



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0215

Introduced 2/2/2005, by Sen. John M. Sullivan

SYNOPSIS AS INTRODUCED:

240 ILCS 40/10-25

Amends the Grain Code. Authorizes the use of warehouse receipts in electronic form. Provides that electronic receipts are as valid and enforceable as paper receipts. Provides that references in the Code to written or printed receipts include electronic receipts. Effective immediately.

LRB094 06130 JAM 36195 b

1 AN ACT concerning warehouses.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Grain Code is amended by changing Section
5 10-25 as follows:

6 (240 ILCS 40/10-25)

7 Sec. 10-25. Warehouse receipts and storage of grain.

8 (a) When grain is delivered to a warehouseman at a location
9 where grain is also purchased, the licensee shall give written
10 evidence of delivery of grain and that written evidence shall
11 be marked to indicate whether the grain is delivered for
12 storage or for sale. In the absence of adequate evidence of
13 sale, the grain shall be construed to be in storage.

14 (b) Upon demand by a depositor, a warehouseman shall issue
15 warehouse receipts for grain delivered into storage.

16 (c) There shall be no charge for the first warehouse
17 receipt issued to a depositor for a given lot of grain. Charges
18 for any additional warehouse receipts for grain previously
19 covered by a warehouse receipt must be commensurate with the
20 cost of issuance of the additional warehouse receipt.

21 (d) A warehouseman shall issue warehouse receipts only in
22 accordance with the following requirements:

23 (1) Warehouse receipts shall be consecutively numbered
24 in a form prescribed by the Department and issued
25 consecutively by the warehouseman.

26 (2) In the case of a lost or destroyed warehouse
27 receipt, the new warehouse receipt shall bear the same date
28 as the original and shall be plainly marked on its face
29 "duplicate in lieu of lost or destroyed warehouse receipt
30 number", and the warehouseman shall duly fill in
31 the blank with the appropriate warehouse receipt number.

32 (3) Warehouse receipts shall be printed by a person

1 authorized by the Department. The person shall register
2 with the Department and pay an annual registration fee of
3 \$100 to print warehouse receipts.

4 (4) Negotiable warehouse receipts shall be issued only
5 for grain actually in storage with the warehouseman from
6 which it is issued or redeposited by that warehouseman as
7 provided in subsection (e) of Section 10-20.

8 (5) A warehouseman shall not insert in any negotiable
9 warehouse receipt issued by it any language that in any way
10 limits or modifies its liability or responsibility.

11 (e) Upon delivery of grain covered by a negotiable
12 warehouse receipt, the holder of the negotiable warehouse
13 receipt must surrender the warehouse receipt for cancellation,
14 and a warehouseman must cancel and issue a new negotiable
15 warehouse receipt for the balance of grain in storage.

16 (f) When all grain, the storage of which is evidenced by a
17 warehouse receipt, is delivered from storage, the warehouse
18 receipt shall be plainly marked across its face with the word
19 "cancelled" and shall have written on it the date of
20 cancellation, the name of the person canceling the warehouse
21 receipt, and such other information as required by rule, and is
22 thereafter void.

23 (g) When a warehouseman delivers grain out of storage but
24 fails to collect and cancel the negotiable warehouse receipt,
25 the warehouseman shall be liable to any purchaser of the
26 negotiable warehouse receipt for value in good faith for
27 failure to deliver the grain to the purchaser, whether the
28 purchaser acquired the negotiable warehouse receipt before or
29 after the delivery of the grain by the warehouseman. If,
30 however, grain has been lawfully sold by a warehouseman to
31 satisfy its warehouseman's lien, the warehouseman shall not be
32 liable for failure to deliver the grain pursuant to the demands
33 of a holder of a negotiable warehouse receipt to the extent of
34 the amount of grain sold.

35 (h) Except as otherwise provided by this Code or other
36 applicable law, a warehouseman shall deliver the grain upon

1 demand made by the holder of a warehouse receipt pertaining to
2 that grain if the demand is accompanied by:

3 (1) satisfaction of the warehouseman's lien;

4 (2) in the case of a negotiable warehouse receipt, a
5 properly endorsed negotiable warehouse receipt; or

6 (3) in the case of a non-negotiable warehouse receipt,
7 written evidence that the grain was delivered to the
8 warehouseman and that the depositor is entitled to it.

9 (i) If no warehouse receipt is issued to a depositor, a
10 warehouseman shall deliver grain upon the demand of a depositor
11 if the demand is accompanied by satisfaction of the
12 warehouseman's lien and written evidence that the grain was
13 delivered to the warehouseman and the depositor is entitled to
14 it.

15 (j) If a warehouseman refuses or fails to deliver grain in
16 compliance with a demand by a holder of a warehouse receipt or
17 a depositor, the burden is on the warehouseman to establish the
18 existence of a lawful excuse for the refusal.

19 (k) If a warehouse receipt has been lost or destroyed, a
20 warehouseman may issue a substitute warehouse receipt, as
21 provided for in this Section, upon delivery to the warehouseman
22 of an affidavit under oath stating that the applicant for the
23 substitute warehouse receipt is entitled to the original
24 warehouse receipt and setting forth the circumstances that
25 resulted in the loss or destruction of the original warehouse
26 receipt. The warehouseman may request from the depositor a bond
27 in double the value of the grain represented by the original
28 warehouse receipt at the time of issuance of the substitute
29 warehouse receipt so as to protect the warehouseman from any
30 liability or expense that it, or any person injured by the
31 delivery, may incur by reason of the original warehouse receipt
32 remaining outstanding.

33 (l) A warehouse receipt that is to be used for collateral
34 purposes by a warehouseman must be first issued by the
35 warehouseman to itself.

36 (m) The Department shall approve temporary storage space in

1 an amount to be determined by the Department if all the
2 following conditions are met:

3 (1) The warehouseman pays all fees and assessments
4 associated with the temporary storage space.

5 (2) The warehouseman demonstrates that there is a need
6 for additional storage on a temporary basis due to a bumper
7 crop or otherwise.

8 (3) The structure for the storage of grain meets all of
9 the following requirements:

10 (A) The grain storage area has a permanent base
11 made of concrete, asphalt, or a material having similar
12 structural qualities.

13 (B) Hot spot detectors, aeration fans, and ducts
14 are provided to assure that the quality of grain in
15 storage is maintained.

16 (C) The grain storage structure has rigid
17 sidewalls made of concrete, wood, metal, or a material
18 having similar structural qualities.

19 (D) The grain storage structure is equipped with a
20 waterproof covering of sufficient strength to support
21 a person's weight and with inlets to allow airflow.

22 (E) Access to the grain is provided for the purpose
23 of sampling and making examinations.

24 (4) Temporary storage space shall be considered an
25 increase in the licensed storage capacity of the licensee
26 and shall be subject to Section 5-30.

27 (5) The authorization to use temporary storage space
28 for the storage of grain shall expire at the end of 6
29 months after the date of approval by the Department or May
30 15th, whichever comes first.

31 (n) The Department may approve emergency storage space at
32 the request of the licensee according to rule.

33 (o) The issuance and transfer of the warehouse receipts in
34 electronic form pursuant to rules promulgated by the Department
35 are specifically authorized by this Code, and any such
36 warehouse receipts shall have the same validity and

1 enforceability, for all purposes, as those in non-electrical
2 form. For purposes of this Code, the words "written" and
3 "printed", and derivatives thereof, when used in relation to
4 warehouse receipts, shall include warehouse receipts created
5 or displayed electronically.

6 (Source: P.A. 91-213, eff. 7-20-99.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.