Chapter 587

1993 EDITION

Storage of Grain as Basis of Farm Credit

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587.010 Definitions. As used in this chapter, "department" means the State Department of Agriculture.

587.020 Purpose of chapter. The purpose and object of this chapter is to provide the owners of grain the means of warehousing or storing their grain on farms, on or near railroad rights of way and other suitable places under proper safeguards, as a basis of farm credit on the grain so stored.

587.030 Department to administer and enforce chapter. The department shall manage, control and direct the operations of the provisions of this chapter and has full power to make effective the provisions of this chapter and the rules and regulations which the department prescribes to carry out the purposes and objects of this chapter.

587.040 Powers of department. In addition to the general powers conferred by ORS 587.030 the department has the following express powers:

(1) To appoint inspectors of grain.

(2) To make and promulgate the necessary or desirable rules and regulations, not inconsistent with this chapter, to carry out effectually the purposes of this chapter; the department may consider applicable and necessary laws and regulations of the United States and this state, particularly ORS chapter 586.

(3) To set up the necessary procedures to make effective the provisions of this chapter, such as the purchase of supplies, printing, stationery and equipment, and the appointing of clerical help and assistance, all of which expense shall be audited and paid as a part of the general expense of the administration of this chapter.

(4) To require the owner of grain to obtain and maintain insurance in such type, amount and manner, including or covering such provisions or contingencies as the department believes are reasonably necessary to protect the people of this state, the grain industry and the persons who handle grain certificates. [Amended by 1959 c.201 §1]

587.050 Petition for services by department. Whenever 15 or more farmers operating farms tributary to any market center petition the department for services authorized by this chapter, the department forthwith shall provide for the method of inspection and certify all warehouse certificates for grain inspected. [Amended by 1959 c.201 §2]

587.060 [Repealed by 1959 c.201 §11]

587.070 [Repealed by 1959 c.201 §11]

587.080 [Repealed by 1959 c.201 §11]

587.090 Application for storage of grain. Any owner of grain desiring to store it shall make a written application to the department indicating where the grain is stored, the kind of structure in which stored and the encumbrance on the grain, if any. The application shall be signed and sworn to by the applicant. Whenever any grain is owned by more than one owner, the application shall be signed by all having an interest in the grain. In case such grain is mortgaged, the application for inspection shall be signed by the owner. The department in its discretion may require the mortgagee, mortgagor or any other person having an interest in the grain to sign applications or other documents required in carrying out this chapter. [Amended by 1959 c.201 §3]

587.100 Making inspections; inspection certificates; issuing warehouse certificates. (1) When application is made to the department for the inspection and sealing of grain, whether upon the farm or on or near any railroad right of way, or other suitable place, the department shall, as soon as it is possible so to do, inspect the grain. If the grain and the structure in which it is stored comply with this chapter and the regulations of the department, the department shall:

(a) Obtain the number and description of the bags of grain or measure and obtain the cubic feet content of the grain in the bin.

(b) Estimate the amount of grain in storage, sample the grain to secure an average sample, so as to obtain a required amount of grain to mix and divide into two samples.

(c) Number the bin and the samples to correspond, seal the bin with a seal provided by the department and place on the structure a printed copy of the penalty provided by ORS 587.990 (2) for the unlawful breaking of the seal.

(d) Forward to its laboratory one of the samples obtained from the bin, and obtain from the laboratory inspection certificates, in triplicate, which shall be dated, numbered and shall designate the owner's name, the number of the sample inspected, the kind of grain, and if mixed, the percentage of each kind, the dockage and, upon request, the moisture and protein content.

(2) As soon as inspection certificates are obtained, the department shall issue negotiable warehouse certificates in triplicate, attaching to each a copy of the inspection certificate. When approved by the department the certificates are deemed to be issued by the proper authority of the department. Any certificate issued for grain owned by more than one person, or mortgaged, shall be issued in the name of such persons, including the mortgagee.

(3) An authorized representative of the department may at any time enter upon the

premises where any grain is stored under this chapter for the purpose of making an inspection thereof, and the acceptance of the warehouse certificate by the owner is consent to such entry and inspection. [Amended by 1959 c.201 §4]

587.110 Form and contents of warehouse certificate; approval by department. The form of the warehouse certificate issued under this chapter shall be prepared and approved by the department. Every certificate must embody within its written or printed terms the following:

(1) The consecutive number of the certificate.

(2) The date of issuance of the certificate.

(3) A description of the structure in which the grain is stored and the legal description of the premises where stored.

(4) A description of the grain, giving its grade, kind, variety, dockage, the protein content and moisture content if requested, the number of bags, if any, the amount thereof to be computed from the number of bags or if in bulk the cubical measure thereof.

(5) The name of the owner or owners, whether ownership is sole, joint or in trust, and the conditions of such ownership, as shown by the application.

(6) A statement of any and all encumbrances upon the grain as reported in the application.

(7) A statement that the grain will be delivered at elevator or farm storage or on railroad after approved by the department; but it may be sold on track, to arrive or to be consigned at the option of the owner of the grain.

(8) The facsimile signature of the Director of Agriculture and the countersignature of the authorized representative of the department.

(9) Notation of inspection fee. [Amended by 1959 c.201 §5]

587.120 Certificates to be in triplicate; disposition of original and copies. All warehouse certificates issued under this chapter shall be in triplicate. The original shall be delivered to the owner, one copy shall be retained by the department and the other copy shall be filed in the office of the county clerk of the county in which the grain is stored. Both copies of the certificate shall have plainly printed and stamped across the face thereof "Duplicate—No Value." [Amended by 1959 c.201 §6]

587.130 Filing and recording certificates. The department shall file in the office of the county clerk of the county wherein the grain is stored a copy of the warehouse certificate. The certificate shall be indexed under chattel mortgages. The filing fee shall be paid by the department and charged to the general expense of the administration of this chapter. The filing is notice that the grain described therein is pledged to the redemption of an outstanding negotiable warehouse certificate. [Amended by 1959 c.201 §7]

587.140 Care by owner of stored grain; delivery to certificate holder; sale by owner. The owner of grain stored under this chapter is charged with the due care of the grain and shall exercise that degree of care and diligence which an ordinary and prudent person would exercise with regard to similar property of the person's own. The owner shall also, upon demand of the holder of the certificate and with the approval of the department, deliver the grain to the market place indicated in the application without charge to the holder. No legal demand for the delivery of the grain can be made, however, upon the owner until the maturity of the obligation for which the certificate is pledged, or until the security becomes in any way impaired; but the owner of the grain in the discretion of the owner with the approval of the department may sell the grain prior to the maturity of the obligation of the owner under the certificate. [Amended by 1959 c.201 §8]

587.150 Locking and sealing storage facilities; bond as waiver of. The locking up and sealing of any storage facility acceptable to the department hereby is waived, if and when the applicant has filed a warehouseman's bond, as a guaranty to the carrying out of the provisions of this chapter. Such bond shall be passed on and approved by the department.

587.160 Determination of amount of grain; warehouse certificate as evidence; owner liable for actual amount. Whenever the amount of grain certified to on the warehouse certificate has been computed by cubic measurements or by number of bags, the amount shall be deemed to be prima facie the amount of the grain, but the actual amount shall be determined by the actual weight thereof. The owner, however, is responsible and liable to the holder of the certificate, for the delivery of the amount of grain indicated on the certificate by actual weight, or the value of any shortage thereof.

587.170 [Repealed by 1959 c.201 §11]

587.180 [Repealed by 1959 c.201 §11]

587.190 Expenses of administering chapter; disposition of inspection fees; continuing appropriation. The expenses of the administration of this chapter shall be paid by the owners of the grain, and the fee collected at the time of inspecting and seal-

ing. The amount so paid shall be stated in the certificate. The fee for the inspection shall be established by the department on the basis of a fee for each bushel of grain stored in an amount that will reasonably reimburse the department for its costs in carrying out this chapter. The department may also make a charge for travel, overtime or other necessary expenses. All such fees shall be paid to the department and deposited with the State Treasurer in the General Fund to the credit of the Department of Agriculture Account and are continuously appropriated to carrying out this chapter. [Amended by 1959 c.201 §9]

587.990 Penalties. (1) Any person who states in the application provided for in ORS 587.090 any material fact known to be false and for the purpose of misleading the department is guilty of a misdemeanor.

(2) Any person who, with the intent to defraud, breaks the seal of any structure in which grain is stored under this chapter is guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than two years. [Amended by 1959 c.201 §10]

CHAPTERS 588 TO 595

[Reserved for expansion]