

FEB 22 2000

Agriculture

HOUSE FILE 2381

BY HOUSER, BAUDLER, BARRY,

BOGGESS, DRAKE, and HORBACH

2/22/00 Sponsor added Weidman

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to contracts involving agricultural producers and
2 providing for civil remedies.

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

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HF 2381

1 Section 1. Section 202.1, Code Supplement 1999, is amended
2 by adding the following new subsections:

3 NEW SUBSECTION. 1A. "Agricultural producer" means a
4 person who produces a commodity, including but not limited to
5 a contract producer.

6 NEW SUBSECTION. 1B. "Capital investment" means an
7 investment in any the following:

8 a. Farmland.

9 b. A structure, such as a building or manure storage
10 structure as defined in section 455B.161 associated with
11 producing a commodity.

12 c. Machinery or equipment associated with producing a
13 commodity which has a useful life in excess of one year.

14 NEW SUBSECTION. 2A. "Contract" means an oral or written
15 agreement, including but not limited to a production contract.

16 NEW SUBSECTION. 3A. "Contract input" means a commodity or
17 an organic or synthetic substance or compound that is used to
18 produce a commodity including but not limited to any of the
19 following:

20 a. Livestock or plants.

21 b. Agricultural seed as regulated pursuant to chapter 199.

22 c. Semen or eggs for breeding livestock.

23 d. A fertilizer as regulated pursuant to chapter 200 or
24 pesticide as regulated pursuant to chapter 206.

25 NEW SUBSECTION. 8A. "Entity" includes a corporation,
26 cooperative association, limited liability company,
27 partnership, limited partnership, or limited liability
28 partnership. It also includes a business trust,
29 unincorporated association, or any other domestic or foreign
30 entity organized under law and formed on a profit or nonprofit
31 basis. An entity does not include a natural person or
32 governmental body.

33 NEW SUBSECTION. 8B. "Equity interest" means a voting
34 interest in an entity which includes any of the following:

35 a. The issued shares in a corporation or cooperative

1 association, including common stock or preferred stock,
2 regardless of a right to receive dividends or earning
3 distributions. A security such as a warrant or option that
4 may be converted to voting stock shall be considered as issued
5 shares.

6 b. The membership interests held in a limited liability
7 company.

8 c. The partnership interests in a partnership, limited
9 partnership, or limited liability partnership.

10 NEW SUBSECTION. 9A. "Investment requirements" means
11 provisions in a contract which require the contract producer
12 to make capital investments associated with producing a
13 commodity subject to a production contract. The provisions
14 may be included as part of one or more contracts, and may be
15 included as part of a production contract.

16 NEW SUBSECTION. 11A. "Parent entity" means an entity that
17 controls a subsidiary entity as evidenced by the entity's
18 ownership of a majority of the equity interest in the
19 subsidiary entity.

20 NEW SUBSECTION. 15. "Subsidiary entity" means an entity
21 that is controlled by a parent entity as evidenced by the
22 parent entity's ownership of a majority of the equity interest
23 in the entity.

24 Sec. 2. Section 202.1, subsections 6 and 14, Code
25 Supplement 1999, are amended to read as follows:

26 6. "Contract producer" means ~~a person~~ an agricultural
27 producer who holds a legal interest in a contract operation
28 and who produces a commodity at the contract producer's
29 contract operation under a production contract executed
30 pursuant to section 202.2.

31 14. "Production contract" means ~~an oral or written~~
32 agreement a contract executed pursuant to section 202.2 that
33 provides for the production of a commodity or the provision of
34 management services relating to the production of a commodity
35 by a contract producer.

1 Sec. 3. NEW SECTION. 202.2A IMPLIED PROMISE OF GOOD
2 FAITH.

3 A production contract entered into subject to this chapter
4 imposes an obligation of good faith as defined in section
5 554.1201, on all parties with respect to the performance and
6 enforcement of the production contract.

7 Sec. 4. NEW SECTION. 202.3A CONTRACTS INVOLVING
8 INVESTMENT REQUIREMENTS.

9 This section governs a production contract executed by a
10 contract producer and a contractor, if the contract producer
11 must make capital investments of twenty-five thousand dollars
12 or more according to investment requirements provided in all
13 production contracts in which the contract producer and the
14 contractor are parties. The value of the capital investments
15 shall be deemed to be the total dollar amount spent by the
16 contract producer in satisfying the investment requirements,
17 if that amount is ascertainable.

18 1. Unless a contractor terminates a production contract
19 without notice and remedy as authorized in subsection 2, the
20 contractor shall not terminate a production contract until the
21 contractor complies and provides notice and remedy to the
22 contract producer and otherwise complies with this subsection.
23 The notice shall be printed in at least twelve point type and
24 delivered to the contract producer by restricted certified
25 mail. In addition, the following shall apply:

26 a. If the contractor is not claiming a breach of contract,
27 including a breach based on the failure to comply with
28 investment requirements, all of the following apply:

29 (1) The contractor must provide a notice of termination to
30 the contract producer at least one hundred eighty days prior
31 to the effective date of the termination.

32 (2) The contractor must pay the contract producer for the
33 amount of damages incurred by the contract producer, including
34 but not limited to the cost of the required capital
35 investments made by the contract producer.

1 b. If the contractor is claiming a breach of contract,
2 including a breach based on the failure to comply with
3 investment requirements, all of the following apply:

4 (1) The contractor must provide notice of the termination
5 to the contract producer at least ninety days prior to the
6 effective date of the termination. The notice must provide a
7 list of complaints alleging causes for the breach.

8 (2) The contract producer must fail to remedy each cause
9 of the breach as alleged in the list of complaints provided in
10 the notice of termination within sixty days following receipt
11 of the termination notice. An effort by a contract producer
12 to remedy a cause of an alleged breach shall not be construed
13 as an admission of a breach in a civil cause of action.

14 2. A contractor may terminate a contract without notice or
15 remedy if the basis for the termination is any of the
16 following:

17 a. A voluntary abandonment of the contractual relationship
18 by the contract producer. A complete failure of a contract
19 producer's performance under a contract shall be deemed to be
20 abandonment.

21 b. The conviction of a contract producer of an offense of
22 fraud or theft committed against the contractor.

23 Sec. 5. NEW SECTION. 202.3B UNFAIR INFLUENCE PROHIBITED.

24 1. As used in this section, "unfair influence" means to
25 influence a contract producer to do any of the following:

26 a. Alter associations or affiliations which provide that a
27 contract producer must do any of the following:

28 (1) Associate or refrain from associating with
29 agricultural producers.

30 (2) Affiliate with, refrain from affiliating with, or quit
31 an affiliation with an organization representing agricultural
32 producers.

33 b. Alter the manner in which the contract producer uses
34 liens provided in chapter 579A or 579B, including but not
35 limited to any of the following:

1 (1) Refraining from filing, continuing, or terminating
2 such lien.

3 (2) Refraining from enforcing such lien.

4 c. Alter the manner in which the contract producer may
5 utilize the contract producer's rights and protections as
6 provided in 1999 Iowa Acts, chapter 88, or this chapter.

7 2. A contractor, or its employees or agents, shall not
8 unfairly influence or attempt to unfairly influence a contract
9 producer or conspire, agree, or arrange with another person to
10 unfairly influence another person to take an action which
11 affects any of the following:

12 a. The execution, termination, extension, or renewal of a
13 production contract.

14 b. The treatment of a contract producer, which may include
15 providing discriminatory or preferential terms in a production
16 contract or interpreting terms of an existing production
17 contract in a discriminatory or preferential manner. The
18 terms may relate to the price paid for a commodity; the
19 quality or quantity of a commodity demanded; or financing,
20 including investment requirements.

21 c. The grant of a reward or imposition of a penalty,
22 including the denial of a reward. The reward or penalty may
23 be in any form, including but not limited to financial rewards
24 or penalties. Financial rewards or penalties may relate to
25 loans, bonuses, or inducements.

26 d. Alter the quality, quantity, or delivery times of
27 contract inputs provided to the contract producer.

28 3. A contractor shall not unfairly influence a contract
29 producer by providing false information to the contract
30 producer, which may include false information relating to any
31 of the following:

32 a. An agricultural producer with whom the contract
33 producer associates or an agricultural organization with which
34 the contract producer is affiliated, including but not limited
35 to any of the following:

1 (1) The character of the agricultural producer.

2 (2) The condition of the finances or the management of the
3 agricultural organization.

4 b. The legal requirements or effect of filing or
5 terminating a lien as provided in chapter 579A or 579B.

6 c. The rights and protections provided under 1999 Iowa
7 Acts, chapter 88, or this chapter.

8 Sec. 6. NEW SECTION. 202.3C PARENTAL AND SUBSIDIARY
9 ENTITIES -- LIABILITY.

10 If a contractor is a subsidiary entity, and fails to
11 perform according to the terms of a production contract, the
12 parent entity shall be liable to the contract producer to
13 perform under the production contract as if the parent entity
14 were the subsidiary entity. The parent entity shall
15 immediately pay the contract producer amounts necessary in
16 order to preserve the commodities produced under the
17 production contract, if commodities being produced under the
18 production contract may perish because of the subsidiary
19 entity's nonperformance.

20 Sec. 7. NEW SECTION. 202.3D CIVIL ACTIONS.

21 A contract producer who suffers damages because of a
22 contractor's violation of this chapter may obtain appropriate
23 legal and equitable relief, including damages, as a suit in
24 common law pursuant to Iowa rules of civil procedure.

25 1. In such a civil action against the contractor, the
26 court shall award the contract producer who is the prevailing
27 party reasonable attorney fees and other litigation expenses.

28 2. In order to obtain injunctive relief, the contract
29 producer is not required to post a bond, prove the absence of
30 an adequate remedy at law, or show the existence of special
31 circumstances, unless the court for good cause otherwise
32 orders. The court may order any form of prohibitory or
33 mandatory relief that is appropriate under principles of
34 equity, including but not limited to issuing a temporary or
35 permanent restraining order.

1 delivered to the contract producer, informing the contract
2 producer of a termination, and providing damages. If the
3 termination is due to an alleged breach by the contract
4 producer, the contractor must provide an opportunity for the
5 contract producer to cure the breach.

6 The bill prohibits a contractor from using unfair influence
7 to alter associations or affiliations of a contract producer,
8 alter the manner in which the contract producer uses liens
9 provided in Code chapter 579A or 579B, or alter the manner in
10 which the contract producer may utilize the contract
11 producer's rights and protections as provided in 1999 Iowa
12 Acts, chapter 88, or Code chapter 202. The bill prohibits a
13 contractor from providing false information to a contract
14 producer.

15 The bill provides that if a contractor is a subsidiary of a
16 another corporation or entity, and fails to perform according
17 to the terms of a production contract, the parent entity is
18 liable to the contract producer to perform under the
19 production contract.

20 The bill provides that a contract producer, who suffers
21 damages because of a contractor's violation of Code chapter
22 202, may obtain appropriate legal and equitable relief,
23 including damages, as a suit in common law pursuant to Iowa
24 rules of civil procedure. The bill provides that the court
25 shall award the contract producer who is the prevailing party
26 reasonable attorney fees and other litigation expenses.

27 The bill provides that any waiver of a right created by
28 Code chapter 202 is void and unenforceable.

29 The bill authorizes the attorney general to adopt rules as
30 necessary in order to administer and enforce Code chapter 202.

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