

## **CHAPTER 32-25**

### **CONVERSION OF GRAIN BY PUBLIC WAREHOUSE**

#### **32-25-01. Who may bring action - Effect.**

If the grain of different owners has been stored in a warehouse or elevator and has become mingled in a common mass, and any part thereof has been converted or is detained wrongfully by any person, the owner of any part of such common mass may maintain an action against the wrongdoer for the recovery of the possession or the value, as the case may be, of the quantity of such person's contribution to such common mass. It shall not be necessary to join as a party any other person who likewise may have contributed, or be alleged to have contributed, to such common mass, but the commencement of such action shall be deemed to be a selection or segregation of such person's interest, in all things the same as though, upon a demand made therefor, such grain or the value thereof had been set aside and delivered to such party.

#### **32-25-02. Consolidation of action.**

In case two or more persons shall have brought separate actions against the same defendant to recover the value or possession of different amounts of such common mass, the court in which such actions are pending, in its discretion, may consolidate such actions and dispose of them as justice and equity shall require.

#### **32-25-03. Storage tickets prima facie evidence.**

In any action involving the ownership or right of possession of stored grain, the storage tickets or warehouse receipts issued by any public warehouseman or grain dealer who commonly receives such grain for storage, in substantially the form prescribed by statute, shall be received in evidence, and shall be prima facie evidence that grain of the kind and quantity recited therein was received by such warehouseman at about the date of such ticket, and that the same was the property of the person named in said receipt as having deposited the same.

#### **32-25-04. How value of grain may be proved.**

In any action brought under the provisions of this chapter, it shall be permissible to prove the value of the grain in question by any of the following classes of evidence:

1. By market reports published in any newspaper or trade journal which commonly publishes such reports, purporting to give market values or selling prices of such grain at the market in question. No further foundation for the introduction of such reports in evidence shall be necessary than the showing that such newspaper or journal is in circulation as such or is commonly sold at public newsstands, and the court may take judicial notice of the character and circulation of such newspaper or journal without proof.
2. The buying and selling price of similar grain may be shown by the records of any chamber of commerce, board of trade, or similar organization which is shown to keep a record of permanent character of the prices at which such, or similar grain, is sold in the market at which such organization is situated.
3. A witness engaged in the business of buying or selling grain likewise may testify to the value of grain at any given market at any given time, upon showing the witness's knowledge thereof, and for the purpose of refreshing the witness's recollection such witness may examine and consider the permanent records of sales or purchases made in the regular course of business of such witness or the firm or concern with which the witness is or was connected.

#### **32-25-05. Method of proof of value of grain not exclusive.**

The methods of proof herein provided for shall not be exclusive but cumulative, and shall be taken and received together with any other competent evidence tending to establish the value in question.