

# GRAIN

## CHAPTER 155

(S. B. No. 87—McLachlin and Hjelmstad)

### GRAIN INSPECTION

An Act to Regulate Grain and Seed Warehouses; Defining Public Warehouses and Providing for the Bonding, Licensing and Supervision Thereof and the Weighing, Storing, Buying, and Handling of Grain and Seeds; Prescribing the Duties and Powers of the Board of Railroad Commissioners in Relation Thereto; Providing for the Appointment of a Federal Licensed Inspector, and Such Other Employees as May be Deemed Necessary to Carry Out the Provisions of this Act; Providing Penalties and Repealing Sections 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3123, 3135, 3136, and 3137.

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

§ 1. BOARD OF RAILROAD COMMISSIONS, POWERS AND DUTIES.] The duties imposed by the provisions of this act and the powers conferred herein devolve upon the Board of Railroad Commissioners.

§ 2. BOARD ENTITLED THE COMMISSION.] Hereinafter throughout this act, whenever the title "The Commission" is used, it is understood to mean "The Board of Railroad Commissioners."

§ 3. TO SUPERVISE HANDLING, WEIGHING AND STORING OF GRAIN.] The Commission shall exercise general supervision of the public warehouses of this state, including the handling, weighing and storing of grain and seeds, and the management of public warehouses; it shall investigate all complaints of fraud and injustice, unfair practices and unfair discrimination, and shall make all proper rules and regulations for carrying out and enforcing any law in this state regarding the same.

§ 4. AUTHORIZED TO EMPLOY.] The Commission is hereby authorized to employ a Federal Licensed Inspector whose duties are hereinafter prescribed, and such other employees as may be necessary to carry out the provisions of this act.

§ 5. DUTIES OF INSPECTOR.] If any dispute or disagreement arises between the person receiving and the person delivering the 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 by both parties interested together. Such sample shall be certified to 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 a Federal Licensed Inspector employed by the Commission, 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.

§ 6. PRINTING AND PUBLISHING RULES.] The rules and regulations so established shall be printed and published by the Commission in such manner as to give the greatest publicity thereto, and the same shall be in force and effect until changed or abrogated by said Commission in a like public manner.

§ 7. PUBLIC WAREHOUSES DEFINED.] All buildings, elevators and warehouses, and all grist and flour mills, cereal and feed mills and seed houses, doing a shipping business in this state, erected and operated, or which may hereafter be erected or operated by any person, association, copartnership or corporation, for the purpose of buying, selling, storing, shipping or handling grain and seeds for profit, are declared public warehouses and the person, association, copartnership or corporation owning or operating such buildings, elevators, mills or warehouses, which are now, or may be hereafter located or doing business within this state, whether such owners or operators reside within this state or not, are public warehousemen within the meaning of this section. Provided, that nothing in this act contained shall be construed to require any person or persons operating a flour, cereal or feed mill or seed house doing a manufacturing business only, to receive, store or purchase at said mill or seed house any kind of grain.

§ 8. LICENSE, HOW OBTAINED. FEE.] A license must be obtained through the Commission to expire on the first day of August of each year for each public warehouse in operation in this state. No license so issued shall describe more than one public warehouse nor grant permission to operate any other public warehouse than the one described therein. The license fee, which must accompany the application, is hereby fixed at ten dollars for each warehouse. The fees collected under this act shall be paid into the State Treasury and credited to the General Fund of the state.

§ 9. TRACK BUYERS, LICENSE AND BOND.] Any person, firm or corporation excepting a warehouseman, desiring to purchase grain from producers for the purpose of loading the same in cars

on the track of any railroad company in this state for shipment shall be known as track buyers, and shall procure a license therefor from the Commission before transacting such business. The fee for such license shall be ten dollars per annum for each station. Any such track buyer must pay cash for grain so purchased and such track buyer shall be subject to the same laws, rules and regulations as may govern public warehouses, in so far as they may apply, for the protection of sellers of grain, provided that nothing herein shall be construed to classify as a track buyer any producer of grain who may purchase grain from other producers in order to complete a carload in which a portion of said carload is grain grown by said producer.

§ 10. BONDS TO BE FILED.] Before any license is issued to any public warehouseman, such warehouseman shall file with the Commission a bond in such sum as it shall prescribe, which sum shall not be less than five thousand dollars for any one warehouse. Such bonds shall cover the period of the license and shall run to the State of North Dakota for the benefit of all persons storing or selling grain and seeds in such warehouses. They shall be conditioned upon the faithful performance of his duties as a public warehouseman and all of the provisions of law relating to the storage and purchase of grain and seeds by such warehouseman and the rules and regulations of the Commission relating thereto. The Commission is authorized to require such increases in the amount of bond from time to time as it may deem necessary for the protection of the holders of storage receipts and cash tickets or checks. The surety on such bonds must be a corporate surety company, authorized to do such business within the State of North Dakota, provided, however, that the Commission may accept a bond executed by personal sureties, in lieu of a surety bond, when in its judgment such personal surety bond will properly protect the holders of storage receipts and cash tickets or checks. One bond only need be given for any line of elevators, mills, or warehouses owned, controlled or operated by one individual, firm or corporation, and such bond shall be construed to cover such elevators, mills or warehouses as a whole and not a specific amount to each of such elevators. Every such bond shall specify the location of each public warehouse intended to be covered thereby, and shall, at all times, be in sufficient sum to protect the holders of outstanding storage receipts and cash tickets or checks.

§ 11. LICENSE TO BE POSTED. PENALTY.] The license thus obtained shall be posted in a conspicuous place in the public warehouse so licensed. Any public warehouseman who shall transact business without first procuring a license as herein provided, shall

upon conviction be fined in the sum of not less than twenty-five dollars for each day such business is carried on. The Commission shall revoke the license of any warehouse for cause upon notice and hearing.

§ 12. SCALE TICKET.] Every public warehouseman, upon receiving grain into his warehouse, shall issue for each load of grain so received a uniform scale ticket. Such ticket shall be bound in books of convenient size, shall be consecutively numbered and provision made in said books for at least one carbon copy of each ticket. One carbon copy of each ticket shall be retained in said book and shall remain as a permanent record. The original ticket shall be delivered to the person from whom the grain is received upon receipt of each load of grain. All such tickets shall be signed by the warehouseman, his agent or manager. All scale tickets shall be converted into either cash or storage tickets at the close of each day's business. The office copy of each scale ticket shall show the number of the cash ticket or storage ticket issued in lieu thereof.

§ 13. CHEATING OR FALSE WEIGHING. PENALTY.] Any person who shall knowingly cheat, or falsely weigh any wheat or other agricultural product, or who shall violate any of the provisions of this act, where punishment is not elsewhere in this act provided for, shall be guilty of a misdemeanor, and shall, on conviction thereof, be subject to a fine of not less than two hundred dollars nor more than one thousand dollars or be imprisoned in the penitentiary for a period of not exceeding one year, in the discretion of the court.

§ 14. FEDERAL GRADES TO CONTROL. GRADES TO BE POSTED.] All public warehousemen shall purchase and store grain and seeds in accordance with the official grades established from time to time by the Secretary of Agriculture of the United States, except as otherwise provided in rules and regulations applicable thereto adopted by Federal officials pursuant to law. They shall post in a conspicuous place in their warehouse the official grades so established and also any change that may be made from time to time.

§ 15. GRADING OF GRAIN.] All public warehousemen shall, before testing for grade any grain handled by them, remove therefrom and make due allowance for any dockage of such grain made by reasons of the presence of straw, weed seeds, dirt or any other foreign matter.

§ 16. PENALTY.] Any public warehouseman within this state, who shall violate the provisions of the foregoing section, shall be guilty of a misdemeanor and upon conviction shall be

punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail for not less than ten nor more than thirty days, or by both such fine and imprisonment.

§ 17. STANDARD WEIGHTS TO BE USED. EXCEPTION.] No person purchasing, selling or storing grain in any public warehouse in this state, shall use any other measure for such grain than the standard bushel, and no other number of pounds shall be used or called a bushel than the number of pounds provided by law as the standard weight of the kind of grain in question; provided, however, that during the months of October and November, not exceeding eighty-two pounds, and during the months of December and January, not exceeding seventy-six pounds may be used as the standard bushel of new ear corn.

§ 18. STORAGE AND DELIVERY CHARGES. TERMINAL DELIVERY.] Every public warehouseman shall receive for storage, so far as the capacity of his warehouse will permit, all grain tendered to him without discrimination of any kind, provided, that such grain is sound and in a warehouseable condition. Upon date of delivery of grain for storage a warehouse receipt shall be issued to the owner or his agent, which shall state the place and date when the grain was received, the name of the owner of the grain, the kind and grade of the grain according to the official standards established by the Secretary of Agriculture of the United States, the gross weight, dockage, and net weight of the grain as per North Dakota standard weight. All receipts shall be consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. No receipt shall be issued except upon actual delivery of grain into such warehouse. No warehouseman shall insert in any such receipt any language in any wise limiting or modifying his liability as imposed by the laws of this state. Such receipts shall contain either on its face or reverse side the following specific warehouse and storage contract:

"This grain is received, insured and stored subject to the following charges: one thirtieth of one cent per net bushel per day from date of delivery, but not to exceed ten cents per net bushel for one year; provided, however, that if such grain be sold within twenty days no storage shall be charged. Upon surrender of this receipt and payment or tender of a delivery charge per gross bushel of three cents on flax, two cents on wheat or rye, and two cents on other grains, and all other stated lawful charges accrued up to the time of said surrender of this receipt, the above amount, kind and grade of grain will be delivered to the person named above or his 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 shall, on his demand, be delivered back to him, at any terminal point customarily shipped to, or at the place where received, upon the payment of the above 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 such terminal point. Nothing in this receipt shall be construed to require the delivery of the identical grain specified herein, but an equal amount of grain of the same kind and grade shall be delivered to him."

Public warehousemen may also insert in the said receipt the following provision:

"If any of the grain embraced in this receipt shall prove to be covered by a chattel mortgage or other lien, or the partial or absolute title prove to be in some other than the person to whom this receipt was issued, the same shall, if discovered before the delivery of the grain, be sufficient reason for the refusal to deliver to the holder of the receipt, or if discovered after the delivery of the grain such delivery shall be deemed an over delivery for which said holder of this receipt, to whom such delivery is made, shall be accountable."

Provided, further, that grain placed in a special bin shall be excepted from the provisions of this section.

§ 19. PURCHASE BY WAREHOUSEMAN. FORM OF RECEIPT.] There may be printed on such storage receipt, a receipt executed by the owner for use in case the grain represented thereby is purchased by such warehouseman. The warehouseman shall record such purchase, as to the amount paid per bushel, on the stub record of his storage receipt book. Such receipt shall be in substantially the following form:

Received from ....., .....

Dollars and ..... Cents net, in full payment for the grain represented by this storage receipt. Gross price per bushel ....., storage per bushel ....., net price per bushel .....

I hereby certify that I am the owner of the grain for which this receipt was issued, and that there are no liens, chattel mortgages or other claims against the grain represented by this receipt.

Dated ..... 19..... Signed ..... Owner.

Provided, that nothing in this section contained shall be construed to affect in any manner the conditions of the storage contract specified in Section 18 of this act.

§ 20. ISSUANCE OF INFORMAL MEMORANDA FORBIDDEN.] The failure to issue such receipt, as directed, or the issuance of slips, memoranda or any other form of receipt embracing a different warehouse or storage contract shall be deemed a misdemeanor.

§ 21. RECORDS TO BE KEPT.] Every public warehouseman shall keep, in proper books, a record of all grain received, stored and shipped, stating the weight, grade and dockage for dirt or other causes, the name of the owner, price paid and storage charged collected.

§ 22. STUB RECORD. NUMBERING RECEIPTS. SPECIAL BIN.] Attached to the receipt shall be a stub record or carbon copy showing the serial number and date of receipt; kind and grade of grain and the gross weight, dockage and net weight: such record to remain in the possession of the warehouseman for inspection by the Commission and persons properly interested. All special bin receipts and stub records thereof shall have plainly marked thereon the words "Special Bin."

§ 23. REPORTS.] On the last day of each month public warehousemen licensed and bonded under this act, shall prepare and submit to the Commission a sworn report giving facts and information called for on the form of report prepared by said Commission. Such report may be called for more frequently, if, in the judgment of the Commission, it becomes necessary. Reports must be filed not later than the tenth of the following month. Failure to file this report promptly will be considered cause for revoking the warehouse license after due notice and hearing. All public warehousemen engaged in the handling or sale of any other commodity than grain shall keep an entirely separate account of their grain business and under no circumstances shall their grain account and other accounts be mixed. The Commission may also require special reports from warehousemen at such times as it may deem expedient. No license shall be reissued to any public warehouseman who fails to make reports as required herein.

§ 24. DISCRIMINATION PROHIBITED.] No public warehouseman shall discriminate in the buying, selling, receiving and handling of grain or in the charges made or the service rendered to owners of stored grain, nor shall such warehouseman discriminate in the receiving of grain offered for sale or storage, nor in regard to the persons offering such grain for sale or storage; provided, that no public warehouseman shall be required to receive for storage any grain which is heating or otherwise out of condition. Storing grain free of charge is hereby prohibited.

§ 25. LIABILITY OF WAREHOUSEMEN. DEFINITION OF GRAIN.] Public Warehousemen shall be liable to the owner for the delivery

of the kind, grade, and quantity of grain called for by said receipts. The term "Grain" is held to signify and include the following products: Wheat, Durum, Oats, Rye, Barley, Buckwheat, Flaxseed, Speltz and Corn. The term "Seeds" shall be construed to mean Clover, Millet, Alfalfa and all other Grass Seeds.

§ 26. DELIVERY.] On the return and surrender of any receipt and payment of all lawful charges, the grain represented therein shall be deliverable to the owner, and shall not be subject to any further charge for storage after demand for delivery shall have been made and proper facilities for receiving or shipping the same have been provided. The owner of the receipt shall order the receptacle or receptacles in which the grain covered by his receipt is to be transported, and the grain shall be delivered when the receptacle so ordered is in proper condition for loading and placed at the warehouse.

§ 27. REFUSAL TO DELIVER. LARCENY.] Every warehouseman who shall, after demand, and payment or tender of storage charges, wilfully neglect or refuse to deliver to the person making such demand, the full amount of grain of the grade and kind to which he is entitled, or to pay the market value thereof, shall be guilty of larceny.

§ 28. BAILMENT NOT A SALE. INSOLVENCY.] Whenever any grain shall be delivered to any public elevator or warehouse in this State, and the receipt issued therefor provides for the delivery of a like amount and grade to the holder thereof in return, such delivery shall be a bailment and not a sale of the grain so delivered, and in no case shall the grain so stored be liable to seizure upon process of any court in any action against such bailee, except actions by owners of such warehouse receipts to enforce the terms thereof, but such grain shall at all times, in the event of the failure or insolvency of such bailee, be first applied exclusively to the redemption of outstanding warehouse receipts for grain so stored with such bailee, and in such event all grain on hand in any particular elevator or warehouse, whether the same be stored or not, shall be applied to the satisfaction of receipts issued by such warehouse.

§ 29. GRAIN TO BE KEPT INSURED FOR BENEFIT OF OWNER.] All grain, whether on storage ticket or deposit with the warehouseman, shall be kept insured at the expense of such warehouseman for the benefit of the owner, provided, that no insurance policy covering grain in a public warehouse shall be transferred or assigned, except in so far as the same shall cover grain not stored, to any person for any purpose whatever, and the owners of storage tickets issued by any public warehouse shall have a first lien, to the

extent of the value of the grain at the time of destruction at the place where stored, on all such insurance for any loss or injury sustained by them on account of the destruction or injury of such grain by fire or tornado or any other cause covered by such insurance policy.

§ 30. WAREHOUSE NOT TO BE CLOSED WITHOUT PERMISSION.] Every licensed public warehouse shall be kept open for business in order to serve the public. Upon application and sufficient cause shown, the Commission may allow any warehouse to be closed for such length of time as may be stated in the order issued therein. Provided, that application to close shall provide for redemption of outstanding storage tickets satisfactory to said Commission. Any such public warehouseman who shall close his warehouse without first having received permission from the Commission to close, shall be guilty of a misdemeanor and the license issued may be revoked by the Commission.

§ 31. TRANSFER OF WAREHOUSE. REDEMPTION OF STORAGE TICKETS.] Whenever the owner, lessee or manager of a public elevator or warehouse licensed to do business in this State, desires to transfer said elevator or warehouse, either by sale or lease to any other individual, firm or corporation, he shall first notify the Commission of his intention to transfer said elevator or warehouse, giving the name and address of the proposed lessee or purchaser, and shall furnish a statement of all proper claims that may be filed or pending against said person, firm, corporation or association as pertaining to the storage, inspection and marketing of grain and seeds during the term of said license, together with a statement of the number of bushels of grain of each kind and grade in store in said elevator or warehouse, and of the number and amount of storage tickets, outstanding, and the names and addresses of such ticket holders, and shall surrender to the Commission his license for Cancellation and the proposed lessee or purchaser shall apply in due form for a new license and tender a new bond for approval by the Commission, whereupon, it, first being duly satisfied that all of the outstanding storage tickets have been redeemed, or that the redemption thereof has been provided for, may issue a new license for the unexpired portion of the license period to said lessee or purchaser. No sale, lease or transfer of any elevator or warehouse, will be recognized or permitted by the Commission except where made in accordance with the above provision.

§ 32. REFUND OF LICENSE FEE AUTHORIZED.] The Commission is hereby authorized to refund the license fee of a public warehouse, or so much thereof as in its judgment would be just and

reasonable when satisfactory proof is furnished said Commission that such warehouse has been transferred to some other person, and application is made by the new owner for a license for the same warehouse, for the unexpired period for which the original license was issued. Provided, that where a warehouse is destroyed by fire or other cause, the license fee may be prorated in such amount as the Commission may determine.

§ 33. DESTRUCTION OF WAREHOUSE, DUTY TO NOTIFY COMMISSION.] In case of the destruction by fire or other cause of any licensed public warehouse, it shall be the duty of the licensee thereof to notify the Commission by telegraph or registered mail within twenty-four hours after such loss.

§ 34. GOING OUT OF BUSINESS. REDEMPTION OF RECEIPTS.] Where a public warehouseman ceases business through destruction of warehouse by fire or other causes, or through insolvency, such warehouseman shall redeem all outstanding storage receipts at the price prevailing on the date the warehouse was destroyed, or closed because of insolvency, and the holder of such receipts upon due notice must accept this price and surrender the receipts.

§ 35. REPEAL.] Sections 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, as amended by Chapter 342, Laws of 1923, 3115, 3116, as amended by Chapter 216, Laws of 1925, 3117, 3123, 3135, 3136, 3137, and all other Acts and parts of Acts in conflict herewith are hereby repealed, it being specifically provided that nothing in this Act shall repeal any of the provisions contained in Chapter 250, Session Laws of 1917, known as the Uniform Warehouse Receipt Act.

Approved March 7, 1927.

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## CHAPTER 156

(S. B. No. 162—Committee on Warehouse and Grain Grading)

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### INSOLVENT GRAIN WAREHOUSEMEN

An Act Defining Insolvent Grain Warehousemen; Authorizing the Board of Railroad Commissioners to Apply to the District Court for its Appointment as Trustee for the Benefit of Storage Receipt Holders of Such Warehousemen, and to Marshal the Trust Assets of Such Insolvent and Distribute the Same Among Such Receipt Holders.

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

§ 1. DEFINITIONS.] As used in this Act the word "Commission" shall be held to mean the Board of Railroad Commissioners; the word "receipts" shall be held to mean and include grain warehouse storage receipts, and cash slips or checks given in redemption

thereof; the word "warehouseman" shall be held to mean and include all public elevators licensed under the laws of this state to store grain; the word "person" shall include any firm, partnership or corporation.

§ 2. **INSOLVENCY OF WAREHOUSEMAN. TRUST FUND.]** Whenever any warehouseman, by reason of the destruction of his warehouse or for any other cause, shall refuse or neglect, upon proper demand, to redeem any receipt issued by him, such warehouseman shall be deemed to be insolvent within the meaning of this Act, and all the grain in said warehouse, and the proceeds of insurance policies upon stored grain destroyed in said warehouse, and the cause of action for damages upon any bond given by said warehouseman to the state of North Dakota to insure the faithful performance of his duties as a warehouseman, and the cause of action for the conversion of grain stored in said warehouse shall constitute a trust fund for the redemption of outstanding storage receipts of such warehouseman.

§ 3. **APPOINTMENT OF COMMISSION AS TRUSTEE.]** Upon the insolvency of any warehouseman as defined in the foregoing Section it shall be the duty of the Commission to apply to the District Court of Burleigh County for appointment of itself as trustee of said fund, and, upon such notice to said warehouseman as the Court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by said warehouseman, said Court shall proceed to hear and determine in a summary manner such application, and if it shall appear to the Court, or to the judge thereof, that said warehouseman is insolvent within the meaning of this Act and that it would be for the best interests of the receipt holders that said Commission shall execute such trust, he shall issue an order appointing said Commission Trustee, without bond, of said fund, whereupon said Commission shall proceed to perform its duties as such trustee without further direction from said court, but as hereinafter set out.

§ 4. **NOTICE TO RECEIPT HOLDERS.]** Upon its appointment as such trustee the Commission shall be entitled to the possession of all the books and records of such warehouseman required by law to be kept by him, and shall take possession of such books and records, and of all grain on hand in such warehouse, peaceably or by appropriate action, and thereupon shall procure the delivery to it of all receipts shown to be outstanding by the books of said warehouseman for the purpose of enforcing the provisions of the same as hereinafter set forth, but if said Commission cannot ascertain the names and addresses of all of such receipt holders, or if it shall

be unable to procure the possession of all said receipts, or if it shall have reason to believe that all said receipts have not been surrendered to it, it shall publish a notice in some legal newspaper in the county in which such warehouse is situated for three successive weeks requiring such receipt holders to surrender their receipts, and unless within ninety days after the last publication of such notice said receipts are surrendered to the Commission, the same shall be barred from participation in said fund, and the Commission shall in all things be empowered to proceed as though it were the owner of all the stored grain in said warehouse.

§ 5. COMMISSION TO MARSHAL TRUST ASSETS.] The Commission in its capacity as trustee as aforesaid, upon the delivery to it of the receipts issued by said warehouseman, is hereby empowered to maintain suits at law or in equity, or any special proceeding, in the name of the State of North Dakota, upon its own relation, but for the benefit of all such receipt holders, against the insurers of said stored grain, against the warehouseman's bond, against any person who shall convert any of such stored grain, or against any receipt holder who shall have received more than his just and pro rata share of said stored grain, for the purpose of marshalling all of the trust assets of said insolvent warehouseman and distributing the same among said receipt holders. Provided, however, that the remedy against the insurers of said stored grain shall be first exhausted before recourse is had against said bond, and against said bond before recourse is had against the person honestly converting such grain, unless, in the judgment of the Commission it shall be deemed necessary to the redemption of said storage receipts, that all the above remedies be pursued at the same time.

§ 6. REMEDY OF RECEIPT HOLDERS.] No receipt holder shall have a separate cause of action against said bond, or insurance, or said person converting said stored grain, or against any other receipt holder excepting through said trustee, unless, upon demand of five or more receipt holders, said Commission shall fail or refuse to apply for its own appointment as trustee, as herein directed. Provided, that nothing in this Act contained shall be construed to prohibit or prevent any receipt holder, either individually or in conjunction with other receipt holders, from pursuing concurrently such other remedy as he or they may have against the person or property of such warehouseman, for the whole, or any deficiency occurring in the redemption of said receipts.

§ 7. COMMISSION MAY COMPROMISE CLAIMS.] The Commission shall have power to prosecute any such action in any court

in this State, or in any other state, and may appeal from any adverse judgment to the Courts of last resort, and may settle and compromise any such action whenever, in its judgment this will be for the best interests of such receipt holders, and may upon payment of the amount of such compromise, or of the full amount of any insurance policy, bond or conversion claim, exonerate the person so compromising or paying in full, from further liability growing out of said action.

§ 8. DEPOSIT IN BANK OF NORTH DAKOTA.] All monies collected and received by said trustee, pending the marshalling of said fund, shall be deposited in the Bank of North Dakota.

§ 9. REPORT OF TRUSTEE. APPROVAL.] Upon recovery of such trust fund, or so much thereof as possible or as shall be necessary to redeem all outstanding receipts, the Commission shall file its report in Court, showing the amount payable upon each receipt, after recognizing any proper liens or pledges thereon, or assignments thereof, or deductions therefrom by reason of advances or off-sets by said warehouseman, according to the market prices as of the day of the insolvency, with legal interest thereon, or in case of cash slips or checks, the amount thereof with legal interest, but in the event that the fund shall prove insufficient to redeem all receipts in full the same shall be prorated among them in such manner as the trustees shall deem fair and equitable. Thereupon the Court shall cite such receipt holders, upon such notice by mail as he shall prescribe, to appear upon a day fixed in the notice and show cause why such report should not be approved, and distribution of said fund made as outlined therein; and upon such hearing, the court shall approve such report or modify the same as justice may require, and issue an order directing the distribution of said fund, and discharging said Commission from its said trust.

§ 10. FILING FEES AND COURT COSTS.] Upon such application, or in any action in a state court in this state, the Commission shall not be required to pay any filing fee or other court costs or disbursements where the fees accrue to the county or to the state, but the Attorney General may employ such outside legal services to assist the Commission in the prosecution of such actions, as in his judgment may be necessary and deduct the expense of the same from said trust fund.

§ 11. EMERGENCY.] There being an emergency wherein there is now no provision empowering the Board of Railroad Commissioners to enforce the redemption of storage receipts, this Act shall be in force from and after its passage and approval.

Approved March 7, 1927.