CHAPTER 99

PUBLIC WAREHOUSES

99.01 Definitions.
99.015 Warehouses classified.
99.02 Public warehouse keepers; licensing.
99.03 Public warehouse keeper; security.
99.04 Suitable facilities and inspection.
99.05 Receipts; records; standards.
99.06 Injunctions.
99.07 Penalties.
99.08 Rule–making authority.

Cross–reference: See definitions in s. 93.01.

99.01 Definitions. For the purpose of this chapter, unless the context otherwise requires:

(1) "Food" has the meaning specified in s. 97.01 (6).

(2) "Property" means goods as defined in s. 407.102 (1) (g). "Property" includes food; agricultural and commercial products, commodities or equipment; household furnishings; automobiles, boats, snowmobiles or other vehicles and conveyances; and all other items of a personal, family, household, agricultural, business or commercial nature which may be the subject of a contract of storage.

(3) "Public warehouse" means a warehouse that is operated by a public warehouse keeper for the storage for hire of the property of others. "Public warehouse" includes a food warehouse, as defined in s. 97.27 (1) (b), if the warehouse is operated by a public warehouse keeper on a storage for hire basis. "Public warehouse" does not include a frozen–food locker plant as defined in s. 97.27 (1) (c).

(4) "Public warehouse keeper" means any person who is required to be licensed under s. 99.02.

(5) "Warehouse" means any building, room, structure or facility used for the storage of property.

History: 1983 a. 189; 1983 a. 500 ss. 2 to 6, 30; 1983 a. 538; 1985 a. 332 s. 253; 1987 a. 399; 1999 a. 83; 2009 a. 322.

99.015 Warehouses classified. For the purposes of this chapter, public warehouses are classified as follows:

(1) Class 1 warehouses have less than 10,000 square feet of floor space.

(2) Class 2 warehouses have 10,000 square feet or over but less than 50,000.

(3) Class 3 warehouses have 50,000 square feet or over but less than 100,000.

(4) Class 4 warehouses have 100,000 square feet or over but less than 150,000.

(5) Class 5 warehouses have 150,000 square feet or over.

History: 1983 a. 500 s. 34; Stats. 1983 s. 99.015; 1987 a. 399; 1999 a. 83.

99.02 Public warehouse keepers; licensing. (1) APPLICATION. Except as provided in sub. (2), no person may operate a warehouse, including a cold–storage warehouse, for the storage of property as bailee for hire without a public warehouse keeper's license. A person desiring a public warehouse keeper's license shall apply on a form furnished by the department and shall set forth the location, size, character and equipment of the building or premises to be used by the applicant, the kinds of goods intended to be stored, the name of each partner if a partnership or of each member if a limited liability company, the names of the officers if a corporation, and such other facts as the department requires to show that the property proposed to be used is suitable for a warehouse and that the applicant is qualified as a public warehouse keeper. Subject to s. 93.135, if the property proposed to be used is suitable for a public warehouse and the applicant is otherwise qualified, a license shall be issued upon payment of the license fee under sub. (3) and the filing of security or insurance as required under s. 99.03.

(2) LICENSE NOT REQUIRED. No license is required for any of the following:

(a) A municipal corporation.

(c) A person who operates a warehouse storing only grain, as defined under s. 126.01 (13).

(d) A cooperative association or an unincorporated cooperative association storing farm products and merchandise for members.

(e) A person who owns and uses warehouses for storage of manufactured dairy products, canned produce or dairy products, manufactured by the person.

(f) A common carrier engaged solely in the transit and storage of property for periods not exceeding 30 days.

(g) A person who stores property received under a writ of restitution under s. 799.44 (2) if that person was the plaintiff in the action that resulted in the issuance of the writ of restitution.

(h) An agricultural society, association, or board that conducts a county or district fair and that receives aid under s. 93.23.

(3) FEES. (a) An applicant for a public warehouse keeper's license shall pay the following annual license fee, unless the fee is otherwise established by department rule:

1. For a Class 1 public warehouse, $50.
2. For a Class 2 public warehouse, $100.
3. For a Class 3 public warehouse, $150.
4. For a Class 4 public warehouse, $200.
5. For a Class 5 public warehouse, $250.

Cross–reference: See also s. ATCP 97.04 (4), Wis. adm. code.

(b) No license shall be issued for part of a year for less than the annual fee, and the license is not transferable. The license period expires June 30.

(c) The department may exempt from the operation of this section a public warehouse or portion thereof if the operator has a license under the federal bonded warehouse act.

(d) If the department conducts a reinspection of any warehouse operated by a person licensed under this section due to any violation of any federal or state law that the department determines in a regularly scheduled inspection of that warehouse, the department shall charge the license holder for the reinspection as follows:

1. The holder of a license under par. (a) 1.: $50.
2. The holder of a license under par. (a) 2.: $100.
3. The holder of a license under par. (a) 3.: $150.
4. The holder of a license under par. (a) 4.: $200.
5. The holder of a license under par. (a) 5.: $250.

(e) An applicant for a public warehouse keeper's license shall pay a license fee surcharge of $100 if the department determines that, within one year before submitting the license application, the applicant operated the public warehouse without a license in violation of sub. (1). Payment of this license fee surcharge does not relieve the applicant of any other civil or criminal liability that results from the unlicensed operation of the public warehouse, but does not constitute evidence of any other violation of law.

(4) SIGN POSTED. Every public warehouse keeper shall keep a conspicuous sign posted on the outside of each public ware-

house, at its main entrance, which sign shall state clearly the name of the public warehouse keeper and that the warehouse is a public warehouse.

History: 1983 a. 500 ss. 9, 10, 31, 33, 35, 37; Stats. 1983 s. 99.02; 1985 a. 29 s. 3202 (3); 1987 a. 27; 1989 a. 163, 282; 1991 a. 39; 1993 a. 112; 1995 a. 27; 1997 a. 191, 317; 1999 a. 83; 2001 a. 40; 2003 a. 321; 2005 a. 441.

Cross–reference: See also s. ATCP 97.04, Wis. adm. code.

99.03 Public warehouse keeper; security. (1) SECURITY REQUIRED; FORM OF SECURITY. Every applicant for a public warehouse keeper's license shall file with the department any of the following:

(a) A commercial surety bond that is issued by a surety company licensed to do business in this state, that secures the applicant's faithful performance of all duties and obligations of a public warehouse keeper, that is payable to the department for the benefit of owners of stored property or their assignees, that is issued in a form acceptable to the department that provides that it may not be terminated without at least 30 days' written notice to the department.

(b) An original or certified copy of a legal liability insurance policy that is payable to the department for the benefit of the owners of stored property or their assignees, that is in a form acceptable to the department and that provides that it may not be terminated except upon at least 30 days' written notice to the department.

(c) A personal bond or 3rd–party guarantee in a form acceptable to the department and supported by one of the following forms of security held under sub. (3):

1. Cash.
2. A certificate of deposit.
3. Bonds.
4. An irrevocable bank letter of credit issued by a financial institution in this state.

(d) If the warehouse keeper is engaged exclusively in storing wearing apparel, an original or certified copy of a bailee's customers' insurance policy that protects the owners of all stored property against loss or damage by fire, wind, water or theft, that names the department as an additional insured party for the benefit of owners of stored property, that is in a form acceptable to the department and that provides that it may not be terminated except upon 30 days' written notice to the department.

(2) AMOUNT OF SECURITY REQUIRED. The aggregate amount of the security required under sub. (1) (a) to (c) shall be not less than the following:

(a) For a Class 1 public warehouse, $10,000.

(b) For a Class 2 public warehouse, $20,000.

(c) For a Class 3 public warehouse, $30,000.

(d) For a Class 4 public warehouse, $40,000.

(e) For a Class 5 public warehouse, $50,000.

(3) SECURITY HELD BY DEPARTMENT; RELEASE. The department or its agent shall hold security filed under sub. (1) (c). The security shall remain in effect, and the department may not release it, until one of the following occurs:

(a) A period of 180 days elapses after the warehouse keeper gives notice to the department that the warehouse keeper is no longer in business.

(b) A period of 180 days elapses after the warehouse keeper's license expires or is revoked.

(c) The department determines that the warehouse keeper is no longer in business and that all claims of persons storing property at the warehouse have been satisfied.

(4) USE OF A DEDUCTIBLE CLAUSE. Nothing in this section prohibits the use of a deductible clause in any insurance policy by agreement between the public warehouse keeper and the insurer if the insurer remains liable to owners of stored property or their assignees for the deductible portion of any loss or damage to stored property.

(5) NOTICE OF LIABILITY LIMITS. At the time a contract to store property is entered into with individuals for the storage of noncommercial personal, family or household goods, the public warehouse keeper shall notify the property owner of any limit on the public warehouse keeper's liability for loss or damage to the property while in storage and of the property owner's responsibility to provide additional coverage if desired.

(6) INSUFFICIENT SECURITY; DEPARTMENT ORDER; LICENSE SUSPENSION. If the department finds that the security or insurance policy filed by a warehouse keeper does not comply with sub. (2) or that a bond or insurance policy has been canceled without the required notice to the department, the department may summarily suspend the warehouse keeper's license without notice or a hearing. A person adversely affected by an order under this subsection is entitled to a prompt hearing before the department upon request. A request for hearing does not stay an order under this subsection.

History: 1983 a. 500 ss. 12, 36; Stats. 1983 s. 99.03; 1989 a. 163.

99.04 Suitable facilities and inspection. (1) FACILITIES. All public warehouse facilities shall be suitable for the type of storage operations to be conducted and shall be maintained and operated in a manner which will reasonably protect property to be stored against loss or damage. No public warehouse keeper license may be issued or continued in effect if facilities used are unsuitable for the type of storage operation to be conducted or adequate safeguards are not taken for the protection of property against loss or damage while in storage. A public warehouse used for the storage of food is subject to ch. 97.

(2) INSPECTION. The department may inspect all public warehouses as necessary to secure compliance with this chapter or any rules of the department prescribing standards for the suitability of storage facilities, the maintenance of storage records and the safeguarding of property while in storage. For purposes of inspection and enforcement, the department shall have access to all public warehouses regulated under this chapter at all reasonable times.

History: 1983 a. 500; 1987 a. 399; 1989 a. 163.

99.05 Receipts; records; standards. (1) RECEIPTS. Public warehouse keepers, at the time goods are received for storage, shall issue warehouse or storage receipts identifying goods placed in storage and inform storers of all terms and conditions of storage and may, for this purpose, use standard forms which are accepted in the warehousing industry and comply with the requirements of chs. 401 to 411 and this subchapter.

(2) RECORDS. Every public warehouse keeper shall maintain a record of all property received for storage and of all warehouse or storage receipts issued. Such records shall be open at all reasonable times to inspection by the department. Persons holding an interest in stored property may inspect records relating to the property at reasonable times.

(3) STANDARDS. Public warehouse keepers shall be subject to standards and duties of care as prescribed in s. 407.204 (1) and this chapter, and other provisions of law relating to the storage of goods for hire, including the issuance of warehouse receipts, maintenance of warehouse receipt registers and enforcement of warehouse keepers' liens.

History: 1983 a. 500; 1991 a. 148, 304, 315.

99.06 Injunctions. The department in the name of the state may commence an action to enjoin a violation of this chapter or any rule promulgated under this chapter and may prosecute such violation in any court of appropriate jurisdiction.

History: 1983 a. 500 s. 39; Stats. 1983 s. 99.40; 1987 a. 399 s. 362; Stats. 1987 s. 99.06.

99.07 Penalties. (1) Except as provided in sub. (2), a person who violates this chapter or rules promulgated under this chapter shall forfeit not less than $100 nor more than $500 for the first violation and not less than $200 nor more than $1,000 for a subsequent violation.

(2) A person who willfully violates this chapter or rules promulgated under this chapter shall be fined not less than $200 nor more than $1,000 or imprisoned not more than 6 months or both.

(3) Each day of violation constitutes a separate offense.

History: 1983 a. 500; 1987 a. 399 s. 362; Stats. 1987 s. 99.07.

99.08 Rule–making authority. The department may promulgate rules that are needed for the administration and enforcement of this chapter.

History: 1983 a. 500; 1987 a. 399 s. 362; Stats. 1987 s. 99.08.

Cross–reference: See also ch. ATCP 97, Wis. adm. code.