

SENATE BILL NO. 2279

Introduced by

Senators Klein, Flakoll, Krauter

Representatives Brandenburg, Schmidt, Weisz

1 A BILL for an Act to amend and reenact section 51-05.1-01.1, 60-02-03, 60-02-09, 60-02-09.1,
2 and 60-04-06 of the North Dakota Century Code, relating to a bonding fund for auctioneers and
3 grain warehousemen; to repeal section 60-04-03.3 of the North Dakota Century Code, relating
4 to joinder of a surety; and to provide a continuing appropriation.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 51-05.1-01.1 of the North Dakota Century Code
7 is amended and reenacted as follows:

8 **51-05.1-01.1. Auctioneer's license - Clerk's license - Fees - ~~Bonds~~ Bonding fund -**
9 **Continuing appropriation.**

10 1. The initial application for an annual auctioneer's or clerk's license must be in
11 writing, verified, and must show the name, residence, and address of the applicant.
12 An application must be filed at least ten days ~~prior to~~ before the first auction sale
13 the applicant is to conduct or clerk. Application for renewal of an annual license
14 must be on forms designated by the commission. The fee for the annual license or
15 renewal is thirty-five dollars and must accompany the application. The name and
16 license number must appear on all advertising of sales conducted by an auctioneer
17 or clerk. Renewals that are not received by January thirty-first must be assessed
18 an additional twenty-five dollar fee.

19 2. Before a license is issued to an auctioneer or auction clerk, the applicant must ~~file~~
20 purchase a ~~corporate surety~~ bond ~~with~~ from the commission. This bond must
21 provide annual coverage of not less than five thousand dollars for an auctioneer or
22 ten thousand dollars for an auction clerk, ~~must run to the state of North Dakota,~~
23 and must be for the benefit of any person injured by the licensee's improper
24 conduct. ~~Bonds may not be canceled on less than sixty days' written notice to the~~

1 ~~commission.~~ The size of the licensee's bond must be clearly and prominently
2 stated in all contracts with sellers.

3 3. There is created in the state treasury the auctioneer bonding fund. The
4 commission shall set premiums and otherwise administer the fund. Moneys in the
5 fund and the interest earned on the fund are appropriated on a continuing basis to
6 the commission to carry out the purposes of this chapter. Upon the request of the
7 commission, the state investment board shall invest the moneys in the fund in
8 accordance with chapter 21-10.

9 **SECTION 2. AMENDMENT.** Section 60-02-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **60-02-03. Duties and powers of the commission.** The commission ~~shall have~~ has
12 the duty and power to:

- 13 1. Exercise general supervision of the public warehouses of this state, including the
14 handling, weighing, and storing of grain, and the management of public
15 warehouses.
- 16 2. Investigate all complaints of fraud and injustice, unfair practices, and unfair
17 discrimination.
- 18 3. Examine and inspect, during ordinary business hours, any licensed warehouse,
19 including all books, documents, and records.
- 20 4. Require the filing of reports pertaining to the operation of the warehouse.
- 21 5. Set premiums and otherwise administer a bonding fund for public warehousemen.
- 22 6. Make all proper rules for carrying out and enforcing any law in this state regarding
23 public warehouses.

24 **SECTION 3. AMENDMENT.** Section 60-02-09 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **60-02-09. Bond ~~filed by~~ of public warehouseman - Bonding fund - Continuing**
27 **appropriation.**

- 28 1. Before ~~any a~~ license is issued to any public warehouseman under this chapter, the
29 applicant for ~~such the~~ license shall file purchase a bond ~~with~~ from the commission
30 which ~~shall~~ must:
 - 31 4. a. Be in a sum not less than five thousand dollars for any one warehouse.

1 cash, negotiable instrument, or personal surety bond ~~properly~~ will protect the
2 holders of outstanding receipts. One bond only ~~shall~~ may be given for any line of
3 elevators, mills, or warehouses, owned, controlled, or operated by one individual,
4 firm, corporation, or limited liability company, and ~~such the bond shall be construed~~
5 ~~to cover such~~ covers the elevators, mills, or warehouses, as a whole and not a
6 specific amount for each.

7 4. There is created in the state treasury the grain warehousemen bonding fund.
8 Moneys in the fund and interest on the fund are appropriated on a continuing basis
9 to the commission to carry out the purposes of this chapter. Upon request of the
10 commission, the state investment board shall invest the moneys in the fund in
11 accordance with chapter 21-10.

12 **SECTION 4. AMENDMENT.** Section 60-02-09.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **60-02-09.1. Bond cancellation - Release of surety.** The ~~surety on a bond bonding~~
15 fund is released from all future liability accruing on the bond after the expiration of ninety days
16 ~~from the date of receipt by the commission of notice of cancellation by the surety~~ or on a later
17 date specified by the ~~surety~~ commission. This provision does not operate to relieve, release, or
18 discharge the ~~surety bonding fund~~ from any liability already accrued or which accrues before
19 the expiration of the ninety-day period. Unless the warehouseman files a ~~new bond~~ suitable
20 substitute for a bond at least thirty days before liability ceases, the commission, without hearing,
21 ~~shall~~ shall immediately suspend the warehouseman's license and the suspension may not be
22 removed until a ~~new bond~~ suitable substitute for a bond has been filed and approved by the
23 commission. When a license is so suspended, the warehouseman shall give notice of ~~such the~~
24 suspension to each receipt holder having grain stored in the warehouse. The warehouseman
25 shall further notify each receipt holder having grain stored in the warehouse that the grain must
26 be removed from the warehouse or it will be priced and redeemed in cash in accordance with
27 section 60-02-41.

28 **SECTION 5. AMENDMENT.** Section 60-04-06 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **60-04-06. Commission to marshal trust assets.**

- 1 1. Upon its appointment by the district court, the commission may maintain ~~suits at~~
2 ~~law or in equity,~~ actions or use any special proceeding; in the name of the state of
3 North Dakota, ~~upon its own relation,~~ but for the benefit of all ~~such~~ receiptholders
4 against:
- 5 ~~1. The~~ the insurers of grain;
- 6 ~~2. The~~ warehouseman's bond;
- 7 ~~3. Any,~~ the person who may have converted any grain; ¹ or
- 8 ~~4. Any~~ the receiptholder who ~~shall have~~ received more than ~~its~~ the just and pro rata
9 share of grain; ₂
- 10 2. The commission shall bring these actions for the purpose of marshalling all of the
11 trust fund assets and distributing the ~~same~~ assets among the receiptholders. The
12 commission shall seek possession of any grain in the warehouse before recourse
13 is had against the insurers of grain, and the remedy against the insurers of grain
14 shall be exhausted before recourse is had against the bond, and against the bond
15 before recourse is had against the person honestly converting grain, unless the
16 commission shall deem it necessary to the redemption of the receipts that all the
17 above remedies be pursued at the same time.

18 **SECTION 6. REPEAL.** Section 60-04-03.3 of the North Dakota Century Code is
19 repealed.