

251.451 Surety bond, certificate of deposit, letter of credit, or temporary surety required.

- (1) Each warehouseman shall file with the department a surety bond issued by a surety company authorized to transact business within the Commonwealth of Kentucky, payable to the Commonwealth with the Commissioner as trustee. A warehouseman may file with the department, in lieu of a surety bond, a certificate of deposit payable to the Commissioner, as trustee, an irrevocable letter of credit on forms provided by the Commissioner, or, upon approval by the Commissioner, a warehouse receipt for temporary surety until permanent surety is issued by a surety company. The principal amount of the certificate, letter of credit, or temporary surety shall be the same as that required for a surety bond under this section, and the interest, if any, shall be made payable to the purchaser. The amount of the bond for a warehouseman shall be established by administrative regulation, but in no event, except as otherwise authorized by this section, shall the sum be less than twenty-five cents (\$0.25) per bushel of the total maximum bushel capacity of the warehouse or twenty-five thousand dollars (\$25,000), whichever is greater, not to exceed one million dollars (\$1,000,000).
- (2) The bond shall be conditioned on the faithful performance of duties as an operator and the full and unreserved compliance with the laws of this state and any administrative regulations promulgated by the department, so that the depositors holding warehouse receipts, contracts, or other documented evidence of stored grain may receive the benefit of the bond. The aggregate liability of the surety to all depositors shall in no event exceed the sum of the bond. Neither the issuance of warehouse receipts by a warehouseman to himself for grain owned in whole or in part by him, the commingling of grain owned by the warehouseman with grain stored for others, or any violation by a warehouseman of KRS 251.420 to 251.510 or of the administrative regulations promulgated by the department shall constitute a defense in any action brought upon any bond, and all such bonds shall so provide. Maximum capacity of a warehouse shall be determined by dividing the cubic volume of all bins by two thousand one hundred fifty and forty-two one hundredths (2,150.42) cubic inches. The bond shall be kept in force at all times while the operator is conducting a warehouse. Failure to keep the bond in force shall be cause for revocation of the license and subjects the warehouseman to the criminal penalty provided in KRS 251.990. Each bond shall contain a provision that it may not be canceled by either the surety or the principal except upon sixty (60) days' notice in writing to the department at its offices in Frankfort. The notice shall not affect the liability accrued or that which may accrue under the bond before the expiration of the sixty (60) days. The department may require additional bond where the assets of any warehouseman appear insufficient, when compared to his storage obligations, or to meet the bond requirements of the United States or any agency or corporation controlled by the United States when they have a contract for storage with the warehouseman. The additional bond shall be a dollar amount equal to the insufficiency. Failure to post an additional bond shall constitute grounds for suspension or revocation of a license issued under KRS 251.430.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 21, sec. 1, effective June 8, 2011. -- Amended 2009 Ky. Acts ch. 61, sec. 2, effective June 25, 2009. -- Amended 1990 Ky. Acts ch. 396, sec. 2, effective July 13, 1990. -- Created 1984 Ky. Acts ch. 389, sec. 16, effective July 13, 1984.