

CHAPTER 232

PUBLIC LOCAL GRAIN WAREHOUSES

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|--------|------------------------------------------|--------|--------------------------------------------|
| 232.20 | Grain storage act: citation. | 232.23 | Duties of public grain warehouse operator. |
| 232.21 | Definitions. | 232.24 | Schedule of inspection, financial reports. |
| 232.22 | Licenses, bonding claims, disbursements. | 232.25 | Penalty. |

NOTE: For penalties for the violation of the provisions of this chapter, see section 235.13.

- 232.01** Subdivision 1. [Repealed, 1982 c 635 s 9]
 Subd. 2. [Repealed, 1982 c 635 s 9]
 Subd. 3. [Repealed, 1951 c 110 s 1; 1982 c 635 s 9]
232.02 Subdivision 1. MS1981 Supp [Repealed, 1982 c 635 s 9]
 Subd. 2. MS1981 Supp [Repealed, 1982 c 635 s 9]
 Subd. 3. MS1981 Supp [Repealed, 1982 c 635 s 9]
 Subd. 4. MS1980 [Repealed, 1982 c 635 s 9]
 Subd. 5. MS1980 [Repealed, 1982 c 635 s 9]
 Subd. 6. MS1980 [Repealed, 1982 c 635 s 9]
 Subd. 7. MS1980 [Repealed, 1982 c 635 s 9]
 Subd. 8. MS1980 [Repealed, 1982 c 635 s 9]
 Subd. 9. MS1980 [Repealed, 1982 c 635 s 9]
232.03 [Repealed, 1982 c 635 s 9]
232.04 [Repealed, 1982 c 635 s 9]
232.05 [Repealed, 1974 c 548 s 32]
232.06 Subdivision 1. MS1981 Supp [Repealed, 1982 c 508 s 12]
 Subd. 2. MS1980 [Repealed, 1982 c 508 s 12]
 Subd. 3. MS1980 [Repealed, 1982 c 508 s 12]
 Subd. 4. MS1980 [Repealed, 1982 c 508 s 12]
 Subd. 5. MS1980 [Repealed, 1982 c 635 s 9]
 Subd. 6. MS1980 [Repealed, 1982 c 508 s 12]
 Subd. 7. MS1980 [Repealed, 1982 c 508 s 12]
232.07 [Repealed, 1982 c 508 s 12]
232.08 [Repealed, 1982 c 508 s 12]
232.09 [Repealed, 1982 c 508 s 12]
232.10 [Repealed, 1982 c 508 s 12]
232.11 [Repealed, 1982 c 508 s 12]
232.12 [Repealed, 1982 c 508 s 12]
232.13 [Repealed, 1982 c 508 s 12]
232.14 [Repealed, 1982 c 508 s 12]
232.15 [Repealed, 1982 c 508 s 12]
232.16 [Repealed, 1982 c 508 s 12]
232.17 [Repealed, 1982 c 508 s 12]
232.18 [Repealed, 1982 c 508 s 12]
232.19 [Repealed, 1982 c 508 s 12]

232.20 GRAIN STORAGE ACT; CITATION.

Sections 232.20 to 232.25 may be cited as the grain storage act.

History: 1982 c 508 s 1

232.21 DEFINITIONS.

Subdivision 1. **Applicability.** For the purpose of sections 232.20 to 232.25, the terms defined in this section have the meanings given them.

Subd. 2. **Bond.** "Bond" means an acceptable obligation, running to the state as obligee, for the purpose of indemnifying depositors and producers of grain against breach of contract by a public grain warehouse or grain bank operator.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 4. **Condition one bond.** "Condition one bond" means a bond for a public grain warehouse operator when grain belonging to persons other than the warehouse operator is accepted for storage.

Subd. 5. [Repealed, 1982 c 508 s 12]

Subd. 6. **Depositor.** "Depositor" means a person who is the owner or legal holder of an outstanding grain warehouse receipt, grain bank receipt or open scale ticket marked for storage on which a receipt is to be issued, representing any grain stored in a public grain warehouse or grain bank.

Subd. 7. **Grain.** "Grain" means any cereal grain, course grain or oilseed in unprocessed form for which a standard has been established by the United States secretary of agriculture or the Minnesota board of grain standards.

Subd. 8. **Grain warehouse.** "Grain warehouse" means an elevator, flour, cereal or feed mill, malthouse or warehouse in which grain belonging to a person other than the grain warehouse operator is received for purchase or storage.

Subd. 9. **Grain warehouse receipt.** "Grain warehouse receipt" means a formal record issued to a depositor by a grain warehouse operator under the provisions of section 232.23. A grain warehouse receipt is a negotiable instrument except as provided in section 232.23, subdivision 11.

Subd. 10. **Person.** "Person" means a corporation, company, joint stock company or association, partnership, firm or individual, including their agents, trustees, assignees or duly appointed receivers.

Subd. 11. **Producer.** "Producer" means a person who owns or manages a grain producing or growing operation and holds or shares the responsibility for marketing that grain produced.

Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator" means a person licensed to operate a grain warehouse in which grain belonging to persons other than the grain warehouse operator is accepted for storage or purchase, or who offers grain storage or grain warehouse facilities to the public for hire.

Subd. 13. **Scale ticket.** "Scale ticket" means a memorandum showing the weight, grade and kind of grain which is issued by a grain warehouse operator to a depositor at the time the grain is delivered.

History: 1982 c 508 s 2

232.22 LICENSES, BONDING CLAIMS, DISBURSEMENTS.

Subdivision 1. **Licenses.** An application for a public grain warehouse operator's license must be filed with the commissioner and the license issued before the purchase or storage of grain may be commenced. All grain warehouses located

within the same home rule charter or statutory city or town and owned and operated by the same person may be covered by a single license.

Subd. 2. Renewal. A license must be renewed annually. If a business receives more than one license from the commissioner, the licenses shall be issued at the same time, but only after all conditions for each license are met. The licenses may be combined into one joint license.

Subd. 3. Fees; grain buyers and storage fund. There is created in the state treasury an account known as the grain buyers and storage fund. The commissioner shall set the fees for inspections, certifications and licenses under sections 232.20 to 232.25 at levels necessary to pay the costs of administering and enforcing sections 232.20 to 232.25. All money collected pursuant to sections 232.20 to 232.25 and chapters 233 and 236 shall be paid by the commissioner into the state treasury and credited to the grain buyers and storage fund and is appropriated to the commissioner for the administration and enforcement of sections 232.20 to 232.25 and chapters 233 and 236. All money collected pursuant to chapter 231 shall be paid by the commissioner into the grain buyers and storage fund and is appropriated to the commissioner for the administration and enforcement of chapter 231.

Subd. 4. Bonding. Before a license is issued, the applicant for a public grain warehouse operator's license shall file with the commissioner a bond in a penal sum prescribed by the commissioner. The penal sum on a condition one bond shall be established by rule by the commissioner pursuant to the requirements of chapter 14 for all grain outstanding on grain warehouse receipts. The penal sum on a condition two bond shall not be less than \$10,000 for each location up to a maximum of five locations.

Subd. 5. Statement of grain in storage; reports. (a) All public grain warehouse operators must by the tenth day of each month file with the commissioner on forms approved by the commissioner a report showing the net liability of all grain outstanding on grain warehouse receipts as of the close of business on the last day of the preceding month. This report shall be used for the purpose of establishing the penal sum of the bond.

(b) If any public grain warehouse operator willfully neglects or refuses to file the report required in clause (a) for two consecutive months, the commissioner may immediately suspend the person's license and the licensee must surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to chapter 14 to determine if the license should be revoked. If no request is made within 15 days the commissioner shall revoke the license.

(c) Every public grain warehouse operator shall keep in a place of safety complete and accurate records and accounts relating to any grain warehouse operated. The records shall reflect each commodity received and shipped daily, the balance remaining in the grain warehouse at the close of each business day, a listing of all unissued grain warehouse receipts in the operator's possession, a record of all grain warehouse receipts issued which remain outstanding and a record of all grain warehouse receipts which have been returned for cancellation. Copies of grain warehouse receipts or other documents evidencing ownership of grain by a depositor, or other liability of the grain warehouse operator, shall be retained as long as the liability exists but must be kept for a minimum of three years.

(d) Every public grain warehouse operator must maintain in the grain warehouse at all times grain of proper grade and sufficient quantity to meet delivery obligations on all outstanding grain warehouse receipts.

Subd. 6. Bond claims. A person claiming to be damaged by a breach of the conditions of a bond of a licensed public grain warehouse operator may file a written claim with the commissioner stating the facts constituting the claim. The claim

must be filed with the commissioner within 180 days of the breach of the conditions of the bond. If the commissioner has reason to believe that a claim is valid, the commissioner may immediately suspend the license of the public grain warehouse operator and the licensee must surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to chapter 14 to determine whether the license should be revoked. If no request is made within 15 days the commissioner shall revoke the license.

Subd. 7. **Bond disbursement.** (a) The condition one bond of a public grain warehouse operator must be conditioned that the public grain warehouse operator issuing a grain warehouse receipt is liable to the depositor for the delivery of the kind, grade and net quantity of grain called for by the receipt.

(b) The condition two bond shall provide for payment of loss caused by the grain buyer's failure to pay, upon the owner's demand, the purchase price of grain sold to the grain buyer. The bond shall be conditioned upon the grain buyer being duly licensed as provided herein. The bond shall not cover any transaction which constitutes a voluntary extension of credit.

(c) Upon notification of default, the commissioner shall determine the validity of all claims and notify all parties having filed claims. Any aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment to those claimants entitled to payment. If the commissioner determines it is necessary, the commissioner may apply to the district court for an order appointing a trustee or receiver to manage and supervise the operations of the grain warehouse operator in default. The commissioner may participate in any resulting court proceeding as an interested party.

(d) For the purpose of determining the amount of bond disbursement against all valid claims under a condition one bond, all grain owned or stored in the public grain warehouse shall be sold and the combined proceeds deposited in a special fund. Payment shall be made from the special fund satisfying the valid claims of grain warehouse receipt holders.

(e) If a public grain warehouse operator has become liable to more than one depositor or producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay, beyond the proceeds of the special fund, the entire liability to all valid claimants, the proceeds of the bond and special fund shall be apportioned among the valid claimants on a pro rata basis.

(f) A bond is not cumulative from one licensing period to the next. The maximum liability of the bond shall be its face value for the licensing period.

History: 1982 c 424 s 130; 1982 c 508 s 3; 1983 c 300 s 27; 1983 c 374 s 16,17,20

232.23 DUTIES OF PUBLIC GRAIN WAREHOUSE OPERATOR.

Subdivision 1. **Discrimination prohibited.** A public grain warehouse operator must receive for storage, so far as the capacity of the grain warehouse will permit, all sound grain tendered in warehouseable condition without discrimination against any person tendering the grain.

Subd. 2. **Scale tickets.** A public or private grain warehouse operator, upon receiving grain, shall issue a scale ticket for each load of grain received. Scale tickets shall contain the name, location and the date of each transaction and be consecutively numbered. A duplicate copy of each scale ticket shall remain in the possession of the public or private grain warehouse operator as a permanent record. The original scale ticket shall be delivered to the depositor upon receipt of each load

MINNESOTA STATUTES 1984

4883

PUBLIC LOCAL GRAIN WAREHOUSES 232.23

of grain. Each scale ticket shall have printed across its face "This is a memorandum, non-negotiable, possession of which does not signify that settlement has or has not been consummated." The scale ticket shall state specifically whether the grain is received on contract, for storage, for shipment or consignment or sold. If the grain is received on contract or sold, the price shall be indicated on the scale ticket. All scale tickets shall be dated and signed by the public or private grain warehouse operator or the operator's agent or manager.

Subd. 3. Grain delivered considered sold. All grain delivered to a public grain warehouse operator shall be considered sold at the time of delivery, unless arrangements have been made with the public grain warehouse operator prior to or at the time of delivery to apply the grain on contract, for shipment or consignment or for storage.

Subd. 4. Form of grain warehouse receipt. (a) A grain warehouse receipt must be in duplicate, contain the name and location of the grain warehouse, and be delivered to the depositor or the depositor's agent. Grain warehouse receipts shall be consecutively numbered as prescribed by the commissioner and state the date of deposit, except where the deposit of a certain lot for storage is not completed in one day. In that case, the grain warehouse receipt, when issued, shall be dated not later than Saturday of the week of delivery.

(b) A grain warehouse receipt shall contain either on its face or reverse side the following specific grain warehouse and storage contract: "This grain is received, insured and stored through the date of expiration of the annual licenses of this grain warehouse and terms expressed in the body of this grain warehouse receipt shall constitute due notice to its holder of the expiration of the storage period. It is unlawful for a public grain warehouse operator to charge or collect a greater or lesser amount than the amount filed with the commissioner. All charges shall be collected by the grain warehouse operator upon the owner's presentation of the grain warehouse receipt for the sale or delivery of the grain represented by the receipt, or the termination of the storage period. Upon the presentation of this grain warehouse receipt and payment of all charges accrued up to the time of presentation, the above amount, kind and grade of grain will be delivered within the time prescribed by law to the depositor or the depositor's order."

(c) A grain warehouse receipt shall also have printed on it the following:

"Redemption of Receipt

Received from, the sum of \$..... or bushels in full satisfaction of the obligation represented by this grain warehouse receipt.

Gross price per bushel \$.....

Storage per bushel \$.....

Net price per bushel \$.....

All blank spaces in this grain warehouse receipt were filled in before I signed it and I certify that I am the owner of the commodity for which this grain warehouse receipt was issued and that there are no liens, chattel mortgages or other claims against the commodity represented by this grain warehouse receipt.

| | |
|--------------------|--------------|
| Accepted | Signed |
| Warehouse operator | Dated |

This redemption shall be signed by the depositor or the depositor's agent in the event that the grain represented is redelivered or purchased by the public grain

warehouse operator. Signature of this redemption by the depositor constitutes a valid cancellation of the obligation embraced in the storage contract."

Subd. 5. **Void agreements; penalty.** A provision or agreement in a grain warehouse receipt not contained in subdivision 4 is void. The failure to issue a grain warehouse receipt, as directed, or the issuance of slips, memoranda or other forms of receipt embracing a different grain warehouse or storage contract is a misdemeanor, and no slip, memorandum or other form of receipt is admissible as evidence in any civil action. Nothing in sections 232.20 to 232.25 requires or compels any person operating a flour, cereal or feed mill or malthouse doing a manufacturing business, to receive, store or purchase at the mill or malthouse any kind of grain.

Subd. 6. **Liability.** A public grain warehouse operator issuing a grain warehouse receipt is liable to the depositor for the delivery of the kind, grade and net quantity of grain called for by the grain warehouse receipt.

Subd. 7. **Grain not received.** No public grain warehouse operator may issue a grain warehouse receipt for grain not actually received into the grain warehouse.

Subd. 8. **Record of grain warehouse receipts.** A receipt record stating the grain warehouse receipt number and date of deposit, gross weight, dockage and net weight shall remain in the possession of the public grain warehouse operator issuing the grain warehouse receipt and shall be open for inspection by the commissioner or interested parties.

Subd. 9. **Warehouse operator shall keep record.** A public grain warehouse operator must keep a proper record of all grain received, stored or shipped, stating the weight, grade, dockage, and the name of the owner.

Subd. 10. **Delivery of grain.** (a) On the redemption of a grain warehouse receipt and payment of all lawful charges, the grain represented by the receipt is immediately deliverable to the depositor or the depositor's order, and is not subject to any further charge for storage after demand for delivery has been made and proper facilities for receiving and shipping the grain have been provided. If delivery has not commenced within 48 hours after demand has been made and proper facilities have been provided, the public grain warehouse operator issuing the grain warehouse receipt is liable to the owner in damages not exceeding two cents per bushel for each day's delay, unless the public grain warehouse operator makes delivery to different owners in the order demanded as rapidly as it can be done through ordinary diligence, or unless insolvency has occurred.

(b) If a disagreement arises between the person receiving and the person delivering the grain at a public grain warehouse in this state as to the proper grade or dockage of any grain, an average sample of at least three quarts of the grain in dispute may be taken by either or both of the persons interested. The sample shall be certified by both the owner and the public grain warehouse operator as being true samples of the grain in dispute on the delivery day. The samples shall be forwarded in a suitable air-tight container by parcel post or express, prepaid, with the name and address of both parties, to the head of the grain inspection program of the department of agriculture, who shall, upon request, examine the grain, and determine what grade or dockage the samples of grain are entitled to under the inspection rules. Before the results of the inspection are released to the person requesting the inspection, the person shall pay the required fee. The fee shall be the same as that required for similar services rendered by the grain inspection program.

Subd. 11. **Termination of storage contract.** Storage contracts on grain being stored at public grain warehouses terminate on the expiration date of the storage license under which the grain warehouse operates. The expiration date must be plainly imprinted on each grain warehouse receipt issued by a public grain warehouse operator. Grain storage may be terminated by the depositor at any time

before the expiration date by the payment or tender of all legal charges and the surrender of the grain warehouse receipt together with a demand for delivery of the grain or notice to the public grain warehouse operator to sell the grain. In the absence of a demand for delivery, order to sell or mutual agreement for the renewal of the storage contract, entered prior to the expiration of the original storage contract, the public grain warehouse operator shall, upon the expiration of the contract, and after notification by registered letter to the depositor, sell the stored grain at the local market price on the close of business on that day, deduct from the proceeds of the sale all legal accrued charges, and pay the balance of the proceeds to the depositor upon surrender of the grain warehouse receipt.

Subd. 12. New grain warehouse receipt. Upon the payment of all legally accrued charges and the return of the grain warehouse receipt, the public grain warehouse operator and the depositor may by mutual consent enter into an agreement for renewal of the grain storage. When the agreement is made, the warehouse operator shall issue a new grain warehouse receipt to the owner and cancel the former grain warehouse receipt by endorsing on it the words "Cancelled by the issuance of grain warehouse receipt No...", and inserting the number of the new grain warehouse receipt in the blank space. The cancelled grain warehouse receipt shall be signed by the warehouse operator and the depositor.

Subd. 13. Unauthorized sale of grain. Except as provided in subdivision 11, no warehouse operator may sell or dispose of or deliver out of store any grain stored without the express authority of the depositor and the return of the grain warehouse receipt.

Subd. 14. Pooling prohibited. It is unlawful for a public grain warehouse operator or the operator's agent to enter into a contract, agreement, combination or understanding with any other public grain warehouse operator whereby the amount of grain to be received or handled by the grain warehouses is equalized or pooled between the grain warehouses, whereby the profits or earnings derived from the grain warehouses is equalized, pooled or apportioned or whereby the price to be paid for any kind of grain at the grain warehouses is fixed or in any manner affected. Each continued day of the contract, agreement, combination or understanding is a separate offense.

Subd. 15. Closing or destruction of grain warehouse. (a) In case of loss or destruction by fire or other cause for the closing of a public grain warehouse, the licensee shall immediately notify the department of agriculture in writing.

(b) Whenever a grain warehouse is closed for more than 48 consecutive hours, not including Sundays and legal holidays, the grain warehouse operator shall advise all patrons of the closing by posting conspicuously at each entrance a notice showing the date of re-opening and giving the name and telephone number of a person authorized to act as agent for the purpose of making re-deliveries, purchases or conducting other grain warehouse business.

Subd. 16. Insurance required. The operator of a public grain warehouse must keep all grain in the grain warehouse fully insured against loss by fire, windstorm and extended coverage risks and shall furnish the department of agriculture with evidence it requires that the insurance is in force.

History: 1982 c 508 s 4

232.24 SCHEDULE OF INSPECTION, FINANCIAL REPORTS.

Subdivision 1. Schedule of inspection. A licensee under sections 232.20 to 232.25 is subject to two audits annually conducted by the commissioner or the agricultural marketing service of the United States department of agriculture. The

MINNESOTA STATUTES 1984

232.24 PUBLIC LOCAL GRAIN WAREHOUSES

4886

commissioner may, by rule, authorize one audit to be conducted by a qualified nongovernmental unit.

Subd. 2. **Financial reports.** A licensee under sections 232.20 to 232.25 must provide to the commissioner a copy of the financial reports of an audit conducted by a qualified nongovernmental unit containing information the commissioner requires.

Subd. 3. **Inspection, sampling.** The commissioner or his authorized agent shall sample, inspect, and grade grains received or distributed from grain warehouses at such time and place and to such an extent as he may deem necessary to determine whether sampling, inspection, and grading conducted by the warehouse operator conforms with the standards set by the board of grain standards. The commissioner may obtain any additional information he deems necessary and is authorized to enter upon any public or private premises during regular business hours in order to carry out the provisions of this subdivision.

History: 1982 c 508 s 5

232.25 PENALTY.

A person who violates the provisions of sections 232.20 to 232.25 is guilty of a misdemeanor. The department may, if it finds after a hearing that any of the provisions of sections 232.20 to 232.25 have been violated by a person holding a license to operate a public grain warehouse, suspend or revoke the license. In case of revocation, no new license shall be granted to the person whose license was revoked nor to any one either directly or indirectly engaged with him in the licensed business for two years.

History: 1982 c 508 s 6