

# WAREHOUSES AND ELEVATORS.

## CHAPTER 114.

[Sub. S. B. No. 72.]

### WAREHOUSES ON RAILROAD RIGHT-OF-WAY.

AN ACT to Regulate the Manner in Which Individuals, Firms and Private Corporations Shall Be Authorized to Construct, Maintain and Operate Public Warehouses and Elevators on Railway Right-of-Way in the State of North Dakota.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. APPLICATION IN WRITING.] Whenever any person, firm or corporation shall have applied in writing to any railroad company, through its division superintendent in this State, for the privilege of constructing a public warehouse upon the right-of-way, depot grounds, or warehouse lots of any such railway in the State of North Dakota in charge of said division superintendent, and if after thirty days' application in writing for said privilege it shall have been refused, or when the railway shall have neglected to give its affirmative consent to the said applicant of its acceptance of said application, the said person, firm or corporation shall then place their complaint in the hands of the Board of Railroad Commissioners of said State, setting forth in it of having made his, its or their said application and that the public welfare will be advanced by said privilege being granted. It shall then be the duty of said Board of Railway Commissioners to ascertain if the public welfare would be advanced by said application being complied with. If after an investigation they conclude it would be a public benefit, they shall notify such railroad company to appear before them at a certain time and place to show cause, if any there be, why such warehouse privilege should not be granted; and said Board of Railroad Commissioners are hereby empowered and required to make such orders and awards as they deem to be right and just to all parties concerned.

§ 2. METHOD OF PROCEDURE IN CASES OF NON-COMPLIANCE.] In case either party fail or refuse to comply with the decision or award of the Board of Railway Commissioners, it is hereby made the duty of the said Board of Railroad Commissioners, in the name of the State, to enter the case for final decision and award in any court of competent jurisdiction; and it is hereby made the duty of the Attorney General of this State to give all necessary advice, and to manage all suits of this nature in any portion of

the State when applied to for that purpose by the Railroad Commissioners of this State; and at any stage of the proceeding, when the Attorney General is otherwise engaged, he may request and require the state's attorney of any county to manage and try the said suit or aid therein; and for the services of the Attorney General and state's attorney of the county, only the usual attorney's fees shall be charged, which, if required by the courts to be paid by the defendant, shall be turned into the general fund of the State; *Provided*, This shall not deter a person, firm or corporation desiring such elevator right to employ his own counsel to manage and try the suit alone, or to aid the Attorney General and state's attorney, and the proceedings shall be prosecuted in the name of the applicant for the site, found not in the name of the State, and no costs or judgment shall be awarded against the State or county, but shall be awarded either against the railway company or the citizens or corporation causing the suit to be instituted.

§ 3. JUDGMENT AND DECREE.] The notice and complaint shall specify, as near practical, the location that is desired for the warehouse, or if necessary if the switch room needs to be extended, that fact also, as well as other necessary facts, and each of these, at any stage of the proceeding, and all other papers in the case shall be subject to amendment. In case the trial shall result in granting elevator rights, the Railroad Commissioners shall designate the site and shall fix monuments for the structure, with all necessary room for approaches and the convenient use and operation of the warehouse and shall report to the court their doings, and such report shall be subject to the action of the court. In case any sum shall be awarded the railroad company, judgment shall be entered therefor, and the same shall be paid by the applicant before the applicant for the site shall be entitled to take possession thereof, or commence construction thereon. A decree in such case and the payment of the judgment, if it shall require payment by the applicant, shall vest the applicant or applicants, his, its or their assigns and representatives, with all the rights of perpetual warehouse facilities that could be conveyed by a deed from the railroad until reversed or set aside.

§ 4. CONDEMNATION OF RIGHT-OF-WAY.] Such condemnation of such right-of-way and such right of occupancy shall extend to and include so much of said grounds as is necessary for the accommodation of such public warehouse and for the convenient operation thereof, together with necessary grounds 'to afford access thereto from the nearest public thoroughfare.

§ 5. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 6. EMERGENCY.] Inasmuch as there is no adequate law on the subject covered by this act, there is an emergency for it to take effect now, and this act shall be in force and operation from and after its passage and approval.

Approved, March 12, 1895.

## CHAPTER 115.

[H. B. No. 101.]

## PUBLIC WAREHOUSE LICENSES.

AN ACT to Provide for the Licensing of Public Warehouses.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. LICENSE, HOW OBTAINED—LICENSE FEE, HOW DETERMINED.] That annual State license must be obtained through the Commissioners of Railroads for each and every public grain warehouse in operation in this State. That no license issued under this act shall describe more than one public grain warehouse, or grant permission to operate any other public grain warehouse than the one therein described. The license fee is hereby fixed at two dollars (\$2.00) for warehouses of a capacity of less than 10,000 bushels; and three dollars (\$3.00) for warehouses of a capacity of 10,000 bushels and over for each public grain warehouse; *Provided*, That before any license is issued the person applying therefor shall file with the Commissioners of Railroads the receipt of the State Treasurer, showing that the applicant has paid into the State treasury the amount of said license fee.

§ 2. LICENSE TO BE CONSPICUOUSLY POSTED—PENALTY.] That the license thus obtained shall be posted in a conspicuous place in the public warehouse so licensed. Every such license shall expire on the first day of August next following the issuance thereof, and no license shall run for a longer period than one year. That any person, association, who shall transact the business of public warehousemen without first procuring a license as herein provided, shall on conviction be fined a sum not less than twenty-five dollars (\$25.00) for each and every day such business is carried on.

Approved, March 19, 1895.