

House C.G. 4/1/77 Dr. case per 5847 3/30 (p. 1304)

Senate File 321  
Agriculture: Svoboda. Chair: Krause and Menke.

FILED APR 5 1977

SENATE FILE 321

By COMMITTEE ON COMMERCE  
*approved 2/21 (p. 131)*

Passed Senate, Date 4-14-77 (p. 1021) Passed House, Date 5-9-77 (p. 1211)

Vote: Ayes 46 Nays 0 Vote: Ayes 90 Nays 0

Approved 6-23-78

*Repealed Senate 5-10-78 (p. 1349)*  
*16-12*

*Repealed House 5-11-78 (p. 1245)*  
*21-10*

# A BILL FOR

1 An Act relating to bonded agricultural warehouses.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 321

1 Section 1. Section five hundred forty-three point one  
2 (543.1), subsections five (5), ten (10), eleven (11), fourteen  
3 (14) and fifteen (15), Code 1977, are amended to read as  
4 follows:

5 5. "Grain" shall mean wheat, corn, oats, barley, rye,  
6 flaxseed, field peas, soybeans, grain sorghums, spelt, and  
7 similar agricultural products, as defined in the Grain  
8 Standards Act.

9 10. "Delivery Receiving and loadout charge" shall mean  
10 the charge made by the warehouseman for receiving grain into  
11 and delivering loading grain from the warehouse, exclusive  
12 of the warehouseman's other charges.

13 11. "Unlicensed warehouseman" means a warehouseman who  
14 retains grain in his warehouse not to exceed ten thirty days  
15 and is not licensed under the provisions of this chapter or  
16 Title VII, U.S.C.

17 14. "Station" means a warehouse located more than three  
18 miles from the central office of the warehouse ~~or-in-a~~  
19 ~~different-city-than-the-central-office.~~

20 15. "Warehouseman's obligation" means a sufficient quantity  
21 and quality of grain or other products for which a warehouseman  
22 is licensed including company owned grain and grain of  
23 depositors as the warehouseman's records indicate. For an  
24 unlicensed warehouseman it means a sufficient quantity and  
25 quality to cover company owned and all deposits of grain for  
26 which actual payment has not been made. At no time may a  
27 warehouseman have less grain or other agricultural products  
28 in ~~his~~ the warehouse than ~~his~~ the obligations to depositors,  
29 as determined by investigation of the warehouseman's records.

30 Sec. 2. Section five hundred forty-three point one (543.1),  
31 Code 1977, is amended by adding the following new subsections:  
32 NEW SUBSECTION. "Grain Standards Act" means the United  
33 States Grain Standards Act, as amended to and including January  
34 1, 1977.

35 NEW SUBSECTION. "Official grain standards" means the

1 standards of quality and condition of grain which establishes  
2 the grade, fixed and established by the secretary of agricul-  
3 ture under the Grain Standards Act.

4 NEW SUBSECTION. "Grain bank" means grain owned by a  
5 depositor and held temporarily by the warehouseman for use  
6 in the formulation of feed or to be processed and returned  
7 to the depositor on demand.

8 NEW SUBSECTION. "License" means a license issued under  
9 this chapter.

10 Sec. 3. Section five hundred forty-three point two (543.2),  
11 Code 1977, is amended to read as follows:

12 543.2 DUTIES AND POWERS OF THE COMMISSION. The commis-  
13 sion is authorized to exercise general supervision over the  
14 storage, warehousing, classifying according to grade or other-  
15 wise, weighing, and certification of agricultural products.  
16 The commission may inspect or cause to be inspected any ware-  
17 house and may require the filing of reports describing any  
18 warehouse or the operation thereof. If upon any such  
19 inspection a deficiency is found to exist as to the quantity  
20 or quality of agricultural products stored, as indicated on  
21 the warehouseman's books and records according to official  
22 grain standards, the commission shall have the authority to,  
23 and may require an employee to remain at the licensed warehouse  
24 and supervise all operations conducted thereat involving  
25 agricultural products stored under the provisions of this  
26 chapter until the deficiency is corrected. The commission  
27 shall inspect or cause to be inspected every licensed warehouse  
28 and the contents thereof not less than once every six months  
29 and the commission shall have authority to make available  
30 to the United States government, or any of its agencies,  
31 including the Commodity Credit Corporation, the results of  
32 inspections made and inspection reports submitted to it by  
33 employees of the commission, upon payment to it of such charges  
34 as may be determined by the commission, but in no event shall  
35 such charges be less than the actual cost of such services

1 rendered in regard thereto, as determined by the commission.  
2 The commission shall have authority to enter into contracts  
3 and agreements for such purpose and shall keep a record of  
4 all money thus received. All such money shall be paid over  
5 to the treasurer of state as miscellaneous receipts. The  
6 commission may classify any warehouse in accordance with its  
7 suitability for the storage of agricultural products and shall  
8 specify in any license issued for the operation of any  
9 warehouse the type or types and the quantity of agricultural  
10 products which may be exclusively stored in such warehouse.  
11 The commission may prescribe, within the limitations of this  
12 chapter, the duties of licensed warehousemen with respect  
13 to the care of and responsibility for the contents of licensed  
14 warehouses. ~~The commission may from time to time establish~~  
15 ~~and publish standards for agricultural products by which~~  
16 ~~quality or value of such products may be judged or determined.~~  
17 Grain grades shall be determined under the official grain  
18 standards. The commission may from time to time publish such  
19 data in connection with the administration of this chapter  
20 as may be of public interest. The commission shall have the  
21 duty of administration of the further provisions of this  
22 chapter.

23 Sec. 4. Section five hundred forty-three point four  
24 (543.4), Code 1977, is amended to read as follows:

25 543.4 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY.

26 The commission is authorized, upon application to it, to issue  
27 to any warehouseman or to any person about to become a  
28 warehouseman a license or licenses for the operation of a  
29 warehouse or warehouses in accordance with the provisions  
30 of this chapter and such rules ~~and regulations~~ as may be made  
31 by the commission under the authority of section 543.3. A  
32 single license may be issued for the operation of two or more  
33 warehouses located in the same city and operated by the same  
34 warehouseman. A license to operate two or more warehouses  
35 located ~~in different cities~~ within a twenty-five mile radius

1 of a central office may be issued ~~under a single application~~,  
2 but a separate fee shall be charged for each station. An  
3 application for a warehouse license shall be accompanied by  
4 a complete financial statement of the applicant setting forth  
5 the assets, liabilities and net worth of the applicant. The  
6 financial statement must be prepared according to normally  
7 accepted accounting principles. Assets shall be shown at  
8 original cost less depreciation. Upon petition being filed  
9 with the commission, the commission may allow asset valuations  
10 in accordance with a competent appraisal. Deferred pricing  
11 contracts shall be shown as a liability and valued at the  
12 applicable current market price of grain as of the date the  
13 financial statement is prepared. In order to receive and  
14 retain a license the applicant must have and maintain a net  
15 worth of at least fifteen thousand dollars or provide bond  
16 in addition to that required by section five hundred forty-  
17 three point twelve (543.12) of the Code in the amount of two  
18 thousand dollars for each one thousand dollars or fraction  
19 thereof of net worth deficiency.

20 Sec. 5. Section five hundred forty-three point five  
21 (543.5), subsection six (6), Code 1977, is amended to read  
22 as follows:

23 6. A complete financial statement for use of the commission  
24 in the administration of this chapter, as required by section  
25 five hundred forty-three point four (543.4) of the Code.

26 Sec. 6. Section five hundred forty-three point ten  
27 (543.10), Code 1977, is amended to read as follows:

28 543.10 SUSPENSION OR REVOCATION OF LICENSE--SALE OF STORED  
29 COMMODITIES. The commission is empowered after hearing before  
30 it and upon information being filed with the commission by  
31 the duly authorized head of the warehouse division of the  
32 commission or upon complaint filed by any person to suspend  
33 or revoke the license of anyone licensed under this chapter  
34 for the violation of or failure to comply with the provisions  
35 of this chapter or any rule made in pursuance of the authority

1 therefor granted under this chapter. An information or a  
2 verified complaint stating the grounds for suspension or  
3 revocation shall be filed with the commission in triplicate,  
4 and thereupon the commission shall serve the licensee  
5 complained against with a copy of the information or the  
6 complaint and a copy of the order of the commission fixing  
7 the time for hearing thereon, which time shall be at least  
8 twenty ten days from the date of service. If the commission  
9 determines that the public good requires it, it may upon the  
10 filing of the information or the complaint and without hearing,  
11 temporarily suspend a license pending the determination by  
12 it of the complaint.

13 If upon hearing, a deficiency as to the warehouseman's  
14 storage obligation is found to exist, the commission may  
15 provide for pro rata distribution of the stored commodities,  
16 or to minimize losses provide for the sale of stored  
17 commodities by category as trustee for depositors holding  
18 warehouse receipts or unpriced scale weight tickets. After  
19 deducting storage charges, and a pro rata share of the sales  
20 expenses, the commission shall distribute the proceeds to  
21 such depositors. Judicial review of the actions of the  
22 commission may be sought in accordance with the terms of the  
23 Iowa administrative procedure Act.

24 Sec. 7. Section five hundred forty-three point eleven  
25 (543.11), Code 1977, is amended to read as follows:

26 543.11 SUSPENSION OR REVOCATION OF LICENSE FOR  
27 INSUFFICIENCY OF BOND OR INSURANCE. Whenever the commission  
28 shall determine that a bond filed under the provisions of  
29 section 543.12 and approved by the commission, is, or has  
30 become, insufficient to secure the faithful performance of  
31 the obligations of the licensed warehouseman, or whenever  
32 the commission shall determine that insurance is not fully  
33 provided as required under section 543.15, it may require  
34 the licensed warehouseman to provide additional bond or bonds  
35 or additional evidence of insurance coverage so that the bond

1 and insurance shall conform with the requirements of sections  
2 543.12, 543.13, and 543.15. If such additional insurance  
3 is not provided within five days after notice by certified  
4 mail the license of the warehouseman concerned shall be  
5 automatically suspended. If such additional insurance is  
6 not filed within another twenty-five days, the warehouse  
7 license shall be automatically revoked. If additional bond  
8 is not provided within thirty days after receiving notice  
9 by certified mail the warehouse license shall be suspended.  
10 If such additional bond is not filed within sixty days the  
11 warehouse license shall be automatically revoked. When a  
12 license is so revoked, the commission shall notify each holder  
13 of an outstanding warehouse receipt and all known persons  
14 who have grain retained in open storage of such revocation.  
15 The commission shall further notify each receipt holder and  
16 all known persons who have grain retained in open storage  
17 that ~~his~~ the grain must be removed from the warehouse not  
18 later than the thirtieth day following the initial revocation  
19 as herein set forth. Such notice shall be by ordinary mail  
20 sent to the last known address of each ~~receipt-holder~~ person  
21 having grain in storage as provided in this section.

22 Whenever the commission shall receive notice from a surety  
23 that it has canceled the bond of a warehouseman, the commission  
24 shall automatically suspend the warehouse license if a new  
25 bond is not received by the commission within thirty days  
26 of receipt of the notice of cancellation. The commission  
27 shall cause an inspection of the licensed warehouse immediately  
28 at the end of such thirty-day period. If a new bond is not  
29 received within sixty days of receipt of the notice of  
30 cancellation the commission shall revoke the warehouse license.  
31 The commission shall cause a further inspection of the licensed  
32 warehouse at the end of such sixty-day period. When a license  
33 is so revoked the commission shall give notice of such  
34 revocation to each holder of an outstanding warehouse receipt  
35 and all known persons who have grain retained in open storage.

1 The commission shall further notify each receipt holder and  
2 all known persons who have grain retained in open storage  
3 that ~~his~~ the grain must be removed from the warehouse not  
4 later than the ninetieth day following receipt of notice of  
5 cancellation, by the commission. Such notice ~~to each receipt~~  
6 ~~holder~~ shall be sent by ordinary mail to the last known address  
7 of each ~~receipt-holder~~ person having grain in storage as  
8 provided in this section. The commission shall cause a final  
9 inspection of the licensed warehouse immediately after the  
10 end of such ninety-day period.

11 Sec. 8. Section five hundred forty-three point fourteen  
12 (543.14), unnumbered paragraph two (2), Code 1977, is amended  
13 by striking the paragraph and inserting in lieu thereof the  
14 following:

15 Upon revocation, termination or cancellation of a warehouse  
16 license, any claim against the warehouseman arising under  
17 this chapter shall be made in writing with the warehouseman  
18 and with the surety on the warehouse bond within one hundred  
19 twenty days after revocation, termination or cancellation.  
20 Failure to make a timely claim shall relieve the surety of  
21 all obligations to the claimant, however, this section shall  
22 not be construed to reduce the aggregate liability of the  
23 surety to other claimants below the face amount of the bond  
24 then in effect. Upon revocation of a warehouse license, the  
25 commission shall cause notice of such revocation to be  
26 published in a newspaper of general circulation within the  
27 state once each week for two consecutive weeks. The notice  
28 shall state the name and address of the warehouseman, the  
29 effective date of revocation, and the name and address of  
30 the surety on the warehouse bond. The notice shall also state  
31 that any claims against the warehouseman shall be made in  
32 writing and sent by ordinary mail to the warehouseman and  
33 the surety on the warehouse bond within one hundred twenty  
34 days after revocation.

35 Sec. 9. Section five hundred forty-three point seventeen

1 (543.17), Code 1977, is amended to read as follows:

2 543.17 RECEIVING BULK GRAIN AT LICENSED AND UNLICENSED  
3 WAREHOUSES.

4 1. Any grain which has been received at any licensed ware-  
5 house for which the actual sale price is not fixed and proper  
6 documentation made or payment made shall be construed to be  
7 grain held for storage within the meaning of this chapter.  
8 Grain may be held in open storage or placed on warehouse  
9 receipt. Actual payment shall be made on all priced grain  
10 ~~or-warehouse~~ within thirty days unless a deferred payment  
11 or deferred pricing contract has been executed. Warehouse  
12 receipts shall be issued for all grain held in open storage,  
13 within six months of delivery to the warehouse, unless the  
14 depositor has signed a statement that ~~he~~ the depositor does  
15 not desire a warehouse receipt ~~or-unless-a-deferred-payment~~  
16 ~~contract-has-been-concluded-pursuant-to-subsection-2.~~ Any  
17 ~~deposit-of-grain-for-which-the-price-has-not-been-fixed-and~~  
18 ~~properly-documented-within-thirty-days-from-delivery-to-the~~  
19 ~~warehouse-shall-be-deemed-as-storage.~~ The warehouseman's  
20 tariff shall apply for any grain that is retained in open  
21 storage or under warehouse receipt.

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

27 Grain received on a scale ticket which fails to have the  
28 price fixed and properly documented on the records of the  
29 warehouseman shall be construed to be in open storage and  
30 ~~shall-be-covered-by-the-warehouseman's-bond-within-the~~  
31 ~~provisions-of-this-chapter.~~

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

35 2. Notwithstanding any provisions of this section, a

1 written agreement may be made between the seller and the  
2 licensed warehouseman for any bulk grain delivered to or  
3 stored at a licensed warehouse that payment or pricing and  
4 payment will be deferred to a later date. Such agreement  
5 shall contain a statement informing the seller that the  
6 warehouseman shall not be required to carry insurance or bond  
7 on such grain for the benefit of the seller and that the  
8 payment for such grain becomes a common claim against the  
9 warehouseman.

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

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

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

20 Grain received or purchased in storage under a deferred  
21 payment or deferred pricing contract under the provisions  
22 of this section shall not be deemed as warehouse owned grain.

23 Any grain which has been received at any unlicensed  
24 warehouse and for which the actual sale price has not been  
25 fixed and payment made within ten thirty days from receipt  
26 of the grain, unless covered by deferred payment or deferred  
27 pricing contract, shall be construed to be grain-held-for  
28 unlawful storage within the meaning of this chapter. Bulk  
29 grain received at any unlicensed warehouse for any other  
30 purpose must either be returned to the depositor or disposed  
31 of by order of the depositor within ten thirty days from date  
32 of actual deposit of the bulk grain.

33 If the depositor of bulk grain in an unlicensed warehouse  
34 fails to sell the grain or orders other disposition of the  
35 grain, the warehouseman may purchase the grain on the tenth

1 thirtieth day after deposit at not less than the local market  
2 price at the close of business on the tenth thirtieth day  
3 or return the grain to the depositor by the tenth thirtieth  
4 day.

5 Sec. 10. Section five hundred forty-three point twenty-  
6 eight (543.28), unnumbered paragraphs two (2), three (3) and  
7 four (4), Code 1977, are amended to read as follows:

8 The minimum receiving or loadout charge for bulk grain  
9 shall be two cents per bushel. No receiving or loadout charge  
10 shall be made for products sold to the warehouseman whether  
11 such product has been in storage or not. The specific  
12 receiving or loadout charge herein provided shall not be  
13 mandatory as to grain received into grain elevators from  
14 railroad cars nor as to grain sold by a warehouseman and  
15 carried as storage for the purchaser. There shall be no  
16 minimum storage, receiving or loadout charge for grain stored  
17 with the warehouseman which is stored for the sole purpose  
18 of processing and redelivery to the original depositor.  
19 Drying shall not be considered as processing of grain.

20 The storage charges herein provided for shall commence  
21 on the date of ~~receiving-into~~ delivery to the warehouse.  
22 Provided, however, that a storage, receiving or loadout charge  
23 other than that specified above may be made, if such charge  
24 is required by the terms of a written contract with the United  
25 States government, any of its subdivisions or agencies,  
26 providing copy of such contract is filed with the commission.

27 Rates for storage, conditioning of stored products and  
28 delivery receiving or loadout charges shall be just,  
29 reasonable, and nondiscriminatory, and every unjust,  
30 unreasonable, and discriminatory charge for such services  
31 or any part thereof and not in accordance with tariffs as  
32 herein provided, is prohibited and is hereby declared to be  
33 unlawful.

34 Sec. 11. Section five hundred forty-three point thirty-  
35 seven (543.37), Code 1977, is amended to read as follows:

1 543.37 FAILURE TO PAY FEE. Failure to pay the annual  
2 fee provided for in section 543.33 on or before the date the  
3 same shall become due shall cause a license to terminate.  
4 The annual fee shall become due on June 30 thirtieth each  
5 year. A warehouse license which has terminated may be  
6 reinstated by the commission upon receipt of a proper renewal  
7 application, current financial statement, renewal fee and  
8 a penalty fee in the amount of ten dollars from the warehouse  
9 if such are filed within thirty days from the date of  
10 termination of the warehouse license. The commission may  
11 cancel the license upon request of the licensee unless a  
12 complaint or information is filed against the licensee alleging  
13 a violation of a provision of this chapter.

14 Sec. 12. Section five hundred forty-three point thirty-  
15 nine (543.39), unnumbered paragraph one (1), and subsections  
16 one (1) and four (4), Code 1977, are amended to read as  
17 follows:

18 A licensed warehouseman may store grain in any other  
19 licensed warehouse in Iowa in addition to ~~his~~ the  
20 warehouseman's own facilities, subject to the following  
21 conditions:

22 1. ~~He~~ The warehouseman must obtain from such warehouseman  
23 a nonnegotiable warehouse receipt and such receipt must show  
24 clearly the following notation: "Held in trust for depositors  
25 of" (~~customer's name and address~~ name of original receiving  
26 warehouse).

27 4. A licensed warehouseman shall not accept grain for  
28 storage from another licensed warehouseman while ~~he~~ such  
29 warehouseman has grain stored elsewhere under the provisions  
30 of this section.

31 Sec. 13. Section five hundred forty-three point thirty-  
32 nine (543.39), Code 1977, is amended by striking subsection  
33 two (2).

34 Sec. 14. Section five hundred forty-three point twenty-  
35 two (543.22), Code 1977, is repealed.

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EXPLANATION

This bill provides for standards for the grading of grain, defines grain bank and license, imposes a financial responsibility requirement for persons seeking to be licensed as bonded warehousemen and provides the commission with the authority and manner in which to sell stored grain and make proper distribution of the funds from such sale to all known persons having a rightful claim against such grain when a deficiency has been determined and the warehouseman is financially unable to correct the deficiency.

The bill requires the commission to make public notice upon revocation of a warehouse license in a newspaper of general circulation within the state for two consecutive weeks and provides for reinstatement of a terminated license within thirty days from termination and provides a penalty fee for the reinstatement of a terminated license.

The bill also provides for the forwarding of grain from a licensed warehouse to any other licensed warehouse in the state of Iowa. Presently, forwarded grain is limited to a 25 mile radius.

SENATE CLIP SHEET

MAY 10, 1978

HOUSE AMENDMENT TO SENATE FILE 321

S-5842

1 Amend Senate File 321 as passed by the Senate as  
2 follows:

3 1. Page 4, line 15, by striking the word "fifteen"  
4 and inserting in lieu thereof the word "twenty-five".

5 2. Page 4, lines 28 and 29, by striking the words  
6 "~~---SALE OF STORED COMMODITIES~~".

7 3. Page 5, by striking lines 8 through 23 and  
8 inserting in lieu thereof the following: "twenty  
9 ten days from the date of service. ~~If the commission  
10 determines that the public good requires it, it may  
11 upon the filing of the information or the complaint  
12 and without hearing, temporarily suspend a license  
13 pending the determination by it of the complainant.  
14 Judicial review of the actions of the commission may  
15 be sought in accordance with the terms of the Iowa  
16 administrative procedure Act.~~

17 If upon the filing of the information or complaint  
18 the commission finds that the licensee has failed  
19 to meet the warehouseman's obligation or otherwise  
20 has violated or failed to comply with the provisions  
21 of this chapter or any rule promulgated under this  
22 chapter, and if the commission finds that the public  
23 health, safety or welfare imperatively requires  
24 emergency action, then the commission without hearing  
25 may order a summary suspension of the license in the  
26 manner provided in section seventeen A point eighteen  
27 (17A.18) of the Code. When so ordered, a copy of  
28 the order of suspension shall be served upon the  
29 licensee at the time the information or complaint  
30 is served as provided in this section.

31 Judicial review of the actions of the commission  
32 may be sought in accordance with the terms of the  
33 Iowa administrative procedure Act."

34 4. Page 7, by striking lines 26 and 27 and insert-  
35 ing in lieu thereof the following: "published once  
36 each week for two consecutive weeks in a newspaper  
37 of general circulation in each of the counties in  
38 which the licensee maintains a business location and  
39 in a newspaper of general circulation within the  
40 state. The notice".

41 5. Page 7, line 34, by inserting after the period  
42 the following: "The provisions of this paragraph  
43 shall not apply if a receiver is appointed as provided  
44 in this chapter pursuant to a petition which is filed  
45 by the commission prior to the expiration of one  
46 hundred twenty days after revocation, termination  
47 or cancellation of the license."

48 6. Page 9, line 22, by striking the words "shall  
49 not be deemed as" and inserting in lieu thereof the  
50 words "shall ~~not~~ be deemed as to be".

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1 7. Page 10, by inserting after line 4 the follow-  
2 ing:

3 "3. Every licensed warehouseman shall, on or  
4 before July first of each year, send a statement for  
5 each holder of a warehouse receipt at that warehouse  
6 to his or her last known address. The statement shall  
7 show the amount of all grain held pursuant to warehouse  
8 receipt for such warehouse receipt holder and the  
9 amount of any storage charges held by the licensed  
10 warehouseman against that grain. However, a licensed  
11 warehouseman need not prepare this annual statement  
12 for a holder of a warehouse receipt, if the licensed  
13 warehouseman prepares such statements monthly,  
14 quarterly or for any other period more frequent than  
15 annually. Failure to prepare a statement required  
16 by this subsection shall be punishable by a civil  
17 fine not to exceed one hundred dollars."

18 8. Page 10, line 8, by striking the word "mimumum"  
19 and inserting in lieu thereof the word "minimum".

20 9. Page 10, line 15 and 16, by striking the words  
21 "There shall be no minimum storage, receiving or  
22 loadout charge for" and inserting in lieu thereof  
23 the words "Minimum storage, receiving or loadout  
24 charges set forth in the Code or established by the  
25 commission shall not apply to".

26 10. Page 10, line 21, by striking the words  
27 "receiving-into delivery to" and inserting in lieu  
28 thereof the words "receiving into".

29 11. Page 11, by inserting after line 30 the  
30 following:

31 "Sec. 13. Chapter five hundred forty-three (543),  
32 Code 1977, is amended by adding the following new  
33 sections:

34 NEW SECTION. APPOINTMENT OF COMMISSION AS RECEIVER.

35 1. The commission in its discretion may, follow-  
36 ing summary suspension of a license under section  
37 five hundred forty-three point ten (543.10) of the  
38 Code, or following a suspension or revocation of a  
39 license as otherwise provided in section five hundred  
40 forty-three point ten (543.10) or five hundred forty-  
41 three point eleven (543.11) of the Code, file a  
42 verified petition in the district court requesting  
43 that the commission be appointed as a receiver to  
44 take custody of commodities stored in the licensee's  
45 warehouse and to provide for the disposition of those  
46 assets in the manner provided in this chapter and  
47 under the supervision of the court. The petition  
48 shall be filed in the county in which the warehouse  
49 is located. The district court shall appoint the  
50 commission as receiver. Upon the filing of the

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1 petition the court shall issue ex parte such temporary  
2 orders as may be necessary to preserve or protect  
3 the assets in receivership, or the value thereof,  
4 and the rights of depositors, until a plan of  
5 disposition is approved.

6 2. A petition filed by the commission under sub-  
7 section one (1) of this section shall be accompanied  
8 by the commission's plan for disposition of stored  
9 commodities. The plan may provide for the pro rata  
10 delivery of part or all of the stored commodities  
11 to depositors holding warehouse receipts or unpriced  
12 scale weight tickets, or may provide for the sale  
13 under the supervision of the commission of part or  
14 all of the stored commodities for the benefit of those  
15 depositors, or may provide for any combination thereof,  
16 as the commission in its discretion determines to  
17 be necessary to minimize losses.

18 3. When a petition is filed by the commission  
19 under subsection one (1) of this section the clerk  
20 of court shall set a date for hearing on the com-  
21 mission's proposed plan of disposition at a time not  
22 less than ten nor more than fifteen days after the  
23 date the petition is filed. Copies of the petition,  
24 the notice of hearing, and the commission's plan of  
25 disposition shall be served upon the licensee and  
26 upon the surety company issuing the licensee's bond  
27 in the manner required for service of an original  
28 notice. A delay in effecting service upon the licensee  
29 or surety shall not be cause for denying the  
30 appointment of a receiver and shall not be grounds  
31 for invalidating any action or proceeding in connection  
32 therewith.

33 4. The commission shall cause a copy of each of  
34 the documents served upon the licensee under subsection  
35 three (3) of this section to be mailed by ordinary  
36 mail to every person holding a warehouse receipt or  
37 unpriced scale weight ticket issued by the licensee,  
38 as determined by the records of the licensee or the  
39 records of the commission. The failure of any person  
40 referred to in this subsection to receive the required  
41 notification shall not invalidate the proceedings  
42 on the petition for the appointment of a receiver  
43 or any portion thereof. Persons referred to in this  
44 subsection are not parties to the action unless  
45 admitted by the court upon application therefor.

46 5. When appointed as a receiver under this chapter,  
47 the commission shall cause notification of the  
48 appointment to be published once each week for two  
49 consecutive weeks in a newspaper of general circulation  
50 in each of the counties in which the licensee maintains

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1 a business location, and in a newspaper of general  
2 circulation in this state.

3 6. The commission may designate an employee of  
4 the commission to appear on behalf of the commission  
5 in any proceedings before the court with respect to  
6 the receivership, and to exercise the functions of  
7 the commission as receiver under this section and  
8 section fourteen (14) of this Act, except that the  
9 commission shall determine whether or not to petition  
10 for appointment as receiver, shall approve the proposed  
11 plan for disposition of stored commodities, shall  
12 approve the proposed plan for distribution of any  
13 cash proceeds, and shall approve the proposed final  
14 report.

15 7. The actions of the commission in connection  
16 with petitioning for appointment as a receiver, and  
17 all actions pursuant to such appointment shall not  
18 be subject to the provisions of the administrative  
19 procedure Act.

20 Sec. 14. Chapter five hundred forty-three (543),  
21 Code 1977, is amended by adding the following new  
22 section:

23 NEW SECTION. POWERS AND DUTIES OF RECEIVER.

24 1. When the commission is appointed as receiver  
25 under this chapter the surety on the bond of the  
26 licensee shall be joined as a party defendant by the  
27 commission. If required by the court, the surety  
28 shall pay the bond proceeds or so much thereof as  
29 the court finds necessary into the court, and when  
30 so paid the surety shall be absolutely discharged  
31 from any further liability under the bond to the  
32 extent of the payment.

33 2. When appointed as receiver under this chapter  
34 the commission is authorized to give notice in the  
35 manner specified by the court to persons holding  
36 warehouse receipts or other evidence of deposit issued  
37 by the licensee to file their claims within one hundred  
38 twenty days after the date of appointment. Failure  
39 to timely file a claim shall defeat the claim with  
40 respect to the surety bond and any commodities or  
41 proceeds from the sale of commodities, except to the  
42 extent of any excess remaining after all timely filed  
43 claims are paid in full.

44 3. When the court approves the sale of commodi-  
45 ties, the commission shall employ a merchandiser to  
46 effect the sale of those commodities. A person  
47 employed as a merchandiser must meet the following  
48 requirements:

49 a. The person shall be experienced or knowledge-  
50 able in the operation of warehouses licensed under

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1 this chapter; and if the person has ever held a license  
2 issued under this chapter, the person shall never  
3 have had that license suspended or revoked.

4 b. The person shall be experienced or knowledge-  
5 able in the marketing of agricultural products.

6 c. The person shall not be the holder of a ware-  
7 house receipt or scale weight ticket issued by the  
8 licensee, and shall not have a claim against the  
9 licensee whether as a secured or unsecured creditor,  
10 and otherwise shall not have any pecuniary interest  
11 in the licensee or the licensee's business. The  
12 merchandiser shall be entitled to reasonable  
13 compensation as determined by the commission, payable  
14 out of funds appropriated for operating expenses of  
15 the commission. A sale of commodities shall be made  
16 in a commercially reasonable manner and under the  
17 supervision of the warehouse division of the  
18 commission. The commission shall provide for the  
19 payment out of appropriations to the commission of  
20 all expenses incurred in handling and disposing of  
21 commodities. The commission shall have authority  
22 to sell the commodities, any provision of chapter  
23 five hundred fifty-four (554) of the Code to the  
24 contrary notwithstanding, and any commodities so sold  
25 shall be free of all liens and other encumbrances.

26 4. The plan of disposition, as approved by the  
27 court, shall provide for the distribution of the  
28 stored commodities, or the proceeds from the sale  
29 of commodities, or the proceeds from any insurance  
30 policy or surety bond, or any combination thereof,  
31 less expenses incurred by the commission in connection  
32 with the receivership, to depositors on a pro rata  
33 basis as their interests are determined. Distribution  
34 shall be without regard to any setoff, counterclaim,  
35 or storage lien or charge.

36 5. The commission may, with the approval of the  
37 court, continue the operation of all or any part of  
38 the business of the licensee on a temporary basis  
39 and take any other course of action or procedure which  
40 will serve the interests of the depositors.

41 6. The commission shall be entitled to reimburse-  
42 ment out of commodities or proceeds held in  
43 receivership for all expenses incurred as court costs  
44 or in handling and disposing of stored commodities,  
45 and for all other costs directly attributable to the  
46 receivership. The right of reimbursement of the  
47 commission shall be prior to any claims against the  
48 commodities or proceeds of sales thereof, and shall  
49 constitute a claim against the surety bond of the  
50 licensee.

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1       7. In the event the approved plan of disposition  
2 requires the sale of commodities, or the distribution  
3 of proceeds from the surety bond, or both, the  
4 commission shall submit to the court a proposed plan  
5 of distribution of those proceeds. Upon such notice  
6 and hearing as may be required by the court, the court  
7 shall accept or modify the proposed plan. When the  
8 plan is approved by the court and executed by the  
9 commission, the commission shall be discharged and  
10 the receivership terminated.

11       8. At the termination of the receivership the  
12 commission shall file a final report containing the  
13 details of its actions, together with such additional  
14 information as the court may require."

S-5842 FILED  
May 9, 1978

RECEIVED FROM THE HOUSE

*Senate amendment (S-5842) concurred 5/10/78*

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SENATE FILE 321

S-5845

1       Amend the House amendment S-5842 to Senate File 321  
2 as amended, passed, and reprinted by the Senate as  
3 follows:  
4       1. Page 2, line 5 by inserting after the word  
5 "receipt" the words "covering grain held for more than  
6 one year".  
7       2. Page 2, line 17, by adding after the word  
8 "dollars." the following: "Violation of this  
9 section shall not constitute grounds for suspension,  
10 revocation, or modification of the license of anyone  
11 licensed under this chapter."

S-5845 FILED  
MAY 9, 1978

*Adopted 5/9/78*

BY BASS VAN GILST

SENATE FILE 321

H-6352

- 1 Amend Senate File 321 as passed by the Senate as  
 2 follows:  
 3 1. Page 10, by inserting after line 4 the follow-  
 4 ing:  
 5 "3. Every licensed warehouseman shall, on or  
 6 before July first of each year, send a statement for  
 7 each holder of a warehouse receipt at that warehouse  
 8 to his or her last known address. The statement shall  
 9 show the amount of all grain held pursuant to warehouse  
 10 receipt for such warehouse receipt holder and the  
 11 amount of any storage charges held by the licensed  
 12 warehouseman against that grain. Failure to prepare  
 13 a statement required by this subsection shall be  
 14 punishable by a civil fine not to exceed one hundred  
 15 dollars."

H-6352 FILED *Adopted 5/5* BY BINNEBOESE of Plymouth  
 APRIL 26, 1978 *amended by* GETTINGS of Wapello  
*5/5* SVOBODA of Iowa  
 MENKE of O'Brien  
 KRAUSE of Kossuth

SENATE FILE 321

H-6447

- 1 Amend Senate File 321 as follows:  
 2 1. Page 4, line 15, by striking the word  
 3 "fifteen" and inserting in lieu thereof the word  
 4 "thirty".  
 5 2. Page 10, line 16, by striking the word  
 6 "minimum".

H-6447 FILED *Adopted 5/5* BY EVANS of Grundy  
 MAY 2, 1978 *5/5*

SENATE FILE 321

H-6509

- 1 Amend Senate File 321, as passed by the Senate,  
 2 as follows:  
 3 1. Page 4, line 15, by striking the word  
 4 "fifteen" and inserting in lieu thereof the word  
 5 "twenty-five".  
 6 2. Page 10, line 8, by striking the word "mimumum"  
 7 and inserting in lieu thereof the word "minimum".

H-6509 FILED *Adopted 5/5* BY SVOBODA of Iowa  
 MAY 3, 1978 *5/5*

SENATE FILE 321

H-6531

- 1 Amend Senate File 321 as follows:  
 2 1. Page 10, lines 15 and 16, by striking the  
 3 words "There shall be no minimum storage, receiving  
 4 or loadout charge for" and inserting in lieu thereof  
 5 the words "Minimum storage, receiving or loadout  
 6 charges set forth in the Code or established by the  
 7 commission shall not apply to".

H-6531 FILED *Adopted 5/5* BY EVANS of Grundy  
 MAY 4, 1978 *5/5*

SENATE FILE 321

H-6532

- 1 Amend Senate File 321 as passed by the Senate as
- 2 follows:
- 3 1. Page 10, line 21, by striking the words
- 4 "~~receiving-into delivery to~~" and inserting in lieu
- 5 thereof the words "receiving into".

H-6532 FILED *Adopted* BY HARBOR of Mills  
MAY 4, 1978 *Sta. 10, 2000*

SENATE FILE 321

H-6533

- 1 Amend the amendment, H-6352, to Senate File 321
- 2 as passed by the Senate as follows:
- 3 1. Page 1, line 12, by inserting after the word
- 4 "grain." the following: "However, a licensed
- 5 warehouseman need not prepare this annual statement
- 6 for a holder of a warehouse receipt, if the licensed
- 7 warehouseman prepares such statements monthly,
- 8 quarterly or for any other period more frequent than
- 9 annually."

H-6533 FILED *Adopted* BY HARBOR of Mills  
MAY 4, 1978 *Sta. 10, 2000*

SENATE AMENDMENT TO  
HOUSE AMENDMENT TO  
SENATE FILE 321

H-6620

- 1 Amend the House amendment S-5842 to Senate File 321
- 2 as amended, passed and reprinted by the Senate as
- 3 follows:
- 4 1. Page 2, line 5, by inserting after the word
- 5 "receipt" the words "covering grain held for more than
- 6 one year".
- 7 2. Page 2, line 17, by adding after the word
- 8 "dollars." the following: "Violation of this
- 9 section shall not constitute grounds for suspension,
- 10 revocation, or modification of the license of anyone
- 11 licensed under this chapter."

H-6620 FILED  
RECEIVED FROM SENATE  
MAY 10, 1978

*Adopted*

1 Amend Senate File 321 as passed by the Senate as  
2 follows:

3 1. Page 4, lines 28 and 29, by striking the words  
4 "~~---SALE OF STORED COMMODITIES~~".

5 2. Page 5, by striking lines 8 through 23 and  
6 inserting in lieu thereof the following: "~~twenty~~  
7 ~~ten~~ days from the date of service. ~~If the commission~~  
8 ~~determines that the public good requires it, it may~~  
9 ~~upon the filing of the information or the complaint~~  
10 ~~and without hearing temporarily suspend a license~~  
11 ~~pending the determination by it of the complaint.~~  
12 ~~Judicial review of the actions of the commission may~~  
13 ~~be sought in accordance with the terms of the Iowa~~  
14 ~~administrative procedure act.~~

15 If upon the filing of the information or complaint  
16 the commission finds that the licensee has failed  
17 to meet the warehouseman's obligation or otherwise  
18 has violated or failed to comply with the provisions  
19 of this chapter or any rule promulgated under this  
20 chapter, and if the commission finds that the public  
21 health, safety or welfare imperatively requires  
22 emergency action, then the commission without hearing  
23 may order a summary suspension of the license in the  
24 manner provided in section seventeen A point eighteen  
25 (17A.18) of the Code. When so ordered, a copy of  
26 the order of suspension shall be served upon the  
27 licensee at the time the information or complaint  
28 is served as provided in this section.

29 Judicial review of the actions of the commission  
30 may be sought in accordance with the terms of the  
31 Iowa administrative procedure Act."

32 3. Page 7, by striking lines 26 and 27 and insert-  
33 ing in lieu thereof the following: "published once  
34 each week for two consecutive weeks in a newspaper  
35 of general circulation in each of the counties in  
36 which the licensee maintains a business location and  
37 in a newspaper of general circulation within the  
38 state. The notice".

39 4. Page 7, line 34, by inserting after the period  
40 the following: "The provisions of this paragraph  
41 shall not apply if a receiver is appointed as provided  
42 in this chapter pursuant to a petition which is filed  
43 by the commission prior to the expiration of one  
44 hundred twenty days after revocation, termination  
45 or cancellation of the license."

46 5. Page 9, line 22, by striking the words "shall  
47 not be deemed as" and inserting in lieu thereof the  
48 words "shall not be deemed as to be".

49 6. Page 11, by inserting after line 30 the  
50 following:

1 "Sec. 13. Chapter five hundred forty-three (543),  
2 Code 1977, is amended by adding the following new  
3 sections:

4 NEW SECTION. APPOINTMENT OF COMMISSION AS RECEIVER.

5 1. The commission in its discretion may, follow-  
6 ing summary suspension of a license under section  
7 five hundred forty-three point ten (543.10) of the  
8 Code, or following a suspension or revocation of a  
9 license as otherwise provided in section five hundred  
10 forty-three point ten (543.10) or five hundred forty-  
11 three point eleven (543.11) of the Code, file a  
12 verified petition in the district court requesting  
13 that the commission be appointed as a receiver to  
14 take custody of commodities stored in the licensee's  
15 warehouse and to provide for the disposition of those  
16 assets in the manner provided in this chapter and  
17 under the supervision of the court. The petition  
18 shall be filed in the county in which the warehouse  
19 is located. The district court shall appoint the  
20 commission as receiver. Upon the filing of the  
21 petition the court shall issue ex parte such temporary  
22 orders as may be necessary to preserve or protect  
23 the assets in receivership, or the value thereof,  
24 and the rights of depositors, until a plan of  
25 disposition is approved.

26 2. A petition filed by the commission under sub-  
27 section one (1) of this section shall be accompanied  
28 by the commission's plan for disposition of stored  
29 commodities. The plan may provide for the pro rata  
30 delivery of part or all of the stored commodities  
31 to depositors holding warehouse receipts or unpriced  
32 scale weight tickets, or may provide for the sale  
33 under the supervision of the commission of part or  
34 all of the stored commodities for the benefit of those  
35 depositors, or may provide for any combination thereof,  
36 as the commission in its discretion determines to  
37 be necessary to minimize losses.

38 3. When a petition is filed by the commission  
39 under subsection one (1) of this section the clerk  
40 of court shall set a date for hearing on the com-  
41 mission's proposed plan of disposition at a time not  
42 less than ten nor more than fifteen days after the  
43 date the petition is filed. Copies of the petition,  
44 the notice of hearing, and the commission's plan of  
45 disposition shall be served upon the licensee and  
46 upon the surety company issuing the licensee's bond  
47 in the manner required for service of an original  
48 notice. A delay in effecting service upon the licensee  
49 or surety shall not be cause for denying the  
50 appointment of a receiver and shall not be grounds

1 for invalidating any action or proceeding in connection  
2 therewith.

3 4. The commission shall cause a copy of each of  
4 the documents served upon the licensee under subsection  
5 three (3) of this section to be mailed by ordinary  
6 mail to every person holding a warehouse receipt or  
7 unpriced scale weight ticket issued by the licensee,  
8 as determined by the records of the licensee or the  
9 records of the commission. The failure of any person  
10 referred to in this subsection to receive the required  
11 notification shall not invalidate the proceedings  
12 on the petition for the appointment of a receiver  
13 or any portion thereof. Persons referred to in this  
14 subsection are not parties to the action unless  
15 admitted by the court upon application therefor.

16 5. When appointed as a receiver under this chapter,  
17 the commission shall cause notification of the  
18 appointment to be published once each week for two  
19 consecutive weeks in a newspaper of general circulation  
20 in each of the counties in which the licensee maintains  
21 a business location, and in a newspaper of general  
22 circulation in this state.

23 6. The commission may designate an employee of  
24 the commission to appear on behalf of the commission  
25 in any proceedings before the court with respect to  
26 the receivership, and to exercise the functions of  
27 the commission as receiver under this section and  
28 section fourteen (14) of this Act, except that the  
29 commission shall determine whether or not to petition  
30 for appointment as receiver, shall approve the proposed  
31 plan for disposition of stored commodities, shall  
32 approve the proposed plan for distribution of any  
33 cash proceeds, and shall approve the proposed final  
34 report.

35 7. The actions of the commission in connection  
36 with petitioning for appointment as a receiver, and  
37 all actions pursuant to such appointment shall not  
38 be subject to the provisions of the administrative  
39 procedure Act.

40 Sec. 14. Chapter five hundred forty-three (543),  
41 Code 1977, is amended by adding the following new  
42 section:

43 NEW SECTION. POWERS AND DUTIES OF RECEIVER.

44 1. When the commission is appointed as receiver  
45 under this chapter the surety on the bond of the  
46 licensee shall be joined as a party defendant by the  
47 commission. If required by the court, the surety  
48 shall pay the bond proceeds or so much thereof as  
49 the court finds necessary into the court, and when  
50 so paid the surety shall be absolutely discharged

1 From any further liability under the bond to the  
2 extent of the payment.

3 2. When appointed as receiver under this chapter  
4 the commission is authorized to give notice in the  
5 manner specified by the court to persons holding  
6 warehouse receipts or other evidence of deposit issued  
7 by the licensee to file their claims within one hundred  
8 twenty days after the date of appointment. Failure  
9 to timely file a claim shall defeat the claim with  
10 respect to the surety bond and any commodities or  
11 proceeds from the sale of commodities, except to the  
12 extent of any excess remaining after all timely filed  
13 claims are paid in full.

14 3. When the court approves the sale of commodi-  
15 ties, the commission shall employ a merchandiser to  
16 effect the sale of those commodities. A person  
17 employed as a merchandiser must meet the following  
18 requirements:

19 a. The person shall be experienced or knowledge-  
20 able in the operation of warehouses licensed under  
21 this chapter; and if the person has ever held a license  
22 issued under this chapter, the person shall never  
23 have had that license suspended or revoked.

24 b. The person shall be experienced or knowledge-  
25 able in the marketing of agricultural products.  
26 c. The person shall not be the holder of a ware-  
27 house receipt or scale weight ticket issued by the  
28 licensee, and shall not have a claim against the  
29 licensee whether as a secured or unsecured creditor,  
30 and otherwise shall not have any pecuniary interest  
31 in the licensee or the licensee's business. The  
32 merchandiser shall be entitled to reasonable  
33 compensation as determined by the commission, payable  
34 out of funds appropriated for operating expenses of  
35 the commission. A sale of commodities shall be made  
36 in a commercially reasonable manner and under the  
37 supervision of the warehouse division of the  
38 commission. The commission shall provide for the  
39 payment out of appropriations to the commission of  
40 all expenses incurred in handling and disposing of  
41 commodities. The commission shall have authority  
42 to sell the commodities, any provision of chapter  
43 five hundred fifty-four (554) of the Code to the  
44 contrary notwithstanding, and any commodities so sold  
45 shall be free of all liens and other encumbrances.  
46 4. The plan of disposition, as approved by the  
47 court, shall provide for the distribution of the  
48 stored commodities, or the proceeds from the sale  
49 of commodities, or the proceeds from any insurance  
50 policy or surety bond, or any combination thereof,

1 less expenses incurred by the commission in connection  
2 with the receivership, to depositors on a pro rata  
3 basis as their interests are determined. Distribution  
4 shall be without regard to any setoff, counterclaim,  
5 or storage lien or charge.

6 5. The commission may, with the approval of the  
7 court, continue the operation of all or any part of  
8 the business of the licensee on a temporary basis  
9 and take any other course of action or procedure which  
10 will serve the interests of the depositors.

11 6. The commission shall be entitled to reimburse-  
12 ment out of commodities or proceeds held in  
13 receivership for all expenses incurred as court costs  
14 or in handling and disposing of stored commodities,  
15 and for all other costs directly attributable to the  
16 receivership. The right of reimbursement of the  
17 commission shall be prior to any claims against the  
18 commodities or proceeds of sales thereof, and shall  
19 constitute a claim against the surety bond of the  
20 licensee.

21 7. In the event the approved plan of disposition  
22 requires the sale of commodities, or the distribution  
23 of proceeds from the surety bond, or both, the  
24 commission shall submit to the court a proposed plan  
25 of distribution of those proceeds. Upon such notice  
26 and hearing as may be required by the court, the court  
27 shall accept or modify the proposed plan. When the  
28 plan is approved by the court and executed by the  
29 commission, the commission shall be discharged and  
30 the receivership terminated.

31 8. At the termination of the receivership the  
32 commission shall file a final report containing the  
33 details of its actions, together with such additional  
34 information as the court may require."

H-5847 FILED BY COMMITTEE ON AGRICULTURE  
MARCH 31, 197 SCHEELHAASE of Woodbury, Chair

*Adopted 5/3/70 (A. 2000)*

## SENATE FILE 321

## AN ACT

## RELATING TO BONDED AGRICULTURAL WAREHOUSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section five hundred forty-three point one (543.1), subsections five (5), ten (10), eleven (11), fourteen (14) and fifteen (15), Code 1977, are amended to read as follows:

5. "Grain" shall mean wheat, corn, oats, barley, rye, flaxseed, field peas, soybeans, grain sorghums, spelt, and similar agricultural products, as defined in the Grain Standards Act.

10. "Delivery Receiving and loadout charge" shall mean the charge made by the warehouseman for receiving grain into and delivering loading grain from the warehouse, exclusive of the warehouseman's other charges.

11. "Unlicensed warehouseman" means a warehouseman who retains grain in his warehouse not to exceed ten thirty days and is not licensed under the provisions of this chapter or Title VII, U.S.C.

14. "Station" means a warehouse located more than three miles from the central office of the warehouse or in a different city than the central office.

15. "Warehouseman's obligation" means a sufficient quantity and quality of grain or other products for which a warehouseman is licensed including company owned grain and grain of depositors as the warehouseman's records indicate. For an unlicensed warehouseman it means a sufficient quantity and quality to cover company owned and all deposits of grain for which actual payment has not been made. At no time may a warehouseman have less grain or other agricultural products in his the warehouse than his the obligations to depositors,

as determined by investigation of the warehouseman's records.

Sec. 2. Section five hundred forty-three point one (543.1), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. "Grain Standards Act" means the United States Grain Standards Act, as amended to and including January 1, 1977.

NEW SUBSECTION. "Official grain standards" means the standards of quality and condition of grain which establishes the grade, fixed and established by the secretary of agriculture under the Grain Standards Act.

NEW SUBSECTION. "Grain bank" means grain owned by a depositor and held temporarily by the warehouseman for use in the formulation of feed or to be processed and returned to the depositor on demand.

NEW SUBSECTION. "License" means a license issued under this chapter.

Sec. 3. Section five hundred forty-three point two (543.2), Code 1977, is amended to read as follows:

543.2 DUTIES AND POWERS OF THE COMMISSION. The commission is authorized to 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 may require the filing of reports describing any warehouse or the 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 to remain at the licensed warehouse and supervise all operations conducted thereat involving agricultural products stored 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 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 charges be less than the actual cost of such services rendered in regard thereto, as determined by the commission. The commission shall have authority to 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 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. ~~The commission may from time to time establish and publish standards for agricultural products by which quality or value of such products may be judged or determined.~~ 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 this chapter.

Sec. 4. Section five hundred forty-three point four (543.4), Code 1977, is amended to read as follows:

543.4 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY.

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 ~~and regulations~~ as may be made by the commission under the authority of section 543.3. 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 license to operate two or more warehouses located ~~in different cities~~ within a twenty-five mile radius of a central office may be issued ~~under a single application~~, but a separate fee shall be charged for each station. 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, the commission may allow asset valuations in accordance with a competent appraisal. Deferred pricing 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. In order to receive and retain a 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 five hundred forty-three point twelve (543.12) of the Code in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency.

Sec. 5. Section five hundred forty-three point five (543.5), subsection six (6), Code 1977, is amended to read as follows:

6. A complete financial statement for use of the commission in the administration of this chapter, as required by section five hundred forty-three point four (543.4) of the Code.

Sec. 6. Section five hundred forty-three point ten (543.10), Code 1977, is amended to read as follows:

543.10 SUSPENSION OR REVOCATION OF LICENSE. The

commission is empowered after hearing before it and upon information being filed with the commission by the duly authorized head of the warehouse division of the commission or upon complaint filed by any person to suspend or revoke the license of anyone licensed under this chapter for the violation of or failure to comply with the provisions of this chapter or any rule made in pursuance of the authority therefor granted under this chapter. An information or a verified complaint stating the grounds for suspension or revocation shall be filed with the commission in triplicate, and thereupon the commission shall serve the licensee complained against with a copy of the information or the complaint and a copy of the order of the commission fixing the time for hearing thereon, which time shall be at least twenty ten days from the date of service. ~~if the commission determines that the public good requires it, it may upon the filing of the information or the complaint and without hearing temporarily suspend a license pending the determination by it of the complaint--judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure Act:~~

If upon the filing of the information or complaint the commission finds that the licensee has failed to meet the warehouseman's obligation or otherwise has violated or failed to comply with the provisions of this chapter or any rule promulgated under this chapter, and if the commission finds that the public health, safety or welfare imperatively requires emergency action, then the commission without hearing may order a summary suspension of the license in the manner provided in section seventeen A point eighteen (17A.18) of the Code. When so ordered, a copy of the order of suspension shall be served upon the licensee at the time the information or complaint is served as provided in this section.

Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative

procedure Act.

Sec. 7. Section five hundred forty-three point eleven (543.11), Code 1977, is amended to read as follows:

543.11 SUSPENSION OR REVOCATION OF LICENSE FOR INSUFFICIENCY OF BOND OR INSURANCE. Whenever the commission shall determine that a bond filed under the provisions of section 543.12 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. If such additional insurance is not provided within five days after 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 days, the warehouse license shall be automatically revoked. If additional bond is not provided within thirty days after receiving notice by certified mail the warehouse license shall be suspended. If such additional bond is not filed within sixty days 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 his 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 receipt-holder person having grain in storage as provided in this section.

Whenever the commission shall receive notice from a surety

that it has canceled the bond of a warehouseman, the commission shall automatically suspend the warehouse license if a new bond is not received by the commission within thirty days of receipt of the notice of cancellation. The commission shall cause an inspection of the licensed warehouse immediately at the end of such thirty-day period. If a new bond is not received within sixty days of receipt of the notice of cancellation the commission shall revoke the warehouse license. The commission shall cause a further inspection of the licensed warehouse at the end of such sixty-day period. When a license is so revoked the commission shall give notice of such revocation to each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage. The commission shall further notify each receipt holder and all known persons who have grain retained in open storage that his the grain must be removed from the warehouse not later than the ninetieth day following receipt of notice of cancellation, by the commission. Such notice ~~to each receipt holder~~ shall be sent by ordinary mail to the last known address of each ~~receipt-holder~~ person having grain in storage as provided in this section. The commission shall cause a final inspection of the licensed warehouse immediately after the end of such ninety-day period.

Sec. 8. Section five hundred forty-three point fourteen (543.14), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

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 warehouseman and with the surety on the warehouse bond within one hundred twenty days after revocation, termination or cancellation. Failure to make a timely claim shall relieve the surety of all obligations to the claimant, however, this section shall not be construed to reduce the aggregate liability of the

surety to other claimants below the face amount of the bond then in effect. Upon revocation of a warehouse license, the commission shall cause notice of such revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. 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 warehouseman and the surety on the warehouse bond within one hundred twenty days after revocation. The provisions of this paragraph shall not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the commission prior to the expiration of one hundred twenty days after revocation, termination or cancellation of the license.

Sec. 9. Section five hundred forty-three point seventeen (543.17), Code 1977, 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 or all priced grain or warehouse 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 he the depositor does not desire a warehouse receipt or unless a deferred payment contract has been concluded pursuant to subsection 2. Any

~~deposit of grain for which the price has not been fixed and property documented within thirty days from delivery to the warehouse shall be deemed as storage.~~ The warehouseman's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.

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.

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 and ~~shall be covered by the warehouseman's bond within the provisions of this chapter.~~

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 ~~not~~ be deemed as to be warehouse owned grain.

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 ten thirty days from receipt of the grain, unless covered by deferred payment or deferred pricing contract, shall be construed to be grain held for 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 ten thirty days from date of actual deposit of the bulk grain.

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 on the tenth thirtieth day after deposit at not less than the local market price at the close of business on the tenth thirtieth day or return the grain to the depositor by the tenth thirtieth day.

3. Every licensed warehouseman shall, on or before July first 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. Violation of this section shall not constitute grounds for suspension, revocation, or modification of the license of anyone licensed under this chapter.

Sec. 10. Section five hundred forty-three point twenty-eight (543.28), unnumbered paragraphs two (2), three (3) and four (4), Code 1977, are amended to read as follows:

The minimum receiving or loadout charge for bulk grain shall be two cents per bushel. No receiving or loadout charge shall be made for products sold to the warehouseman whether such product has been in storage or not. The specific receiving or loadout charge herein provided shall not be mandatory as to grain received into grain elevators from railroad cars nor as to grain sold by a warehouseman and carried as storage for the purchaser. Minimum storage, receiving or loadout charges set forth in the Code or established by the commission shall not apply to grain stored with the warehouseman which is stored for the sole purpose of processing and redelivery to the original depositor. Drying shall not be considered as processing of grain.

The storage charges herein provided for shall commence on the date of receiving into the warehouse. Provided, however, that a storage, receiving or loadout charge other than that specified above may be made, if such charge is required by the terms of a written contract with the United States government, any of its subdivisions or agencies, providing copy of such contract is filed with the commission.

Rates for storage, conditioning of stored products and delivery receiving or loadout charges shall be just, reasonable, and nondiscriminatory, and every unjust, unreasonable, and discriminatory charge for such services or any part thereof and not in accordance with tariffs as herein provided, is prohibited and is hereby declared to be

unlawful.

Sec. 11. Section five hundred forty-three point thirty-seven (543.37), Code 1977, 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 shall cause a license to terminate. The annual fee shall become due on June 30 thirtieth each year. A warehouse license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, current financial statement, renewal fee and a penalty fee in the amount of ten 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. 12. Section five hundred forty-three point thirty-nine (543.39), unnumbered paragraph one (1), and subsections one (1) and four (4), Code 1977, are amended to read as follows:

A licensed warehouseman may store grain in any other licensed warehouse in Iowa in addition to his the warehouseman's own facilities, subject to the following conditions:

1. He The warehouseman must obtain from such warehouseman a nonnegotiable warehouse receipt and such receipt must show clearly the following notation: "Held in trust for depositors of" (customer's name and address name of original receiving warehouse).

4. A licensed warehouseman shall not accept grain for storage from another licensed warehouseman while he such warehouseman has grain stored elsewhere under the provisions of this section.

Sec. 13. Chapter five hundred forty-three (543), Code 1977, is amended by adding the following new section:

NEW SECTION. APPOINTMENT OF COMMISSION AS RECEIVER.

1. The commission in its discretion may, following summary suspension of a license under section five hundred forty-three point ten (543.10) of the Code, or following a suspension or revocation of a license as otherwise provided in section five hundred forty-three point ten (543.10) or five hundred forty-three point eleven (543.11) of the Code, file a verified petition in the district court requesting that the commission be appointed as a receiver to take custody of commodities stored in the licensee's warehouse and to provide for the disposition of those assets in the manner provided in this chapter and under the supervision of the court. The petition shall be filed in the county in which the warehouse is located. The district court shall appoint the commission as receiver. Upon the filing of the petition the court shall issue ex parte such temporary orders as may be necessary to preserve or protect the assets in receivership, or the value thereof, and the rights of depositors, until a plan of disposition is approved.

2. A petition filed by the commission under subsection one (1) of this section shall be accompanied by the commission's plan for disposition of stored commodities. The plan may provide for the pro rata delivery of part or all of the stored commodities to depositors holding warehouse receipts or unpriced scale weight tickets, or may provide for the sale under the supervision of the commission of part or all of the stored commodities for the benefit of those depositors, or may provide for any combination thereof, as the commission in its discretion determines to be necessary to minimize losses.

3. When a petition is filed by the commission under subsection one (1) of this section the clerk of court shall set a date for hearing on the commission's proposed plan of disposition at a time not less than ten nor more than fifteen days after the date the petition is filed. Copies of the

petition, the notice of hearing, and the commission's plan of disposition shall be served upon the licensee and upon the surety company issuing the licensee's bond in the manner required for service of an original notice. A delay in effecting service upon the licensee or surety shall not be cause for denying the appointment of a receiver and shall not be grounds for invalidating any action or proceeding in connection therewith.

4. The commission shall cause a copy of each of the documents served upon the licensee under subsection three (3) of this section to be mailed by ordinary mail to every person holding a warehouse receipt or unpriced scale weight ticket issued by the licensee, as determined by the records of the licensee or the records of the commission. The failure of any person referred to in this subsection to receive the required notification shall not invalidate the proceedings on the petition for the appointment of a receiver or any portion thereof. Persons referred to in this subsection are not parties to the action unless admitted by the court upon application therefor.

5. When appointed as a receiver under this chapter, the commission shall cause notification of the appointment to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location, and in a newspaper of general circulation in this state.

6. The commission may designate an employee of the commission to appear on behalf of the commission in any proceedings before the court with respect to the receivership, and to exercise the functions of the commission as receiver under this section and section fourteen (14) of this Act, except that the commission shall determine whether or not to petition for appointment as receiver, shall approve the proposed plan for disposition of stored commodities, shall approve the proposed plan for distribution of any cash

proceeds, and shall approve the proposed final report.

7. The actions of the commission in connection with petitioning for appointment as a receiver, and all actions pursuant to such appointment shall not be subject to the provisions of the administrative procedure Act.

Sec. 14. Chapter five hundred forty-three (543), Code 1977, is amended by adding the following new section:

NEW SECTION. POWERS AND DUTIES OF RECEIVER.

1. When the commission is appointed as receiver under this chapter the surety on the bond of the licensee shall be joined as a party defendant by the commission. If required by the court, the surety shall pay the bond proceeds or so much thereof as the court finds necessary into the court, and when so paid the surety shall be absolutely discharged from any further liability under the bond to the extent of the payment.

2. When appointed as receiver under this chapter the commission is authorized to give notice in the manner specified by the court to persons holding warehouse receipts or other evidence of deposit issued by the licensee to file their claims within one hundred twenty days after the date of appointment. Failure to timely file a claim shall defeat the claim with respect to the surety bond and any commodities or proceeds from the sale of commodities, except to the extent of any excess remaining after all timely filed claims are paid in full.

3. When the court approves the sale of commodities, the commission shall employ a merchandiser to effect the sale of those commodities. A person employed as a merchandiser must meet the following requirements:

a. The person shall be experienced or knowledgeable in the operation of warehouses licensed under this chapter; and if the person has ever held a license issued under this chapter, the person shall never have had that license suspended or revoked.

b. The person shall be experienced or knowledgeable in the marketing of agricultural products.

c. The person shall not be the holder of a warehouse receipt or scale weight ticket issued by the licensee, and shall not have a claim against the licensee whether as a secured or unsecured creditor, and otherwise shall not have any pecuniary interest in the licensee or the licensee's business. The merchandiser shall be entitled to reasonable compensation as determined by the commission, payable out of funds appropriated for operating expenses of the commission. A sale of commodities shall be made in a commercially reasonable manner and under the supervision of the warehouse division of the commission. The commission shall provide for the payment out of appropriations to the commission of all expenses incurred in handling and disposing of commodities. The commission shall have authority to sell the commodities, any provision of chapter five hundred fifty-four (554) of the Code to the contrary notwithstanding, and any commodities so sold shall be free of all liens and other encumbrances.

4. The plan of disposition, as approved by the court, shall provide for the distribution of the stored commodities, or the proceeds from the sale of commodities, or the proceeds from any insurance policy or surety bond, or any combination thereof, less expenses incurred by the commission in connection with the receivership, to depositors on a pro rata basis as their interests are determined. Distribution shall be without regard to any setoff, counterclaim, or storage lien or charge.

5. The commission may, with the approval of the court, continue the operation of all or any part of the business of the licensee on a temporary basis and take any other course of action or procedure which will serve the interests of the depositors.

6. The commission shall be entitled to reimbursement out of commodities or proceeds held in receivership for all expenses incurred as court costs or in handling and disposing

of stored commodities, and for all other costs directly attributable to the receivership. The right of reimbursement of the commission shall be prior to any claims against the commodities or proceeds of sales thereof, and shall constitute a claim against the surety bond of the licensee.

7. In the event the approved plan of disposition requires the sale of commodities, or the distribution of proceeds from the surety bond, or both, the commission shall submit to the court a proposed plan of distribution of those proceeds. Upon such notice and hearing as may be required by the court, the court shall accept or modify the proposed plan. When the plan is approved by the court and executed by the commission, the commission shall be discharged and the receivership terminated.

8. At the termination of the receivership the commission shall file a final report containing the details of its actions, together with such additional information as the court may require.

Sec. 15. Section five hundred forty-three point thirty-nine (543.39), Code 1977, is amended by striking subsection two (2).

Sec. 16. Section five hundred forty-three point twenty-two (543.22), Code 1977, is repealed.

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ARTHUR A. NEU  
President of the Senate

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DALE M. COCHRAN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 321, Sixty-seventh General Assembly.

Approved 6/23, 1978

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KEVIN P. LIGHT  
Acting Secretary of the Senate

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ROBERT D. RAY  
Governor