

AN ACT

ENTITLED, An Act to revise certain provisions related to public grain warehouses and grain buyers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 49-43-5.1 be amended to read:

49-43-5.1. The application for a license to operate as a public grain warehouse made pursuant to § 49-43-4.2 shall be in writing, in a form prescribed by the commission, and shall set forth the name, principal office or place of business, location of each warehouse if more than one warehouse is operated in separate municipalities or locations, and the individual name of each owner or principal in the management of the warehouse. If the warehouse is owned or managed by a corporation, the name of the president, secretary, and treasurer of the corporation shall be stated. The application shall also state that the applicant is seeking a public grain warehouse license and shall contain financial information depicting the financial condition of the business at the time of the application. The application shall contain the affirmation statement set forth in § 22-29-9.1. The application shall be signed by the owner, managing partner, or chief executive officer of the applicant and shall be notarized.

If a warehouseman has more than one public grain warehouse in the same municipality, only one license is required for all the public grain warehouses.

Section 2. That § 49-43-5.9 be amended to read:

49-43-5.9. Upon revocation, termination, or cancellation of a warehouse license, any claim against the warehouseman arising under this chapter shall be made in writing with the commission within six months after receiving notice of revocation, termination, or cancellation. Upon revocation of a warehouse license, the commission shall publish notice of the revocation once each week for two consecutive weeks in a newspaper of general circulation in each county in which the licensee maintains a business location and in a newspaper of general circulation within the state. The

commission shall also send notice of the revocation by certified mail to each grain storage receipt and scale ticket holder named in the audit prepared pursuant to § 49-43-5.8. The notice shall state the name and address of the warehouseman, the effective date of revocation, and the name and address of the surety on the warehouse bond. The notice shall also state that any claims against the warehouseman shall be made in writing and sent by ordinary mail to the commission within six months after receiving notice of revocation.

Section 3. That § 49-43-10.1 be repealed.

Section 4. That § 49-45-1.1 be amended to read:

49-45-1.1. Terms used in this chapter mean:

- (1) "Commission," the Public Utilities Commission;
- (2) "Grain," grain, grain sorghums, beans, pulse crops, and oil seeds. The term does not include grain that has been cleaned, processed, and specifically identified for an intended use of planting for reproduction, grain received for consignment that will be processed by the consignee for an intended use of planting for reproduction, or grain purchased to feed livestock;
- (3) "Grain buyer," any person who purchases grain for the purpose of reselling the unprocessed grain or who purchases three hundred thousand dollars worth or more of grain directly from producers in a calendar year. Nothing in this chapter applies to the isolated resale of grain by a producer who does not hold himself or herself out as engaging in the business of reselling grain;
- (4) "Person," any natural person, firm, corporation, company, limited liability company, partnership, association, joint stock company or the lessee, trustee, or receiver appointed by any court for any one of the foregoing;
- (5) "Voluntary credit sale," a sale of grain or seeds pursuant to which the sale price is to be

paid more than thirty days after the delivery or release of the grain for sale, including those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts and price-later contracts; and

(6) "Producer," a person engaged in the business of grain production.

Section 5. That § 49-45-7 be amended to read:

49-45-7. An application for a grain buyer license shall be filed with the commission and shall be in a form prescribed by the commission. The application shall set forth the name of each owner or principal in the management of the business and shall contain financial information depicting the financial condition of the business at the time of application. If the applicant is a corporation, the application shall include the name of the president, secretary, and treasurer of the corporation. The application shall also include the location of the principal office or place of business and any additional place of business of the applicant. The application shall contain the affirmation statement set forth in § 22-29-9.1. The application shall be signed by the owner, managing partner, or chief executive officer of the applicant and shall be notarized.

Upon receipt of an application and sufficient bond as required by § 49-45-9, the commission may grant the license applied for or may, for good cause shown and after notice and an opportunity for hearing, deny the issuance of the license.

If a grain buyer has more than one grain buying facility in the same municipality, only one license is required for all the grain buying facilities.

Section 6. That § 49-45-19 be amended to read:

49-45-19. Upon revocation, termination, or cancellation of a grain buyer license, any claim against the grain buyer arising under this chapter shall be made in writing with the commission within six months after receiving notice of revocation, termination, or cancellation. Upon revocation of a grain buyer license, the commission shall publish notice of the revocation once each week for

two consecutive weeks in a newspaper of general circulation in each county in which the licensee maintains a business location and in a newspaper of general circulation within the state. The commission shall also send notice of the revocation by certified mail to each scale ticket holder named in the audit prepared pursuant to § 49-45-18. The notice shall state the name and address of the grain buyer, the effective date of revocation, and the name and address of the surety on the grain buyer bond. The notice shall also state that any claims against the grain buyer shall be made in writing and sent by ordinary mail to the commission within six months after receiving notice of revocation.

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I certify that the attached Act
originated in the

SENATE as Bill No. 21

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 21

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State