

# WAREHOUSING AND DEPOSITS

## CHAPTER 587

### HOUSE BILL NO. 1167

(Agriculture Committee)

(At the request of the Public Service Commission)

## WAREHOUSE TICKETS, CONTRACTS, AND REPORTS

AN ACT to amend and reenact section 60-02-11, subsection 6 of section 60-02-16, sections 60-02-17, 60-02-24, 60-02-30, 60-02-31, and 60-02-32, and subsection 4 of section 60-02-40 of the North Dakota Century Code, relating to the conversion of warehouse scale tickets, termination of warehouse storage contracts, and filing of monthly reports; and to repeal section 60-02-37 of the North Dakota Century Code, relating to notification to the public service commission of the destruction of a warehouse.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 60-02-11 of the North Dakota Century Code is amended and reenacted as follows:

#### **60-02-11. Scale ticket - Contents - Conversion.**

1. Every public warehouseman, upon receiving grain into its warehouse, shall issue a uniform scale ticket for each load of grain received. Such tickets must be numbered consecutively, and one copy of each ticket must be retained and remain as a permanent record. The original ticket must be delivered to the person from whom the grain is received, upon receipt of each load of grain. All scale tickets must be converted into cash, noncredit-sale contracts, credit-sale contracts, or warehouse receipts within ~~thirty~~ forty-five days after the grain is delivered to the warehouse.
2. Nothing in this chapter requires a warehouseman to receive grain for storage. A warehouseman shall publish and post, in a conspicuous place in its warehouse, a publication identifying whether storage will be available to its patrons or whether grain will be accepted via cash or a credit-sale contract arrangement.

**SECTION 2. AMENDMENT.** Subsection 6 of section 60-02-16 of the North Dakota Century Code is amended and reenacted as follows:

6. Have printed upon it the following words: "All storage contracts on grain in store at public grain warehouses ~~shall terminate on June thirtieth of each year, except storage contracts for dry edible beans which shall terminate on April thirtieth of each year~~ \_\_\_\_\_, as identified in the publication required by section 60-02-17. If storage charges and warehouseman's advances remain unpaid at the time of ~~such~~ termination, the warehouseman ~~shall~~ may sell a sufficient amount of

said grain to pay ~~such~~ the charges and advances. The ~~holder hereof~~ receiptholder shall surrender ~~this~~ the receipt to the issuing warehouseman for settlement."

**SECTION 3. AMENDMENT.** Section 60-02-17 of the North Dakota Century Code is amended and reenacted as follows:

**60-02-17. Warehouse and storage contract - Storage rates - Terminal delivery.** A warehouse receipt must contain, either on its face or reverse side, the following warehouse and storage contract:

This grain is received, insured, and stored subject to the laws and rules of the state of North Dakota, the terms of this contract, and the charges and conditions stated herein and as filed with the North Dakota public service commission. Upon surrender of this receipt and payment or tender of all applicable charges, the amount, kind, and grade of grain identified in this receipt will be delivered to the person named above or the person's order as rapidly as due diligence, care, and prudence will permit. At the option of the holder of this receipt, the amount, kind, and grade of grain for which this receipt is issued, upon demand, must be delivered back to the holder at any terminal point customarily shipped to, or at the place where received, upon the payment of any charges for receiving, handling, storage, and insurance and in case of terminal delivery, the payment in addition to the above of the regular freight charges on the gross amount called for by this ticket or in lieu thereof, a receipt issued by a bonded warehouse or elevator company doing business at the terminal point. Nothing in this receipt requires the delivery of the identical grain specified herein, but an equal amount of grain of the same kind and grade must be delivered.

A warehouseman shall publish and post, in a conspicuous place in its warehouse, the fees that will be assessed for receiving, storing, processing, or redelivering grain and the termination date of its warehouse receipts. This fee schedule publication must be filed with the commission as a part of its the warehouse license application or annual renewal. These The fees and termination date must be stated on the warehouse receipt issued for the grain. The fees or termination date may be changed upon filing a revised schedule publication with the commission.

**SECTION 4. AMENDMENT.** Section 60-02-24 of the North Dakota Century Code is amended and reenacted as follows:

**60-02-24. Reports to be made by public warehouseman - Penalty for failure.** Each licensed and bonded public warehouseman shall:

1. Prepare for each month a report giving facts and information called for on the form of report prepared by the commission. The report must contain or be verified by a written declaration that it is made under the penalties of perjury. The report may be called for more frequently if the commission deems it necessary. Information pertaining to the volume of grain handled is a confidential trade secret and is not a public record. The commission may make the information available for use by other governmental entities, but the commission may not release the information in a manner that jeopardizes the confidentiality of individual licensees.

2. File the report with the commission not later than the last day of the following month, and failure to file this report promptly will be considered cause for revoking the warehouse license after due notice and hearing.
3. Keep a separate account of the grain business, if the warehouseman is engaged in handling or selling any other commodity, and under no circumstances shall the grain account and other accounts be mixed.

~~No~~ The commission may refuse to renew a license shall be issued to any public warehouseman who fails to make a required report.

**SECTION 5. AMENDMENT.** Section 60-02-30 of the North Dakota Century Code is amended and reenacted as follows:

**60-02-30. Termination of public grain warehouse storage contracts.** All storage contracts terminate on the date identified in the publication required by section 60-02-17. If a different termination date is not identified in the publication, then all storage contracts on grain in store at public grain warehouses terminate on June thirtieth of each year, except for storage contracts on dry edible beans which terminate on April thirtieth of each year. Storage on any or all grain in storage at public grain warehouses may be terminated by the owner at any time before the applicable date mentioned herein by the payment of all legal charges and the surrender of the warehouse receipt, together with a demand for delivery of the grain in storage, or notice to the warehouseman to sell the stored grain. In the absence of a demand for delivery, an order to sell, or a request for the renewal of the storage contract, entered into prior to the expiration of the storage contract, for all grains except dry edible beans, the warehouseman shall sell, upon the expiration of the storage contract and compliance with section 60-02-31, at the local market price on the close of business on that day, sufficient amounts of the stored grain to satisfy all accrued storage charges thereon and warehouseman's advances upon the storage contract, and shall issue a new warehouse receipt for the balance of the grain in storage to the owner thereof upon the surrender of the old warehouse receipt, properly canceled. Upon the expiration of the storage contract for dry edible beans, the warehouseman is not obligated to renew the storage contract. In the absence of a demand for delivery, an order to sell, or an agreement between the warehouseman and the receiptholder for the storage of dry edible beans after April thirtieth the termination date of the storage contract, the warehouseman may sell, upon the expiration of the storage contract, at the local market price on the close of business on that day, all the stored beans grain of the receiptholder and tender to the receiptholder the proceeds of the sale, less an amount which will satisfy all accrued storage charges thereon and the warehouseman's advances upon any previous storage contract.

**SECTION 6. AMENDMENT.** Section 60-02-31 of the North Dakota Century Code is amended and reenacted as follows:

**60-02-31. Notice to owner of termination of storage contract.** ~~On or before June first of each year, for all grains except dry edible beans At least thirty days before the termination date of a storage contract, the warehouseman shall notify the receiptholder by mail the person in whose name the grain was stored of the termination of the storage contract on June thirtieth and the warehouseman's intention to sell a sufficient amount of the stored grain on June thirtieth to satisfy accrued storage charges unless the receiptholder prior to that time demands redelivery, authorizes sale, or continues the storage contract. On or before April first of each year, a warehouseman storing dry edible beans shall notify by mail the person in whose name the dry edible beans are stored of the warehouseman's~~

intention to terminate the storage contract on ~~April thirtieth, or at a later~~ the date pursuant to an agreement between the warehouseman and the receipt holder for the storage of dry edible beans after April thirtieth, identified on the storage contract and to sell all dry edible beans grain stored as of that date, unless the receipt holder prior to that time demands redelivery, authorizes sale, extends the storage contract, or enters into a new contract with the warehouseman for restorage. Failure to comply with this section ~~shall result~~ results in the forfeiture of storage charges accrued for the grain during the previous twelve months.

**SECTION 7. AMENDMENT.** Section 60-02-32 of the North Dakota Century Code is amended and reenacted as follows:

**60-02-32. Reissue warehouse receipts - Provisions.** Upon payment of all legal accrued charges and the surrender to the warehouseman of a receipt, ~~for all grains except dry edible beans, if the receipt holder elects and the warehouseman agree~~ to continue the storage contract, the warehouseman then shall may extend the storage contract or issue a new warehouse receipt to the owner and shall cancel the former receipt by endorsing thereon the words: "Canceled by the issuance of warehouse receipt no. \_\_\_\_\_", inserting the number of the reissue warehouse receipt thereafter, and the holder's name shall be signed thereto by the holder or by the holder's authorized agent. The reissue warehouse receipt shall be so designated by stamping thereon: "Reissue of warehouse receipt no. \_\_\_\_\_".

**SECTION 8. AMENDMENT.** Subsection 4 of section 60-02-40 of the North Dakota Century Code is amended and reenacted as follows:

4. Transfer all stored grain undelivered at the expiration of such thirty-day period to its successor, if licensed, or to the nearest licensed warehouse for restorage, taking receipts for the same in favor of the owner of the grain so transferred; ~~such warehouse receipts to be filed with the commission until called for by the owner.~~

**SECTION 9. REPEAL.** Section 60-02-37 of the North Dakota Century Code is repealed.

Approved March 9, 2005  
Filed March 9, 2005

## CHAPTER 588

### SENATE BILL NO. 2136

(Agriculture Committee)

(At the request of the Public Service Commission)

## ROVING GRAIN BUYER LICENSES AND FACILITIES

AN ACT to create and enact a new section to chapter 60-02.1 of the North Dakota Century Code, relating to licensing of roving grain buyers; to amend and reenact sections 60-02.1-07 and 60-02.1-17 of the North Dakota Century Code, relating to licensing and monthly reports of grain buyers; and to repeal section 60-02.1-24 of the North Dakota Century Code, relating to notification to the public service commission of the destruction of a facility operated by a facility-based grain buyer.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 60-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**60-02.1-07. Grain buyer license - How obtained - Fee - Financial statement.** Grain buyers must obtain an annual license from the commission. ~~The~~ Except as provided in this section, each license expires on July thirty-first of each year. When a licensee's initial license application that becomes is issued effective on or after June first does not expire until May thirty-first, that license expires on July thirty-first of the following calendar year. A facility-based grain buyer must obtain a license for each receiving location operated in the state. If a grain buyer operates two or more facilities in the same city or siding, in conjunction with each other and with the same working force, and where but one set of books and records is kept for all such facilities, and scale tickets and checks of but one series are issued for the grain, purchased, only one license is required for the operation of all such facilities. The annual license fee for a facility-based grain buyer is three hundred dollars; and a license renewal application that is received after July fifteenth must be assessed an additional one hundred dollar fee per receiving location. ~~The annual license fee for a roving grain buyer is two hundred dollars; and a license renewal application that is received after July fifteenth must be assessed an additional one hundred dollar fee.~~

If required to obtain United States department of agriculture approval of the commission's grain buyer inspection program, the commission may require that grain buyers submit a current financial statement prepared in accordance with generally accepted accounting principles. A financial statement furnished under this section is a confidential trade secret and is not a public record.

**SECTION 2.** A new section to chapter 60-02.1 of the North Dakota Century Code is created and enacted as follows:

**Roving grain buyer license - How obtained - Fee.** Roving grain buyers that purchase, solicit, merchandise, or take possession of grain in this state must obtain an annual license from the commission. Except as provided in this section, each license expires on July thirty-first of each year. When a licensee's initial license is issued effective after May thirty-first, that license expires on July thirty-first of the following year. The annual license fee for a roving grain buyer is two hundred

dollars, and a license renewal application that is received after July fifteenth must be assessed an additional one hundred dollar fee.

**SECTION 3. AMENDMENT.** Section 60-02.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**60-02.1-17. Reports to be made by grain buyers - Penalty for failure.** Each licensed and bonded grain buyer shall:

1. Prepare for each month a report giving facts and information called for on the form of report prepared by the commission. The report must contain or be verified by a written declaration that it is made under the penalties of perjury. The report may be called for more frequently if the commission deems it necessary. Information pertaining to the volume of grain handled is a confidential trade secret and is not a public record. The commission may make this information available for use by other governmental entities, but the information may not be released by those entities in a manner that jeopardizes the confidentiality of individual licensees.
2. File the report with the commission not later than the last day of the following month. Failure to file this report promptly will be considered cause for revoking the grain buyer license after due notice and hearing.
3. Keep a separate account of the grain business, if the grain buyer is engaged in handling or selling any other commodity, and under no circumstances may the grain account and other accounts be mixed.

A The commission may refuse to renew a license ~~may not be reissued~~ to any grain buyer who fails to make a required report.

**SECTION 4. REPEAL.** Section 60-02.1-24 of the North Dakota Century Code is repealed.

Approved March 7, 2005

Filed March 8, 2005

## CHAPTER 589

### HOUSE BILL NO. 1142

(Industry, Business and Labor Committee)  
(At the request of the Public Service Commission)

## CREDIT-SALE CONTRACT INDEMNITY

AN ACT to amend and reenact sections 60-10-06 and 60-10-08 of the North Dakota Century Code, relating to the reimbursement limit and order of payment from the credit-sale contract indemnity fund.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 60-10-06 of the North Dakota Century Code is amended and reenacted as follows:

**60-10-06. Credit-sale contract indemnity fund - Reimbursement limit.** The amount payable to any eligible person from the credit-sale contract indemnity fund for each insolvency may not exceed the lesser of eighty percent of the amount owed to that eligible person in accordance with all of that person's unsatisfied credit-sale contracts or two hundred eighty thousand dollars.

**SECTION 2. AMENDMENT.** Section 60-10-08 of the North Dakota Century Code is amended and reenacted as follows:

**60-10-08. Reimbursement for later insolvencies.** The public service commission shall ensure that all persons eligible for payment from the indemnity fund as a result of an insolvency are fully compensated to the extent permitted by this chapter before any payments from the indemnity fund are initiated as a result of a later insolvency. The chronological order of insolvencies is determined by the date the public service commission is appointed trustee under section 60-02.1-29 or 60-04-03.

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