

Rates, etc.,
effective
Jan. 1, 1937.

SEC. 2. The rates and classifications and sub-classifications as provided in section 7676 Remington's Revised Statutes, as amended by section 1 of this act, shall take effect as of January 1, 1937.

Effective
immediately.

SEC. 3. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect immediately.

Passed the House March 8, 1937.

Passed the Senate March 7, 1937.

Approved by the Governor March 13, 1937.

CHAPTER 90.

[H. B. 511.]

REGULATION OF PUBLIC GRAIN WAREHOUSES.

AN ACT relating to public grain warehouses, repealing sections 6978, 6980, 6981, 6982, 7000, 7000-1 and 7002, Rem. Rev. Stat.; defining terms, prescribing procedure for recovery on warehouse bonds, defining warehousemen's responsibility to store commodities, setting forth the requirements of a public grain warehouse receipt, permitting warehousemen to refuse to store certain commodities, providing for issuance of forms for warehouse receipts, declaring the warehousing of fungible commodities to be a bailment, providing for action by the director of agriculture and the courts in respect to warehouse shortages and the collection of expenses for such action, requiring warehousemen to make reports, and giving the director of agriculture certain powers.

Be it enacted by the Legislature of the State of Washington:

"Grain
warehouse."

SECTION 1. The term "grain warehouse," when used in this act, includes any elevator, mill, warehouse, public grain warehouse, public warehouse or other structure in which grain or other commodities as herein defined are received from the public for storage, shipment or handling.

“Terminal warehouse” means any grain warehouse designated by the director as a terminal, and at which inspection facilities are maintained by the state department of agriculture.

“Terminal warehouse.”

“Warehouseman” means any firm, person, company, corporation or association of persons owning, operating or controlling a grain warehouse.

“Warehouseman.”

“Depositor” means any person who deposits a commodity as herein defined in a grain warehouse for storage, handling or shipment, or who is the owner or legal holder of a receipt or other evidence of such deposit.

“Depositor.”

“Commodities” means all grains, hay, peas, hops, grain and hay products, malt, peanuts, flax and seeds.

“Commodities.”

“Director” means the director of agriculture of the State of Washington, and shall include the term “Commission” as used in section 6979, Rem. Rev. Stat.

“Director.”

“Person” includes individuals, corporations, partnerships and associations.

“Person.”

SEC. 2. (a) Every warehouse bond provided for in section 6996, Rem. Rev. Stat., as amended, shall be filed in the office of the secretary of state and any depositor or other person injured by failure of a bonded warehouseman to comply with the provisions of this act or of the rules and regulations of the director shall have a right of action upon such bond for the recovery of all damages suffered thereby;

Bond.

Action upon bond.

(b) The liability of the surety upon the bond required to be given by warehousemen as provided in section 6996, Rem. Rev. Stat., as amended, shall be limited to the amount specified in the bond, and recovery under such bond shall be prorated when claims exceed the liability under the bond;

Liability of surety.

(c) No determination of the amount of the shortage in a case of insolvency of a warehouseman shall be required as a condition precedent to a suit

Shortage or insolvency of warehouseman.

on the warehouseman's bond by any one or more depositors;

Burden upon bondsmen to establish pro rata.

(d) In every case in which the claimed shortage exceeds the amount of the bond, it shall not be necessary for any depositor suing on the warehouse bond to join other depositors in such suit and the claim of prorating shall be a matter of defense and the burden be on the bondsman to establish the prorata.

Duty to store.

SEC. 3. (a) Every grain warehouseman shall receive for storage, handling or shipment, so far as the capacity of his warehouse will permit, all commodities included in the provisions of this act, in suitable condition for storage, tendered him in the usual course of business, and shall issue therefor a warehouse receipt or receipts in form prescribed by the director as herein provided;

Segregation.

(b) If requested by the depositor, each lot of his commodity shall be kept in a special pile or special bin, but in the case of a bulk commodity, if the lot or any portion of it does not equal the capacity of any available bin, the depositor may exercise his option to require the commodity to be specially binned only on agreement to pay charges based on the capacity of the available bin most nearly approximating the required capacity;

Refusal of damaged commodities.

(c) A warehouseman shall have the right to refuse to accept for storage commodities which are wet, damaged, insect-infested or in other ways unsuitable for storage;

Warehouse receipts.

(d) All warehouse receipts issued under this act shall be upon forms prescribed by the director and supplied only to licensed warehousemen at cost of printing, packing and shipping, as determined by the director. They shall be numbered serially for each licensee, and original negotiable receipts shall bear the state seal. Requests for such receipts shall be on forms furnished by the director and shall be accompanied by payment to cover cost;

Blank forms furnished.

(e) Nothing in the Uniform Warehouse Receipts Act as adopted by this state shall be deemed to relieve a warehouseman from the necessity of complying with all provisions of this act;

Uniform
act.

(f) Receipts issued under the United States Warehouse Act shall be deemed to fulfill the requirements of this act so far as it pertains to the issuance of warehouse receipts.

U. S. ware-
house act.

SEC. 4. Every receipt, except scale weight memoranda, issued for commodities warehoused under this act shall embody within its written or printed terms:

Essential
terms.

(a) The grade of the commodities received as determined under the official standards of this state, unless the identity of the commodities is in fact preserved in a special pile or special bin, and an identifying mark of such pile or bin shall appear on the face of the receipt and on the pile or bin;

(b) Such other terms and conditions within the limitations of this act and of the Uniform Warehouse Receipts Act as may be prescribed by the director;

(c) A clause reserving for the warehouseman the optional right to terminate storage and collect outstanding charges against any lot of commodities after June thirtieth following the date of the receipt.

SEC. 5. Any person, or any agent or servant of such person, or any officer of a corporation who prints, binds or delivers warehouse receipt forms, except on an order or requisition signed by the director, or who uses such forms knowing that they were not so printed, bound or delivered shall be guilty of a gross misdemeanor.

Requisition
required for
receipt
forms.

SEC. 6. Whenever any commodity shall be delivered to a warehouse under this act, and the receipt issued therefor provides for the return of a like amount of like kind, grade and class to the holder thereof, such delivery shall be a bailment and not a sale of the commodity so delivered. In no case

Bailment.

shall such commodities be liable to seizure upon process of any court in an action against such bailee, except action by the legal holder of the warehouse receipt to enforce the terms thereof. Such commodities, in the event of failure or insolvency of such bailee, shall be applied exclusively to the redemption of such outstanding warehouse receipts covering commodities so stored with such bailee, and in such event commodities on hand in any particular warehouse shall be applied first to the redemption and satisfaction of receipts issued by such warehouse. Commodities in special piles or special bins shall be applied exclusively against the receipts issued therefor.

Warehouse receipts exceeding commodities.

SEC. 7. (a) Whenever it shall appear to the satisfaction of the director that any licensed grain warehouseman has not in his possession sufficient commodities to cover the outstanding warehouse receipts issued by him, or that such warehouseman refuses to submit his books, papers, or concerns to lawful inspection, the director may give notice to the warehouseman so offending or delinquent to cover such shortage, give additional bond or submit to such inspection as the director may deem necessary;

Notice to warehouseman.

Failure to comply with notice.

(b) If such warehouseman fails to comply with the terms of such notice within twenty-four (24) hours from the date of its issuance, or within such further time as the director may allow, then the director, by virtue of an order procured by the prosecuting attorney from the superior court of the county in which the warehouse is located, shall take possession of all special piles or special bins of commodities and of all commingled commodities in which there is apparent shortage, and of all books, papers or concerns of such warehouseman;

Director to take possession.

Notice to surety and holders of receipts.

(c) Upon taking possession the director shall notify in writing the surety on the bond of the ware-

houseman and shall notify the holders of all warehouse receipts issued for commodities in respect to which there is an apparent shortage to present their warehouse receipts for inspection or to account for the same. The director shall thereupon cause an audit to be made of the affairs of such warehouse with respect to the commodities in which there is an apparent shortage, determine the amount of such shortage and compute the shortage with respect to each warehouse receipt holder affected thereby, and notify the warehouseman and the surety on the bond of the amount of such shortage and notify each warehouse receipt holder affected thereby of his interest in such shortage;

Audit.

(d) The director shall retain possession of the commodities in which shortage is found, and of the books, papers and concerns of the warehouseman, until such time as the warehouseman or the surety on the bond shall have satisfied the claims of all holders of warehouse receipts or, in case the shortage exceeds the amount of the bond, the surety on the bond shall have satisfied such claims prorata, or until such time as he is ordered by the court to surrender possession;

Possession of commodities retained.

(e) If, after the audit provided for herein is made, the director discovers that the warehouseman is insolvent or unable to satisfy the claims of all holders of warehouse receipts, the director, through the prosecuting attorney, shall have the right to petition the superior court of the county in which the warehouse is located for the appointment of a receiver to liquidate the business of the warehouseman in accordance with the law;

Insolvency.

Receiver appointed.

(f) At any time within ten (10) days after the director takes possession of any commodity or the books, papers and concerns of any licensed grain warehouse, the warehouseman may serve notice upon the director to appear in the superior court of

Director cited in action.

the county in which such warehouse is located, at a time to be fixed by said court, which shall be not less than five (5) nor more than fifteen (15) days from the date of the service of such notice, and show cause why such commodities, books, papers and concerns should not be restored to his possession;

Expenses.

(g) All expenses incurred by the director in carrying out the provisions of this section shall be a first charge upon the assets of the warehouseman, and may be recovered in a civil action brought by the prosecuting attorney, upon complaint of the director, in the superior court of the county in which the warehouse is located.

Change
in bond
liability.

SEC. 8. Any change in the capacity of a grain warehouse or installation of any new grain warehouse involving a change in bond liability under this act shall be reported to the director prior to the operation thereof. Failure to do [so] advise the director shall constitute a misdemeanor subject to a fine of not to exceed twenty-five dollars (\$25.00).

Report of
licensee.

SEC. 9. (a) Within ten (10) days following each July 1 and January 1, and at such other times as the director may require, every licensed grain warehouseman shall furnish on forms supplied by the director a report of commodities carried over, received, shipped and on hand, and such other information as the director may require;

(b) Within thirty (30) days following each July 1 every warehouseman shall make a report, under oath, on forms supplied by the director, showing in detail the capital assets, capital liabilities, the operating revenues and the operating expenses of his warehouse business for the preceding license year, and such other information as the director may require;

(c) Failure to make reports as required shall constitute a misdemeanor.

SEC. 10. The director shall have power and it shall be his duty to exercise all the powers and perform all the duties formerly vested in or required to be performed by the director of public works with respect to all public and terminal grain warehouses.

Powers and duties of Director of public works transferred.

SEC. 11. All acts or parts of acts in conflict with this act are hereby repealed and specifically sections 6978, 6980, 6981, 6982, 7000, 7000-1 and 7002 of Remington's Revised Statutes are hereby repealed.

Conflicting acts repealed.

SEC. 12. (a) If this chapter or any portion thereof shall be declared unconstitutional, portions of this chapter, if any, shall not be deemed to repeal any existing laws upon the same subject matter;

Partial invalidity.

(b) The enactment of this chapter shall not have the effect of terminating, or in any way modifying the liability, civil or criminal, which shall already be in existence at the date this chapter becomes effective.

Existing statutes not affected.

Passed the House February 26, 1937.

Passed the Senate March 7, 1937.

Approved by the Governor March 13, 1937.

CHAPTER 91.

[H. B. 697.]

CONVEYANCE OF STATE LANDS TO UNITED STATES.

AN ACT authorizing the conveyance to the United States government of certain lands belonging to the State of Washington, department of fisheries; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The governor on behalf of the state is hereby authorized to sell to the United States government, at a price which shall represent the reasonable value thereof, three (3) tracts of state