

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1470

2007 HOUSE AGRICULTURE

HB 1470

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1470

House Agriculture Committee

Check here for Conference Committee

Hearing Date: 2-1-07

Recorder Job Number: 2578

Committee Clerk Signature

Edward Ellefson - mk

Minutes:

CHAIRMAN JOHNSON: Committee Members, we will open on HB 1470.

This bill is RELATING TO NOTICES FOR THE TERMINATION OF GRAIN STORAGE CONTRACTS.

CHAIRMAN JOHNSON: Representative Pollert.

REPRESENTATIVE POLLERT: DISTRICT 29. I am the operator of a grain elevator.

Before you today is HB 1470. This bill has to do with grain storage Contracts. Better know as ware house receipts. Back in 2005 we changed some language and actually kind of muddied up the waters, just a little bit. Basically what we have to do is issue a ware house receipt that has to be renewed on June 30th.

These would be saying that the ware house receipt has to be renewed. It now reads that will terminate the contract instead of the grain. That is not the intention.

By law we can sell enough grain to take care of storage charges. What this bill is attempting to do is to clarify the language and allow us to fill and sell enough grain that the storage which has normally been a statue, and I don't now how long it has been. It is not to terminate the contract. It repeals two chapters and creates one chapter and then it would have more clarified language. Most elevators are on the June 30 deadline.

Legislation goes into effect in July. We would like the committee to consider an amendment with an emergency clause. That way it is clarifying the language by the dead line date.

REPRESENTATIVE MUELLER: Chet can you give us a thumb nail what is in section two as to repeal.

REPRESENTATIVE POLLERT: Section 2 Repeal Section 60-02-31 of the NORTH DAKOTA CENTURY CODE.

CHAIRMAN JOHNSON: OTHER QUESTIONS COMMITTEE.

STEVE STREGE: NORTH DAKOTA GRAIN DEALERS ASSOCIATION.

[[Please see hand out-testimony.]] Combine the two sections.

I do have some amendments that Representative POLLERT gave me.

PUBLIC SERVICE COMMISSION: We have no testimony but we do support a do pass on HB 1470.

There was no opposing testimony.

CHAIRMAN JOHNSON: IF NOT, WE WILL CLOSE THE HEARING ON 1470.

REPRESENTATIVE HEADLAND MADE A MOTION TO MOVE THE AMENDMENTS.

REPRESENTATIVE BELTER: I SECOND THE MOTION.

CHAIRMAN JOHNSON: OUR VOICE VOTE ALL SUPPORTING THE AMENDMENT SAY YES. WE HAVE A MOTION ON THE BILL AS AMENDED WITH AN EMERGENCY CLAUSE.

REPRESENTATIVE BRANDENBURG: I MAKE A MOTION FOR A DO PASS AS AMENDED.

REPRESENTATIVE BELTER: I SECOND THE MOTION.

CHAIRMAN JOHNSON: TAKE A ROLL CALL VOTE.

THERE WERE 10 YES 0 NO 3 ABSENT

REPRESENTATIVE ULEM WILL CARRY THE BILL.

REPRESENTATIVE JOHNSON CLOSED ON HB 1470.

Date:
Roll Call Vote #:

1 Feb 07
17B1470

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House AGRICULTURE Committee

Check here for Conference Committee

Legislative Council Amendment Number Accepted
move on amendments

Action Taken _____

Motion Made By HEADLAND Seconded By BELTER

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chairman			Tracy Boe		
Joyce Kingsbury Vice Chairman			Rodney J Froelich		
Wesley Belter			Phillip Mueller		
Mike Brandenburg			Kenton Onstad		
Mike Brandenburg			Ben Vig		
Craig Headland					
Brenda Heller					
John D Wall					
Gerry Uglem					

None Vote

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

1 FEB 07

Date:
Roll Call Vote #:

HB 1470
HB 1470

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House AGRICULTURE Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS AS AMEND

Motion Made By BRAND Seconded By BELTER

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chairman	✓		Tracy Boe	✓	
Joyce Kingsbury Vice Chairman	✓		Rodney J Froelich		
Wesley Belter	✓		Phillip Mueller	✓	
Mike Brandenburg	✓		Kenton Onstad		
Mike Brandenburg	✓		Ben Vig	✓	
Craig Headland	✓				
Brenda Heller					
John D Wall	✓				
Gerry Uglem	✓				

Total (Yes) 10 No 0

Absent 3

Floor Assignment Uglem

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1470: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1470 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and"

Page 1, line 3, after "contracts" insert "; and to declare an emergency"

Page 2, after line 14, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2007 SENATE AGRICULTURE

HB 1470

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1470

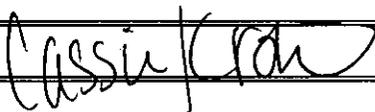
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4161

Committee Clerk Signature



Minutes:

Sen. Flakoll opened the hearing on HB 1470, a bill relating to notices for the termination of grain storage contracts. Members (6) were present, absent (1)- **Sen. Wanzek**.

Rep. Pollert, district 29, testified in favor of the bill.

Rep. Pollert- I am here in support of the bill, basically what it is is that it deals with warehouse receipts and every state license elevator has to send out a warehouse receipt notice around June 30th. The way the law is written now it almost sounds like you would have to sell all the grain on that warehouse receipt and that is not the intent. The intent is to renew the storage warehouse receipt and then if we have to then collect them when they sell the amount of grain that we need to pay for the storage charges. So it is kind of a clean up of language I think it then adds one chapter because it then puts 2 together as one that is why you see the repeal.

Sen. Flakoll- what prompted this bill?

Rep. Pollert- you may want to ask the PSC, but it is mainly because the language is unclear.

Sen. Flakoll- and the emergency clause is on here why?

Rep. Pollert- the warehouse receipts are usually out by June 30 and the bills do not go into effect until July 1.

Christopher Friez, NDGDA testified in favor of the bill on behalf of Steve Strege, see attached testimony.

No opposition to the bill.

Sen. Flakoll closed the hearing.

Sen. Erbele motioned for a Do Pass and was seconded by **Sen. Klein**, roll call vote 1: 6 yea, 0 nay, 1 absent. **Sen. Erbele** was designated to carry the bill to the floor.

REPORT OF STANDING COMMITTEE (410)
March 1, 2007 2:17 p.m.

Module No: SR-39-4236
Carrier: Erbele
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1470, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1470 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1470

established from time to time by the secretary of agriculture of the United States, except as otherwise provided in rules and regulations applicable thereto adopted by federal officials pursuant to law. They shall post in a conspicuous place in their warehouse the official grades so established and also any change that may be made from time to time. Warehousemen of dry edible beans shall purchase, store, and deliver beans in accordance with their policy which must be filed with the commission and posted in a conspicuous place in their warehouse. Other grading standards may be used if mutually agreed to in writing by the warehouseman and the owner of the grain. However, the owner may demand the use of federal grading standards. The commission, after hearing, may prohibit the use of nonfederal grades.

60-02-28. Grading of grain. All public warehousemen before testing for grade any grain handled by them shall remove therefrom and make due allowance for any dockage of such grain made by reason of the presence of straw, weed seeds, dirt, or any other foreign matter.

60-02-29. Allowance for dockage - Penalty for violation. Any public warehouseman within this state, who shall violate the provisions of section 60-02-28, shall be guilty of a class B misdemeanor.

60-02-30. Termination of public grain warehouse storage contracts. All storage contracts terminate on the date identified in the publication required by section 60-02-17. If a different termination date is not identified in the publication, then all storage contracts on grain in store at public grain warehouses terminate on June thirtieth of each year, except for storage contracts on dry edible beans which terminate on April thirtieth of each year. Storage on any or all grain in storage at public grain warehouses may be terminated by the owner at any time before the applicable date by the payment of all legal charges and the surrender of the warehouse receipt, together with a demand for delivery of the grain in storage, or notice to the warehouseman to sell the stored grain. Upon the expiration of the storage contract, the warehouseman is not obligated to renew the storage contract. In the absence of a demand for delivery, an order to sell, or an agreement between the warehouseman and the receipt holder for storage after the termination date of the storage contract, the warehouseman may sell, upon the expiration of the storage contract, at the local market price on the close of business on that day, all stored grain of the receipt holder and tender to the receipt holder the proceeds of the sale, less accrued storage charges thereon and the warehouseman's advances upon any previous storage contract.

60-02-31. Notice to owner of termination of storage contract. At least thirty days before the termination date of a storage contract, the warehouseman shall notify the receipt holder by mail of the warehouseman's intention to terminate the storage contract on the date identified on the storage contract and sell all grain stored as of that date, unless the receipt holder prior to that time demands redelivery, authorizes sale, extends the storage contract, or enters into a new contract with the warehouseman for restorage. Failure to comply with this section results in the forfeiture of storage charges accrued for the grain during the previous twelve months.

60-02-31.1. Delivery of dry edible beans to warehouse receipt holder. Repealed by S.L. 1991, ch. 696, § 6.

60-02-32. Reissue warehouse receipts - Provisions. Upon payment of all legal accrued charges and the surrender to the warehouseman of a receipt, if the receipt holder and the warehouseman agree to continue the storage contract, the warehouseman then may extend the storage contract or issue a new warehouse receipt to the owner and cancel the former receipt by endorsing thereon the words: "Canceled by the issuance of warehouse receipt no. _____", inserting the number of the reissue warehouse receipt thereafter, and the holder's name shall be signed thereto by the holder or by the holder's authorized agent. The reissue warehouse receipt shall be so designated by stamping thereon: "Reissue of warehouse receipt no. _____".

60-02-33. Delivery of grain - Demand terminates storage charge. On the return and surrender of any receipt and the payment of all lawful charges, the grain represented therein

Present Law

or tender of all applicable charges, the amount, kind, and grade of grain identified in this receipt will be delivered to the person named above or the person's order as rapidly as due diligence, care, and prudence will permit. At the option of the holder of this receipt, the amount, kind, and grade of grain for which this receipt is issued, upon demand, must be delivered back to the holder at any terminal point customarily shipped to, or at the place where received, upon the payment of any charges for receiving, handling, storage, and insurance and in case of terminal delivery, the payment in addition to the above of the regular freight charges on the gross amount called for by this ticket or in lieu thereof, a receipt issued by a bonded warehouse or elevator company doing business at the terminal point. Nothing in this receipt requires the delivery of the identical grain specified herein, but an equal amount of grain of the same kind and grade must be delivered.

A warehouseman shall publish and post, in a conspicuous place in its warehouse, the fees that will be assessed for receiving, storing, processing, or redelivering grain and the termination date of its warehouse receipts. This ~~fee schedule~~ publication must be filed with the commission as a part of ~~its~~ the warehouse license application or annual renewal. ~~These~~ The fees and termination date must be stated on the warehouse receipt issued for the grain. The fees or termination date may be changed upon filing a revised ~~schedule~~ publication with the commission.

SECTION 4. AMENDMENT. Section 60-02-24 of the North Dakota Century Code is amended and reenacted as follows:

60-02-24. Reports to be made by public warehouseman - Penalty for failure. Each licensed and bonded public warehouseman shall:

1. Prepare for each month a report giving facts and information called for on the form of report prepared by the commission. The report must contain or be verified by a written declaration that it is made under the penalties of perjury. The report may be called for more frequently if the commission deems it necessary. Information pertaining to the volume of grain handled is a confidential trade secret and is not a public record. The commission may make the information available for use by other governmental entities, but the commission may not release the information in a manner that jeopardizes the confidentiality of individual licensees.
2. File the report with the commission not later than the last day of the following month, and failure to file this report promptly will be considered cause for revoking the warehouse license after due notice and hearing.
3. Keep a separate account of the grain business, if the warehouseman is engaged in handling or selling any other commodity, and under no circumstances shall the grain account and other accounts be mixed.

~~No~~ The commission may refuse to renew a license shall be reissued to any public warehouseman who fails to make a required report.

SECTION 5. AMENDMENT. Section 60-02-30 of the North Dakota Century Code is amended and reenacted as follows:

60-02-30. Termination of public grain warehouse storage contracts. All storage contracts terminate on the date identified in the publication required by section 60-02-17. If a different termination date is not identified in the publication, then all storage contracts on grain in store at public grain warehouses terminate on June thirtieth of each year, except for storage contracts on dry edible beans which terminate on April thirtieth of each year. Storage on any or all grain in storage at public grain warehouses may be terminated by the owner at any time before the applicable date mentioned herein by the payment of all legal charges and the surrender of the warehouse receipt, together with a demand for delivery of the grain in storage, or notice to the warehouseman to sell the stored grain. ~~In the absence of a demand for delivery, an order to sell, or a request for the renewal of the storage contract, entered into prior to the expiration of the storage contract, for all grains except dry edible~~

H. B. No. 1167 - Page 3

2005 session

~~beans, the warehouseman shall sell, upon the expiration of the storage contract and compliance with section 60-02-31, at the local market price on the close of business on that day, sufficient amounts of the stored grain to satisfy all accrued storage charges thereon and warehouseman's advances upon the storage contract, and shall issue a new warehouse receipt for the balance of the grain in storage to the owner thereof upon the surrender of the old warehouse receipt, properly canceled. Upon the expiration of the storage contract for dry edible beans, the warehouseman is not obligated to renew the storage contract. In the absence of a demand for delivery, an order to sell, or an agreement between the warehouseman and the receipt holder for the storage of dry edible beans after April thirtieth the termination date of the storage contract, the warehouseman may sell, upon the expiration of the storage contract, at the local market price on the close of business on that day, all the stored beans grain of the receipt holder and tender to the receipt holder the proceeds of the sale, less an amount which will satisfy all accrued storage charges thereon and the warehouseman's advances upon any previous storage contract.~~

SECTION 6. AMENDMENT. Section 60-02-31 of the North Dakota Century Code is amended and reenacted as follows:

~~60-02-31. Notice to owner of termination of storage contract. On or before June first of each year, for all grains except dry edible beans At least thirty days before the termination date of a storage contract, the warehouseman shall notify the receipt holder by mail the person in whose name the grain was stored of the termination of the storage contract on June thirtieth and the warehouseman's intention to sell a sufficient amount of the stored grain on June thirtieth to satisfy accrued storage charges unless the receipt holder prior to that time demands redelivery, authorizes sale, or continues the storage contract. On or before April first of each year, a warehouseman storing dry edible beans shall notify by mail the person in whose name the dry edible beans are stored of the warehouseman's intention to terminate the storage contract on April thirtieth, or at a later the date pursuant to an agreement between the warehouseman and the receipt holder for the storage of dry edible beans after April thirtieth, identified on the storage contract and to sell all dry edible beans grain stored as of that date, unless the receipt holder prior to that time demands redelivery, authorizes sale, extends the storage contract, or enters into a new contract with the warehouseman for restorage. Failure to comply with this section shall result results in the forfeiture of storage charges accrued for the grain during the previous twelve months.~~

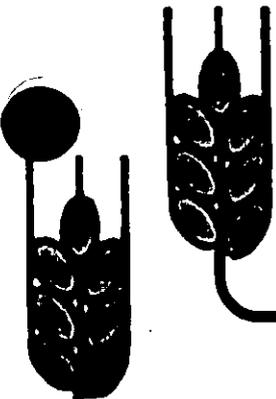
SECTION 7. AMENDMENT. Section 60-02-32 of the North Dakota Century Code is amended and reenacted as follows:

~~60-02-32. Reissue warehouse receipts - Provisions. Upon payment of all legal accrued charges and the surrender to the warehouseman of a receipt, for all grains except dry edible beans, if the receipt holder elects and the warehouseman agree to continue the storage contract, the warehouseman then shall may extend the storage contract or issue a new warehouse receipt to the owner and shall cancel the former receipt by endorsing thereon the words: "Canceled by the issuance of warehouse receipt no. _____", inserting the number of the reissue warehouse receipt thereafter, and the holder's name shall be signed thereto by the holder or by the holder's authorized agent. The reissue warehouse receipt shall be so designated by stamping thereon: "Reissue of warehouse receipt no. _____".~~

SECTION 8. AMENDMENT. Subsection 4 of section 60-02-40 of the North Dakota Century Code is amended and reenacted as follows:

4. Transfer all stored grain undelivered at the expiration of such thirty-day period to its successor, if licensed, or to the nearest licensed warehouse for restorage, taking receipts for the same in favor of the owner of the grain so transferred, such warehouse receipts to be filed with the commission until called for by the owner.

SECTION 9. REPEAL. Section 60-02-37 of the North Dakota Century Code is repealed.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

STEVEN D. STREGE, Executive Vice President
CHERYL WELLE, Executive Assistant
CONNIE LEIER, Administrative Assistant
Ph: 701-235-4184, Fax: 701-235-1026
118 Broadway, 606 Black Bldg., Fargo, ND 58102
Website: www.ndgda.org

STU LETCHER, Safety & Health Director
Ph: 701-543-3110, Fax: 701-543-4183
P.O. Box 72, Hatton, ND 58240

HAL GRIEVE, Safety Specialist
Ph: 701-633-5256, Fax: 701-633-5258
204 4th Avenue S., Buffalo, ND 58011

TESTIMONY TO SENATE AG COMMITTEE RE: HB 1470 -- MARCH 1, 2007

My name is Steve Strege and I represent the North Dakota Grain Dealers Association. We had this bill drafted and urge a Do Pass.

NDCC 60-02-30 and 60-02-31 were amended with HB 1167 in the 2005 session. There was an unintended effect with the wording that HB 1470 now corrects.

60-02-30 deals with the termination of grain storage contracts at grain elevators. Those contracts are on the backs of grain warehouse receipts. 60-02-31 requires grain elevators to give receiptholders notice of the expiration of these storage contracts. Most of those expire on June 30, unless the grain elevator has picked a different date.

Prior to those 2005 changes the notice provision in 60-02-31 said the elevator was to tell the receiptholder of its intention to "sell a sufficient amount of the stored grain on June thirtieth to satisfy accrued storage charges" unless those charges were paid in cash. HB 1167 changed that to say the elevator is to tell the receiptholder of its intention to "sell all grain stored". That is NOT the intention of most grain elevators. Attached to my testimony for your information is page 3 of HB 1167 and the present law.

This conflict in the language came about because one goal of HB 1167 was to clarify that the storage contract was not automatically renewed. It became apparent last summer when the Grain Dealers Association prepared new notice forms to help its members comply with the notice requirement.

There was much duplicate language between 60-02-30 and 60-02-31. The Grain Dealers attorney suggested combining the two sections and that's why 31 is repealed. It is replaced by subsection 4 of 60-02-30, lines 22-24 on page 1 and lines 1-5 on page 2 of engrossed HB 1470.

HB 1470 is not new law. Nor is it intended to change any elevator practices or obligations or receipt holders' rights.

The new subsection 4 contains the notice requirement, without requiring the elevator to say it intends to sell all the grain. The elevator MAY have to sell all the grain, as it has always been able to, if there is no agreement to continue the storage contract. That part remains in subsection 5 on page 2 of the bill.

I'll try to answer any questions you may have.

Steve Stroege, ND Grain Dealers

RE: HB 1470

In the 2005 session we amended 60-02-30 and 60-02-31 with HB 1167. There was an unintended effect with the wording that HB 1470 now corrects.

60-02-30 deals with the termination of grain storage contracts at grain elevators. Those contracts are on the back of grain warehouse receipts. 60-02-31 requires grain elevators to give receiptholders notice of the expiration of these storage contracts. Most of those expire on June 30, unless the grain elevator has picked a different date.

There was much duplicate language between 60-02-30 and 60-02-31. The Grain Dealers attorney suggested combining the two sections and that's why 31 is repealed. It is replaced by subsection 4 of 60-02-30, lines 21-24 on page 1 and lines 1-4 on page 2 of HB 1470.

However, HB 1470 is not intended to change any elevator practices or obligations or receiptholders' rights.

Prior to those 2005 changes the notice provision in 60-02-31 said the elevator was to tell the receiptholder of its intention to "sell a sufficient amount of the stored grain on June thirtieth to satisfy accrued storage charges" unless those charges were paid in cash.

HB 1167 changed that to say the elevator is to tell the receiptholder of its intention to "sell all grain stored".

That is NOT the intention of most grain elevators, but yet state law now requires elevators to tell receiptholders just that, possibly sending them into cardiac arrest and further increasing the Human Services budget.

This conflict in the language came about because one goal of HB 1167 was to clarify that the storage contract was not automatically renewed. It became apparent last summer when the Grain Dealers Association prepared new notice forms to help its members comply with the notice requirement.

The new subsection 4 contains the notice requirement, without requiring the elevator to say it intends to sell all the grain. The elevator MAY have to sell all the grain, as it has always been able to, if there is no agreement to continue the storage contract. That part remains in subsection 5 on page 2 of the bill.