

WAREHOUSING AND DEPOSITS

CHAPTER 735

HOUSE BILL NO. 1582
(Representatives Starke, Nowatzki, Shide)
(Senators Kelsh, Axtman, Langley)

GRAIN QUALITY DISPUTES

AN ACT to amend and reenact section 60-02-05 of the North Dakota Century Code, relating to the determination of quality factors of grain by federal licensed inspectors.

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

SECTION 1. AMENDMENT. Section 60-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-02-05. Duties of inspector.

1. If any dispute or disagreement arises between the person receiving and the person delivering grain at any public warehouse in this state as to the proper grade or dockage, or both, of any grain, an average sample of at least three pints of said grain in dispute may be taken together by both parties interested. Such sample shall be certified by both the owner and the warehouseman as being a true and representative sample of the grain in dispute on the day upon which the grain was delivered. Such sample shall be forwarded in a suitable container by parcel post or express, prepaid with the name and address of both parties, to the commission, for inspection by the federal licensed inspector, who will examine said grain and adjudge what grade or dockage, or both, said sample of grain is entitled to under the inspection rules and grades as promulgated by the secretary of agriculture of the United States. If the grain in question is damp or otherwise out of condition, such sample shall be placed in an airtight container.
2. If any dispute or disagreement arises between the person delivering grain and the person receiving grain as to the determination of quality factors of grain purchased or delivered in the state for which inspection rules and grades have not been adopted by the secretary of agriculture of the United States, an average sample of at

least three pints of the grain in dispute may be taken together by the parties interested. The sample must be certified by each party as a true and representative sample of the grain in dispute on the day the grain was delivered. If the grain is damp or otherwise out of condition, the sample must be placed in an airtight container. The sample must be forwarded in a suitable container by parcel post or express, prepaid with the name and address of both parties, for inspection by a federal licensed inspector, or a mutually agreeable third party, who may examine the grain and determine the quality factors in dispute. The determination made by the inspector, or the third party, shall be used in the settlement of the dispute.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 736

HOUSE BILL NO. 1106
(Committee on Industry, Business and Labor)
(At the request of the Public Service Commission)

PUBLIC WAREHOUSEMAN BONDS

AN ACT to amend and reenact subsection 2 of section 60-02-09 of the North Dakota Century Code, relating to public warehouseman bonds.

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

SECTION 1. AMENDMENT. Subsection 2 of section 60-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Be continuous, unless the corporate surety by certified mail notifies the licensee and the commission that the surety bond will be canceled ninety days after receipt of the notice of cancellation. ~~On or before July thirty-first of each year, the surety shall file a verification certificate with the commission stipulating that the bond coverage continues in full effect.~~

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 737

HOUSE BILL NO. 1347
(Kingsbury, Skjerven)

RAILROAD RIGHT OF WAY

AN ACT to amend and reenact sections 60-06-01, 60-06-05, and 60-06-06.1 of the North Dakota Century Code, relating to warehouses on railroad rights of way.

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

SECTION 1. AMENDMENT. Section 60-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-06-01. Who may make application for warehouse or elevator on railroad right of way. Any person, firm, or corporation desirous of erecting and operating at or contiguous to any railroad station or siding a warehouse or elevator for the purchase, sale, shipment, or storage of grain or potatoes for the public for hire, may make application in writing to the person, firm, or corporation owning, leasing, or operating the railway at such station or siding for the right, privilege, and easement of erecting and maintaining a public warehouse.

SECTION 2. AMENDMENT. Section 60-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-06-05. Sidetracks to be provided by railroad company on its land. Every railroad company or corporation organized under the laws of this state or doing business therein, upon application in writing, shall provide reasonable sidetrack facilities and running connections between its main track and elevators and warehouses upon or contiguous to its right of way at such stations. Every such railroad corporation shall permit connections to be made and maintained in a reasonable manner with its sidetracks to and from any warehouse or elevator without reference to its size, cost, or capacity, where grain is or potatoes are or may be stored. The railroad company shall not be required to construct or furnish any sidetracks except upon its own land or right of way. Such elevators and warehouses shall not be constructed within one hundred feet [30.48 meters] of any existing structure and shall be at safe fire distance from the station buildings so as not to conflict

essentially with the safe and convenient operation of the road. Where stations are ten miles [16.09 kilometers] or more apart the railroad company, when required so to do by the public service commission, shall construct and maintain a sidetrack for the use of shippers between such stations.

* SECTION 3. AMENDMENT. Section 60-06-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-06-06.1. Arbitration by public service commission Determination - Appropriation. On agreement of all parties concerned, the parties Any party may petition the public service commission to serve as an arbitrator of determine rights governed under this chapter. The commission shall serve as an arbitrator determine the matter in accordance with chapter 32-29 28-32 and the parties' rights of appeal are as limited by chapter 32-29 28-32. The commission shall conduct each hearing required under this section in the county where the right of way at issue is located. The parties requesting to the arbitration determination proceeding shall pay the expense of the proceeding, the compensation of any experts, and actual expenses of any employees of the commission while engaged in the proceeding. The commission shall ascertain such those costs and expenditures and, after giving the parties notice and opportunity to be heard, and after a hearing to determine the amount of cost and expenditures if a hearing is demanded by either of the parties, shall render a bill and make and transmit to the parties an order for payment by registered or certified mail. Upon order for payment, the parties, within Within ten days after receipt of the order, the parties shall pay to the commission the amount of the costs and expenses. The commission shall deposit all costs and expenses collected under this section in the public utility valuation revolving fund in the state treasury. All moneys transferred or deposited in the public utility valuation revolving fund for the payment of costs and expenses incurred under this section are hereby appropriated. These moneys are not subject to section 54-44.1-11.

Approved March 12, 1987
 Filed March 16, 1987

* NOTE: Section 60-06-06.1 was also amended by section 22 of Senate Bill No. 2100, chapter 408.