

CHAPTER 179
SHORT-TERM CONSUMER CREDIT LOANS
S. F. 58

AN ACT amending a provision of the Iowa consumer credit code to allow short-term loans to be repayable in full at the end of the loan term.

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

Section 1. Section 537.2308, Code 1981, is amended to read as follows:
537.2308 REGULAR SCHEDULE OF PAYMENTS--MAXIMUM LOAN TERM. Supervised loans, not made pursuant to open end credit and in which the amount financed is one thousand dollars or less, shall be scheduled to be payable in substantially equal installments at substantially equal periodic intervals except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor, and over a period of not more than thirty-seven months if the amount financed is more than three hundred dollars, or over a period of not more than twenty-five months if the amount financed is three hundred dollars or less. However, a lender may make a loan not pursuant to open end credit that is repayable in a single payment if the amount financed does not exceed one thousand dollars and if the finance charge does not exceed the rate permitted by section 537.2401, subsection 1, to be charged by a supervised financial organization.

Approved March 13, 1981

CHAPTER 180
GRAIN STORAGE
H. F. 841

AN ACT relating to transactions involving the storage or sale of grain, and providing penalties, and providing for certain temporary increases in fees to be effective until July 1, 1983.

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

Section 1. Section 542.1, subsection 3, Code 1981, is amended to read as follows:

3. ~~"Grain dealer" shall mean any person who is engaged in the business of buying grain for resale or any merchandiser~~ means a person who buys during any calendar month five hundred bushels of grain or more from the producers of the grain for purposes of resale, milling, or processing. However, "grain

dealer" shall not be construed to mean a producer of grain buying grain for his or her own use as seed or feed; a person solely engaged in buying ~~or selling~~ grain future contracts on the board of trade, ~~grain future contracts~~; a person who purchases grain only for sale in a registered feed; a person engaged in the business of selling agricultural seeds regulated by chapter 199; a person buying ~~or selling~~ grain only as a farm manager; or an executor, administrator, trustee, guardian, or conservator of an estate; or a bargaining agent as defined in section 542A.1.

Sec. 2. Section 542.1, subsection 4, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Producer" means the owner, tenant, or operator of land in this state who has an interest in and receives all or a part of proceeds from the sale of grain produced on that land.

Sec. 3. Section 542.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Credit-sale contract" means a contract for the sale of grain pursuant to which the sale price is to be paid more than thirty days after the delivery of the grain to the buyer, and includes but is not limited to those contracts commonly referred to as deferred payment contracts, deferred pricing contracts, and price-later contracts.

Sec. 4. Section 542.3, Code 1981, is amended to read as follows:

542.3 LICENSE REQUIRED--FINANCIAL RESPONSIBILITY.

1. A person shall not engage in the business of a grain dealer in this state without having obtained a license issued by the commission.

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the grain dealer purchases any grain by credit-sale contract, or if the value of grain purchased by the grain dealer from producers during the grain dealer's previous fiscal year exceeds two hundred fifty thousand dollars. Any other grain dealer may elect to be licensed as a class 1 grain dealer.

b. A class 2 license is required for any grain dealer not holding a class 1 license. A class 2 licensee whose purchases from producers during a fiscal year exceed two hundred fifty thousand dollars in value shall apply immediately for a class 1 license. If a class 1 license is denied, the person immediately shall cease doing business as a grain dealer.

3. ~~Each~~ An application for a license to engage in business as a grain dealer shall be filed with the commission and shall be in a form prescribed by the commission. The application shall include the name of the applicant, its principal officers if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which ~~the~~ records are ~~normally kept~~ maintained for transactions of the grain dealer. The application shall also list the number of trucks or tractor trailer units that will be used in the transportation of grain purchased ~~for resale~~ under this chapter. The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally

accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a petition written request filed with the commission, the commission or a designated employee may allow asset valuations in accordance with a competent appraisal. Deferred-pricing Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license the applicant must have and maintain a net worth of at least twenty-five thousand dollars or provide bond in addition to that required by section 542.4 in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least fifty thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than twenty-five thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The grain dealer may elect, however, to submit a financial statement satisfying the requirements of subsection 5, paragraph b, in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected twice during each twelve-month period in the manner provided in section 542.9.

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise permitted or required under this chapter.

5. In order to receive and retain a class 2 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least twenty-five thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than ten thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by the report of a certified public

accountant licensed in this state that is based upon a review performed by the certified public accountant.

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise permitted or required under this chapter.

6. The commission shall adopt rules relating to the form and time of filing of financial statements. The commission may require additional information or verification with respect to the financial resources of the applicant and the applicant's ability to pay producers for grain purchased from them.

Sec. 5. Section 542.4, Code 1981, is amended to read as follows:

542.4 BOND REQUIRED. ~~Any person applying~~ An applicant for a license to operate as a grain dealer ~~in accordance with this chapter~~ shall, as a condition to the granting of the license, file with the commission a bond payable to the state of Iowa with a corporate surety approved by the commission ~~in a penal sum of twenty-five thousand dollars per license~~ conditioned that the applicant will pay the purchase price of any grain to the ~~seller, and that the grain dealer owns or controls, free of liens, any grain which he or she offers for sale~~ producer; provided that the aggregate liability of the surety to such persons shall in no event exceed the sum of such bond. The bond for each class 1 license shall be in the penal sum of fifty thousand dollars. The bond for each class 2 license shall be in the penal sum of twenty-five thousand dollars. One bond, cumulative as to minimum requirements, shall be required where a person has ~~multiple licenses more than one license~~, but in no event shall the total amount of bond required by this section exceed ~~one hundred thousand dollars~~ three hundred thousand dollars for a class 1 licensee, or one hundred fifty thousand dollars for a class 2 licensee. No bond shall be canceled by a surety before at least sixty days' notice by certified mail to the commission and the grain dealer. The liability of the surety shall cover ~~all~~ purchases and ~~transactions~~ made by the grain dealer during the time the bond is in force. A grain dealer's bond filed with this commission shall be in continuous force until canceled by the surety. The liability of the surety on any bond required by the provisions of this chapter shall not accumulate for each successive license period during which the bond is in force.

Sec. 6. Section 542.5, Code 1981, is amended to read as follows:

542.5 LICENSE. Upon the filing of the application and compliance with the terms and conditions of this chapter and rules of the commission, the commission shall issue a license to the applicant. The license shall terminate on the thirtieth of June of each year. A grain dealer's license may be renewed annually by the filing of a renewal fee, ~~a current financial statement~~ and a renewal application on a form prescribed by the commission. An application for renewal shall be received by the commission before the thirtieth of June. A grain dealer license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, a

~~current--financial--statement,~~ the renewal fee, and penalty fee in the amount of ~~ten~~ fifty dollars from the grain dealer, provided that such materials are filed within thirty days from the date of termination of the grain dealer license. The commission may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

If an applicant has had a license under chapter 542, 542A, or 543 revoked for cause within the past three years, or has been convicted of a felony involving violations of chapter 542, 542A, or 543, or is owned or controlled by a person who has had a license so revoked or who has been so convicted, the commission may deny a license to the applicant.

Sec. 7. Section 542.6, Code 1981, is temporarily amended, commencing on the effective date of this Act and until July 1, 1983, to read as follows:

542.6 FEES. The commission shall collect ~~fees-as-follows~~ the following fees, for deposit in the general fund:

1. For the issuance or renewal of a license, ~~twenty-five-dollars-per-year~~ two hundred dollars per year for a class 1 license, and eighty-five dollars per year for a class 2 license. The commission shall prorate the annual fee on a monthly basis for licenses issued for less than a full year.

2. ~~For--renewal--of--license,--twenty-five--dollars--per--year.~~ For the inspection of a class 1 grain dealer, one hundred fifty dollars, but if the class 1 grain dealer is subject to a second inspection during any twelve-month period pursuant to section 542.3, subsection 4, paragraph b, the fee for the second inspection shall be seventy-five dollars; and for the inspection of a class 2 grain dealer, sixty-five dollars.

3. An annual registration fee, ~~to-be-determined-by-the-commission,~~ of ~~net less-than-five-dollars-not-more-than-ten~~ fifteen dollars for each vehicle used by the license holder in the transporting of grain purchased under this chapter.

4. A fee of ~~one-dollar-will-be-charged~~ ten dollars for issuance of each duplicate replacement identification plate to be used on any vehicle.

~~5.---All---fees---collected---by---the---commission---under---this---chapter---shall---be deposited-in-the-general-fund-of-the-state.~~

Sec. 8. Section 542.7, Code 1981, is amended to read as follows:

542.7 POSTING OF LICENSE AND REGISTRATION. The grain dealer's license shall be posted in a conspicuous place location in the place of business. Each vehicle used by a license holder shall be registered with the commission and equipped with a special ~~deal-or-other-registration~~ identification plate as prescribed by the commission so that the deal plate will be readily visible. A grain dealer's license is not transferable. The registration identification plate shall not be transferred from one vehicle to another, except in case of destruction or other disposition of the vehicle previously bearing the identification. All transfers must first be approved by the commission. If a registration an identification plate for a vehicle becomes defaced or destroyed, a--duplicate--shall--be--obtained the licensee shall request a replacement from the commission, which shall be issued upon request and payment of the fee.

Sec. 9. Section 542.8, Code 1981, is amended to read as follows:

542.8 PAYMENT. A person licensed as a grain dealer shall pay the purchase price to the owner or his or her agent for grain upon delivery or demand of the owner or agent, but not later than thirty days after delivery by the owner or agent unless in accordance with the terms of a credit-sale contract that satisfies the requirements of this chapter. ~~The contract in addition to such other information as may be required shall contain the following:~~

1. ~~The seller's name and address.~~
2. ~~The conditions of delivery.~~
3. ~~The amount and kind of grain delivered.~~
4. ~~The price per bushel or basis of value.~~
5. ~~The date payment is to be made.~~

~~The contract must be numbered and signed by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a grain dealer license, the payment date for all deferred payment or deferred pricing contracts shall be advanced to a date not later than thirty days after the effective date of such revocation, termination or cancellation and the purchase price for all unpriced grain shall be determined as of the effective dates of revocation, termination or cancellation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain dealer, deferred payment or deferred pricing contracts may be assigned to the purchaser of the business.~~ As used in this section, delivery "delivery" means the transfer of title to and possession of grain by the seller to the grain dealer or to another person in accordance with the agreement of the seller and the grain dealer. ~~As used in this section, payment;~~ and "payment" means the actual payment or tender of payment by the grain dealer to the seller of the agreed purchase price, or in the case of disputes as to sales of grain, the undisputed portion of the purchase price without reduction for any separate claim of the grain dealer against the seller.

Sec. 10. Section 542.9, Code 1981, is amended to read as follows:

542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS. The commission may inspect the premises used by any grain dealer in the conduct of his or her business at any time. ~~The, and the~~ books, accounts, records and papers of every ~~such~~ grain dealer which pertain to grain purchases shall be subject to inspection by the commission during ordinary business hours. The commission shall cause the business premises and books, accounts, records and papers of every grain dealer to be inspected once during each twelve-month period, provided that if a class 1 grain dealer elects to submit the unaudited financial statement under section 542.3, subsection 4, paragraph b, the commission shall cause the grain dealer to be inspected twice during each twelve-month period. The transporter of grain in transit shall have ~~in his or her possession~~ bills of lading or other documents covering ~~such the~~ grain ~~in transit and such documents shall be available for inspection by the commission upon request~~ in his or her possession, and shall present them to any law enforcement officer or to a person designated as an enforcement officer under section 542.13 on demand. ~~Any grain dealer licensed in this~~

~~state who does not have a place of business within the state upon the request of the commission shall make available and furnish to the commission at any reasonable time and place the commission may set all such books, accounts, records and papers of grain transactions within this state. Where there is good cause to believe that a person is engaged without a license in the business of a grain dealer in this state, the commission may inspect the books, papers, and records of such the person which pertain to grain purchases.~~

If the grain dealer does not maintain a place of business in this state, the commission is not required to inspect the business premises of the grain dealer, and the grain dealer shall submit all books, records and papers relating to grain transactions occurring within this state to the commission for purposes of an inspection required or permitted under this section at any reasonable time and place, including the offices of the commission during regular business hours, as ordered by the commission or the director of the warehouse division.

Sec. 11. Section 542.11, Code 1981, is amended to read as follows:

~~542.11 PENALTIES--MISDEMEANOR INJUNCTIONS. Any person who engages in business as a grain dealer without obtaining a license or any person in violation of any other provision of this chapter, or any grain dealer who refuses to permit inspection of his or her premises, books, accounts or records as provided in this chapter, shall be guilty of a simple misdemeanor. Each day that any violation continues shall constitute a separate offense. Any person violating the provisions of this chapter may be restrained by an injunction.~~

1. A person who knowingly submits false information to or knowingly withholds information from the commission or any of its employees when required to be submitted or maintained under this chapter, commits a fraudulent practice.

2. A person who engages in business as a grain dealer without obtaining a license, or who refuses to permit inspection of licensed premises, or books, accounts, records, or other documents required by this chapter, or who uses a scale ticket, or credit-sale contract that fails to satisfy requirements established by the commission commits a serious misdemeanor, except that a person who commits any of these offenses after having been found guilty of the same offense commits an aggravated misdemeanor.

3. Except as provided in subsections 1 and 2, a person who violates any provision of this chapter commits a simple misdemeanor. With respect to a continuing violation, each day that the violation continues is a separate offense.

4. A violation of this chapter, or a violation of chapter 714 or 715 involving the business of a grain dealer, may be restrained by an injunction in an action brought by the commerce commission.

Sec. 12. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. CREDIT-SALE CONTRACTS.

1. A grain dealer shall not purchase grain by a credit-sale contract except as provided in this section.

2. A grain dealer shall give written notice to the commission prior to engaging in the purchase of grain by credit-sale contracts. Notice shall be on forms provided by the commission. The notice shall contain information required by the commission.

3. All credit-sale contract forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing of the forms. A grain dealer shall maintain an accurate record of all credit-sale contract forms and numbers obtained by that dealer. The record shall include the disposition of each numbered form, whether by execution, destruction, or otherwise.

4. A grain dealer who purchases grain by credit-sale contracts shall maintain books, records and other documents as required by the commission to establish compliance with this section.

5. In addition to other information as may be required, a credit-sale contract shall contain or provide for all of the following:

- a. The seller's name and address.
- b. The conditions of delivery.
- c. The amount and kind of grain delivered.
- d. The price per bushel or basis of value.
- e. The date payment is to be made.

f. The duration of the credit-sale contract, which shall not exceed twelve months from the date the contract is executed.

6. Title to all grain sold by a credit-sale contract is in the purchasing dealer as of the time the contract is executed, unless the contract provides otherwise. The contract must be signed by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a grain dealer license, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty days after the effective date of the revocation, termination, or cancellation, and the purchase price for all unpriced grain shall be determined as of the effective date of revocation, termination, or cancellation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain dealer, credit-sale contracts may be assigned to the purchaser of the business.

Sec. 13. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding chapter 68A, all financial statements of grain dealers under this chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 543.
3. When required by subpoena or court order.
4. Disclosure to law enforcement agencies in regard to the detection and prosecution of public offenses.

5. When released to a bonding company approved by the commission, or released to the United States department of agriculture or any of its divisions.

Sec. 14. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. STANDARDIZATION OF RECORDS AND DOCUMENTS.

1. The commission may adopt rules specifying the form, content and use of scale tickets, and credit-sale contracts. All scale ticket forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing. A grain dealer shall maintain an accurate record of all scale ticket numbers. The record shall include the disposition of each numbered form, whether issued, destroyed, or otherwise disposed of.

2. A licensed grain dealer shall keep complete and accurate records of all grain transactions. Records for the previous six years shall be made available for inspection by the commission.

Sec. 15. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. BONDED GRAIN SELLERS.

1. A producer may apply to the commission for a license to operate as a bonded grain seller. The application shall be on a form prescribed by the commission.

2. As a condition of the granting of a license under this section, the applicant shall file with the commission a bond payable to the state of Iowa with a corporate surety approved by the commission in a penal sum of twenty-five thousand dollars per license, conditioned that the grain seller owns or controls, free of liens, any grain offered for sale. Cancellation of bonds by a surety under this section shall meet the requirements of section 542.4. The liability of a surety on any bond under this section shall not accumulate for each successive license period during which the bond is in force.

3. The fee for a bonded grain seller's license shall be two hundred dollars per year. All licenses shall terminate on the thirtieth of June of each year. There shall be no financial or net worth requirements for bonded grain sellers. License fees for new licenses may be prorated by the commission on a monthly basis.

4. A producer who is licensed under this section shall not sell any grain except grain that is owned by the producer and that is produced on land owned, leased or operated by the producer, including land located outside of this state. Violation of this subsection is grounds for revocation of the license, and the violator shall be disqualified from relicensure under this section for a period of one year after the date the revocation is effective.

5. This section does not require a person to be licensed to sell grain.

Sec. 16. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. COOPERATIVE AGREEMENTS.

1. Notwithstanding the other provisions of this chapter, the commission may enter into cooperative agreements with other states for the purpose of making available to those states the information acquired under the bonding, licensing, and examination procedures of this chapter.

2. If a cooperative agreement is in effect under this section, the bonding requirements of this chapter may be satisfied by:

a. Filing with the commission evidence of a bond on file with a state with which Iowa has a cooperative agreement as provided for by this section.

b. Such bond shall be copayable to the state of Iowa for the benefit of sellers of grain under chapter 542 in Iowa.

c. The bond shall be in an amount at least equal to the amounts required by this chapter; provided, however, that any bond required under this chapter for any financial deficiency shall be in addition to the bond posted in any other state.

Any bond required by this chapter may be made copayable to any state with whom this state has entered into contracts or agreements as authorized by this section, for the benefit of sellers of grain in that state.

Sec. 17. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

1. A person who, in connection with the receipt of corn or soybeans for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain shall compute the amount of the adjustment by multiplying the scale weight of the grain by that factor which results in a rate of adjustment of one and eighteen hundredths percent of weight per one percent of moisture content. The use of any rate of weight adjustment for moisture content other than the one prescribed by this subsection is a fraudulent practice. The person shall post on the business premises in a conspicuous place notice of the rate of adjustment for moisture content that is prescribed by this subsection. Failure to make this disclosure is a simple misdemeanor.

2. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. Failure to make the required disclosure is a simple misdemeanor.

3. A person who adjusts the scale weight of corn or soybeans both for moisture content and for handling, processing, or storage losses may combine the two adjustment factors into a single factor and may use this resulting factor to compute the amount of weight adjustment in connection with storage, processing, or sale transactions, provided that the person shall post on the business premises in a conspicuous place a notice that discloses the moisture shrinkage factor prescribed by subsection 1, the handling shrinkage factor to be imposed, and the single factor that results from combining these factors. Failure to make the required disclosure is a simple misdemeanor.

Sec. 18. Section 543.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Credit-sale contract" means a contract for the sale of grain pursuant to which the sale price is to be paid more than thirty days after the delivery of the grain to the buyer, and includes but is not limited to those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts.

Sec. 19. Section 543.2, Code 1981, is amended to read as follows:

543.2 DUTIES AND POWERS OF THE COMMISSION. The commission ~~is--authorized~~ ~~to~~ may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products. The commission may inspect or cause to be inspected any warehouse ~~and. Inspections may be made at times and for purposes as the commission determines. The commission shall cause every licensed warehouse and its contents to be inspected once in every twelve-month period, provided that if a class 1 warehouseman elects to submit the unaudited financial statement under section 543.6, subsection 4, paragraph b, the commission shall cause the warehouse to be inspected twice in every twelve-month period. The commission may require the filing of reports describing--any relating to a warehouse or the its operation thereof. If upon any--such inspection a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouseman's books and records according to official grain standards, the commission shall--have--the authority--to,--and may require an employee of the commission to remain at the licensed warehouse and supervise all operations conducted--thereat involving agricultural products stored there under the--provisions--of this chapter until the deficiency is corrected. The commission--shall--inspect--or--cause--to--be inspected--every--licensed--warehouse--and--the--contents--thereof--not--less--than once--every--six--months--and--the commission shall--have--authority--to~~ may make available to the United States government, or any of its agencies, including the Commodity Credit Corporation, the results of inspections made and inspection reports submitted to it by employees of the commission, upon payment to it of ~~such~~ charges as ~~may--be~~ determined by the commission, but ~~in no event--shall--such~~ the charges shall not be less than the actual cost of ~~such~~ services rendered ~~in--regard--thereto~~, as determined by the commission. The commission ~~shall--have--authority--to~~ may enter into contracts and agreements for such purpose and shall keep a record of all money thus received. All such money shall be paid over to the treasurer of state as miscellaneous receipts. The commission may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of any warehouse the type or types and the quantity of agricultural products which may be exclusively stored in ~~such~~ the warehouse. The commission may prescribe, within the limitations of this chapter, the duties of licensed warehousemen with respect to the care of and responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The commission may from time to time publish ~~such~~ data in connection with the administration of this chapter as may be of public interest. The commission shall ~~have--the--duty--of--administration--of--the further--provisions--of~~ administer this chapter.

Sec. 20. Section 543.5, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission may adopt rules specifying the form, content and use of scale tickets, warehouse receipts, settlement sheets, daily position records, shipping ledgers, and other documents used by

licensed warehouses. All scale ticket forms and warehouse receipt forms in the possession of a warehouseman shall have been permanently and consecutively numbered at the time of printing. A warehouseman shall maintain an accurate record of the numbers of these documents. The record shall include the disposition of each form, whether issued, destroyed, or otherwise disposed of. The commission may by rule require this use of pre-numbered forms and recording for documents other than scale tickets and warehouse receipts.

Sec. 21. Section 543.6, Code 1981, is amended to read as follows:

543.6 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY.

1. The commission is authorized, upon application to it, to issue to any warehouseman or to any person about to become a warehouseman a license or licenses for the operation of a warehouse or warehouses in accordance with the provisions of this chapter and such rules as may be made by the commission under the authority of section 543.5. ~~A single license may be issued for the operation of two or more warehouses located in the same city and operated by the same warehouseman.~~ A single license to operate two or more warehouses located within a twenty-five mile radius of a central office may be issued, ~~but a separate fee shall be charged for each station.~~

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the storage capacity of a warehouse is more than one hundred thousand bushels.

b. A class 2 license is required for a warehouse that is not required to have a class 1 license.

3. An application for a warehouse license shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and net worth of the applicant. The financial statement must be prepared according to normally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon ~~petition being filed with the commission~~ written request, the commission or a designated employee may allow asset valuations in accordance with a competent appraisal. ~~Deferred pricing~~ Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license, ~~the applicant must have and maintain a net worth of at least twenty-five thousand dollars or provide bond in addition to that required by section 543.12 in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency~~ following conditions must be satisfied:

a. The warehouseman shall have and maintain a net worth of at least fifty thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 warehouseman if the person has a net worth of less than twenty-five thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The warehouseman shall submit, as required by the commission, a financial statement that is accompanied by an unqualified opinion based upon

an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The warehouseman may elect, however, to submit a financial statement satisfying the requirements of subsection 5, paragraph b, in lieu of the audited financial statement specified in this paragraph, and if a warehouseman makes this election the commission shall cause the warehouseman to be inspected twice during each twelve-month period in the manner provided in section 543.2.

5. In order to receive and maintain a class 2 license, the following conditions must be satisfied:

a. The warehouseman shall have and maintain a net worth of at least twenty-five thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 2 warehouseman if the person has a net worth of less than ten thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The warehouseman shall submit, as required by the commission, a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant.

6. The commission may adopt rules governing the timing and form of financial statements to be submitted to it. The commission may require additional information or verification with respect to the financial resources of the applicant or licensee and the applicant's or licensee's ability to maintain the quantity and quality of stored grain.

7. If an applicant has had a license under chapter 542, 542A, or 543 revoked for cause within the past three years, or has been convicted of a felony involving violations of chapter 542, 542A, or 543, or is owned or controlled by a person who has had a license so revoked or who has been so convicted, the commission may deny a license to the applicant.

Sec. 22. Section 543.8, Code 1981, is amended to read as follows:

543.8 LICENSE TO SPECIFY TYPE AND QUANTITY OF PRODUCTS WHICH MAY BE STORED. The commission shall determine with respect to each application for a license whether the warehouse or warehouses described in the application is or are suitable for the proper and safe storage of the particular agricultural product or products intended to be stored therein in the quantities specified in the application, provided that no warehouse shall be found to be suitable and safe for the storage of bulk grain unless such warehouse is equipped with a fixed or portable mechanical device of a type in common use as an adjunct to the movement of bulk grain. Each license issued for the operation of a single warehouse shall specify the type or types and quantities of agricultural products which may be stored in such warehouse. Each license issued to a warehouseman for the operation of two or more warehouses ~~in-the-same-city~~ shall specify with respect to each warehouse the

type or types and quantities of agricultural product which may be stored in such warehouse. It shall be unlawful for any licensed warehouseman to accept for storage or to store in any licensed warehouse any agricultural product or products other than the type or types and quantities specified in the license for the operation of such warehouse.

Sec. 23. Section 543.11, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Whenever the commission shall determine that a bond filed under the provisions of ~~section-543-12~~ this chapter and approved by the commission, is, or has become, insufficient to secure the faithful performance of the obligations of the licensed warehouseman, or whenever the commission shall determine that insurance is not fully provided as required under section 543.15, it may require the licensed warehouseman to provide additional bond or bonds or additional evidence of insurance coverage so that the bond and insurance shall conform with the requirements of ~~sections-543-12, 543-13, and 543-15~~ this chapter. If ~~such~~ additional insurance is not provided within five days after receipt by the licensee of notice by certified mail the license of the warehouseman concerned shall be automatically suspended. If ~~such~~ additional insurance is not filed within another ~~twenty-five~~ ten days, the warehouse license shall be automatically revoked. If additional bond is not provided within ~~thirty~~ a period as set by the commission, but not to exceed twenty days after receiving notice, ~~by-certified-mail~~ the warehouse license shall be suspended. If ~~such~~ additional bond is not filed within ~~sixty~~ ten days following suspension, the warehouse license shall be automatically revoked. When a license is so revoked, the commission shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of such revocation. The commission shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the ~~initial~~ revocation as herein set forth. Such notice shall be by ordinary mail sent to the last known address of each person having grain in storage as provided in this section.

Sec. 24. Section 543.17, Code 1981, is amended to read as follows:

543.17 RECEIVING BULK GRAIN AT LICENSED AND UNLICENSED WAREHOUSES.

1. Any grain which has been received at any licensed warehouse for which the actual sale price is not fixed and proper documentation made or payment made shall be construed to be grain held for storage within the meaning of this chapter. Grain may be held in open storage or placed on warehouse receipt. ~~Actual-payment-shall-be-made-on-all-priced-grain-within-thirty-days unless-a-deferred-payment-or-deferred-pricing-contract-has-been-executed.~~ Warehouse receipts shall be issued for all grain held in open storage, within six months of delivery to the warehouse, unless the depositor has signed a statement that the depositor does not desire a warehouse receipt. The warehouseman's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.

2. Bulk grain deposited with a licensed warehouseman for processing, cleaning, drying, shipping for the account of the depositor or any other purpose shall be removed within thirty days or such grain shall be determined as stored grain and the warehouseman's tariff charges shall apply.

3. Grain received on a scale ticket which fails to have the price fixed and properly documented on the records of the warehouseman shall be construed to be in open storage.

4. All grain whether open storage or having been placed on warehouse receipt shall be covered by the warehouseman's bond as required under the provisions of this chapter.

~~2.---Notwithstanding any provisions of this section, a written agreement may be made between the seller and the licensed warehouseman for any bulk grain delivered to or stored at a licensed warehouse that payment or pricing and payment will be deferred to a later date.---Such agreement shall contain a statement informing the seller that the warehouseman shall not be required to carry insurance or bond on such grain for the benefit of the seller and that the payment for such grain becomes a common claim against the warehouseman.~~

~~The agreement in addition to such other information as may be required shall contain the following:~~

- ~~a.---The seller's or depositor's name and address.~~
- ~~b.---The conditions of delivery.~~
- ~~c.---The amount and kind of grain delivered.~~
- ~~d.---The price per bushel or basis of value.~~
- ~~e.---The date payment is to be made.~~

~~Such agreement must be numbered and signed by both parties and executed in duplicate.---One copy shall be retained by the warehouseman and one copy shall be delivered to the seller.~~

~~Grain received or purchased in storage under a deferred payment or deferred pricing contract under the provisions of this section shall be deemed to be warehouse-owned grain.~~

5. Any grain which has been received at any unlicensed warehouse and for which the actual sale price has not been fixed and payment made within thirty days from receipt of the grain, unless covered by ~~deferred payment or deferred pricing~~ a credit-sale contract, shall be construed to be unlawful storage within the meaning of this chapter. Bulk grain received at any unlicensed warehouse for any other purpose must either be returned to the depositor or disposed of by order of the depositor within thirty days from date of actual deposit of the bulk grain.

6. If the depositor of bulk grain in an unlicensed warehouse fails to sell the grain or orders other disposition of the grain, the warehouseman may purchase the grain, if otherwise allowed by law, on the thirtieth day after deposit at not less than the local market price at the close of business on the thirtieth day or return the grain to the depositor by the thirtieth day.

3- 7. Every licensed warehouseman shall, on or before July 1 of each year, send a statement for each holder of a warehouse receipt covering grain held for more than one year at that warehouse to his or her last known address. The statement shall show the amount of all grain held pursuant to warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouseman against that grain. However, a licensed warehouseman need not prepare this annual statement for a holder of a warehouse receipt, if the licensed warehouseman prepares such statements monthly, quarterly or for any other period more frequent than

annually. Failure to prepare a statement required by this subsection ~~shall be punishable by a civil fine not to exceed one hundred dollars~~ is a simple misdemeanor. Violation of this section shall not constitute grounds for suspension, revocation, or modification of the license of anyone licensed under this chapter.

Sec. 25. Section 543.18, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The original copy of every warehouse receipt shall be imprinted with the signature of the secretary of the commerce commission prior to issuance.

Sec. 26. Chapter 543, Code 1981, is temporarily amended commencing on the effective date of this Act and until July 1, 1983, by adding the following temporary new section:

TEMPORARY NEW SECTION. FEES. The commission shall charge the following fees:

1. For the issuance or renewal of a license, a fee determined as follows:
 - a. With respect to a warehouse license for the storage of bulk grain:
 - (1) If the total storage capacity is one hundred thousand bushels or less, a fee of thirty dollars.
 - (2) If the total storage capacity is greater than one hundred thousand bushels but not more than five hundred thousand bushels, a fee of fifty dollars.
 - (3) If the total storage capacity exceeds five hundred thousand bushels, a fee of one hundred dollars.
 - b. With respect to a warehouse license for the storage of products other than bulk grain:
 - (1) For intended storage of products of a value of one hundred thousand dollars or less, a fee of thirty dollars.
 - (2) For intended storage of products of a value greater than one hundred thousand dollars but not greater than three hundred thousand dollars, a fee of fifty dollars.
 - (3) For intended storage of products of a value in excess of three hundred thousand dollars, a fee of one hundred dollars.
2. For each inspection of a warehouse or station for the purpose of licensing, a fee of twenty-five dollars.
3. For each amendment of a license, a fee of ten dollars.
4. For each amendment of a tariff, a fee of ten dollars.
5. For the cost of maintaining an employee of the commission at a warehouse to supervise the correction of a deficiency, a fee of one hundred fifty dollars per day.

All fees received by the commission shall be paid to the treasurer of state for deposit in the state general fund. License fees for new licenses shall be prorated by the commission on a monthly basis.

This section supersedes section 543.33, commencing on the effective date of this Act and until July 1, 1983.

Sec. 27. Section 543.36, Code 1981, is amended to read as follows:

543.36 PENALTIES--MISDEMEANOR INJUNCTION. ~~Every person who violates or fails to comply with any of the provisions of this chapter or to comply with~~

~~any--lawfully--authorized--order,--direction,--demand,--or--rule--or--regulation--of--the--commission--shall--be--guilty--of--a--simple--misdemeanor.~~

1. A person who knowingly withholds information from or knowingly submits false information to the commission or any of its employees in a document or a book, account, or record required to be submitted or maintained under this chapter commits a fraudulent practice.

2. A person who engages in business as a warehouseman without obtaining a license, or who refuses to permit inspection of licensed premises, or books, accounts, records or other documents required by this chapter, or who uses a scale ticket, warehouse receipt or other document which fails to satisfy requirements established by the commission commits a serious misdemeanor, except that a person who commits any of these offenses after having been found guilty of the same offense commits an aggravated misdemeanor.

3. Except as provided in subsections 1 and 2, a person who violates any provision of this chapter commits a simple misdemeanor. With respect to a continuing violation, each day that the violation continues is a separate offense.

4. A violation of this chapter, or a violation of chapter 714 or 715 involving the business of a warehouseman, may be restrained by injunction in an action brought by the commerce commission.

Sec. 28. Section 543.37, Code 1981, is amended to read as follows:

543.37 FAILURE TO PAY FEE. Failure to pay the annual fee provided for in section 543.33 on or before ~~the date the same shall become due~~ June 30 of the year for which due shall cause a license to terminate. ~~The annual fee shall become due on June 30 each year.~~ A warehouse license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, ~~current financial statement,~~ the renewal fee, and a penalty fee in the amount of ~~ten~~ twenty-five dollars ~~from the warehouse,~~ if ~~such are~~ filed within thirty days from the date of termination of the warehouse license. The commission may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Sec. 29. Chapter 543, Code 1981, is amended by adding the following new section:

NEW SECTION. WAREHOUSEMAN'S OBLIGATION. A warehouseman shall maintain at all times sufficient quantity and quality of grain or other agricultural products to cover the warehouseman's obligation. A warehouseman shall not at any time have less grain or other agricultural products in the warehouse than the obligations to depositors.

Sec. 30. Chapter 543, Code 1981, is amended by adding the following new section:

NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding the provisions of chapter 68A, all financial statements of warehousemen under this chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 542.
3. When required by subpoena or other court orders.

4. Disclosure to law enforcement agencies in regards to the detection and prosecution of public offenses.

5. Where released to a bonding company approved by the commission or to the United States department of agriculture or any of their divisions.

Sec. 31. Chapter 543, Code 1981, is amended by adding the following new section:

NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

1. A person who, in connection with the receipt of corn or soybeans for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain shall compute the amount of the adjustment by multiplying the scale weight of the grain by that factor which results in a rate of adjustment of one and eighteen hundredths percent of weight per one percent of moisture content. The use of any rate of weight adjustment for moisture content other than the one prescribed by this subsection is a fraudulent practice. The person shall post on the business premises in a conspicuous place notice of the rate of adjustment for moisture content that is prescribed by this subsection. Failure to make this disclosure is a simple misdemeanor.

2. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. Failure to make the required disclosure is a simple misdemeanor.

3. A person who adjusts the scale weight of corn or soybeans both for moisture content and for handling, processing, or storage losses may combine the two adjustment factors into a single factor and may use this resulting factor to compute the amount of weight adjustment in connection with storage, processing, or sale transactions, provided that the person shall post on the business premises in a conspicuous place a notice that discloses the moisture shrinkage factor prescribed by subsection 1, the handling shrinkage factor to be imposed, and the single factor that results from combining these factors. Failure to make the required disclosure is a simple misdemeanor.

Sec. 32. It is the intent of the general assembly that sections 7 and 26 of this Act shall have temporary effect only, and that sections 542.6 and 543.33, Code 1981, as they existed prior to amendment by this Act shall be the law of this state on and after July 1, 1983.

Approved June 13, 1981