conduct of licensed warehouseman, (2) to provide for the settlement of complaints against licensed warehousemen without requiring the complainants to resort to the courts and, (3) to free licensed warehousemen from complaints which after investigation the commission determined were without merit. OAG Oct. 2, 1948 (645-B-19).

231.20 ANSWER

HISTORY. Amended, 1949 c 44 s 1.

231.21 HEARING

The statutes prescribe a procedure to be followed when a complaint is made against a licensed warehouseman as such. This procedure must be followed for three reasons: (1) to keep the commission informed as to the conduct of licensed warehouseman, (2) to provide for the settlement of complaints against licensed warehousemen without requiring the complainants to resort to the courts and, (3) to free licensed warehousemen from complaints which after investigation the commission determined were without merit. OAG Oct. 2, 1948 (645-B-19).

231.30 INCRIMINATING QUESTIONS

Self incrimination; confession covered by police; legislative investigations; production of writings; bodily or mental examination; jurisdictional limits of the privilege; waiver by testifying. 34 MLR 1.

CHAPTER 232**PUBLIC LOCAL GRAIN WAREHOUSES****232.01 LOCAL WAREHOUSES**

HISTORY. 1893 c 28 s 1; GS 1894 s 7714; 1895 c 148 s 1; RL 1905 s 2084; GS 1913 s 4476; 1919 c 254 s 1; 1923 c 114 s 1; GS 1923 s 5059; MS 1927 s 5059; 1937 c 296 s 1; 1943 c 345 s 1; 1949 c 478 s 1; 1951 c 110 s 1.

A company doing field warehousing, which leased local warehouses and took sole custody thereof, was a public local grain warehouse. OAG April 24, 1948 (215-C-8).

A warehouse that handles and stores grain from one source and one party only, and which does not advertise to serve the public, is transacting business private in nature and is not subject to public regulation and control. OAG Jan. 4, 1949 (215-C-8).

In the instant case the operator of the warehouse does not advertise willingness to serve the public and the grain handled and stored in the warehouse comes to it from one source and one party only. The business is private in nature, not public in character, and not subject to public regulation and control as a public terminal warehouse. OAG Jan. 4, 1949 (215-C-8).

Whether a transaction between a federal agency and a public local grain warehouse is within the scope of the statutory bond required depends upon the facts pertaining to the transaction and not an agreement between the public local grain warehouseman and the federal agency relating to the handling of grain distinct from the storage thereof. OAG Aug. 29, 1952 (645-B-2).