

SB1945



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1945

Introduced 2/7/2008, by Sen. John M. Sullivan

SYNOPSIS AS INTRODUCED:

240 ILCS 40/10-25

Amends the Grain Code. With respect to warehouse receipts in electronic form, provides that "electronically" includes facsimile, electronic file, and e-mail.

LRB095 16380 RCE 42404 b

A BILL FOR

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

1 in a form prescribed by the Department and issued
2 consecutively by the warehouseman.

3 (2) In the case of a lost or destroyed warehouse
4 receipt, the new warehouse receipt shall bear the same date
5 as the original and shall be plainly marked on its face
6 "duplicate in lieu of lost or destroyed warehouse receipt
7 number", and the warehouseman shall duly fill in
8 the blank with the appropriate warehouse receipt number.

9 (3) Warehouse receipts shall be printed by a person
10 authorized by the Department. The person shall register
11 with the Department and pay an annual registration fee of
12 \$100 to print warehouse receipts.

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

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

20 (e) Upon delivery of grain covered by a negotiable
21 warehouse receipt, the holder of the negotiable warehouse
22 receipt must surrender the warehouse receipt for cancellation,
23 and a warehouseman must cancel and issue a new negotiable
24 warehouse receipt for the balance of grain in storage.

25 (f) When all grain, the storage of which is evidenced by a
26 warehouse receipt, is delivered from storage, the warehouse

1 receipt shall be plainly marked across its face with the word
2 "cancelled" and shall have written on it the date of
3 cancellation, the name of the person canceling the warehouse
4 receipt, and such other information as required by rule, and is
5 thereafter void.

6 (g) When a warehouseman delivers grain out of storage but
7 fails to collect and cancel the negotiable warehouse receipt,
8 the warehouseman shall be liable to any purchaser of the
9 negotiable warehouse receipt for value in good faith for
10 failure to deliver the grain to the purchaser, whether the
11 purchaser acquired the negotiable warehouse receipt before or
12 after the delivery of the grain by the warehouseman. If,
13 however, grain has been lawfully sold by a warehouseman to
14 satisfy its warehouseman's lien, the warehouseman shall not be
15 liable for failure to deliver the grain pursuant to the demands
16 of a holder of a negotiable warehouse receipt to the extent of
17 the amount of grain sold.

18 (h) Except as otherwise provided by this Code or other
19 applicable law, a warehouseman shall deliver the grain upon
20 demand made by the holder of a warehouse receipt pertaining to
21 that grain if the demand is accompanied by:

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

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

25 (3) in the case of a non-negotiable warehouse receipt,
26 written evidence that the grain was delivered to the

1 warehouseman and that the depositor is entitled to it.

2 (i) If no warehouse receipt is issued to a depositor, a
3 warehouseman shall deliver grain upon the demand of a depositor
4 if the demand is accompanied by satisfaction of the
5 warehouseman's lien and written evidence that the grain was
6 delivered to the warehouseman and the depositor is entitled to
7 it.

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

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

26 (l) A warehouse receipt that is to be used for collateral

1 purposes by a warehouseman must be first issued by the
2 warehouseman to itself.

3 (m) The Department shall approve temporary storage space in
4 an amount to be determined by the Department if all the
5 following conditions are met:

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

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

11 (3) The structure for the storage of grain meets all of
12 the following requirements:

13 (A) The grain storage area has a permanent base
14 made of concrete, asphalt, or a material having similar
15 structural qualities.

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

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

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

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

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

4 (5) The authorization to use temporary storage space
5 for the storage of grain shall expire at the end of 6
6 months after the date of approval by the Department or May
7 15th, whichever comes first.

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

10 (o) The issuance and transfer of the warehouse receipts in
11 electronic form pursuant to rules promulgated by the Department
12 are specifically authorized by this Code, and any such
13 warehouse receipts shall have the same validity and
14 enforceability, for all purposes, as those in non-electrical
15 form. For purposes of this Code, the words "written" and
16 "printed", and derivatives thereof, when used in relation to
17 warehouse receipts, shall include warehouse receipts created
18 or displayed electronically.

19 "Electronically" includes but is not limited to facsimile,
20 electronic file, and e-mail.

21 (Source: P.A. 94-211, eff. 7-14-05.)