

CHAPTER 232

PUBLIC LOCAL GRAIN WAREHOUSES

232.01 LOCAL WAREHOUSES.

NOTE: The law relating to local grain warehouses originated with L. 1893, c. 28, entitled "An act to regulate the receipt, storage and shipment of grain at elevators and warehouses on the right of way of railroads in the state of Minnesota, at stations and sidings other than the terminal points." That act was variously amended and finally entirely revised by L. 1943, c. 345. The term "grain" was made to include flaxseed by R. L. 1905, s. 2104, and to include soy-beans by L. 1939, c. 133. In *Daniels v Palmer*, 41 M 116, 42 NW 855, Judge Collins traces the early history of this chapter.

Navy beans are not deemed "grain" under the act and may not be accepted for storage under the law. OAG Sept. 10, 1946 (215-C-8).

232.02 WAREHOUSEMEN MUST BE LICENSED.

Plaintiffs deposited grain in a public warehouse and thereafter sold it to the warehouseman and received a draft for the purchase price it would have been paid if it had been presented within two months after its issuance. Plaintiffs having negligently failed to present it cannot recover the value of the grain from the surety on the warehouseman's bond. Where the seller fails to use reasonable diligence in presenting a check in payment for property sold, he waives the right to rescind and reclaim the property. *Pohl v Johnson*, 179 M 398, 229 NW 555.

Persons are not required to obtain a grain buyer's license under the provisions of section 232.02 where they purchase the grain in North Dakota and transport it by truck into Minnesota for resale. OAG Aug. 11, 1941 (215-A-4).

A warehouse generally purchasing grain in carload lots and licensed as a terminal warehouse in order to purchase truck load lots or less than carload lots must be licensed under section 232.02 as well as under section 233.08. OAG Sept. 10, 1946 (215-C-8).

232.06 GRAIN TO BE RECEIVED FOR STORAGE; RECEIPT FOR; PENALTIES.

A provision in a grain storage receipt allowing the stored property to be mingled with other property of the same kind or transferred to other warehouses creates a contract of bailment and is not a sale and it does not confer authority on the warehouseman to sell the property. *State v Cowdery*, 79 M 94, 81 NW 750.

If a warehouseman receives grain for storage, and issues memorandum slips or tickets, not in accordance with the statute, and the bailor in good faith deposits wheat and accepts such tickets, he is not deprived of his right to the property, or the value thereof. Such memorandum slips may be admitted in connection with evidence to identify and make certain the fact that the wheat was actually delivered. *Kramer v Northwestern Elevator Co.* 91 M 346, 98 NW 96.

Under the statute for storage of grain with an agreement to return an equal amount in kind constitutes a bailment and not a sale; and the elevator cannot pass good title, even to a bona fide purchaser to grain in the elevator when it is less in amount than the stored grain. If there is an actual conversion, a demand is not essential to the maintenance of an action. *Torgerson v Quinn*, 161 M 380, 201 NW 615.

The surety having made itself responsible for the performance by the warehouseman of all duties imposed upon him by statute cannot avoid liability on the ground that he failed to issue the prescribed storage tickets. Only those stor-

age tickets containing a contract differing from the prescribed contract are declared by statute to be inadmissible in evidence. *Anderson v Krueger*, 170 M 225, 212 NW 198.

232.07 FORM OF STORAGE RECEIPT.

Conversion of fungible goods; right of the holder of warehouse grain receipt against a purchaser from the warehouseman. 9 MLR 690.

232.08 GRAIN DELIVERED ON SURRENDER OF STORAGE RECEIPT.

The law providing for a recovery of one cent per bushel for the withholding of wheat from any person for a storage receipt, after demand, is penal in character; and strict compliance with all its terms and conditions is necessary to set the statute in motion. *Ferch v Victoria Elevator*, 79 M 416, 82 NW 678.

A rightful demand of possession of personal property and a wrongful refusal establish a conversion; but if there is an actual conversion, a demand is not essential to maintenance of an action therefor. Under the statute the storage of grain with an agreement to return an equal amount in kind constitutes a bailment and not a sale; and the elevator cannot pass good title, even to a bona fide purchaser, to grain in the elevator when it is less in amount than the stored grain. *Torgerson v Quinn*, 161 M 380, 201 NW 615.

In an action by plaintiff on a demand promissory note, the defendant by way of counterclaim seeks to recover for plaintiff's failure to sell, upon demand, storage tickets for grain, which defendant delivered to plaintiff as security for a loan. A third party had an undivided interest in the claim. There being no agreement to the contrary it was a condition of the loan that the consent of the third party to the disposition of the grain must be obtained and that consent not being obtainable plaintiff was not bound to sell until both owners of the grain covered by the tickets consented to the sale. *State Bank v Joyce*, 213 M 380, 7 NW(2d) 385.

232.17 GRAIN DELIVERED CONSIDERED SOLD; UNLESS.

Where the producer upon bringing wheat to an elevator on being asked if he wished to sell replied in the negative, delivery of the grain and the acceptance of a ticket for it constituted a bailment and not a sale, notwithstanding a custom of the elevator to deliver grain currently to a mill. *Weiland v Krejnick*, 63 M 314, 65 NW 631.

Where goods are stored in a warehouse specifically agreed upon, and are removed therefrom to another place by the bailee without notice to or knowledge by the bailor, and the goods are destroyed by fire, the bailee is responsible to the bailor for their market value in an action of conversion, or in the nature of conversion. *McCurdy v Wallblom*, 94 M 326, 102 NW 873.

The equities of one who buys grain in the open market, in good faith and for full value, from a warehouseman with whom it is stored, are superior to those of the surety on the bond of the latter given for the protection of those storing grain with it, where such warehouseman has become insolvent and the surety has been required to pay the amount of the bond. *Northern Trust v Consolidated Elevator Co.* 142 M 132, 171 NW 265.