

## CHAPTER 136

(S. B. No. 109—Renauld and Bond.)

## PROPERTY RIGHTS IN FUR BEARING ANIMALS

An Act defining property rights in and to fur bearing animals kept in captivity within the State of North Dakota and the pelt of any wild animal lawfully obtained.

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

§ 1. Any person, firm or corporation owning silver black or blue foxes or the pelt of any wild animal lawfully obtained shall have the same property rights therein as enjoyed by owners of domestic animals.

Approved March 4, 1929.

## GRAIN

## CHAPTER 137

(H. B. No. 131—J. N. Thompson by Request.)

## GRAIN INSPECTION

An Act to amend and re-enact Sections 3 and 7 of Chapter 155, of the Session Laws of North Dakota of the year 1927.

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

§ 1. AMENDMENT.] That Section 3 Chapter 155 of the Session Laws of North Dakota of the year 1927 is hereby amended and re-enacted to read as follows:

§ 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 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.

§ 2. AMENDMENT.] That Section 7 of Chapter 155 of the Session Laws of North Dakota of the year 1927 is hereby amended and re-enacted to read as follows:

§ 7. PUBLIC WAREHOUSES DEFINED.] All buildings, elevators and warehouses, and all grist and flour mills, cereal and feed mills, doing a shipping business in this state, erected and operated, or which may hereafter be erected or operated, by any person, association, co-partnership or corporation, for the purpose of public buying, selling, storing and shipping grain for profit, are declared public warehouses and the person, association, co-partnership 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 doing a manufacturing business only to receive, store or purchase at said mill any kind of grain.

Approved March 8, 1929.

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## CHAPTER 138

(S. B. No. 59—Warehouse and Grain Committee.)

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### GRAIN STORAGE ON FARMS, ETC.

An Act to provide for the storage of grain upon farms and on or near railway rights-of-way within the State of North Dakota; regulating the same for the purpose of procuring loans upon such grain; making provisions for the issuance of negotiable warehouse certificates upon grain so stored, not in a public warehouse; creating the office of "Grain Storage Commissioner of North Dakota," prescribing his duties and empowering him to make rules and regulations necessary or advisable to the purposes of such act; making appropriation for the carrying out of the provisions and purposes of such act; prescribing penalties for the violation of the provisions thereof; and repealing all acts and parts of acts in conflict therewith.

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

§ 1. OBJECT AND PURPOSE OF ACT.] The purpose of this act shall be to provide the owner of grain in North Dakota with means of warehousing the same on the farm and elsewhere within the state, under proper restrictions and safeguards, as a basis for credit.

§ 2. GRAIN STORAGE COMMISSIONER.] There is hereby created the office of "Grain Storage Commissioner of North Dakota," hereinafter referred to as the "Commissioner," who shall manage, control and direct the operation of the provisions of this act with full and complete power to make effective and carry out all the objects and purposes hereof.

§ 3. APPOINTMENT AND COMPENSATION OF COMMISSIONER.] Such commissioner shall be appointed by the governor and may be removed by him at any time in a summary manner. He shall be paid as compensation for his services the sum of \$3,500.00 per year, payable monthly.

§ 4. BOND OF COMMISSIONER.] Such commissioner shall be bonded in the state bonding fund in the penal sum of \$50,000.00; such bond to be conditioned upon the faithful performance of his duties as such commissioner; the premium upon such bond to be paid as a part of the general expense of administering this act.

§ 5. POWERS AND DUTIES OF COMMISSIONER.] Except as other wise herein provided, such commissioner shall be vested with full and complete power to carry out the provisions of this act, and in addition to the general powers hereby conveyed said Commissioner, he shall have the following express powers: First, to appoint inspectors of grain as provided herein, prescribe the duties of such inspectors and remove them summarily when he shall deem advisable. Second, to make and promulgate such rules and regulations, not inconsistent herewith, as shall be necessary and desirable to effectively carry out the purposes hereof. Third, the commissioner shall have power to set up the machinery necessary to make effective the provisions of this Act, such as the purchase of supplies, stationery and equipment and the appointment of necessary clerical help and assistance; all of which shall be audited and paid from appropriations, hereby or hereinafter to be made, for the purpose of carrying out the provisions of this act. Fourth, the commissioner shall adopt an official seal of his office.

§ 6. INSPECTORS, WHEN AND HOW APPOINTED. QUALIFICATIONS.] Whenever ten or more farmers operating farm lands tributary to any market center, shall petition the commissioner for an inspector to act within the territory to be designated in such petition as a grain storage district, the commissioner shall forthwith designate such territory as a grain storage district, giving to such district a number, and shall appoint a storage inspector for such district, or if deemed advisable he may designate an inspector already appointed for another grain storage district in the immediate territory, and in event the inspector appointed for any grain storage district shall be for any reason unable to speedily make inspection of all grain for which storage application has been made within the district for which he is appointed, the commissioner may appoint an additional or additional inspectors for such district. Inspectors may be appointed by the commissioner upon the written application of any petitioner for the establishment of a grain storage district, or the commissioner may make such appointment without regard to any such application. In no event shall any person be appointed

as an inspector who is a petitioner for the designation of any grain storing district or who is a relative of any such petitioner. The commissioner shall supply such inspector with a copy of this act; a copy of the rules and regulations adopted hereunder; with necessary blanks, etc., for making return upon inspection, to the commissioner, seals for the sealing of grain stored under the provisions hereof; and such other supplies as shall be necessary to the proper performance of his duties as such inspector. Upon receipt of an application for grain storage under the provisions of this act, it shall be the duty of the inspector to at once make inspection of all grain of which inspection is demanded; he shall measure said grain by cubic measurements and not by weight, shall sample the same and make due return thereof without delay, certifying to the commissioner all information which may be required of him either by the provisions of this act, or by the rules and regulations promulgated hereunder.

§ 7. TERM OF OFFICE OF INSPECTORS.] Such inspectors shall hold office at the will of the commissioner and may be summarily removed by the commissioner at any time and without hearing.

§ 8. BOND OF INSPECTORS.] Any inspector appointed under the provisions of this act shall furnish to the commissioner, a bond in the penal sum of \$1,000.00 payable to the State of North Dakota and conditioned upon the faithful performance of his duties under the provisions of this act and the rules and regulations as promulgated thereunder.

§ 9. PENALTY FOR FALSE REPRESENTATION.] Any person who shall to procure any warehouse certificate hereunder make any statement of a material fact knowing the statement to be false, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not less than six months and not exceeding one year and by a fine of not less than \$200.00 and not exceeding \$500.00.

§ 10. COMPENSATION FOR INSPECTORS.] The commissioner shall, from time to time, fix the compensation to be paid inspectors for their services. Such compensation shall be paid monthly by the commissioner by warrants drawn upon the fund created by this act, and all accounts so paid shall be properly vouchered and audited by the state auditing board.

§ 11. APPLICATION FOR TESTING AND SEALING OF GRAIN.] Whenever any inspector shall be appointed by the commissioner in the manner provided herein, any owner of grain within his district desiring to store the same, shall make written application to the commissioner to be filed with the inspector, indicating where such grain is stored, the kind of structure in which it is stored, and incumbrances upon said grain, if any; which application shall

be signed and sworn to by the applicant. Whenever any grain is owned by more than one owner, said application shall be signed by all having any interest therein. In case such grain is mortgaged, the application for inspection shall be signed by the owner and the mortgagee or his or her agent duly authorized in writing, and any certificate issued for grain owned by more than one person or mortgaged, shall be issued in the name of such persons, including the mortgagee.

§ 12. DUTIES OF INSPECTOR.] When application shall be made for inspection and storage of grain hereunder, whether on the farm or upon or near any railroad right-of-way, the inspector shall immediately, or as soon as it is possible to do so, inspect such grain and the bin and structure in which said grain is located and to be stored, ascertaining the quantity of such grain by measurement but not by weight, and shall procure a fair average sample of such grain with respect to quality, moisture content and dockage. Said inspector shall upon concluding such inspection, if from his examination and inspection he deems the grain in condition to be stored and the structure or bin in which it is located, suitable for storage thereof under seal and for loaning purposes, securely lock the said bin or structure wherein said bin is located, and seal the same with a seal to be provided by the commissioner, putting upon the structure or bin so sealed a notice containing a printed copy of the penalty herein prescribed for entering such bin or sealed structure or removing such grain or any part thereof. Upon sampling any grain required to be inspected and sealed hereunder, the inspector shall at once place an average sample of such grain, taken to determine the moisture content thereof, in a moisture retaining container to be furnished by the commissioner, and shall forthwith forward the same to the commissioner with an average sample of such grain in sufficient quantity to determine therefrom the quality, grade and dockage thereof; sending to the commissioner at the same time his report upon such grain, the bin or structure therein contained, and such other and further information as is hereby, or by the rules and regulations promulgated, required.

§ 13. INSURING GRAIN STORED AND SEALED.] All grain stored and sealed under the provisions of this act shall be insured against fire and tornado in some insurance association or company authorized to do business in this state and approved by the commissioner. Such policies of insurance as are issued shall be deposited with the commissioner and shall inure to the benefit of the holder or holders of the certificate or certificates issued against the said stored grain and to the owner, and any incumbrancers or lien holders thereof and thereon, as their interests shall appear.

§ 14. DUTY OF OWNER RESPECTING THE CARE AND DELIVERY OF GRAIN STORED.] The owner of grain stored under the provi-

sions of this act shall be charged with the due care of said grain and shall exercise that degree of due care and diligence which an ordinary prudent man would exercise with regard to similar property of his own. The owner shall also, upon demand of the holder of such certificate, deliver said grain to his usual market place without charge to the holder. No legal demand for the delivery of said grain can be made, however, upon said owner until the maturity of the obligation for which said certificate is pledged, or until the security shall become impaired. In case of the maturity of the obligation for which said certificate was pledged or in case of the impairment of such security, and the refusal of said owner to so deliver as above provided; then the holder of the certificate shall be entitled to take immediate possession of the grain so pledged, to sell the same at the market price thereof, and to retain from the proceeds of such sale all expense of the removal and transporting of such grain to market.

§ 15. FORM OF WAREHOUSE CERTIFICATE.] The form of said warehouse certificate issued under the provisions of this act shall be prepared and approved by the commissioner, and every such certificate must embody within its written or printed terms:

- (a) The consecutive number of the certificate.
- (b) The date of issue of the certificate.
- (c) A description of the granary, bin, or other structure in which the grain is stored, and of the premises upon which it is located.
- (d) A description of the grain, giving its grade, kind, variety, dockage, test weight and moisture content, and the number of bushels of such grain, based on cubic measurement and not by weight.
- (e) The name of the owner, or owners, whether ownership is sole, joint, or in trust, and the conditions of such ownership, as shown in the application.
- (f) A statement of any and all liens or incumbrances upon said grain as reported by the owner in his application.
- (g) A statement whether the grain will be delivered to the bearer, to a specified person, or a specified person or his order, and at what place it will be delivered.
- (h) A statement as to whether any other certificate has been issued covering any grain in the same granary, bin, or structure, and the amount of such certificate.
- (i) Evidence of insurance as provided by Section 13.

(j) Any other matter or information required by the rules and regulations as promulgated hereunder.

Each such warehouse certificate shall be signed by the commissioner and have attached thereto the official seal of his office.

§ 16. WAREHOUSE CERTIFICATES—HOW ISSUED—HOW CANCELLED.] It shall be the duty of the commissioner to issue all warehouse certificates hereunder, except as otherwise provided in section 25 hereof. All such warehouse certificates issued under the provisions of this act shall be in triplicate, the original certificate to be printed upon white and two duplicates upon tinted paper, such original to be delivered to the owner, one of the duplicate copies to be retained by the commissioner, and the other to be filed in the office of the register of deeds of the county in which said grain is stored. Both copies of certificates shall have plainly printed or stamped across the face thereof "Duplicate certificate—no value." Any owner or owners of grain stored under the provisions of this act, still the holder of the warehouse certificate issued thereon and unpledged and unnegotiated, may procure the release of such grain from storage thereunder by delivering the original warehouse certificate to the commissioner, who shall upon receipt thereof cancel the same by perforating it with the words, "Surrendered and cancelled." The commissioner shall notify such original holder or holders of such cancellation, and the receipt of such notice of cancellation by such owner or owners shall be authority to such owner or owners to break the seal and retake possession of the grain in such certificate described. Upon delivery by the owner or owners, to the warehouse certificate holder, of the grain pledged thereby, or upon payment of the obligation for which such certificate has been pledged, the warehouse certificate holder shall be required to cancel and redeliver such certificate to the owner of such grain, such cancellation to be so made by endorsing thereon in ink, the words, "Cancelled and delivered to owner of grain," together with the signature of such warehouse certificate holder.

Such owner of grain may upon such cancellation of warehouse certificate, forward such cancelled certificate to the commissioner, for the purpose of having it cancelled in his office and discharged of record.

The commissioner shall under his seal notify the register of deeds of the county in which the duplicate certificate is filed, to discharge any cancelled certificate of record; and such register of deeds is hereby required to so cancel the same, without charge, upon such notice from the commissioner. All original warehouse receipts so cancelled as above by the commissioner, shall be retained in the files of his office and a permanent record of such certificate so

cancelled shall be kept; such record to show the name of the person or persons to whom the certificate was issued, the number of the certificate, the date of cancellations, and when the certificate cancelled is one surrendered as paid, the name of the person so surrendering and cancelling.

§ 17. RECORDING CERTIFICATES.] At the time of the issuing of any such warehouse certificate, as herein provided, the commissioner shall file a copy of such certificate in the office of the register of deeds of the county in which said grain is stored, which certificate is stored, which certificate shall be indexed as a chattel mortgage and for the filing thereof no fee shall be collected by any register of deeds. Such filing shall be notice that the grain described in such certificate is pledged to the redemption of the same. Any assignment of said certificate may also be filed and properly endorsed upon the certificate, and shall, when filed, have the same force as the filing of an assignment of chattel mortgage.

§ 18. EXPENSE OF INSPECTION—HOW PAID.] Whenever an applicant shall make written application for the inspection of grain to be stored under the provisions of this act, he shall remit with the application one-half of one per cent per bushel for the number of bushels sought to be stored, payable to the commissioner, which fee shall be delivered to the state treasurer, to be kept by him in a special fund to be known as the "Grain Storage Fund," and upon which fund the commissioner shall draw warrants for the payment of the inspectors' fees for measuring, sampling and sealing grain.

§ 19. RECORDS OF THE COMMISSIONER TO BE CONFIDENTIAL.] The commissioner shall not allow the inspection by the general public of his records as to amount, kind, quality or variety of grain stored, but said records shall be open to the holder of any certificate.

§ 20. WAIVER OF LOCKING AND SEALING.] The locking up and sealing of any storage facility acceptable to the commissioner is hereby waived, if and when the applicant shall have filed a warehouseman's bond as a guarantee to the carrying out of the provisions of this act. Any such bond may be accepted by the commissioner in lieu of locking and sealing stored grain, under rules and regulations promulgated hereunder with reference thereto.

§ 21. OWNER RESPONSIBLE FOR AMOUNT AND QUALITY OF GRAIN STATED IN CERTIFICATE.] The owner or owners of grain stored hereunder shall be responsible for the quality of the grain being equal to that stated in the certificate. Whenever the amount of grain certified to shall have been determined by cubic measurement, said amount shall be deemed prima facie evidence of the amount of said grain, but the actual amount shall be determined by

the actual weight thereof and the owner shall be responsible and liable to the holder of the certificate for the delivery of the amount of grain indicated in said certificate, by actual weight thereof.

§ 22. PENALTY FOR BREAKING SEAL OR REMOVING OR DAMAGING STORED GRAIN.] Any person who shall without order or direction of the commissioner, break the seal of any structure or bin wherein grain is stored under the provisions of this act, or who shall break or enter the structure or bin wherein such grain is so stored, except for actual delivery of stored and sealed grain to the holder of a pledged certificate, or who shall damage, remove or destroy any grain stored and sealed under this act, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the county jail for not less than one year, or in the state penitentiary not less than one or more than three years; or by a fine of not less than \$300.00 or more than \$1,000.00.

§ 23. INSPECTOR MAY TAKE OATH.] Every inspector appointed by the commissioner under the provisions of this act, shall have the same power as a notary public to take acknowledgment or administer any oath which may be necessary in the carrying out of this act, and in compliance with such rules and regulations as may be adopted hereunder in respect thereto.

§ 24. PENALTY FOR FALSE REPRESENTATION BY INSPECTOR.] Any inspector who shall knowingly make any false statement or representation to the commissioner, respecting the ownership, kind, quality or condition of any grain reported upon to the commissioner by him, shall be punishable by imprisonment of not less than 90 days or more than one year in the county jail, or by imprisonment in the penitentiary not more than three years, or by a fine of not less than \$100.00 or more than \$1,000.00 or by both such fine and imprisonment.

§ 25. DEPUTY COMMISSIONERS.] The commissioner when he deem the same necessary is hereby authorized to appoint deputy commissioners at such points within the state as the efficient operation of the provisions of this act may demand; such deputy commissioners under his direction to receive applications for grain storage, determine the weight, grade, quality, dockage and the moisture content thereof; to issue and counter-sign warehouse certificate as such deputy under the seal of the commissioner; and under the commissioner to do and perform any and all acts necessary or requisite to the issuance of such warehouse certificates under the provisions hereof and the rules and regulations promulgated hereunder.

§ 26. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars or so much thereof as may be

necessary for the payment of the expenses and the carrying out of the provisions hereof, for the biennium beginning July 1st, 1929, and ending June 30th, 1931, such money to be expended by the "Grain Storage Commissioner of North Dakota" under audit by the state auditing board.

§ 27. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1929.

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## HIGHWAYS

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### CHAPTER 139

(H. B. No. 60—Jardine by Request.)

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#### BUSINESS PROCEDURE DEPARTMENT OF STATE HIGHWAYS

An Act regulating the business procedure of the department of state highways, the making, certification, auditing and payment of pay rolls and the making, certification and auditing of payment of contract estimates.

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

§ 1. TIME SHEETS.] The department of state highways shall prepare and use adequate time sheets or records which shall display the name and address of every person employed in or by the department, the title of such person, description of the kind of services rendered, where generally employed, the total number of days or hours employed each month, or shorter period, and the various kinds of services rendered on each day, where practicable, and the approximate number of hours devoted to each kind of service on each day, and the rate of pay per month or the rate of pay per hour for each kind where rates differ for the various kinds of service, and the amount due each person for such services. Provided, however, that where persons are employed at a fixed monthly compensation and it would be impracticable for such person to keep a record of the various kinds of service rendered on a daily or monthly basis, the state highway commission, by resolution, may exempt such person or persons from monthly time-sheet, provided nevertheless a record shall be kept of all persons, whether making a time-sheet or not, showing the number of days employed, the days absent and cause thereof, the length of vacations or leave of absences granted such persons with or without pay.