

## CHAPTER 105

## UNBONDED AGRICULTURAL WAREHOUSES

## H. F. 242

AN ACT to repeal sections ninety-seven hundred fifty-three (9753), ninety-seven hundred fifty-four (9754), ninety-seven hundred fifty-seven (9757), ninety-seven hundred sixty (9760), ninety-seven hundred sixty-three (9763), ninety-seven hundred sixty-four (9764), ninety-seven hundred sixty-seven (9767), ninety-seven hundred sixty-nine (9769), ninety-seven hundred seventy-one (9771), ninety-seven hundred seventy-four (9774) to ninety-seven hundred eighty-three (9783), inclusive, ninety-seven hundred eighty-five (9785) to ninety-seven hundred eighty-nine (9789), inclusive, and ninety-seven hundred ninety-eight (9798), code, 1931, as amended, and section four (4), chapter one hundred twenty-six (126) and section four (4), chapter one hundred twenty-seven (127), and chapter one hundred twenty-eight (128), acts of the Forty-fifth General Assembly, extra session, relating to unbonded agricultural warehouses and to enact a substitute therefor; to limit the appointment of warehouse boards one to a county; to require members of warehouse boards to be residents of the county in which they are to serve; to provide for the election of a secretary-treasurer, president and vice president for each warehouse board; to require each secretary-treasurer and sealer to furnish bonds for at least one thousand (1,000) dollars; to provide for the issuance of certificate of reinspection and collection of fees therefor; to provide for subsequent inspection of grain under storage; to require the secretary of agriculture to include in the certificate form a statement that no other certificate is outstanding on the grain represented thereby; to prohibit the issuance of more than one certificate on a granary, crib, or bin; to provide for continuing the negotiability of certificates issued to tenant owners after their leases expire; to require owners to file or cause to be filed with the county recorder a duplicate of any and/or all certificates before or at the time such certificates are negotiated; to require county recorders to stamp original certificates and retain duplicates thereof; to provide for release of certificates through the secretary of local warehouse board or the secretary of agriculture and to provide for prorating surplus funds in the treasury of the local warehouse board.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Sections ninety-seven hundred fifty-three (9753), ninety-  
 2 seven hundred fifty-four (9754), ninety-seven hundred fifty-seven  
 3 (9757), ninety-seven hundred sixty (9760), ninety-seven hundred  
 4 sixty-three (9763), ninety-seven hundred sixty-four (9764), ninety-  
 5 seven hundred sixty-seven (9767), ninety-seven hundred sixty-nine  
 6 (9769), ninety-seven hundred seventy-one (9771), ninety-seven hun-  
 7 dred seventy-four (9774) to ninety-seven hundred eighty-three (9783),  
 8 inclusive, ninety-seven hundred eighty-five (9785) to ninety-seven hun-  
 9 dred eighty-nine (9789), inclusive, and ninety-seven hundred ninety-  
 10 eight (9798), code, 1931, as amended, and section four (4), chapter  
 11 one hundred twenty-six (126) and section four (4), chapter one hun-  
 12 dred twenty-seven (127) and chapter one hundred twenty-eight (128),  
 13 acts of the Forty-fifth General Assembly, extra session, are hereby  
 14 repealed and the following enacted in lieu thereof:

1 "SEC. 2. Local supervisory board—Appointment. A local super-  
 2 visory board consisting of not less than three nor more than seven  
 3 members shall be appointed by the secretary of agriculture in any  
 4 county upon the application of one or more citizens as hereinafter  
 5 provided for the purpose of supervising grain in storage and the issu-  
 6 ing of certificates against such grain, and generally and under the  
 7 direction of the secretary of agriculture for carrying out the purposes  
 8 and enforcing the provisions of this chapter.

1 "SEC. 3. Application for board. Any person may make application  
2 to the secretary of agriculture for the appointment of a board in and  
3 for the county in which he resides, or the secretary of agriculture may  
4 make such appointments upon his own initiative. When any such appli-  
5 cation is made the secretary of agriculture shall as soon as practicable  
6 investigate the situation and determine upon the advisability or other-  
7 wise of making the requested appointment.

1 "SEC. 4. Qualifications of members. The members of such boards  
2 shall at the time of their appointment be producers of grain in the  
3 state and residents in the county thereof.

1 "SEC. 5. Officers. Each board shall elect one of its own members  
2 as its secretary-treasurer and shall also elect a president and vice  
3 president from its own membership and their duties shall be those of  
4 such officers in similar organizations.

1 "SEC. 6. Bond and oath of secretary-treasurer. Each secretary-  
2 treasurer shall furnish a corporate surety bond for the faithful per-  
3 formance of his duties in such amount as shall be determined by the  
4 secretary of agriculture, but in no event shall such bond be in an  
5 amount less than one thousand (1,000) dollars. Such bonds shall in  
6 every case be subject to the secretary's approval and be deposited  
7 with him. The premium thereon shall be payable out of any funds  
8 in the hands of the board.

1 "SEC. 7. Bond and oath of sealer. Each sealer shall furnish a cor-  
2 porate surety bond for the faithful performance of his duties in such  
3 amount as shall be determined by the secretary of agriculture, but in  
4 no event shall such bond be in an amount less than one thousand  
5 (1,000) dollars. Such bonds shall in every case be subject to the  
6 secretary's approval and be deposited with him, the premium thereon  
7 shall be payable out of any funds in the hands of the board. Such  
8 sealer shall also qualify by taking an oath similar to that required of  
9 public officials.

1 "SEC. 8. Duties of sealers. It shall be the duty of the sealer under  
2 the direction of the secretary of agriculture to:

3 1. Supervise the storage of grain.

4 2. Ascertain the amount stored by each owner who shall desire to  
5 avail himself of the provisions of this chapter.

6 3. Determine, so far as possible, the grade and quality thereof.

7 4. Ascertain, prior to the issuance of any certificate, and/or certifi-  
8 cate of reinspection that the granary, crib, bin or other receptacle in  
9 which the grain is stored is satisfactory for the storage of such grain,  
10 and that such receptacle conforms to the regulations applicable thereto  
11 promulgated by the secretary of agriculture.

12 He shall, before delivering certificate and/or certificate of rein-  
13 spection to the owner, ascertain that there are no other certificates  
14 outstanding upon the grain, and shall seal the granary, crib, bin or  
15 other receptacle in which the grain is stored in the manner herein-  
16 after provided, and thereafter make periodic inspections of the gran-  
17 aries, cribs, bins or other receptacles so sealed at such times and in  
18 such manner as the secretary of agriculture may determine, but in  
19 no event less frequently than ninety-day intervals, rendering to the

20 secretary of agriculture with reference to each such subsequent in-  
 21 spection, and to the owner when requested, report or affidavit, in such  
 22 form as may be required, in regard to the amount and condition of the  
 23 grain under seal and the condition of the structure within which it is  
 24 stored.

25 The sealer shall at the request of any borrower, issue a certificate  
 26 of reinspection on forms prescribed by the secretary of agriculture  
 27 for the purpose of enabling said borrower to obtain the renewal or  
 28 extension of an outstanding obligation secured by the pledge of a  
 29 farm-warehouse certificate. The fees for such reinspection shall be  
 30 determined and collected in the same manner as hereinbefore pro-  
 31 vided for original sealing fees.

1 "SEC. 9. Certificates—Form and contents. Certificates shall be  
 2 upon forms prepared by the secretary of agriculture, and every such  
 3 certificate must embody within its written or printed terms:

4 1. The name and license number of the board under which such  
 5 certificate is issued.

6 2. The consecutive number of the certificate.

7 3. The date of issue of the certificate.

8 4. A particular description of the granary, bin, crib or other re-  
 9 ceptacle in which the grain is stored, and of the premises upon which  
 10 it is located.

11 5. A description of the grain.

12 6. The name of the owner or owners, whether ownership is sole,  
 13 joint, or in trust, and the conditions of such ownership, and in the  
 14 case of tenants the date of termination of the lease.

15 7. A statement of any loans or other indebtedness made to or owing  
 16 by the owner which in any manner constitutes a lien, whether statutory  
 17 or contractual, including both mortgage and landlord's liens, upon the  
 18 grain, which statement shall be signed by the owner or his agent.

19 8. A form of waiver of liens which may be signed by the lienholder.

20 9. A statement whether the goods received will be delivered to the  
 21 bearer, to a specified person, or to a specified person or his order, and  
 22 at what place it will be delivered.

23 10. A facsimile signature of the secretary of agriculture, and the  
 24 countersignature of the sealer.

25 11. If the owner is married, a waiver by the spouse of any claim  
 26 of exemption and a consent to the instrument.

27 12. Statement that no other certificates are outstanding on the grain  
 28 represented thereby.

1 "SEC. 10. Amount of certificates. The sealer shall issue to the  
 2 owner one or more certificates as herein provided, but the aggregate  
 3 amount of the grain represented by such certificate or certificates shall  
 4 in no event exceed the amount of grain stored and sealed by the sealer  
 5 and each certificate shall cover a separate granary, crib or bin.

1 "SEC. 11. Negotiable certificates. A certificate in which it is stated  
 2 that the grain stored will be delivered to the bearer, or to the order of  
 3 any person named in such certificate, is a negotiable certificate. No  
 4 provision shall be inserted in a negotiable certificate that it is non-  
 5 negotiable. Such provisions, if inserted, shall be void.

1 "SEC. 12. Duplicate certificate—Filing with recorder. Before or at  
2 the time the owner negotiates the original warehouse certificate he  
3 shall file or cause to be filed a duplicate copy of said certificate in the  
4 office of the county recorder of the county in which the grain is lo-  
5 cated, which duplicate shall remain in the custody of the recorder ex-  
6 cept as hereinafter provided.

7 Said owner shall then deliver to the assignee said original certifi-  
8 cate bearing the stamp of the county recorder, showing the date, time  
9 and number of filing the duplicate thereof.

1 "SEC. 13. Indexing by recorder. When a duplicate is filed in the  
2 office of the recorder, he shall index the same in the chattel mortgage  
3 index or other suitable index book showing date of the certificate, the  
4 number thereof, to whom issued, kind, quantity and location of the  
5 grain and stamp the original thereof showing the date, time and num-  
6 ber of filing. He shall collect twenty-five cents for each certificate  
7 indexed. The filing and indexing of such certificate shall impart the  
8 same notice as the filing and indexing of a chattel mortgage.

1 "SEC. 14. Record of assignment. When the owner or holder of a  
2 certificate makes written assignment thereof after said instrument is  
3 filed, the recorder shall on request of the assignee enter a copy of such  
4 assignment upon the duplicate in his office, and enter upon his index  
5 book the date of the assignment and the names of the assignor and  
6 the assignee. He shall collect twenty-five cents for each such assign-  
7 ment entered.

1 "SEC. 15. Release of certificates. The owner may secure the can-  
2 cellation of a certificate by delivering the original to the secretary of  
3 agriculture or secretary of the local board, through which it was  
4 issued with the request that it be canceled. The secretary of agri-  
5 culture or secretary of the local board shall stamp the original 'can-  
6 celed', with the date of such cancellation and retain same. Upon  
7 notice in writing from the secretary of agriculture or the secretary of  
8 the local board through which the certificate was issued that it has  
9 been canceled, the county recorder shall release the duplicate filed of  
10 record without charge.

1 "SEC. 16. Duty to deliver. The owner shall, in the absence of some  
2 lawful excuse provided by this chapter, deliver the grain stored upon  
3 demand made by the holder of a certificate for the grain, or for such  
4 part thereof as is represented by the certificate if such demand is  
5 accompanied by:

6 1. A showing that all such liens as may appear upon the certificate  
7 and which shall subsist upon the date of the demand have been waived  
8 or satisfied.

9 2. An offer to surrender the certificate if negotiable, with such in-  
10 dorsements as would be necessary for the negotiation of certificate.

11 3. A readiness and willingness to sign, when the goods are deliv-  
12 ered, an acknowledgment that they have been delivered, if such signa-  
13 ture is requested by the owner.

1 "SEC. 17. Fees of secretary of agriculture. The secretary of agri-  
2 culture shall receive for services rendered under the provisions of this  
3 chapter, three (3) dollars, for each license issued.

1 "SEC. 18. Refunds. Surplus funds remaining in the treasury of the  
2 local warehouse board October first of each year shall be refunded to  
3 the owners as the board may direct, providing, however, that the pro-  
4 cedure and time and amount of such refund is approved by the secre-  
5 tary of agriculture and providing that where the amount paid by the  
6 owner was insufficient to meet the costs incurred in sealing, no refund  
7 shall be made to such owners.

1 "SEC. 19. Saving clause. Should any of the provisions of these sec-  
2 tions be held unconstitutional, those held constitutional shall remain  
3 in full force and effect."

House File 242. Approved April 15, 1935.

## CHAPTER 106

### TRADEMARK PROTECTION

#### S. F. 222

AN ACT to protect trademark owners, distributors and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trademark, brand or name.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Subdivision 1. No contract relating to the sale or resale  
2 of a commodity which bears, or the label or content of which bears,  
3 the trademark, brand, or name of the producer or owner of such com-  
4 modity and which is in fair and open competition with commodities  
5 of the same general class produced by others shall be deemed in viola-  
6 tion of any law of the state of Iowa by reason of any of the following  
7 provisions which may be contained in such contract:

8 a. That the buyer will not resell such commodity except at the price  
9 stipulated by the vendor.

10 b. That the vendee or producer require in delivery to whom he may  
11 resell such commodity to agree that he will not, in turn, resell except  
12 at the price stipulated by such vendor or by such vendee.

13 2. Such provisions in any contract shall be deemed to contain or  
14 imply conditions that such commodity may be resold without refer-  
15 ence to such agreement in the following cases:

16 a. In closing out the owner's stock for the purpose of discontinuing  
17 delivering such commodity.

18 b. When the goods are damaged or deteriorated in quality, and  
19 notice is given to the public thereof.

20 c. By any officer acting under the orders of any court.

1 SEC. 2. Wilfully and knowingly advertising, offering for sale or  
2 selling any commodity at less than the price stipulated in any contract  
3 entered into pursuant to the provisions of section one (1) of this act,  
4 whether the person so advertising, offering for sale or selling is or is  
5 not a party to such contract, is unfair competition and is actionable  
6 at the suit of any person damaged thereby.

1 SEC. 3. This act shall not apply to any contract or agreement be-  
2 tween producers or between wholesalers or between retailers as to  
3 sale or resale prices.