

Leig, Ch.
Klemme
Mundie

HSB 16
Agriculture

Succeeded By

SF/HF 32

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON KLEMME)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to liens arising out of contracts involving the
2 care and feeding of livestock, and providing an effective
3 date.

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

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Enacted by
4/1/78

1 Section 579A.1, Code 1999, is amended to read
2 as follows:

3 579A.1 DEFINITIONS.

4 As used in this chapter, unless the context otherwise
5 requires:

6 ~~1. "Cattle" means an animal classified as bovine,~~
7 ~~regardless of the age or sex of the animal.~~

8 2. 1. "Custom-cattle-feedlot" "Contract feeding facility"
9 means a feedlot an animal feeding operation as defined in
10 section 455B.161, including a confinement feeding operation or
11 open feedlot, where cattle livestock owned by a person are is
12 subject to care and feeding performed by another person.

13 3. 2. "Custom-cattle-feedlot-operator" "Contract feeding
14 facility operator" means the owner of a custom-cattle-feedlot
15 or a person managing the custom-cattle-feedlot, if the person
16 is authorized by the owner to file and enforce a lien under
17 this chapter contract feeding facility or the owner's personal
18 representative.

19 3. "Livestock" means an animal classified as cattle,
20 swine, or poultry, regardless of the age or sex of the animal.

21 4. ~~"Feedlot" means the same as defined in section 172B:1.~~
22 "Personal representative" means a person who is authorized by
23 the owner of the contract feeding facility to act on behalf of
24 the owner, including by executing production contracts or
25 filing and enforcing liens under this chapter.

26 5. "Processor" means the same as defined in section 9H.1.

27 6. "Production contract" means an agreement which provides
28 that a contract feeding facility operator is required to
29 receive payment for feed or services relating to the care and
30 feeding of livestock owned by another person during the period
31 when the livestock is kept at the contract feeding facility.

32 Sec. 2. Section 579A.2, Code 1999, is amended to read as
33 follows:

34 579A.2 ESTABLISHMENT OF LIEN -- PRIORITY.

35 1. A custom-cattle-feedlot contract feeding facility

1 operator who is a party to a production contract shall have a
2 lien upon the cattle livestock and the identifiable cash
3 proceeds from the sale of the cattle livestock for the amount
4 of-the owed to the contract feeding facility operator pursuant
5 to the terms of the production contract price-for-the-feed-and
6 care-of-the-livestock-at-the-custom-cattle-feedlot-agreed-upon
7 by-the-custom-cattle-feedlot-operator-and-the-person-who-owns
8 the-cattle, which may be enforced as provided in section
9 579A.3.

10 2. The lien is created at the time the cattle-arrive
11 livestock arrives at the custom-cattle-feedlot contract
12 feeding facility and continues for one year after the cattle
13 have-left the custom-cattle-feedlot livestock leaves the
14 contract feeding facility. In order to preserve the lien, the
15 custom-cattle-feedlot contract feeding facility operator must,
16 within twenty days after the cattle-arrive livestock arrives
17 at the custom-cattle-feedlot contract feeding facility, file
18 in the office of the secretary of state, a lien statement on a
19 form prescribed by the secretary of state. The secretary of
20 state shall charge a fee of not more than ten dollars for
21 filing the statement. The secretary of state may adopt rules
22 pursuant to chapter 17A for the electronic filing of the
23 statements. The statement must include all of the following:

24 a. An estimate of the amount of-feed-and-care-provided-to
25 the-cattle owed pursuant to the production contract.

26 b. The estimated duration of the period when the cattle
27 livestock located at the contract feeding facility are subject
28 to feed-and-care-at-the-custom-cattle-feedlot the production
29 contract.

30 c. The name of the party to the production contract whose
31 cattle-are-subject-to-feed-and-care-at-the-custom-cattle
32 feedlot livestock is located at the contract feeding facility
33 pursuant to the production contract.

34 d. The description of the location of the custom-cattle
35 feedlot contract feeding facility, by county and township.

1 e. The printed name and signature of the person filing the
2 form.

3 3. Except as provided in chapter 581, a lien created under
4 this section until preserved and a lien preserved under this
5 section is superior to and shall have priority over a
6 conflicting lien or security interest in the cattle livestock,
7 including a lien that was perfected prior to the creation of
8 the lien provided under this section.

9 Sec. 3. Section 579A.3, Code 1999, is amended to read as
10 follows:

11 579A.3 ENFORCEMENT.

12 While the ~~cattle-are~~ livestock is located at the custom
13 ~~cattle-feedlot~~ contract feeding facility, the custom-cattle
14 ~~feedlot~~ contract feeding facility operator may foreclose a
15 lien created in section 579A.2 in the manner provided for the
16 foreclosure of secured transactions as provided in sections
17 554.9504, 554.9506, and 554.9507. After the ~~cattle-have-left~~
18 livestock leaves the ~~custom-cattle-feedlot,-the-custom-cattle~~
19 ~~feedlot-operator~~ contract feeding facility, the contract
20 feeding facility operator may enforce the lien by commencing
21 an action at law for the amount of the lien against either of
22 the following:

23 1. The holder of the identifiable cash proceeds from the
24 sale of the cattle livestock.

25 2. The processor who has purchased the cattle livestock
26 within three days after the ~~cattle-have-left~~ livestock leaves
27 the custom cattle feedlot.

28 Sec. 4. NEW SECTION. 579A.4 WAIVERS UNENFORCEABLE.

29 A waiver of a right created by this chapter, including but
30 not limited to a waiver of the right to file a lien pursuant
31 to this chapter, is void and unenforceable.

32 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
33 immediate importance, takes effect upon enactment.

34 EXPLANATION

35 This bill amends Code chapter 579 which provides that a

1 custom cattle feedlot operator has a lien upon bovine and
 2 identifiable cash proceeds from the sale of the bovine for the
 3 amount owed under the terms of the contract. The bill changes
 4 the names of terms referred to in the chapter. The term
 5 "custom cattle feedlot" is changed to "contract feeding
 6 facility" and the term "custom cattle feedlot operator" is
 7 changed to "contract feeding facility operator". The bill
 8 provides that the lien applies to contracts involving the care
 9 and feeding of cattle, swine, and poultry. The procedures for
 10 filing and enforcing the lien remain substantially the same.
 11 The bill does provide that a waiver of a right created under
 12 the chapter's provisions is void and unenforceable.

13 The bill takes effect upon enactment.

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REPRINTED

FEB 18 1999

Place On Calendar

HOUSE FILE

322

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 16)

Passed House, Date ^(P. 838) 3/24/99

Passed Senate, Date ^(P. 1258) 4/22/99

Vote: Ayes 94 Nays 0

Vote: Ayes 47 Nays 0

Approved _____

A BILL FOR

1 An Act relating to liens arising out of contracts involving the
2 care and feeding of livestock, and providing an effective
3 date.

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

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HF 322

1 Section 1. Section 579A.1, Code 1999, is amended to read
2 as follows:

3 579A.1 DEFINITIONS.

4 As used in this chapter, unless the context otherwise
5 requires:

6 ~~1. "Cattle" means an animal classified as bovine,~~
7 ~~regardless of the age or sex of the animal.~~

8 2. 1. "Custom-cattle-feedlot" "Contract feeding facility"
9 means a feedlot an animal feeding operation as defined in
10 section 455B.161, including a confinement feeding operation or
11 open feedlot, where cattle livestock owned by a person are is
12 subject to care and feeding performed by another person.

13 3. 2. "Custom-cattle-feedlot-operator" "Contract feeding
14 facility operator" means the owner of a custom-cattle-feedlot
15 or a person managing the custom-cattle-feedlot, if the person
16 is authorized by the owner to file and enforce a lien under
17 this chapter contract feeding facility or the owner's personal
18 representative.

19 3. "Livestock" means an animal classified as cattle,
20 swine, sheep, or poultry, regardless of the age or sex of the
21 animal.

22 4. "Feedlot" means the same as defined in section 172B-1.
23 "Personal representative" means a person who is authorized by
24 the owner of the contract feeding facility to act on behalf of
25 the owner, including by executing production contracts,
26 managing the contract feeding facility, or filing and
27 enforcing liens under this chapter.

28 5. "Processor" means the same as defined in section 9H.1.

29 6. "Production contract" means an oral or written
30 agreement which provides that a contract feeding facility
31 operator is to receive payment for feed or services relating
32 to the care and feeding of livestock owned by another person
33 during the period when the livestock is kept at the contract
34 feeding facility.

35 Sec. 2. Section 579A.2, Code 1999, is amended to read as

1 follows:

2 579A.2 ESTABLISHMENT OF LIEN -- PRIORITY.

3 1. A custom-cattle-feedlot contract feeding facility
4 operator who is a party to a production contract shall have a
5 lien upon the cattle livestock and the identifiable cash
6 proceeds from the sale of the cattle livestock for the amount
7 of-the owed to the contract feeding facility operator pursuant
8 to the terms of the production contract price-for-the-feed-and
9 care-of-the-livestock-at-the-custom-cattle-feedlot-agreed-upon
10 by-the-custom-cattle-feedlot-operator-and-the-person-who-owns
11 the-cattle, which may be enforced as provided in section
12 579A.3.

13 2. The lien is created at the time the cattle-arrive
14 livestock arrives at the custom-cattle-feedlot contract
15 feeding facility and continues for one year after the-cattle
16 have-left the custom-cattle-feedlot livestock leaves the
17 contract feeding facility. In order to preserve the lien, the
18 custom-cattle-feedlot contract feeding facility operator must,
19 within twenty days after the cattle-arrive livestock arrives
20 at the custom-cattle-feedlot contract feeding facility, file
21 in the office of the secretary of state, a lien statement on a
22 form prescribed by the secretary of state. The secretary of
23 state shall charge a fee of not more than ten dollars for
24 filing the statement. The secretary of state may adopt rules
25 pursuant to chapter 17A for the electronic filing of the
26 statements. The statement must include all of the following:
27 a. An estimate of the amount of-feed-and-care-provided-to
28 the-cattle owed pursuant to the production contract.
29 b. The estimated duration of the period when the cattle
30 livestock located at the contract feeding facility are subject
31 to feed-and-care-at-the-custom-cattle-feedlot the production
32 contract.

33 c. The name of the party to the production contract whose
34 cattle-are-subject-to-feed-and-care-at-the-custom-cattle
35 feedlot livestock is located at the contract feeding facility

1 pursuant to the production contract.

2 d. The description of the location of the custom-cattle
3 feedlot contract feeding facility, by county and township.

4 e. The printed name and signature of the person filing the
5 form.

6 3. Except as provided in chapter 581, a lien created under
7 this section until preserved and a lien preserved under this
8 section is superior to and shall have priority over a
9 conflicting lien or security interest in the cattle livestock,
10 including a lien or security interest that was perfected prior
11 to the creation of the lien provided under this section.

12 Sec. 3. Section 579A.3, Code 1999, is amended to read as
13 follows:

14 579A.3 ENFORCEMENT.

15 While the cattle-are livestock is located at the custom
16 cattle-feedlot contract feeding facility, the custom-cattle
17 feedlot contract feeding facility operator may foreclose a
18 lien created in section 579A.2 in the manner provided for the
19 foreclosure of secured transactions as provided in sections
20 554.9504, 554.9506, and 554.9507. After the cattle-have-left
21 livestock leaves the custom-cattle-feedlot,--the-custom-cattle
22 feedlot-operator contract feeding facility, the contract
23 feeding facility operator may enforce the lien by commencing
24 an action at law for the amount of the lien against either of
25 the following:

26 1. The holder of the identifiable cash proceeds from the
27 sale of the cattle livestock.

28 2. The processor who has purchased the cattle livestock
29 within three days after the cattle-have-left livestock leaves
30 the custom-cattle-feedlot contract feeding facility.

31 Sec. 4. NEW SECTION. 579A.4 WAIVERS UNENFORCEABLE.

32 A waiver of a right created by this chapter, including but
33 not limited to a waiver of the right to file a lien pursuant
34 to this chapter, is void and unenforceable.

35 Sec. 5. EFFECTIVE DATE. This Act, being deemed of

1 immediate importance, takes effect upon enactment.

2 EXPLANATION

3 This bill amends Code chapter 579 which provides that a
 4 custom cattle feedlot operator has a lien upon bovine and
 5 identifiable cash proceeds from the sale of the bovine for the
 6 amount owed under the terms of the contract. The bill changes
 7 the names of terms referred to in the chapter. The term
 8 "custom cattle feedlot" is changed to "contract feeding
 9 facility" and the term "custom cattle feedlot operator" is
 10 changed to "contract feeding facility operator". The bill
 11 provides that the lien applies to contracts involving the care
 12 and feeding of cattle, swine, sheep, and poultry. The
 13 procedures for filing and enforcing the lien remain
 14 substantially the same. The bill does provide that a waiver
 15 of a right created under the chapter's provisions is void and
 16 unenforceable.

17 The bill takes effect upon enactment.

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HOUSE FILE 322

1100

1 Amend House File 322 as follows:

2 1. Page 1, by inserting after line 34 the
3 following:

4 "Sec. ____ . NEW SECTION. 579A.1A PRODUCTION
5 CONTRACTS.

6 All of the following shall apply to a production
7 contract, including a production contract that creates
8 a lien under section 579A.2:

9 1. A provision in the production contract is void
10 if the provision requires that information contained
11 in the contract, including terms or conditions of the
12 contract, be confidential. This subsection does not
13 affect other provisions of the contract which can be
14 given effect without the voided provision.

15 2. a. The secretary of state, in cooperation with
16 the attorney general, shall establish a system for the
17 submission of information contained in production
18 contracts to the secretary of state by the owner of
19 the livestock. The livestock owner who is a party to
20 the production contract shall submit the contract
21 information to the secretary of state according to
22 rules adopted by the secretary of state in
23 consultation with the attorney general. The secretary
24 of state may require that the contract information be
25 submitted in an electronic format according to
26 procedures required by the secretary of state. The
27 secretary of state shall provide for the routine
28 dissemination of the contract information for public
29 examination. However, the secretary of state, in
30 cooperation with the attorney general, may designate
31 some contract information as a confidential record as
32 provided in section 22.7, including information that
33 identifies the names of contract feeding facility
34 operators, if the release of the information would
35 serve no public purpose.

36 b. The attorney general shall have access to all
37 contract information required to be submitted to the
38 secretary of state. The attorney general may provide
39 an analysis of contract information in order to assist
40 contract feeding facility operators negotiating
41 production contracts. The attorney general shall
42 assist any committee of the general assembly studying
43 the effects of livestock contracting practices.

44 3. The secretary of state, in consultation with
45 the attorney general, may provide by rule that the
46 requirements of subsection 2 do not apply to a
47 production contract, under any of the following
48 circumstances:

49 a. Consideration owed to the contract feeding
50 facility operator under all production contracts

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1 executed by the contract feeding facility operator and
2 the owner of the livestock during any twelve-month
3 period is less than three thousand dollars.

4 b. The contract feeding facility operator is
5 related to the livestock owner as a spouse, parent,
6 grandparent, lineal ascendant of a grandparent or
7 spouse, or other lineal descendant of a grandparent or
8 spouse.

9 c. The livestock owner owns a legal interest in
10 the contract feeding facility.

11 d. The contract feeding facility operator and the
12 livestock owner are part of the same family farm
13 entity as defined in section 10.1.

14 e. The livestock is used for breeding.

15 f. The livestock is used exclusively for
16 research."

17 2. Page 3, line 15, by inserting before the word
18 "While" the following: "1."

19 3. Page 3, line 26, by striking the figure "1."
20 and inserting the following: "1- a."

21 4. Page 3, line 28, by striking the figure "2."
22 and inserting the following: "2- b."

23 5. Page 3, by inserting after line 30 the
24 following:

25 "2. The attorney general's office is the primary
26 agency responsible for enforcing this chapter. The
27 secretary of state shall notify the attorney general
28 if the department has reason to believe a violation of
29 section 597A.1A has occurred.

30 3. The attorney general shall institute legal
31 action to enforce the provisions of section 579A.1A,
32 including by seeking any of the following:

33 a. The assessment and collection of civil
34 penalties.

35 b. Injunctions brought on behalf of the state to
36 require compliance with this section 579A.1A.

37 4. A livestock owner who includes information in a
38 production contract in violation of section 579A.1A is
39 guilty of a fraudulent practice as provided in section
40 714.8.

41 5. A livestock owner failing to submit contract
42 information as required by section 579A.1 is subject
43 to a civil penalty not to exceed one thousand dollars
44 for each day that timely or complete contract
45 information is not submitted."

46 6. Page 3, by inserting after line 34 the
47 following:

48 "Sec. ____ . Section 714.8, Code 1999, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 17. A livestock owner who

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Page 3

1 includes a confidentiality provision in a production
2 contract in violation of section 579A.1A."

By FREVERT of Palo Alto
SCHRADER of Marion
SHOULTZ of Black Hawk
SCHERRMAN of Dubuque
DREES of Carroll
WEIGEL of Chickasaw
MURPHY of Dubuque

MUNDIE of Webster
MAY of Worth
FALCK of Fayette
MERTZ of Kossuth
KUHN of Floyd
PARMENTER of Story
THOMAS of Clayton

H-1100 FILED MARCH 16, 1999

out of order
3/24/99
(p 837)

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1 Amend House File 322 as follows:
 2 1. By striking everything after the enacting
 3 clause, and inserting the following:
 4 "Section 1. NEW SECTION. 172C.1 DEFINITIONS.
 5 As used in this chapter, unless the context
 6 otherwise requires:
 7 1. "Contract livestock facility" means an animal
 8 feeding operation as defined in section 455B.161,
 9 where livestock owned by a contractor is produced by a
 10 contract producer who owns the animal feeding
 11 operation. "Contract livestock facility" includes a
 12 confinement feeding operation as defined in section
 13 455B.161. However, a contract livestock facility does
 14 not include a custom cattle feedlot as defined in
 15 section 579A.1.
 16 2. "Contract producer" means the owner of a
 17 contract livestock facility who is paid by a
 18 contractor for producing livestock owned by the
 19 contractor at the contract livestock facility.
 20 3. "Contractor" means a person who owns livestock
 21 and pays a contract producer for producing the
 22 livestock at a contract livestock facility owned by
 23 the contract producer.
 24 4. "Livestock" means beef cattle, dairy cattle,
 25 sheep, or swine.
 26 5. "Processor" means a person engaged in the
 27 business of manufacturing goods from livestock,
 28 including a person who is required to be licensed as a
 29 dealer or broker as provided in chapter 172A.
 30 6. "Produce" means to provide feed or services
 31 relating to the care and feeding of livestock. If the
 32 livestock is dairy cattle, "produce" includes milking
 33 the dairy cattle.
 34 7. "Production contract" means an oral or written
 35 agreement executed by a contract producer and a
 36 contractor who provides that a contract producer is to
 37 receive payment for producing livestock owned by the
 38 contractor at the contract producer's contract
 39 livestock facility.
 40 Sec. 2. NEW SECTION. 172C.2 PRODUCTION CONTRACTS
 41 -- CONFIDENTIALITY PROHIBITED.
 42 A provision which is part of a production contract
 43 is void, if the provision states that information
 44 contained in the production contract is confidential.
 45 The provision is void regardless of whether the
 46 confidentiality provision is express or implied; oral
 47 or written; required or conditional; contained in the
 48 production contract, another production contract, or
 49 in a related document, policy, or agreement. This
 50 section does not affect other provisions of a

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Page 2

1 production contract or a related document, policy, or
2 agreement which can be given effect without the voided
3 provision. This section does not require either party
4 to a production contract to divulge the information in
5 the production contract to another person.

6 Sec. 3. NEW SECTION. 172C.3 PRODUCTION CONTRACTS
7 REQUIRED TO BE FILED.

8 1. As used in this section, all of the following
9 apply:

10 a. A production contract is advertised if it is
11 presented or delivered to a contract producer,
12 regardless of whether it is part of an offer. A
13 production contract is executed if it is signed by the
14 contractor and contract producer or authorized
15 representatives and is still in force.

16 b. A production contract is advertised or executed
17 regardless of whether it is a new production contract
18 or the renewal or extension of a previous production
19 contract.

20 2. On or before March 31 of each year, a
21 contractor shall file with the secretary of state
22 types of production contracts that are advertised or
23 executed by the contractor. The production contracts
24 filed with the secretary of state shall not include
25 the printed name or signature of a contract producer.
26 A contractor shall not advertise or execute a
27 production contract, unless the contractor files that
28 type of production contract with the secretary of
29 state.

30 3. The secretary of state in consultation with the
31 attorney general shall adopt rules which provide for
32 all of the following:

33 a. Criteria for distinguishing types of production
34 contracts. The rules shall categorize the types of
35 production contracts that must be submitted to the
36 secretary of state under this section.

37 b. The manner in which a contractor must file
38 types of production contracts. The secretary of state
39 may require that the types of production contracts be
40 filed in an electronic format.

41 c. Exceptions to the filing requirement as
42 provided in this section. The secretary of state may
43 create an exception because of any of the following:

44 (1) The consideration owed by the contractor under
45 all production contracts executed by the contractor
46 and a contract producer is minimal.

47 (2) There is a family relationship between the
48 contractor and the contract producer.

49 (3) The contractor and the contract producer are
50 part of the same family farm entity or networking

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1 farmers entity as defined in section 10.1.

2 (4) The livestock is purchased for a purpose other
3 than for use by a processor.

4 4. The attorney general may provide an analysis of
5 filed production contracts in order to assist contract
6 producers in negotiating production contracts.

7 However, the secretary of state, in consultation with
8 the attorney general, may designate some information
9 contained in a production contract as confidential, if
10 such information is a confidential record under
11 section 22.7.

12 Sec. 4. NEW SECTION. 172C.4 ENFORCEMENT.

13 1. The attorney general's office is the primary
14 agency responsible for enforcing this chapter. The
15 secretary of state shall notify the attorney general's
16 office if the secretary of state has reason to believe
17 that a violation of section 172C.3 has occurred.

18 2. In enforcing the provisions of this chapter,
19 the attorney general may do all of the following:

20 a. Apply to the district court for an injunction
21 to do any of the following:

22 (1) Restrain a contractor from engaging in conduct
23 or practices in violation of this chapter.

24 (2) Require a contractor to comply with a
25 provision of this chapter.

26 b. Apply to district court for the issuance of a
27 subpoena to obtain a production contract for purposes
28 of enforcing this chapter.

29 c. Bring an action in district court to enforce
30 penalties provided in section 172C.5, including the
31 assessment and collection of civil penalties.

32 Sec. 5. NEW SECTION. 172C.5 PENALTIES.

33 1. A contractor who includes a confidentiality
34 provision in a production contract in violation of
35 section 172C.2 is guilty of a fraudulent practice as
36 provided in section 714.8.

37 2. A contractor who fails to file a timely or
38 complete production contract type as required in
39 section 172C.3 is subject to a civil penalty not to
40 exceed one thousand dollars. Each contract advertised
41 or executed in violation of section 172C.3 constitutes
42 a separate offense.

43 Sec. 6. Section 579A.1, subsections 2, 3, and 4,
44 Code 1999, are amended to read as follows:

45 2. "Custom cattle feedlot" means a feedlot where
46 cattle owned by a person are ~~subject-to-care-and~~
47 feeding-performed provided feed and care by another
48 person.

49 3. "Custom cattle feedlot operator" means the
50 owner of a custom cattle feedlot or ~~a person-managing~~

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Page 4

~~1 the custom cattle feedlot, if the person is authorized~~
~~2 by the owner to file and enforce a lien under this~~
3 chapter the owner's personal representative.

4 4. "Feedlot" means ~~the same as defined in section~~
5 ~~172B-1~~ a lot, yard, corral, building, or other area in
6 which cattle are confined and fed and maintained for
7 forty-five days or more in any twelve-month period.

8 Sec. 7. Section 579A.1, Code 1999, is amended by
9 adding the following new subsection:

10 NEW SUBSECTION. 4A. "Personal representative"
11 means a person who is authorized by the owner of a
12 custom cattle feedlot to act on behalf of the owner,
13 including by executing an agreement, managing a custom
14 cattle feedlot, or filing and enforcing liens under
15 this chapter.

16 Sec. 8. Section 579A.2, subsection 1, Code 1999,
17 is amended to read as follows:

18 1. A custom cattle feedlot operator shall have a
19 lien upon the cattle and the identifiable cash
20 proceeds from the sale of the cattle for the amount of
21 the contract price for the feed and care of the
22 livestock cattle at the custom cattle feedlot agreed
23 upon pursuant to a written or oral agreement by the
24 custom cattle feedlot operator and the person who owns
25 the cattle, which may be enforced as provided in
26 section 579A.3.

27 Sec. 9. Section 579A.2, subsection 2, paragraph e,
28 Code 1999, is amended to read as follows:

29 e. The printed name and signature of the person
30 filing the form.

31 Sec. 10. Section 579A.2, subsection 3, Code 1999,
32 is amended to read as follows:

33 3. Except as provided in chapter 581, a lien
34 created under this section until preserved and a lien
35 preserved under this section is superior to and shall
36 have priority over a conflicting lien or security
37 interest in the cattle, including a lien or security
38 interest that was perfected prior to the creation of
39 the lien provided under this section.

40 Sec. 11. NEW SECTION. 579A.4 WAIVERS
41 UNENFORCEABLE.

42 A waiver of a right created by this subchapter,
43 including but not limited to, a waiver of the right to
44 file a lien pursuant to this subchapter is void and
45 unenforceable.

46 Sec. 12. NEW SECTION. 579A.5 ALTERNATE LIEN
47 PROCEDURE.

48 A person who is a custom cattle feedlot operator
49 may file and enforce a lien as a contract producer
50 under this chapter or chapter 579B, but not both.

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1 Sec. 13. NEW SECTION. 579B.1 DEFINITIONS.
2 As used in this chapter, unless the context
3 otherwise requires:
4 1. "Commodity" means livestock or a crop.
5 2. "Contract crop field" means farmland where a
6 crop owned by a contractor is produced by a contract
7 producer.
8 3. "Contract livestock facility" means an animal
9 feeding operation as defined in section 455B.161,
10 where livestock owned by a contractor is produced by a
11 contract producer who owns the animal feeding
12 operation. "Contract livestock facility" includes a
13 confinement feeding operation as defined in section
14 455B.161 or a feedlot as defined in section 172D.1,
15 including a custom cattle feedlot.
16 4. "Contract operation" means a contract livestock
17 facility or contract crop field.
18 5. "Contract producer" means the owner of a
19 contract operation who is paid by a contractor for
20 producing a commodity owned by the contractor at the
21 contract operation. A contract producer includes a
22 contract producer's personal representative.
23 6. "Contractor" means a person who pays a contract
24 producer for producing a commodity at a contract
25 operation owned by the contract producer.
26 7. "Crop" means any variety of alfalfa, barley,
27 buckwheat, corn, flax, millet, oats, rye, sorghum,
28 soybeans, or wheat, forage, or silage.
29 8. "Farmland" means the same as defined in section
30 352.2.
31 9. "Livestock" means beef cattle, dairy cattle,
32 sheep, or swine.
33 10. "Personal representative" means a person who
34 is authorized by a contract producer to act on behalf
35 of the contract producer, including by executing an
36 agreement, managing a contract operation, or filing
37 and enforcing a lien as provided in this chapter.
38 11. "Processor" means a person engaged in the
39 business of manufacturing goods from commodities,
40 including a person who is required to be licensed as a
41 dealer or broker as provided in chapter 172A.
42 12. "Produce" means to do any of the following:
43 a. Provide feed or services relating to the care
44 and feeding of livestock. If the livestock is dairy
45 cattle, "produce" includes milking the dairy cattle.
46 b. Provide for planting, raising, harvesting, and
47 storing crop. "Produce" includes preparing the soil
48 for planting and nurturing the crop by the application
49 of fertilizers or soil conditioners as defined in
50 section 200.3 or pesticides as defined in section

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1 206.2.

2 13. "Production contract" means an oral or written
3 agreement executed by a contract producer and a
4 contractor who provides that a contract producer is to
5 receive payment for producing a commodity owned by the
6 contractor at the contract producer's contract
7 operation.

8 Sec. 14. NEW SECTION. 579B.2 ESTABLISHMENT OF
9 LIEN -- PRIORITY.

10 A contract producer who is a party to a production
11 contract shall have a lien as provided in this
12 section. The amount of the lien shall be the amount
13 owed to the contract producer pursuant to the terms of
14 the production contract, which may be enforced as
15 provided in section 579B.3.

16 1. a. If the production contract is for the
17 production of livestock, all of the following shall
18 apply:

19 (1) The lien shall be upon all of the following:

20 (a) Slaughter cattle, swine, or sheep and the
21 identifiable cash proceeds from the sale of the swine
22 or sheep.

23 (b) Dairy cattle and the identifiable cash
24 proceeds from the sale of milk produced by the dairy
25 cattle.

26 (2) The lien is created at the time the livestock
27 arrive at the contract livestock facility and
28 continues for one year after the livestock is no
29 longer under the authority of the contract producer.
30 For purposes of this section, livestock is no longer
31 under the authority of the contract producer when the
32 livestock leave the contract livestock facility.

33 b. If the production contract is for the
34 production of a crop, all of the following shall
35 apply:

36 (1) The lien shall be upon the crop and the
37 identifiable cash proceeds from the sale of the crop.

38 (2) The lien is created at the time the crop is
39 planted and continues for one year after the crop is
40 no longer under the authority of the contract
41 producer. For purposes of this section, a crop is no
42 longer under the authority of the contract producer
43 when the crop or a warehouse receipt issued by a
44 warehouse operator licensed under chapter 203C for
45 grain from the crop is no longer under the custody or
46 control of the contract producer.

47 2. In order to preserve the lien, the contract
48 producer must file in the office of the secretary of
49 state a lien statement on a form prescribed by the
50 secretary of state. If the lien arises out of

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1 producing livestock or milk, the contract producer
2 must file the lien within twenty days after the
3 livestock arrive at the contract livestock facility.
4 If the lien arises out of producing a crop, the
5 contract producer must file the lien within twenty
6 days after the crop is planted. The secretary of
7 state shall charge a fee of not more than ten dollars
8 for filing the statement. The secretary of state may
9 adopt rules pursuant to chapter 17A for the electronic
10 filing of the statements. The statement must include
11 all of the following:

- 12 a. An estimate of the amount owed pursuant to the
13 production contract.
- 14 b. The date when the livestock arrive at the
15 contract livestock facility or the date when the crop
16 was planted.
- 17 c. The estimated duration of the period when the
18 commodity will be under the authority of the contract
19 producer.
- 20 d. The name of the party to the production
21 contract whose commodity is produced pursuant to the
22 production contract.
- 23 e. The description of the location of the contract
24 operation, by county and township.
- 25 f. The printed name and signature of the person
26 filing the form.

27 4. Except as provided in chapter 581, a lien
28 created under this section until preserved and a lien
29 preserved under this section is superior to and shall
30 have priority over a conflicting lien or security
31 interest in the commodity, including a lien or
32 security interest that was perfected prior to the
33 creation of the lien provided under this section.

34 Sec. 15. NEW SECTION. 579B.3 ENFORCEMENT.

35 Before a commodity leaves the authority of the
36 contract producer as provided in section 579B.2, the
37 contract producer may foreclose a lien created in that
38 section in the manner provided for the foreclosure of
39 secured transactions as provided in sections 554.9504,
40 554.9506, and 554.9507. After the commodity is no
41 longer under the authority of the contract producer,
42 the contract producer may enforce the lien by
43 commencing an action at law for the amount of the lien
44 against either of the following:

- 45 1. The holder of the identifiable cash proceeds
46 from the sale of the commodity.
- 47 2. The processor who has purchased the commodity
48 within three days after the commodity is no longer
49 under the authority of the contract producer.

50 Sec. 16. NEW SECTION. 579B.4 WAIVERS

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1 UNENFORCEABLE.

2 A waiver of a right created by this chapter,
3 including but not limited to a waiver of the right to
4 file a lien pursuant to this chapter, is void and
5 unenforceable.

6 Sec. 17. NEW SECTION. 579B.5 ALTERNATE LIEN
7 PROCEDURE.

8 A person who is a custom cattle feedlot operator as
9 defined in section 579A.1 may file and enforce a lien
10 as a contract producer under this chapter or chapter
11 579A, but not both.

12 Sec. 18. Section 714.8, Code 1999, is amended by
13 adding the following new subsection:

14 NEW SUBSECTION. 17. A contractor who includes a
15 confidentiality provision in a production contract in
16 violation of section 172C.2.

17 Sec. 19. EFFECTIVE DATE. This Act, being deemed
18 of immediate importance, takes effect upon enactment."

19 2. Title page, by striking lines 1 and 2 and
20 inserting the following: "An Act relating to
21 production contracts, providing penalties, and
22 providing an effective".

By TEIG of Hamilton
KLEMME of Plymouth

MUNDIE of Webster
FREVERT of Palo Alto

H-1168 FILED MARCH 23, 1999

Adopted
3/24/99
(p. 837)

Substitute for SF 443

3/25/99 (P. 810)

HOUSE FILE 322
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 16)

(As Amended and Passed by the House, March 24, 1999)

Passed House, Date ^(P. 838) 3/24/99 Passed Senate, Date ^(P. 1258) 4/22/99
Vote: Ayes 94 Nays 0 Vote: Ayes 47 Nays 0

^(P. 1801) Re Panel ^{Approved} May 24, 1999 4.28.99 ^{Re Panel} 4.28.99 ^(P. 1350)
vote 96-0 vote 47-0

A BILL FOR

1 An Act relating to production contracts, providing penalties, and
2 providing an effective date.

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

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House Amendments _____

All New Language on the Bill

1 Section 1. NEW SECTION. 172C.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Contract livestock facility" means an animal feeding
5 operation as defined in section 455B.161, where livestock
6 owned by a contractor is produced by a contract producer who
7 owns the animal feeding operation. "Contract livestock
8 facility" includes a confinement feeding operation as defined
9 in section 455B.161. However, a contract livestock facility
10 does not include a custom cattle feedlot as defined in section
11 579A.1.

12 2. "Contract producer" means the owner of a contract
13 livestock facility who is paid by a contractor for producing
14 livestock owned by the contractor at the contract livestock
15 facility.

16 3. "Contractor" means a person who owns livestock and pays
17 a contract producer for producing the livestock at a contract
18 livestock facility owned by the contract producer.

19 4. "Livestock" means beef cattle, dairy cattle, sheep, or
20 swine.

21 5. "Processor" means a person engaged in the business of
22 manufacturing goods from livestock, including a person who is
23 required to be licensed as a dealer or broker as provided in
24 chapter 172A.

25 6. "Produce" means to provide feed or services relating to
26 the care and feeding of livestock. If the livestock is dairy
27 cattle, "produce" includes milking the dairy cattle.

28 7. "Production contract" means an oral or written
29 agreement executed by a contract producer and a contractor who
30 provides that a contract producer is to receive payment for
31 producing livestock owned by the contractor at the contract
32 producer's contract livestock facility.

33 Sec. 2. NEW SECTION. 172C.2 PRODUCTION CONTRACTS --
34 CONFIDENTIALITY PROHIBITED.

35 A provision which is part of a production contract is void,

1 if the provision states that information contained in the
2 production contract is confidential. The provision is void
3 regardless of whether the confidentiality provision is express
4 or implied; oral or written; required or conditional;
5 contained in the production contract, another production
6 contract, or in a related document, policy, or agreement.
7 This section does not affect other provisions of a production
8 contract or a related document, policy, or agreement which can
9 be given effect without the voided provision. This section
10 does not require either party to a production contract to
11 divulge the information in the production contract to another
12 person.

13 Sec. 3. NEW SECTION. 172C.3 PRODUCTION CONTRACTS
14 REQUIRED TO BE FILED.

15 1. As used in this section, all of the following apply:

16 a. A production contract is advertised if it is presented
17 or delivered to a contract producer, regardless of whether it
18 is part of an offer. A production contract is executed if it
19 is signed by the contractor and contract producer or
20 authorized representatives and is still in force.

21 b. A production contract is advertised or executed
22 regardless of whether it is a new production contract or the
23 renewal or extension of a previous production contract.

24 2. On or before March 31 of each year, a contractor shall
25 file with the secretary of state types of production contracts
26 that are advertised or executed by the contractor. The
27 production contracts filed with the secretary of state shall
28 not include the printed name or signature of a contract
29 producer. A contractor shall not advertise or execute a
30 production contract, unless the contractor files that type of
31 production contract with the secretary of state.

32 3. The secretary of state in consultation with the
33 attorney general shall adopt rules which provide for all of
34 the following:

35 a. Criteria for distinguishing types of production

1 contracts. The rules shall categorize the types of production
2 contracts that must be submitted to the secretary of state
3 under this section.

4 b. The manner in which a contractor must file types of
5 production contracts. The secretary of state may require that
6 the types of production contracts be filed in an electronic
7 format.

8 c. Exceptions to the filing requirement as provided in
9 this section. The secretary of state may create an exception
10 because of any of the following:

11 (1) The consideration owed by the contractor under all
12 production contracts executed by the contractor and a contract
13 producer is minimal.

14 (2) There is a family relationship between the contractor
15 and the contract producer.

16 (3) The contractor and the contract producer are part of
17 the same family farm entity or networking farmers entity as
18 defined in section 10.1.

19 (4) The livestock is purchased for a purpose other than
20 for use by a processor.

21 4. The attorney general may provide an analysis of filed
22 production contracts in order to assist contract producers in
23 negotiating production contracts. However, the secretary of
24 state, in consultation with the attorney general, may
25 designate some information contained in a production contract
26 as confidential, if such information is a confidential record
27 under section 22.7.

28 Sec. 4. NEW SECTION. 172C.4 ENFORCEMENT.

29 1. The attorney general's office is the primary agency
30 responsible for enforcing this chapter. The secretary of
31 state shall notify the attorney general's office if the
32 secretary of state has reason to believe that a violation of
33 section 172C.3 has occurred.

34 2. In enforcing the provisions of this chapter, the
35 attorney general may do all of the following:

1 a. Apply to the district court for an injunction to do any
2 of the following:

3 (1) Restrain a contractor from engaging in conduct or
4 practices in violation of this chapter.

5 (2) Require a contractor to comply with a provision of
6 this chapter.

7 b. Apply to district court for the issuance of a subpoena
8 to obtain a production contract for purposes of enforcing this
9 chapter.

10 c. Bring an action in district court to enforce penalties
11 provided in section 172C.5, including the assessment and
12 collection of civil penalties.

13 Sec. 5. NEW SECTION. 172C.5 PENALTIES.

14 1. A contractor who includes a confidentiality provision
15 in a production contract in violation of section 172C.2 is
16 guilty of a fraudulent practice as provided in section 714.8.

17 2. A contractor who fails to file a timely or complete
18 production contract type as required in section 172C.3 is
19 subject to a civil penalty not to exceed one thousand dollars.
20 Each contract advertised or executed in violation of section
21 172C.3 constitutes a separate offense.

22 Sec. 6. Section 579A.1, subsections 2, 3, and 4, Code
23 1999, are amended to read as follows:

24 2. "Custom cattle feedlot" means a feedlot where cattle
25 owned by a person are ~~subject to care and feeding performed~~
26 provided feed and care by another person.

27 3. "Custom cattle feedlot operator" means the owner of a
28 custom cattle feedlot or ~~a person managing the custom cattle~~
29 ~~feedlot, if the person is authorized by the owner to file and~~
30 ~~enforce a lien under this chapter~~ the owner's personal
31 representative.

32 4. "Feedlot" means ~~the same as defined in section 172B.1 a~~
33 lot, yard, corral, building, or other area in which cattle are
34 confined and fed and maintained for forty-five days or more in
35 any twelve-month period.

1 Sec. 7. Section 579A.1, Code 1999, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4A. "Personal representative" means a
4 person who is authorized by the owner of a custom cattle
5 feedlot to act on behalf of the owner, including by executing
6 an agreement, managing a custom cattle feedlot, or filing and
7 enforcing liens under this chapter.

8 Sec. 8. Section 579A.2, subsection 1, Code 1999, is
9 amended to read as follows:

10 1. A custom cattle feedlot operator shall have a lien upon
11 the cattle and the identifiable cash proceeds from the sale of
12 the cattle for the amount of the contract price for the feed
13 and care of the livestock cattle at the custom cattle feedlot
14 agreed-upon pursuant to a written or oral agreement by the
15 custom cattle feedlot operator and the person who owns the
16 cattle, which may be enforced as provided in section 579A.3.

17 Sec. 9. Section 579A.2, subsection 2, paragraph e, Code
18 1999, is amended to read as follows:

19 e. The printed name and signature of the person filing the
20 form.

21 Sec. 10. Section 579A.2, subsection 3, Code 1999, is
22 amended to read as follows:

23 3. Except as provided in chapter 581, a lien created under
24 this section until preserved and a lien preserved under this
25 section is superior to and shall have priority over a
26 conflicting lien or security interest in the cattle, including
27 a lien or security interest that was perfected prior to the
28 creation of the lien provided under this section.

29 Sec. 11. NEW SECTION. 579A.4 WAIVERS UNENFORCEABLE.

30 A waiver of a right created by this subchapter, including
31 but not limited to, a waiver of the right to file a lien
32 pursuant to this subchapter is void and unenforceable.

33 Sec. 12. NEW SECTION. 579A.5 ALTERNATE LIEN PROCEDURE.

34 A person who is a custom cattle feedlot operator may file
35 and enforce a lien as a contract producer under this chapter

1 or chapter 579B, but not both.

2 Sec. 13. NEW SECTION. 579B.1 DEFINITIONS.

3 As used in this chapter, unless the context otherwise
4 requires:

5 1. "Commodity" means livestock or a crop.

6 2. "Contract crop field" means farmland where a crop owned
7 by a contractor is produced by a contract producer.

8 3. "Contract livestock facility" means an animal feeding
9 operation as defined in section 455B.161, where livestock
10 owned by a contractor is produced by a contract producer who
11 owns the animal feeding operation. "Contract livestock
12 facility" includes a confinement feeding operation as defined
13 in section 455B.161 or a feedlot as defined in section 172D.1,
14 including a custom cattle feedlot.

15 4. "Contract operation" means a contract livestock
16 facility or contract crop field.

17 5. "Contract producer" means the owner of a contract
18 operation who is paid by a contractor for producing a
19 commodity owned by the contractor at the contract operation.
20 A contract producer includes a contract producer's personal
21 representative.

22 6. "Contractor" means a person who pays a contract
23 producer for producing a commodity at a contract operation
24 owned by the contract producer.

25 7. "Crop" means any variety of alfalfa, barley, buckwheat,
26 corn, flax, millet, oats, rye, sorghum, soybeans, or wheat,
27 forage, or silage.

28 8. "Farmland" means the same as defined in section 352.2.

29 9. "Livestock" means beef cattle, dairy cattle, sheep, or
30 swine.

31 10. "Personal representative" means a person who is
32 authorized by a contract producer to act on behalf of the
33 contract producer, including by executing an agreement,
34 managing a contract operation, or filing and enforcing a lien
35 as provided in this chapter.

1 11. "Processor" means a person engaged in the business of
2 manufacturing goods from commodities, including a person who
3 is required to be licensed as a dealer or broker as provided
4 in chapter 172A.

5 12. "Produce" means to do any of the following:

6 a. Provide feed or services relating to the care and
7 feeding of livestock. If the livestock is dairy cattle,
8 "produce" includes milking the dairy cattle.

9 b. Provide for planting, raising, harvesting, and storing
10 crop. "Produce" includes preparing the soil for planting and
11 nurturing the crop by the application of fertilizers or soil
12 conditioners as defined in section 200.3 or pesticides as
13 defined in section 206.2.

14 13. "Production contract" means an oral or written
15 agreement executed by a contract producer and a contractor who
16 provides that a contract producer is to receive payment for
17 producing a commodity owned by the contractor at the contract
18 producer's contract operation.

19 Sec. 14. NEW SECTION. 579B.2 ESTABLISHMENT OF LIEN --
20 PRIORITY.

21 A contract producer who is a party to a production contract
22 shall have a lien as provided in this section. The amount of
23 the lien shall be the amount owed to the contract producer
24 pursuant to the terms of the production contract, which may be
25 enforced as provided in section 579B.3.

26 1. a. If the production contract is for the production of
27 livestock, all of the following shall apply:

28 (1) The lien shall be upon all of the following:

29 (a) Slaughter cattle, swine, or sheep and the identifiable
30 cash proceeds from the sale of the swine or sheep.

31 (b) Dairy cattle and the identifiable cash proceeds from
32 the sale of milk produced by the dairy cattle.

33 (2) The lien is created at the time the livestock arrive
34 at the contract livestock facility and continues for one year
35 after the livestock is no longer under the authority of the

1 contract producer. For purposes of this section, livestock is
2 no longer under the authority of the contract producer when
3 the livestock leave the contract livestock facility.

4 b. If the production contract is for the production of a
5 crop, all of the following shall apply:

6 (1) The lien shall be upon the crop and the identifiable
7 cash proceeds from the sale of the crop.

8 (2) The lien is created at the time the crop is planted
9 and continues for one year after the crop is no longer under
10 the authority of the contract producer. For purposes of this
11 section, a crop is no longer under the authority of the
12 contract producer when the crop or a warehouse receipt issued
13 by a warehouse operator licensed under chapter 203C for grain
14 from the crop is no longer under the custody or control of the
15 contract producer.

16 2. In order to preserve the lien, the contract producer
17 must file in the office of the secretary of state a lien
18 statement on a form prescribed by the secretary of state. If
19 the lien arises out of producing livestock or milk, the
20 contract producer must file the lien within twenty days after
21 the livestock arrive at the contract livestock facility. If
22 the lien arises out of producing a crop, the contract producer
23 must file the lien within twenty days after the crop is
24 planted. The secretary of state shall charge a fee of not
25 more than ten dollars for filing the statement. The secretary
26 of state may adopt rules pursuant to chapter 17A for the
27 electronic filing of the statements. The statement must
28 include all of the following:

29 a. An estimate of the amount owed pursuant to the
30 production contract.

31 b. The date when the livestock arrive at the contract
32 livestock facility or the date when the crop was planted.

33 c. The estimated duration of the period when the commodity
34 will be under the authority of the contract producer.

35 d. The name of the party to the production contract whose

1 commodity is produced pursuant to the production contract.

2 e. The description of the location of the contract
3 operation, by county and township.

4 f. The printed name and signature of the person filing the
5 form.

6 4. Except as provided in chapter 581, a lien created under
7 this section until preserved and a lien preserved under this
8 section is superior to and shall have priority over a
9 conflicting lien or security interest in the commodity,
10 including a lien or security interest that was perfected prior
11 to the creation of the lien provided under this section.

12 Sec. 15. NEW SECTION. 579B.3 ENFORCEMENT.

13 Before a commodity leaves the authority of the contract
14 producer as provided in section 579B.2, the contract producer
15 may foreclose a lien created in that section in the manner
16 provided for the foreclosure of secured transactions as
17 provided in sections 554.9504, 554.9506, and 554.9507. After
18 the commodity is no longer under the authority of the contract
19 producer, the contract producer may enforce the lien by
20 commencing an action at law for the amount of the lien against
21 either of the following:

22 1. The holder of the identifiable cash proceeds from the
23 sale of the commodity.

24 2. The processor who has purchased the commodity within
25 three days after the commodity is no longer under the
26 authority of the contract producer.

27 Sec. 16. NEW SECTION. 579B.4 WAIVERS UNENFORCEABLE.

28 A waiver of a right created by this chapter, including but
29 not limited to a waiver of the right to file a lien pursuant
30 to this chapter, is void and unenforceable.

31 Sec. 17. NEW SECTION. 579B.5 ALTERNATE LIEN PROCEDURE.

32 A person who is a custom cattle feedlot operator as defined
33 in section 579A.1 may file and enforce a lien as a contract
34 producer under this chapter or chapter 579A, but not both.

35 Sec. 18. Section 714.8, Code 1999, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 17. A contractor who includes a
3 confidentiality provision in a production contract in
4 violation of section 172C.2.

5 Sec. 19. EFFECTIVE DATE. This Act, being deemed of
6 immediate importance, takes effect upon enactment.

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HOUSE FILE 322

S-3398

1 Amend House File 322, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 8E.1 DEFINITIONS.

6 As used in this chapter, unless the context
7 otherwise requires:

8 1. "Active contractor" means a person who owns a
9 commodity that is produced by a contract producer at
10 the contract producer's contract operation pursuant to
11 a production contract executed pursuant to section
12 8E.2.

13 2. "Commodity" means livestock or a crop.

14 3. "Contract crop field" means farmland where a
15 crop is produced according to a production contract
16 executed pursuant to section 8E.2 by a contract
17 producer who holds a legal interest in the farmland.

18 4. "Contract livestock facility" means an animal
19 feeding operation as defined in section 455B.161, in
20 which livestock or raw milk is produced according to a
21 production contract executed pursuant to section 8E.2
22 by a contract producer who holds a legal interest in
23 the animal feeding operation. "Contract livestock
24 facility" includes a confinement feeding operation.

25 5. "Contract operation" means a contract livestock
26 facility or contract crop field.

27 6. "Contract producer" means a person who owns a
28 contract operation and who produces a commodity at the
29 contract producer's contract operation under a
30 production contract executed pursuant to section 8E.2.

31 7. "Contractor" means an active contractor or a
32 passive contractor.

33 8. a. "Crop" means a plant used for food, animal
34 feed, fiber, or oil, if the plant is classified as any
35 of the following:

36 (1) Forage and cereal plants, including but not
37 limited to alfalfa, barley, buckwheat, corn, flax,
38 forage, millet, oats, popcorn, rye, sorghum, soybeans,
39 sunflowers, wheat, and grasses used for forage or
40 silage.

41 (2) Vegetable plants, including but not limited to
42 beans, carrots, sweet corn, cucumbers, onions, peas,
43 potatoes, rutabagas, or turnips.

44 (3) Fruit and berry plants, other than fruit
45 trees, that produce edible fruit or berries, including
46 but not limited to tomatoes, melons, blackberries,
47 blueberries, cranberries, gooseberries, raspberries,
48 and strawberries.

49 b. A "crop" does not include trees or nuts or
50 fruit grown on trees; sod; shrubs; or greenhouse

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1 plants.

2 9. "Feedlot" means a lot, yard, building, or other
3 area in which livestock is confined and fed and
4 maintained for forty-five days or more in any twelve-
5 month period. The term includes areas which are used
6 for the raising of crops or other vegetation and upon
7 which livestock is fed for slaughter or are allowed to
8 graze or feed.

9 10. "Livestock" means beef cattle, dairy cattle,
10 sheep, or swine.

11 11. "Passive contractor" means a person who
12 furnishes management services to a contract producer,
13 and who does not own a commodity that is produced by
14 the contract producer.

15 12. "Produce" means to do any of the following:

16 a. Provide for the care and feeding of livestock.
17 If the livestock is dairy cattle, "produce" includes
18 milking the dairy cattle.

19 b. Provide for planting, raising, harvesting, and
20 storing a crop. "Produce" includes preparing the soil
21 for planting and nurturing the crop by the application
22 of fertilizers or soil conditioners as defined in
23 section 200.3 or pesticides as defined in section
24 206.2.

25 13. "Production contract" means an oral or written
26 agreement executed pursuant to section 8E.2 that
27 provides for the production of a commodity or the
28 provision of management services relating to the
29 production of a commodity by a contract producer.

30 Sec. 2. NEW SECTION. 8E.2 PRODUCTION CONTRACTS
31 GOVERNED BY THIS CHAPTER.

32 1. This chapter applies to a production contract
33 that relates to the production of a commodity owned by
34 an active contractor and produced by a contract
35 producer at the contract producer's contract
36 operation, if one of the following applies:

37 a. The contract is executed by an active
38 contractor and a contract producer for the production
39 of the commodity.

40 b. The contract is executed by an active
41 contractor and a passive contractor for the provision
42 of management services to the contract producer in the
43 production of the commodity.

44 c. The contract is executed by a passive
45 contractor and a contract producer, if all of the
46 following apply:

47 (1) The contract provides for management services
48 furnished by the passive contractor to the contract
49 producer in the production of the commodity.

50 (2) The passive contractor has a contractual

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1 relationship with the active contractor involving the
2 production of the commodity.

3 2. A production contract is executed when it is
4 signed by each party or by a person who is authorized
5 by a party to act on the party's behalf.

6 Sec. 3. NEW SECTION. 8E.3 PRODUCTION CONTRACTS

7 -- CONFIDENTIALITY PROHIBITED.

8 1. A contractor shall not include a provision in a
9 production contract which provides that information
10 contained in the production contract is confidential.

11 2. A provision which is part of a production
12 contract is void, if the provision states that
13 information contained in the production contract is
14 confidential. The confidentiality provision is void
15 regardless of when executed or whether the
16 confidentiality provision is express or implied; oral
17 or written; required or conditional; contained in the
18 production contract, another production contract, or
19 in a related document, policy, or agreement. This
20 section does not require either party to a production
21 contract to divulge the information in the production
22 contract to another person.

23 Sec. 4. NEW SECTION. 8E.4 PRODUCTION CONTRACTS
24 REQUIRED TO BE FILED.

25 1. As used in this section, all of the following
26 apply:

27 a. A production contract is advertised if it is
28 presented or delivered to a person who may execute the
29 contract under section 8E.2, regardless of whether it
30 is part of an offer.

31 b. A production contract is advertised or executed
32 regardless of whether it is a new production contract
33 or the renewal or extension of a previous production
34 contract.

35 2. a. On or before March 31 of each year, a
36 contractor shall file with the secretary of state
37 types of production contracts that are either
38 advertised or in effect and are executed by the
39 contractor. After the annual filing is required, a
40 contractor shall not advertise or execute another type
41 of production contract, unless the contractor files
42 that type of production contract with the secretary of
43 state.

44 b. If the production contract is written, the type
45 of contract required to be filed shall be a copy of
46 the production contract. If the production contract
47 is oral, the type of contract required to be filed
48 shall be a description of the production contract.
49 The type of production contracts filed with the
50 secretary of state shall not include the printed name

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1 or signature of a contract producer.

2 3. The secretary of state in consultation with the
3 attorney general shall adopt rules required to
4 administer this chapter, including but not limited to
5 rules which provide for all of the following:

6 a. Provide criteria for distinguishing types of
7 production contracts. The rules shall categorize the
8 types of production contracts that must be submitted
9 to the secretary of state under this section.

10 b. The secretary of state may require that the
11 types of production contracts be filed in an
12 electronic format.

13 c. Provide an exemption to the filing requirement
14 as provided in this section because of any of the
15 following:

16 (1) The consideration owed by the contractor under
17 all production contracts executed by the contractor
18 and a contract producer is minimal.

19 (2) There is a family relationship between the
20 contractor and the contract producer.

21 (3) The contractor and the contract producer are
22 part of the same family farm entity or networking
23 farmers entity.

24 (4) The commodity is produced for a purpose other
25 than for use by a processor.

26 4. This section does not apply to a contractor who
27 executes a production contract with a contract
28 producer for the production of cattle at a custom
29 cattle feedlot as defined in section 579A.1.

30 5. The attorney general may provide an analysis of
31 filed production contracts in order to assist contract
32 producers in negotiating production contracts.
33 However, the secretary of state, in consultation with
34 the attorney general, may designate some information
35 contained in a production contract as confidential, if
36 such information is a confidential record under
37 section 22.7.

38 Sec. 5. NEW SECTION. 8E.5 ENFORCEMENT.

39 1. The attorney general's office is the primary
40 agency responsible for enforcing this chapter. The
41 secretary of state shall notify the attorney general's
42 office if the secretary of state has reason to believe
43 that a violation of section 8E.4 has occurred.

44 2. In enforcing the provisions of this chapter,
45 the attorney general may do all of the following:

46 a. Apply to the district court for an injunction
47 to do any of the following:

48 (1) Restrain a contractor from engaging in conduct
49 or practices in violation of this chapter.

50 (2) Require a contractor to comply with a

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1 provision of this chapter.

2 b. Apply to court for the issuance of a subpoena
3 to obtain a production contract for purposes of
4 enforcing this chapter.

5 c. Bring an action in court to enforce penalties
6 provided in section 8E.6, including the assessment and
7 collection of civil penalties.

8 Sec. 6. NEW SECTION. 8E.6 PENALTIES.

9 1. A contractor who includes a confidentiality
10 provision in a production contract in violation of
11 section 8E.3 is guilty of a fraudulent practice as
12 provided in section 714.8.

13 2. A contractor who fails to file a timely or
14 complete production contract type as required in
15 section 8E.4 is subject to a civil penalty not to
16 exceed one thousand dollars. Each contract advertised
17 or executed in violation of section 8E.4 constitutes a
18 separate offense.

19 Sec. 7. Section 579A.1, subsections 2, 3, and 4,
20 Code 1999, are amended to read as follows:

21 2. "Custom cattle feedlot" means a feedlot where
22 cattle owned by a person are ~~subject to care and~~
23 ~~feeding performed~~ provided feed and care by another
24 person.

25 3. "Custom cattle feedlot operator" means the
26 owner of a custom cattle feedlot or ~~a person managing~~
27 ~~the custom cattle feedlot, if the person is authorized~~
28 ~~by the owner to file and enforce a lien under this~~
29 ~~chapter~~ the owner's personal representative.

30 4. "Feedlot" means ~~the same as defined in section~~
31 ~~172B-1~~ a lot, yard, corral, building, or other area in
32 which cattle are confined and fed and maintained for
33 forty-five days or more in any twelve-month period.

34 Sec. 8. Section 579A.1, Code 1999, is amended by
35 adding the following new subsection:

36 NEW SUBSECTION. 4A. "Personal representative"
37 means a person who is authorized by the owner of a
38 custom cattle feedlot to act on behalf of the owner,
39 including by executing an agreement, managing a custom
40 cattle feedlot, or filing and enforcing liens under
41 this chapter.

42 Sec. 9. Section 579A.2, subsection 1, Code 1999,
43 is amended to read as follows:

44 1. A custom cattle feedlot operator shall have a
45 lien upon the cattle and the identifiable cash
46 proceeds from the sale of the cattle for the amount of
47 the contract price for the feed and care of the
48 ~~livestock~~ cattle at the custom cattle feedlot agreed
49 upon pursuant to a written or oral agreement by the
50 custom cattle feedlot operator and the person who owns

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1 the cattle, which may be enforced as provided in
2 section 579A.3.

3 Sec. 10. Section 579A.2, subsection 2, paragraph
4 e, Code 1999, is amended to read as follows:

5 e. The printed name and signature of the person
6 filing the form.

7 Sec. 11. Section 579A.2, subsection 3, Code 1999,
8 is amended to read as follows:

9 3. Except as provided in chapter 581, a lien
10 created under this section until preserved and a lien
11 preserved under this section is superior to and shall
12 have priority over a conflicting lien or security
13 interest in the cattle, including a lien or security
14 interest that was perfected prior to the creation of
15 the lien provided under this section.

16 Sec. 12. NEW SECTION. 579A.4 WAIVERS
17 UNENFORCEABLE.

18 A waiver of a right created by this chapter,
19 including but not limited to, a waiver of the right to
20 file a lien pursuant to this chapter is void and
21 unenforceable. This section does not affect other
22 provisions of a contract, including a production
23 contract or a related document, policy, or agreement
24 which can be given effect without the voided
25 provision.

26 Sec. 13. NEW SECTION. 579A.5 ALTERNATE LIEN
27 PROCEDURE.

28 A person who is a custom cattle feedlot operator
29 may file and enforce a lien as a contract producer
30 under this chapter or chapter 579B, but not both.

31 Sec. 14. NEW SECTION. 579B.1 DEFINITIONS.

32 As used in this chapter, unless the context
33 otherwise requires:

34 1. "Commodity" means livestock or a crop.

35 2. "Contract crop field" means farmland where a
36 crop is produced according to a production contract
37 executed pursuant to section 579B.2 by a contract
38 producer who holds a legal interest in the farmland.

39 3. "Contract livestock facility" means an animal
40 feeding operation as defined in section 455B.161, in
41 which livestock or milk is produced according to a
42 production contract executed pursuant to section
43 572B.2 by a contract producer who holds a legal
44 interest in the animal feeding operation. "Contract
45 livestock facility" includes a confinement feeding
46 operation as defined in section 455B.161 or a feedlot
47 as defined in section 579A.1, including a custom
48 cattle feedlot.

49 4. "Contract operation" means a contract livestock
50 facility or contract crop field.

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1 5. "Contract producer" means a person who holds a
2 legal interest in a contract operation and who
3 produces a commodity under a production contract.

4 6. "Contractor" means a person who owns a
5 commodity at the time that the commodity is under the
6 authority of the contract producer as provided in
7 section 579B.3 pursuant to a production contract
8 executed pursuant to section 579B.2.

9 7. a. "Crop" means a plant used for food, animal
10 feed, fiber, or oil, if the plant is classified as any
11 of the following:

12 (1) Forage and cereal plants, including but not
13 limited to alfalfa, barley, buckwheat, corn, emmer,
14 flax, forage, millet, oats, popcorn, rye, sorghum,
15 soybeans, spelt, sunflowers, wheat, and grasses used
16 for forage or silage.

17 (2) Vegetable plants, including but not limited to
18 beans, carrots, sweet corn, cucumbers, onions, peas,
19 potatoes, rutabagas, or turnips.

20 (3) Fruit and berry plants, other than fruit
21 trees, that produce edible fruit or berries, including
22 but not limited to tomatoes, melons, blackberries,
23 blueberries, cranberries, gooseberries, raspberries,
24 and strawberries.

25 b. A "crop" does not include trees or nuts or
26 fruit grown on trees; sod; shrubs; or greenhouse
27 plants.

28 8. "Livestock" means beef cattle, dairy cattle,
29 sheep, or swine.

30 9. "Personal representative" means a person who is
31 authorized by a contract producer to act on behalf of
32 the contract producer.

33 10. "Processor" means a person engaged in the
34 business of manufacturing goods from commodities,
35 including by slaughtering or processing livestock,
36 processing milk, or processing crops.

37 11. "Produce" means to do any of the following:

38 a. Provide feed or services relating to the care
39 and feeding of livestock. If the livestock is dairy
40 cattle, "produce" includes milking the dairy cattle.

41 b. Provide for planting, raising, harvesting, and
42 storing crop. "Produce" includes preparing the soil
43 for planting and nurturing the crop by the application
44 of fertilizers or soil conditioners as defined in
45 section 200.3 or pesticides as defined in section
46 206.2.

47 12. "Production contract" means an oral or written
48 agreement that provides for the production of a
49 commodity by a contract producer.

50 Sec. 15. NEW SECTION. 579B.2 LIEN DEPENDS UPON

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1 PRODUCTION CONTRACTS.

2 1. A lien established under section 579B.3 depends
3 upon the execution of a production contract that
4 provides for producing a commodity owned by a
5 contractor by a contract producer at the contract
6 producer's contract operation.

7 2. A production contract is executed when it is
8 signed or orally agreed to by each party to the
9 contract or by a person authorized by a party to act
10 on the party's behalf, including the contract
11 producer's personal representative.

12 3. This chapter applies to any production contract
13 that is in force on or after the effective date of
14 this Act, regardless of the date that the production
15 contract is executed.

16 Sec. 16. NEW SECTION. 579B.3 ESTABLISHMENT OF
17 LIEN -- PRIORITY.

18 A contract producer who is a party to a production
19 contract executed pursuant to section 579B.2 shall
20 have a lien as provided in this section. The amount
21 of the lien shall be the amount owed to the contract
22 producer pursuant to the terms of the production
23 contract.

24 1. a. If the production contract is for the
25 production of livestock or milk, all of the following
26 shall apply:

27 (1) For livestock, the lien shall apply to all of
28 the following:

29 (a) If the livestock is not sold or slaughtered by
30 the contract producer, the lien shall be on the
31 livestock.

32 (b) If the livestock is sold by the contractor,
33 the lien shall be on cash proceeds from the sale. For
34 purposes of this subparagraph, cash held by the
35 contractor shall be deemed to be cash proceeds from
36 the sale regardless of whether it is identifiable cash
37 proceeds.

38 (c) If the livestock is slaughtered by the
39 contractor, the lien shall be on any property of the
40 contractor that may be subject to a security interest
41 as provided in section 554.9102.

42 (2) For milk, the lien shall apply to all of the
43 following:

44 (a) If the milk is not sold or processed by the
45 contract producer, the lien shall be on the raw milk.

46 (b) If the milk is sold by the contractor, the
47 lien shall be on cash proceeds from the sale. For
48 purposes of this subparagraph, cash held by the
49 contractor shall be deemed to be cash proceeds from
50 the sale regardless of whether it is identifiable cash

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1 proceeds.

2 (c) If the milk is processed by the contractor,
3 the lien shall be on any property of the contractor
4 that may be subject to a security interest as provided
5 in section 554.9102.

6 b. The lien on livestock or milk is created at the
7 time the livestock arrives at the contract livestock
8 facility and continues for one year after the
9 livestock is no longer under the authority of the
10 contract producer. For purposes of this section,
11 livestock is no longer under the authority of the
12 contract producer when the livestock leave the
13 contract livestock facility.

14 2. a. If the production contract is for the
15 production of crops, all of the following shall apply:

16 (1) If the crop is not sold or processed by the
17 contractor, the lien shall be on the crop.

18 (2) If the crop is sold by the contractor, the
19 lien shall be on cash proceeds from the sale. For
20 purposes of this subparagraph, cash held by the
21 contractor shall be deemed to be cash proceeds from
22 the sale regardless of whether it is identifiable cash
23 proceeds.

24 (3) If the crop is processed by the contractor,
25 the lien shall be on any property of the contractor
26 that may be subject to a security interest as provided
27 in section 554.9102.

28 b. The lien on a crop is created at the time the
29 crop is planted and continues for one year after the
30 crop is no longer under the authority of the contract
31 producer. For purposes of this section, a crop is no
32 longer under the authority of the contract producer
33 when the crop or a warehouse receipt issued by a
34 warehouse operator for grain from the crop is no
35 longer under the custody or control of the contract
36 producer.

37 Sec. 17. NEW SECTION. 579B.4 PRESERVING THE LIEN
38 -- FILING REQUIREMENTS.

39 1. In order to preserve a lien created pursuant to
40 section 579B.3, a contract producer must file in the
41 office of the secretary of state a lien statement on a
42 form prescribed by the secretary of state. If the
43 lien arises out of producing livestock or milk, the
44 contract producer must file the lien within forty-five
45 days after the day that the livestock first arrive at
46 the contract livestock facility. If the lien arises
47 out of producing a crop, the contract producer must
48 file the lien within forty-five days after the day
49 that the crop is first planted. The secretary of
50 state shall charge a fee of not more than ten dollars

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1 for filing the statement. The secretary of state may
2 adopt rules pursuant to chapter 17A for the electronic
3 filing of the statements.

4 2. The statement must include all of the
5 following:

6 a. An estimate of the amount owed pursuant to the
7 production contract.

8 b. The date when the livestock arrive at the
9 contract livestock facility or the date when the crop
10 was planted.

11 c. The name of the party to the production
12 contract whose commodity is produced pursuant to the
13 production contract.

14 d. The description of the location of the contract
15 operation, by county and township.

16 e. The printed name and signature of the person
17 filing the form.

18 3. Except as provided in chapter 581, a lien
19 created under this section until preserved and a lien
20 preserved under this section is superior to and shall
21 have priority over a conflicting lien or security
22 interest in the commodity, including a lien or
23 security interest that was perfected prior to the
24 creation of the lien.

25 Sec. 18. NEW SECTION. 579B.5 ENFORCEMENT.

26 Before a commodity leaves the authority of the
27 contract producer as provided in section 579B.3, the
28 contract producer may foreclose a lien created in that
29 section in the manner provided for the foreclosure of
30 secured transactions as provided in sections 554.9504,
31 554.9506, and 554.9507. After the commodity is no
32 longer under the authority of the contract producer,
33 the contract producer may enforce the lien in the
34 manner provided in chapter 554, article 9, part 5.

35 Sec. 19. NEW SECTION. 579B.6 WAIVERS
36 UNENFORCEABLE.

37 A waiver of a right created by this chapter,
38 including but not limited to a waiver of the right to
39 file a lien pursuant to this chapter, is void and
40 unenforceable.

41 Sec. 20. NEW SECTION. 579B.7 ALTERNATE LIEN
42 PROCEDURE.

43 A person who is a custom cattle feedlot operator as
44 defined in section 579A.1 may file and enforce a lien
45 as a contract producer under this chapter or chapter
46 579A, but not both.

47 Sec. 21. Section 714.8, Code 1999, is amended by
48 adding the following new subsection:

49 NEW SUBSECTION. 17. A contractor who includes a
50 confidentiality provision in a production contract in

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1 violation of section 8E.3.

2 Sec. 22. EFFECT OF RULEMAKING. The secretary of
3 state shall adopt rules necessary in order to
4 administer this Act with all due diligence. In
5 addition to the requirement that a contractor file
6 production contracts by March 31, 2000, as provided by
7 section 8E.4, as enacted in this Act, a contractor
8 shall file production contracts as otherwise required
9 pursuant to that section within ten days following the
10 date that the rules become effective.

11 Sec. 23. EFFECTIVE DATE. This Act, being deemed
12 of immediate importance, takes effect upon enactment."

By MERLIN E. BARTZ

S-3398 FILED APRIL 15, 1999

Withdrawn
4-22-99
(P.1257)

HOUSE FILE 322

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1 Amend House File 322, as amended, passed, and
2 reprinted by the House, as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. NEW SECTION. 8E.1 DEFINITIONS.
6 As used in this chapter, unless the context
7 otherwise requires:
8 1. "Active contractor" means a person who owns a
9 commodity that is produced by a contract producer at
10 the contract producer's contract operation pursuant to
11 a production contract executed pursuant to section
12 8E.2.
13 2. "Commodity" means livestock, raw milk, or a
14 crop.
15 3. "Contract crop field" means farmland where a
16 crop is produced according to a production contract
17 executed pursuant to section 8E.2 by a contract
18 producer who holds a legal interest in the farmland.
19 4. "Contract livestock facility" means an animal
20 feeding operation as defined in section 455B.161, in
21 which livestock or raw milk is produced according to a
22 production contract executed pursuant to section 8E.2
23 by a contract producer who holds a legal interest in
24 the animal feeding operation. "Contract livestock
25 facility" includes a confinement feeding operation as
26 defined in section 455B.161, an open feedlot, or an
27 area which is used for the raising of crops or other
28 vegetation and upon which livestock is fed for
29 slaughter or is allowed to graze or feed.
30 5. "Contract operation" means a contract livestock
31 facility or contract crop field.
32 6. "Contract producer" means a person who holds a
33 legal interest in a contract operation and who
34 produces a commodity at the contract producer's
35 contract operation under a production contract
36 executed pursuant to section 8E.2.
37 7. "Contractor" means an active contractor or a
38 passive contractor.
39 8. a. "Crop" means a plant used for food, animal
40 feed, fiber, or oil, if the plant is classified as a
41 forage or cereal plant, including but not limited to
42 alfalfa, barley, buckwheat, corn, flax, forage,
43 millet, oats, popcorn, rye, sorghum, soybeans,
44 sunflowers, wheat, and grasses used for forage or
45 silage.
46 b. A "crop" does not include trees or nuts or
47 fruit grown on trees; sod; shrubs; greenhouse plants;
48 or plants or plant parts produced for precommercial,
49 experimental, or research purposes.
50 9. "Farmland" means agricultural land that is

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1 suitable for use in farming as defined in section

2 9H.1.

3 10. "Livestock" means beef cattle, dairy cattle,
4 sheep, or swine.

5 11. "Open feedlot" means an unroofed or partially
6 roofed animal feeding operation in which no crop,
7 vegetation, or forage growth or residue cover is
8 maintained during the period that animals are confined
9 in the operation.

10 12. "Passive contractor" means a person who
11 furnishes management services to a contract producer,
12 and who does not own a commodity that is produced by
13 the contract producer at the contract producer's
14 contract operation according to a production contract
15 which is executed pursuant to section 8E.2.

16 13. "Produce" means to do any of the following:

17 a. Provide feed or services relating to the care
18 and feeding of livestock. If the livestock is dairy
19 cattle, "produce" includes milking the dairy cattle
20 and storing raw milk at the contract producer's
21 contract livestock facility.

22 b. Provide for planting, raising, harvesting, and
23 storing a crop. "Produce" includes preparing the soil
24 for planting and nurturing the crop by the application
25 of fertilizers or soil conditioners as defined in
26 section 200.3 or pesticides as defined in section
27 206.2.

28 14. "Production contract" means an oral or written
29 agreement executed pursuant to section 8E.2 that
30 provides for the production of a commodity or the
31 provision of management services relating to the
32 production of a commodity by a contract producer.

33 Sec. 2. NEW SECTION. 8E.2 PRODUCTION CONTRACTS
34 GOVERNED BY THIS CHAPTER.

35 1. This chapter applies to a production contract
36 that relates to the production of a commodity owned by
37 an active contractor and produced by a contract
38 producer at the contract producer's contract
39 operation, if one of the following applies:

40 a. The contract is executed by an active
41 contractor and a contract producer for the production
42 of the commodity.

43 b. The contract is executed by an active
44 contractor and a passive contractor for the provision
45 of management services to the contract producer in the
46 production of the commodity.

47 c. The contract is executed by a passive
48 contractor and a contract producer, if all of the
49 following apply:

50 (1) The contract provides for management services

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1 furnished by the passive contractor to the contract
2 producer in the production of the commodity.

3 (2) The passive contractor has a contractual
4 relationship with the active contractor involving the
5 production of the commodity.

6 2. A production contract is executed when it is
7 signed or orally agreed to by each party or by a
8 person who is authorized by a party to act on the
9 party's behalf.

10 Sec. 3. NEW SECTION. 8E.3 PRODUCTION CONTRACTS
11 -- CONFIDENTIALITY PROHIBITED.

12 1. A contractor shall not execute a production
13 contract after the effective date of this Act, if the
14 production contract includes a provision which
15 provides that information contained in the production
16 contract is confidential.

17 2. A provision which is part of a production
18 contract is void, if the provision states that
19 information contained in the production contract is
20 confidential. The confidentiality provision is void
21 whether the confidentiality provision is express or
22 implied; oral or written; required or conditional;
23 contained in the production contract, another
24 production contract, or in a related document, policy,
25 or agreement. This section does not affect other
26 provisions of a production contract or a related
27 document, policy, or agreement which can be given
28 effect without the voided provision. This section
29 does not require a party to a production contract to
30 divulge the information in the production contract to
31 another person.

32 Sec. 4. NEW SECTION. 8E.4 ENFORCEMENT.

33 1. The attorney general's office is the primary
34 agency responsible for enforcing this chapter.

35 2. In enforcing the provisions of this chapter,
36 the attorney general may do all of the following:

37 a. Apply to the district court for an injunction
38 to do any of the following:

39 (1) Restrain a contractor from engaging in conduct
40 or practices in violation of this chapter.

41 (2) Require a contractor to comply with a
42 provision of this chapter.

43 b. Apply to district court for the issuance of a
44 subpoena to obtain a production contract for purposes
45 of enforcing this chapter.

46 c. Bring an action in district court to enforce
47 penalties provided in section 8E.5, including the
48 assessment and collection of civil penalties.

49 Sec. 5. NEW SECTION. 8E.5 PENALTIES.

50 A contractor who executes a production contract

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1 that includes a confidentiality provision in a
2 production contract in violation of section 8E.3 is
3 guilty of a fraudulent practice as provided in section
4 714.8.

5 Sec. 6. Section 579A.1, subsections 2, 3, and 4,
6 Code 1999, are amended to read as follows:

7 2. "Custom cattle feedlot" means a feedlot where
8 cattle owned by a person are ~~subject-to-care-and~~
9 feeding-performed provided feed and care by another
10 person.

11 3. "Custom cattle feedlot operator" means the
12 owner of a custom cattle feedlot or ~~a-person-managing~~
13 ~~the-custom-cattle-feedlot,-if-the-person-is-authorized~~
14 ~~by-the-owner-to-file-and-enforce-a-lien-under-this~~
15 chapter the owner's personal representative.

16 4. "Feedlot" means ~~the-same-as-defined-in-section~~
17 ~~172B-1~~ a lot, yard, corral, building, or other area in
18 which cattle are confined and fed and maintained for
19 forty-five days or more in any twelve-month period.

20 Sec. 7. Section 579A.1, Code 1999, is amended by
21 adding the following new subsection:

22 NEW SUBSECTION. 4A. "Personal representative"
23 means a person who is authorized by the owner of a
24 custom cattle feedlot to act on behalf of the owner,
25 including by executing an agreement, managing a custom
26 cattle feedlot, or filing and enforcing liens under
27 this chapter.

28 Sec. 8. Section 579A.2, subsection 1, Code 1999,
29 is amended to read as follows:

30 1. A custom cattle feedlot operator shall have a
31 lien upon the cattle and the identifiable cash
32 proceeds from the sale of the cattle for the amount of
33 the contract price for the feed and care of the
34 livestock cattle at the custom cattle feedlot ~~agreed~~
35 upon pursuant to a written or oral agreement by the
36 custom cattle feedlot operator and the person who owns
37 the cattle, which may be enforced as provided in
38 section 579A.3.

39 Sec. 9. Section 579A.2, subsection 2, paragraph e,
40 Code 1999, is amended to read as follows:

41 e. The printed name and signature of the person
42 filing the form.

43 Sec. 10. Section 579A.2, subsection 3, Code 1999,
44 is amended to read as follows:

45 3. Except as provided in chapter 581, a lien
46 created under this section until preserved and a lien
47 preserved under this section is superior to and shall
48 have priority over a conflicting lien or security
49 interest in the cattle, including a lien or security
50 interest that was perfected prior to the creation of

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1 the lien provided under this section.

2 Sec. 11. NEW SECTION. 579A.4 WAIVERS

3 UNENFORCEABLE.

4 A waiver of a right created by this chapter,
5 including but not limited to, a waiver of the right to
6 file a lien pursuant to this chapter is void and
7 unenforceable. This section does not affect other
8 provisions of a contract, including a production
9 contract or a related document, policy, or agreement
10 which can be given effect without the voided
11 provision.

12 Sec. 12. NEW SECTION. 579A.5 ALTERNATE LIEN
13 PROCEDURE.

14 A person who is a custom cattle feedlot operator
15 may file and enforce a lien as a contract producer
16 under this chapter or chapter 579B, but not both.

17 Sec. 13. NEW SECTION. 579B.1 DEFINITIONS.

18 As used in this chapter, unless the context
19 otherwise requires:

20 1. "Commodity" means livestock, raw milk, or a
21 crop.

22 2. "Contract crop field" means farmland where a
23 crop is produced according to a production contract
24 executed pursuant to section 579B.2 by a contract
25 producer who holds a legal interest in the farmland.

26 3. "Contract livestock facility" means an animal
27 feeding operation as defined in section 455B.161, in
28 which livestock or raw milk is produced according to a
29 production contract executed pursuant to section
30 579B.2 by a contract producer who holds a legal
31 interest in the animal feeding operation. "Contract
32 livestock facility" includes a confinement feeding
33 operation as defined in section 455B.161, an open
34 feedlot, or an area which is used for the raising of
35 crops or other vegetation and upon which livestock is
36 fed for slaughter or is allowed to graze or feed.

37 4. "Contract operation" means a contract livestock
38 facility or contract crop field.

39 5. "Contract producer" means a person who holds a
40 legal interest in a contract operation and who
41 produces a commodity under a production contract
42 executed pursuant to section 579B.2.

43 6. "Contractor" means a person who owns a
44 commodity at the time that the commodity is under the
45 authority of the contract producer as provided in
46 section 579B.3 pursuant to a production contract
47 executed pursuant to section 579B.2.

48 7. a. "Crop" means a plant used for food, animal
49 feed, fiber, or oil, if the plant is classified as a
50 forage or cereal plant, including but not limited to

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- 1 alfalfa, barley, buckwheat, corn, flax, forage,
2 millet, oats, popcorn, rye, sorghum, soybeans,
3 sunflowers, wheat, and grasses used for forage or
4 silage.
- 5 b. A "crop" does not include trees or nuts or
6 fruit grown on trees; sod; shrubs; greenhouse plants;
7 or plants or plant parts produced for precommercial,
8 experimental, or research purposes.
- 9 8. "Farmland" means agricultural land suitable for
10 use in farming as defined in section 9H.1.
- 11 9. "Livestock" means beef cattle, dairy cattle,
12 sheep, or swine.
- 13 10. "Open feedlot" means the same as defined in
14 section 8E.1.
- 15 11. "Personal representative" means a person who
16 is authorized by a contract producer to act on behalf
17 of the contract producer, including by executing an
18 agreement, managing a contract operation, or filing
19 and enforcing a lien as provided in this chapter.
- 20 12. "Processor" means a person engaged in the
21 business of manufacturing goods from commodities,
22 including by slaughtering or processing livestock,
23 processing raw milk, or processing crops.
- 24 13. "Produce" means to do any of the following:
- 25 a. Provide feed or services relating to the care
26 and feeding of livestock. If the livestock is dairy
27 cattle, "produce" includes milking the dairy cattle
28 and storing raw milk at the contract producer's
29 contract livestock facility.
- 30 b. Provide for planting, raising, harvesting, and
31 storing crop. "Produce" includes preparing the soil
32 for planting and nurturing the crop by the application
33 of fertilizers or soil conditioners as defined in
34 section 200.3 or pesticides as defined in section
35 206.2.
- 36 14. "Production contract" means an oral or written
37 agreement executed pursuant to section 579B.2 that
38 provides for the production of a commodity by a
39 contract producer.
- 40 Sec. 14. NEW SECTION. 579B.2 LIEN DEPENDS UPON
41 PRODUCTION CONTRACTS.
- 42 1. A lien established under section 579B.3 depends
43 upon the execution of a production contract that
44 provides for producing a commodity owned by a
45 contractor by a contract producer at the contract
46 producer's contract operation.
- 47 2. A production contract is executed when it is
48 signed or orally agreed to by each party to the
49 contract or by a person authorized by a party to act
50 on the party's behalf, including the contract

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1 producer's personal representative.

2 3. This chapter applies to any production contract
3 that is in force on or after the effective date of
4 this Act, regardless of the date that the production
5 contract is executed.

6 Sec. 15. NEW SECTION. 579B.3 ESTABLISHMENT OF
7 LIEN -- PRIORITY.

8 A contract producer who is a party to a production
9 contract executed pursuant to section 579B.2 shall
10 have a lien as provided in this section. The amount
11 of the lien shall be the amount owed to the contract
12 producer pursuant to the terms of the production
13 contract, which may be enforced as provided in section
14 579B.5.

15 1. a. If the production contract is for the
16 production of livestock or raw milk, all of the
17 following shall apply:

18 (1) For livestock, the lien shall apply to all of
19 the following:

20 (a) If the livestock is not sold or slaughtered by
21 the contract producer, the lien shall be on the
22 livestock.

23 (b) If the livestock is sold by the contractor,
24 the lien shall be on cash proceeds from the sale. For
25 purposes of this subparagraph, cash held by the
26 contractor shall be deemed to be cash proceeds from
27 the sale regardless of whether it is identifiable cash
28 proceeds.

29 (c) If the livestock is slaughtered by the
30 contractor, the lien shall be on any property of the
31 contractor that may be subject to a security interest
32 as provided in section 554.9102.

33 (2) For raw milk, the lien shall apply to all of
34 the following:

35 (a) If the raw milk is not sold or processed by
36 the contract producer, the lien shall be on the raw
37 milk.

38 (b) If the raw milk is sold by the contractor, the
39 lien shall be on cash proceeds from the sale. For
40 purposes of this subparagraph, cash held by the
41 contractor shall be deemed to be cash proceeds from
42 the sale regardless of whether it is identifiable cash
43 proceeds.

44 (c) If the raw milk is processed by the
45 contractor, the lien shall be on any property of the
46 contractor that may be subject to a security interest
47 as provided in section 554.9102.

48 b. The lien on livestock or raw milk is created at
49 the time the livestock arrives at the contract
50 livestock facility and continues for one year after

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1 the livestock is no longer under the authority of the
2 contract producer. For purposes of this section,
3 livestock is no longer under the authority of the
4 contract producer when the livestock leaves the
5 contract livestock facility.

6 2. a. If the production contract is for the
7 production of crops, all of the following shall apply:

8 (1) If the crop is not sold or processed by the
9 contractor, the lien shall be on the crop.

10 (2) If the crop is sold by the contractor, the
11 lien shall be on cash proceeds from the sale. For
12 purposes of this subparagraph, cash held by the
13 contractor shall be deemed to be cash proceeds from
14 the sale regardless of whether it is identifiable cash
15 proceeds.

16 (3) If the crop is processed by the contractor,
17 the lien shall be on any property of the contractor
18 that may be subject to a security interest as provided
19 in section 554.9102.

20 b. The lien on a crop is created at the time the
21 crop is planted and continues for one year after the
22 crop is no longer under the authority of the contract
23 producer. For purposes of this section, a crop is no
24 longer under the authority of the contract producer
25 when the crop or a warehouse receipt issued by a
26 warehouse operator licensed under chapter 203C for
27 grain from the crop is no longer under the custody or
28 control of the contract producer.

29 Sec. 16. NEW SECTION. 579B.4 PRESERVING THE LIEN
30 -- FILING REQUIREMENTS.

31 1. In order to preserve a lien created pursuant to
32 section 579B.3, a contract producer must file in the
33 office of the secretary of state a lien statement on a
34 form prescribed by the secretary of state. If the
35 lien arises out of producing livestock or raw milk,
36 the contract producer must file the lien within forty-
37 five days after the day that the livestock first
38 arrives at the contract livestock facility. If the
39 lien arises out of producing a crop, the contract
40 producer must file the lien within forty-five days
41 after the day that the crop is first planted. The
42 secretary of state shall charge a fee of not more than
43 ten dollars for filing the statement. The secretary
44 of state may adopt rules pursuant to chapter 17A for
45 the electronic filing of the statements.

46 2. The statement must include all of the
47 following:

48 a. An estimate of the amount owed pursuant to the
49 production contract.

50 b. The date when the livestock arrives at the

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1 contract livestock facility or the date when the crop
2 was planted.

3 c. The estimated duration of the period when the
4 commodity will be under the authority of the contract
5 producer.

6 d. The name of the party to the production
7 contract whose commodity is produced pursuant to the
8 production contract.

9 e. The description of the location of the contract
10 operation, by county and township.

11 f. The printed name and signature of the person
12 filing the form.

13 3. Except as provided in chapter 581, a lien
14 created under this section until preserved and a lien
15 preserved under this section is superior to and shall
16 have priority over a conflicting lien or security
17 interest in the commodity, including a lien or
18 security interest that was perfected prior to the
19 creation of the lien under this chapter.

20 Sec. 17. NEW SECTION. 579B.5 ENFORCEMENT.

21 Before a commodity leaves the authority of the
22 contract producer as provided in section 579B.3, the
23 contract producer may foreclose a lien created in that
24 section in the manner provided for the foreclosure of
25 secured transactions as provided in sections 554.9504,
26 554.9506, and 554.9507. After the commodity is no
27 longer under the authority of the contract producer,
28 the contract producer may enforce the lien in the
29 manner provided in chapter 554, article 9, part 5.

30 Sec. 18. NEW SECTION. 579B.6 WAIVERS
31 UNENFORCEABLE.

32 A waiver of a right created by this chapter,
33 including but not limited to a waiver of the right to
34 file a lien pursuant to this chapter, is void and
35 unenforceable. This section does not affect other
36 provisions of a contract, including a production
37 contract or a related document, policy, or agreement
38 which can be given effect without the voided
39 provision.

40 Sec. 19. NEW SECTION. 579B.7 ALTERNATE LIEN
41 PROCEDURE.

42 A person who is a custom cattle feedlot operator as
43 defined in section 579A.1 may file and enforce a lien
44 as a contract producer under this chapter or chapter
45 579A, but not both.

46 Sec. 20. Section 714.8, Code 1999, is amended by
47 adding the following new subsection:

48 NEW SUBSECTION. 17. A contractor who executes a
49 production contract that includes a confidentiality
50 provision in violation of section 8E.3.

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1 Sec. 21. SEVERABILITY. If any provision of this
2 Act or the application of this Act to any person or
3 circumstance is held invalid, the invalidity does not
4 affect other provisions or applications of this Act
5 which shall be given effect without the invalid
6 provision or application, and to this end the
7 provisions of this Act are severable.

8 Sec. 22. DIRECTIONS TO CODE EDITOR. The Code
9 editor may codify the provisions of chapter 8E as
10 enacted in this Act into another chapter or combine
11 the provisions of chapter 8E as enacted in this Act
12 with the provisions of chapter 172C as enacted in 1999
13 Iowa Acts, Senate File 436, into one chapter with
14 multiple subchapters, if Senate File 436 is enacted by
15 the 1999 Session of the Seventy-eighth General
16 Assembly.

17 Sec. 23. EFFECTIVE DATE. This Act, being deemed
18 of immediate importance, takes effect upon enactment."

By MERLIN E. BARTZ

S-3447 FILED APRIL 20, 1999

adopted 4/22/99 (P.1258)

HOUSE FILE 322

S-3462

1 Amend the amendment, S-3447, to House File 322, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 3, by striking lines 12 through 14 and
5 inserting the following:

6 "____. A contractor shall not on or after the
7 effective date of this Act enforce a provision in a
8 production contract if the provision".

9 2. By renumbering as necessary.

adopted 4/22/99 By MERLIN E. BARTZ
(A1257)

S-3462 FILED APRIL 21, 1999

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 322

S-3519

- 1 Amend the Senate amendment, H-1791, to House File
2 322, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, by inserting after line 4 the
5 following:
6 "Section 1. Section 9H.1, subsection 12, Code
7 1999, is amended to read as follows:
8 12. "Feedlot" means a lot, yard, corral, building,
9 or other area in which hogs or cattle fed for
10 slaughter are confined. The term includes areas which
11 are used for the raising of crops or other vegetation
12 and upon which hogs or cattle fed for slaughter are
13 allowed to graze or feed."
14 2. Page 5, line 25, by striking the words "holds
15 a legal interest in" and inserting the following:
16 "owns or leases".
17 3. Page 5, line 30, by striking the words "holds
18 a legal".
19 4. Page 5, line 31, by striking the words
20 "interest in" and inserting the following: "owns or
21 leases".
22 5. Page 5, lines 39 and 40, by striking the words
23 "holds a legal interest in" and inserting the
24 following: "owns or leases".
25 6. Page 7, line 21, by striking the words
26 "contract producer" and inserting the following:
27 "contractor".
28 7. Page 7, line 36, by striking the words
29 "contract producer" and inserting the following:
30 "contractor".
31 8. Page 9, line 48, by striking the word
32 "executes" and inserting the following: "enforces".
33 9. Page 9, by striking lines 49 and 50 and
34 inserting the following: "provision in a production
35 contract that provides that information contained in
36 the production contract is confidential as provided in
37 section 8E.3."
38 10. Page 10, by inserting after line 18, the
39 following:
40 "_____. Title page, line 1, by striking the words
41 "production contracts" and inserting the following:
42 "agricultural production".
43 11. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3519 FILED APRIL 28, 1999

CONCURRED

4/28/99
(p. 1350)

SENATE AMENDMENT TO HOUSE FILE 322

H-1791

1 Amend House File 322, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 8E.1 DEFINITIONS.

6 As used in this chapter, unless the context
7 otherwise requires:

8 1. "Active contractor" means a person who owns a
9 commodity that is produced by a contract producer at
10 the contract producer's contract operation pursuant to
11 a production contract executed pursuant to section
12 8E.2.

13 2. "Commodity" means livestock, raw milk, or a
14 crop.

15 3. "Contract crop field" means farmland where a
16 crop is produced according to a production contract
17 executed pursuant to section 8E.2 by a contract
18 producer who holds a legal interest in the farmland.

19 4. "Contract livestock facility" means an animal
20 feeding operation as defined in section 455B.161, in
21 which livestock or raw milk is produced according to a
22 production contract executed pursuant to section 8E.2
23 by a contract producer who holds a legal interest in
24 the animal feeding operation. "Contract livestock
25 facility" includes a confinement feeding operation as
26 defined in section 455B.161, an open feedlot, or an
27 area which is used for the raising of crops or other
28 vegetation and upon which livestock is fed for
29 slaughter or is allowed to graze or feed.

30 5. "Contract operation" means a contract livestock
31 facility or contract crop field.

32 6. "Contract producer" means a person who holds a
33 legal interest in a contract operation and who
34 produces a commodity at the contract producer's
35 contract operation under a production contract
36 executed pursuant to section 8E.2.

37 7. "Contractor" means an active contractor or a
38 passive contractor.

39 8. a. "Crop" means a plant used for food, animal
40 feed, fiber, or oil, if the plant is classified as a
41 forage or cereal plant, including but not limited to
42 alfalfa, barley, buckwheat, corn, flax, forage,
43 millet, oats, popcorn, rye, sorghum, soybeans,
44 sunflowers, wheat, and grasses used for forage or
45 silage.

46 b. A "crop" does not include trees or nuts or
47 fruit grown on trees; sod; shrubs; greenhouse plants;
48 or plants or plant parts produced for precommercial,
49 experimental, or research purposes.

50 9. "Farmland" means agricultural land that is

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1 suitable for use in farming as defined in section
2 9H.1.

3 10. "Livestock" means beef cattle, dairy cattle,
4 sheep, or swine.

5 11. "Open feedlot" means an unroofed or partially
6 roofed animal feeding operation in which no crop,
7 vegetation, or forage growth or residue cover is
8 maintained during the period that animals are confined
9 in the operation.

10 12. "Passive contractor" means a person who
11 furnishes management services to a contract producer,
12 and who does not own a commodity that is produced by
13 the contract producer at the contract producer's
14 contract operation according to a production contract
15 which is executed pursuant to section 8E.2.

16 13. "Produce" means to do any of the following:

17 a. Provide feed or services relating to the care
18 and feeding of livestock. If the livestock is dairy
19 cattle, "produce" includes milking the dairy cattle
20 and storing raw milk at the contract producer's
21 contract livestock facility.

22 b. Provide for planting, raising, harvesting, and
23 storing a crop. "Produce" includes preparing the soil
24 for planting and nurturing the crop by the application
25 of fertilizers or soil conditioners as defined in
26 section 200.3 or pesticides as defined in section
27 206.2.

28 14. "Production contract" means an oral or written
29 agreement executed pursuant to section 8E.2 that
30 provides for the production of a commodity or the
31 provision of management services relating to the
32 production of a commodity by a contract producer.

33 Sec. 2. NEW SECTION. 8E.2 PRODUCTION CONTRACTS
34 GOVERNED BY THIS CHAPTER.

35 1. This chapter applies to a production contract
36 that relates to the production of a commodity owned by
37 an active contractor and produced by a contract
38 producer at the contract producer's contract
39 operation, if one of the following applies:

40 a. The contract is executed by an active
41 contractor and a contract producer for the production
42 of the commodity.

43 b. The contract is executed by an active
44 contractor and a passive contractor for the provision
45 of management services to the contract producer in the
46 production of the commodity.

47 c. The contract is executed by a passive
48 contractor and a contract producer, if all of the
49 following apply:

50 (1) The contract provides for management services

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1 furnished by the passive contractor to the contract
2 producer in the production of the commodity.

3 (2) The passive contractor has a contractual
4 relationship with the active contractor involving the
5 production of the commodity.

6 2. A production contract is executed when it is
7 signed or orally agreed to by each party or by a
8 person who is authorized by a party to act on the
9 party's behalf.

10 Sec. 3. NEW SECTION. 8E.3 PRODUCTION CONTRACTS
11 -- CONFIDENTIALITY PROHIBITED.

12 1. A contractor shall not on or after the
13 effective date of this Act enforce a provision in a
14 production contract if the provision provides that
15 information contained in the production contract is
16 confidential.

17 2. A provision which is part of a production
18 contract is void, if the provision states that
19 information contained in the production contract is
20 confidential. The confidentiality provision is void
21 whether the confidentiality provision is express or
22 implied; oral or written; required or conditional;
23 contained in the production contract, another
24 production contract, or in a related document, policy,
25 or agreement. This section does not affect other
26 provisions of a production contract or a related
27 document, policy, or agreement which can be given
28 effect without the voided provision. This section
29 does not require a party to a production contract to
30 divulge the information in the production contract to
31 another person.

32 Sec. 4. NEW SECTION. 8E.4 ENFORCEMENT.

33 1. The attorney general's office is the primary
34 agency responsible for enforcing this chapter.

35 2. In enforcing the provisions of this chapter,
36 the attorney general may do all of the following:

37 a. Apply to the district court for an injunction
38 to do any of the following:

39 (1) Restrain a contractor from engaging in conduct
40 or practices in violation of this chapter.

41 (2) Require a contractor to comply with a
42 provision of this chapter.

43 b. Apply to district court for the issuance of a
44 subpoena to obtain a production contract for purposes
45 of enforcing this chapter.

46 c. Bring an action in district court to enforce
47 penalties provided in section 8E.5, including the
48 assessment and collection of civil penalties.

49 Sec. 5. NEW SECTION. 8E.5 PENALTIES.

50 A contractor who executes a production contract

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1 that includes a confidentiality provision in a
2 production contract in violation of section 8E.3 is
3 guilty of a fraudulent practice as provided in section
4 714.8.

5 Sec. 6. Section 579A.1, subsections 2, 3, and 4,
6 Code 1999, are amended to read as follows:

7 2. "Custom cattle feedlot" means a feedlot where
8 cattle owned by a person are ~~subject-to-care-and~~
9 ~~feeding-performed~~ provided feed and care by another
10 person.

11 3. "Custom cattle feedlot operator" means the
12 owner of a custom cattle feedlot or ~~a-person-managing~~
13 ~~the-custom-cattle-feedlot,-if-the-person-is-authorized~~
14 ~~by-the-owner-to-file-and-enforce-a-lien-under-this~~
15 ~~chapter~~ the owner's personal representative.

16 4. "Feedlot" means ~~the-same-as-defined-in-section~~
17 ~~72B-1~~ a lot, yard, corral, building, or other area in
18 which cattle are confined and fed and maintained for
19 forty-five days or more in any twelve-month period.

20 Sec. 7. Section 579A.1, Code 1999, is amended by
21 adding the following new subsection:

22 NEW SUBSECTION. 4A. "Personal representative"
23 means a person who is authorized by the owner of a
24 custom cattle feedlot to act on behalf of the owner,
25 including by executing an agreement, managing a custom
26 cattle feedlot, or filing and enforcing liens under
27 this chapter.

28 Sec. 8. Section 579A.2, subsection 1, Code 1999,
29 is amended to read as follows:

30 1. A custom cattle feedlot operator shall have a
31 lien upon the cattle and the identifiable cash
32 proceeds from the sale of the cattle for the amount of
33 the contract price for the feed and care of the
34 ~~livestock~~ cattle at the custom cattle feedlot agreed
35 upon pursuant to a written or oral agreement by the
36 custom cattle feedlot operator and the person who owns
37 the cattle, which may be enforced as provided in
38 section 579A.3.

39 Sec. 9. Section 579A.2, subsection 2, paragraph e,
40 Code 1999, is amended to read as follows:

41 e. The printed name and signature of the person
42 filing the form.

43 Sec. 10. Section 579A.2, subsection 3, Code 1999,
44 is amended to read as follows:

45 3. Except as provided in chapter 581, a lien
46 created under this section until preserved and a lien
47 preserved under this section is superior to and shall
48 have priority over a conflicting lien or security
49 interest in the cattle, including a lien or security
50 interest that was perfected prior to the creation of

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the lien provided under this section.

2 Sec. 11. NEW SECTION. 579A.4 WAIVERS
3 UNENFORCEABLE.

4 A waiver of a right created by this chapter,
5 including but not limited to, a waiver of the right to
6 file a lien pursuant to this chapter is void and
7 unenforceable. This section does not affect other
8 provisions of a contract, including a production
9 contract or a related document, policy, or agreement
10 which can be given effect without the voided
11 provision.

12 Sec. 12. NEW SECTION. 579A.5 ALTERNATE LIEN
13 PROCEDURE.

14 A person who is a custom cattle feedlot operator
15 may file and enforce a lien as a contract producer
16 under this chapter or chapter 579B, but not both.

17 Sec. 13. NEW SECTION. 579B.1 DEFINITIONS.

18 As used in this chapter, unless the context
19 otherwise requires:

20 1. "Commodity" means livestock, raw milk, or a
21 crop.

22 2. "Contract crop field" means farmland where a
23 crop is produced according to a production contract
24 executed pursuant to section 579B.2 by a contract
25 producer who holds a legal interest in the farmland.

26 3. "Contract livestock facility" means an animal
27 feeding operation as defined in section 455B.161, in
28 which livestock or raw milk is produced according to a
29 production contract executed pursuant to section
30 579B.2 by a contract producer who holds a legal
31 interest in the animal feeding operation. "Contract
32 livestock facility" includes a confinement feeding
33 operation as defined in section 455B.161, an open
34 feedlot, or an area which is used for the raising of
35 crops or other vegetation and upon which livestock is
36 fed for slaughter or is allowed to graze or feed.

37 4. "Contract operation" means a contract livestock
38 facility or contract crop field.

39 5. "Contract producer" means a person who holds a
40 legal interest in a contract operation and who
41 produces a commodity under a production contract
42 executed pursuant to section 579B.2.

43 6. "Contractor" means a person who owns a
44 commodity at the time that the commodity is under the
45 authority of the contract producer as provided in
46 section 579B.3 pursuant to a production contract
47 executed pursuant to section 579B.2.

48 7. a. "Crop" means a plant used for food, animal
49 feed, fiber, or oil, if the plant is classified as a
50 forage or cereal plant, including but not limited to

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1 alfalfa, barley, buckwheat, corn, flax, forage,
2 millet, oats, popcorn, rye, sorghum, soybeans,
3 sunflowers, wheat, and grasses used for forage or
4 silage.

5 b. A "crop" does not include trees or nuts or
6 fruit grown on trees; sod; shrubs; greenhouse plants;
7 or plants or plant parts produced for precommercial,
8 experimental, or research purposes.

9 8. "Farmland" means agricultural land suitable for
10 use in farming as defined in section 9H.1.

11 9. "Livestock" means beef cattle, dairy cattle,
12 sheep, or swine.

13 10. "Open feedlot" means the same as defined in
14 section 8E.1.

15 11. "Personal representative" means a person who
16 is authorized by a contract producer to act on behalf
17 of the contract producer, including by executing an
18 agreement, managing a contract operation, or filing
19 and enforcing a lien as provided in this chapter.

20 12. "Processor" means a person engaged in the
21 business of manufacturing goods from commodities,
22 including by slaughtering or processing livestock,
23 processing raw milk, or processing crops.

24 13. "Produce" means to do any of the following:

25 a. Provide feed or services relating to the care
26 and feeding of livestock. If the livestock is dairy
27 cattle, "produce" includes milking the dairy cattle
28 and storing raw milk at the contract producer's
29 contract livestock facility.

30 b. Provide for planting, raising, harvesting, and
31 storing crop. "Produce" includes preparing the soil
32 for planting and nurturing the crop by the application
33 of fertilizers or soil conditioners as defined in
34 section 200.3 or pesticides as defined in section
35 206.2.

36 14. "Production contract" means an oral or written
37 agreement executed pursuant to section 579B.2 that
38 provides for the production of a commodity by a
39 contract producer.

40 Sec. 14. NEW SECTION. 579B.2 LIEN DEPENDS UPON
41 PRODUCTION CONTRACTS.

42 1. A lien established under section 579B.3 depends
43 upon the execution of a production contract that
44 provides for producing a commodity owned by a
45 contractor by a contract producer at the contract
46 producer's contract operation.

47 2. A production contract is executed when it is
48 signed or orally agreed to by each party to the
49 contract or by a person authorized by a party to act
50 on the party's behalf, including the contract

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producer's personal representative.

3. This chapter applies to any production contract that is in force on or after the effective date of this Act, regardless of the date that the production contract is executed.

Sec. 15. NEW SECTION. 579B.3 ESTABLISHMENT OF LIEN -- PRIORITY.

A contract producer who is a party to a production contract executed pursuant to section 579B.2 shall have a lien as provided in this section. The amount of the lien shall be the amount owed to the contract producer pursuant to the terms of the production contract, which may be enforced as provided in section 579B.5.

1. a. If the production contract is for the production of livestock or raw milk, all of the following shall apply:

(1) For livestock, the lien shall apply to all of the following:

(a) If the livestock is not sold or slaughtered by the contract producer, the lien shall be on the livestock.

(b) If the livestock is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the livestock is slaughtered by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

(2) For raw milk, the lien shall apply to all of the following:

(a) If the raw milk is not sold or processed by the contract producer, the lien shall be on the raw milk.

(b) If the raw milk is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the raw milk is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

b. The lien on livestock or raw milk is created at the time the livestock arrives at the contract livestock facility and continues for one year after

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1 the livestock is no longer under the authority of the
2 contract producer. For purposes of this section,
3 livestock is no longer under the authority of the
4 contract producer when the livestock leaves the
5 contract livestock facility.

6 2. a. If the production contract is for the
7 production of crops, all of the following shall apply:

8 (1) If the crop is not sold or processed by the
9 contractor, the lien shall be on the crop.

10 (2) If the crop is sold by the contractor, the
11 lien shall be on cash proceeds from the sale. For
12 purposes of this subparagraph, cash held by the
13 contractor shall be deemed to be cash proceeds from
14 the sale regardless of whether it is identifiable cash
15 proceeds.

16 (3) If the crop is processed by the contractor,
17 the lien shall be on any property of the contractor
18 that may be subject to a security interest as provided
19 in section 554.9102.

20 b. The lien on a crop is created at the time the
21 crop is planted and continues for one year after the
22 crop is no longer under the authority of the contract
23 producer. For purposes of this section, a crop is no
24 longer under the authority of the contract producer
25 when the crop or a warehouse receipt issued by a
26 warehouse operator licensed under chapter 203C for
27 grain from the crop is no longer under the custody or
28 control of the contract producer.

29 Sec. 16. NEW SECTION. 579B.4 PRESERVING THE LIEN
30 -- FILING REQUIREMENTS.

31 1. In order to preserve a lien created pursuant to
32 section 579B.3, a contract producer must file in the
33 office of the secretary of state a lien statement on a
34 form prescribed by the secretary of state. If the
35 lien arises out of producing livestock or raw milk,
36 the contract producer must file the lien within forty-
37 five days after the day that the livestock first
38 arrives at the contract livestock facility. If the
39 lien arises out of producing a crop, the contract
40 producer must file the lien within forty-five days
41 after the day that the crop is first planted. The
42 secretary of state shall charge a fee of not more than
43 ten dollars for filing the statement. The secretary
44 of state may adopt rules pursuant to chapter 17A for
45 the electronic filing of the statements.

46 2. The statement must include all of the
47 following:

48 a. An estimate of the amount owed pursuant to the
49 production contract.

50 b. The date when the livestock arrives at the

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contract livestock facility or the date when the crop was planted.

3 c. The estimated duration of the period when the
4 commodity will be under the authority of the contract
5 producer.

6 d. The name of the party to the production
7 contract whose commodity is produced pursuant to the
8 production contract.

9 e. The description of the location of the contract
10 operation, by county and township.

11 f. The printed name and signature of the person
12 filing the form.

13 3. Except as provided in chapter 581, a lien
14 created under this section until preserved and a lien
15 preserved under this section is superior to and shall
16 have priority over a conflicting lien or security
17 interest in the commodity, including a lien or
18 security interest that was perfected prior to the
19 creation of the lien under this chapter.

20 Sec. 17. NEW SECTION. 579B.5 ENFORCEMENT.

21 Before a commodity leaves the authority of the
22 contract producer as provided in section 579B.3, the
23 contract producer may foreclose a lien created in that
24 section in the manner provided for the foreclosure of
25 secured transactions as provided in sections 554.9504,
26 554.9506, and 554.9507. After the commodity is no
27 longer under the authority of the contract producer,
28 the contract producer may enforce the lien in the
29 manner provided in chapter 554, article 9, part 5.

30 Sec. 18. NEW SECTION. 579B.6 WAIVERS
31 UNENFORCEABLE.

32 A waiver of a right created by this chapter,
33 including but not limited to a waiver of the right to
34 file a lien pursuant to this chapter, is void and
35 unenforceable. This section does not affect other
36 provisions of a contract, including a production
37 contract or a related document, policy, or agreement
38 which can be given effect without the voided
39 provision.

40 Sec. 19. NEW SECTION. 579B.7 ALTERNATE LIEN
41 PROCEDURE.

42 A person who is a custom cattle feedlot operator as
43 defined in section 579A.1 may file and enforce a lien
44 as a contract producer under this chapter or chapter
45 579A, but not both.

46 Sec. 20. Section 714.8, Code 1999, is amended by
47 adding the following new subsection:

48 NEW SUBSECTION. 17. A contractor who executes a
49 production contract that includes a confidentiality
50 provision in violation of section 8E.3.

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1 Sec. 21. SEVERABILITY. If any provision of this
 2 Act or the application of this Act to any person or
 3 circumstance is held invalid, the invalidity does not
 4 affect other provisions or applications of this Act
 5 which shall be given effect without the invalid
 6 provision or application, and to this end the
 7 provisions of this Act are severable.

8 Sec. 22. DIRECTIONS TO CODE EDITOR. The Code
 9 editor may codify the provisions of chapter 8E as
 10 enacted in this Act into another chapter or combine
 11 the provisions of chapter 8E as enacted in this Act
 12 with the provisions of chapter 172C as enacted in 1999
 13 Iowa Acts, Senate File 436, into one chapter with
 14 multiple subchapters, if Senate File 436 is enacted by
 15 the 1999 Session of the Seventy-eighth General
 16 Assembly.

17 Sec. 23. EFFECTIVE DATE. This Act, being deemed
 18 of immediate importance, takes effect upon enactment."

RECEIVED FROM THE SENATE

H-1791 FILED APRIL 22, 1999

Senate Concurred
April 28-99
(p. 1850)

HOUSE FILE 322

H-1853

- 1 Amend the Senate amendment, H-1791, to House File
2 322, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, by inserting after line 4 the
5 following:
6 "Section 1. Section 9H.1, subsection 12, Code
7 1999, is amended to read as follows:
8 12. "Feedlot" means a lot, yard, corral, building,
9 or other area in which hogs or cattle fed for
10 slaughter are confined. The term includes areas which
11 are used for the raising of crops or other vegetation
12 and upon which hogs or cattle fed for slaughter are
13 allowed to graze or feed."
14 2. Page 5, line 25, by striking the words "holds
15 a legal interest in" and inserting the following:
16 "owns or leases".
17 3. Page 5, line 30, by striking the words "holds
18 a legal".
19 4. Page 5, line 31, by striking the words
20 "interest in" and inserting the following: "owns or
21 leases".
22 5. Page 5, lines 39 and 40, by striking the words
23 "holds a legal interest in" and inserting the
24 following: "owns or leases".
25 6. Page 7, line 21, by striking the words
26 "contract producer" and inserting the following:
27 "contractor".
28 7. Page 7, line 36, by striking the words
29 "contract producer" and inserting the following:
30 "contractor".
31 8. Page 9, line 48, by striking the word
32 "executes" and inserting the following: "enforces".
33 9. Page 9, by striking lines 49 and 50 and
34 inserting the following: "provision in a production
35 contract that provides that information contained in
36 the production contract is confidential as provided in
37 section 8E.3."
38 10. Page 10, by inserting after line 18, the
39 following:
40 "____. Title page, line 1, by striking the words
41 "production contracts" and inserting the following:
42 "agricultural production"."
43 11. By renumbering as necessary.

By TEIG of Hamilton

H-1853 FILED APRIL 27, 1999

*A dopted**4/28/99**(P1800)*

H-1845

1 Amend the Senate amendment, H-1791, to House File
2 322, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 4 the
5 following:

6 "Section 1. Section 9H.1, subsection 12, Code
7 1999, is amended to read as follows:

8 12. "Feedlot" means a lot, yard, corral, building,
9 or other area in which hogs or cattle fed for
10 slaughter are confined. The term includes areas which
11 are used for the raising of crops or other vegetation
12 and upon which hogs or cattle fed for slaughter are
13 allowed to graze or feed."

14 2. Page 5, line 25, by striking the words "holds
15 a legal interest in" and inserting the following:
16 "owns or leases".

17 3. Page 5, lines 39 and 40, by striking the words
18 "holds a legal interest in" and inserting the
19 following: "owns or leases".

20 4. Page 7, line 21, by striking the words
21 "contract producer" and inserting the following:
22 "contractor".

23 5. Page 7, line 36, by striking the words
24 "contract producer" and inserting the following:
25 "contractor".

26 6. Page 9, line 48, by striking the word
27 "executes" and inserting the following: "enforces".

28 7. Page 9, by striking lines 49 and 50 and
29 inserting the following: "provision in a production
30 contract that provides that information contained in
31 the production contract is confidential as provided in
32 section 8E.3."

33 8. Page 10, by inserting after line 18, the
34 following:

35 "_____. Title page, line 1, by striking the words
36 "production contracts" and inserting the following:
37 "agricultural production"."

38 9. By renumbering as necessary.

By TEIG of Hamilton

H-1845 FILED APRIL 27, 1999

w/d
4/28/99
(p. 1799)

AN ACT
RELATING TO AGRICULTURAL PRODUCTION, PROVIDING PENALTIES, AND
PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 9B.1, subsection 12, Code 1999, is amended to read as follows:

12. "Feedlot" means a lot, yard, corral, building, or other area in which hogs or cattle fed for slaughter are confined. The term includes areas which are used for the raising of crops or other vegetation and upon which hogs or cattle fed for slaughter are allowed to graze or feed.

Sec. 2. NEW SECTION. 8E.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Active contractor" means a person who owns a commodity that is produced by a contract producer at the contract producer's contract operation pursuant to a production contract executed pursuant to section 8E.2.

2. "Commodity" means livestock, raw milk, or a crop.

3. "Contract crop field" means farmland where a crop is produced according to a production contract executed pursuant to section 8E.2 by a contract producer who holds a legal interest in the farmland.

4. "Contract livestock facility" means an animal feeding operation as defined in section 455B.161, in which livestock or raw milk is produced according to a production contract

executed pursuant to section 8E.2 by a contract producer who holds a legal interest in the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 455B.161, an open feedlot, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.

5. "Contract operation" means a contract livestock facility or contract crop field.

6. "Contract producer" means a person who holds a legal interest in a contract operation and who produces a commodity at the contract producer's contract operation under a production contract executed pursuant to section 8E.2.

7. "Contractor" means an active contractor or a passive contractor.

8. a. "Crop" means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. A "crop" does not include trees or nuts or fruit grown on trees; sod; shrubs; greenhouse plants; or plants or plant parts produced for precommercial, experimental, or research purposes.

9. "Farmland" means agricultural land that is suitable for use in farming as defined in section 9H.1.

10. "Livestock" means beef cattle, dairy cattle, sheep, or swine.

11. "Open feedlot" means an unroofed or partially roofed animal feeding operation in which no crop, vegetation, or forage growth or residue cover is maintained during the period that animals are confined in the operation.

12. "Passive contractor" means a person who furnishes management services to a contract producer, and who does not

own a commodity that is produced by the contract producer at the contract producer's contract operation according to a production contract which is executed pursuant to section 8E.2.

13. "Produce" means to do any of the following:

a. Provide feed or services relating to the care and feeding of livestock. If the livestock is dairy cattle, "produce" includes milking the dairy cattle and storing raw milk at the contract producer's contract livestock facility.

b. Provide for planting, raising, harvesting, and storing a crop. "Produce" includes preparing the soil for planting and nurturing the crop by the application of fertilizers or soil conditioners as defined in section 200.3 or pesticides as defined in section 206.2.

14. "Production contract" means an oral or written agreement executed pursuant to section 8E.2 that provides for the production of a commodity or the provision of management services relating to the production of a commodity by a contract producer.

Sec. 3. NEW SECTION. 8E.2 PRODUCTION CONTRACTS GOVERNED BY THIS CHAPTER.

1. This chapter applies to a production contract that relates to the production of a commodity owned by an active contractor and produced by a contract producer at the contract producer's contract operation, if one of the following applies:

a. The contract is executed by an active contractor and a contract producer for the production of the commodity.

b. The contract is executed by an active contractor and a passive contractor for the provision of management services to the contract producer in the production of the commodity.

c. The contract is executed by a passive contractor and a contract producer, if all of the following apply:

(1) The contract provides for management services furnished by the passive contractor to the contract producer in the production of the commodity.

(2) The passive contractor has a contractual relationship with the active contractor involving the production of the commodity.

2. A production contract is executed when it is signed or orally agreed to by each party or by a person who is authorized by a party to act on the party's behalf.

Sec. 4. NEW SECTION. 8E.3 PRODUCTION CONTRACTS -- CONFIDENTIALITY PROHIBITED.

1. A contractor shall not on or after the effective date of this Act enforce a provision in a production contract if the provision provides that information contained in the production contract is confidential.

2. A provision which is part of a production contract is void, if the provision states that information contained in the production contract is confidential. The confidentiality provision is void whether the confidentiality provision is express or implied; oral or written; required or conditional; contained in the production contract, another production contract, or in a related document, policy, or agreement. This section does not affect other provisions of a production contract or a related document, policy, or agreement which can be given effect without the voided provision. This section does not require a party to a production contract to divulge the information in the production contract to another person.

Sec. 5. NEW SECTION. 8E.4 ENFORCEMENT.

1. The attorney general's office is the primary agency responsible for enforcing this chapter.

2. In enforcing the provisions of this chapter, the attorney general may do all of the following:

a. Apply to the district court for an injunction to do any of the following:

(1) Restrain a contractor from engaging in conduct or practices in violation of this chapter.

(2) Require a contractor to comply with a provision of this chapter.

b. Apply to district court for the issuance of a subpoena to obtain a production contract for purposes of enforcing this chapter.

c. Bring an action in district court to enforce penalties provided in section 8E.5, including the assessment and collection of civil penalties.

Sec. 6. NEW SECTION. 8E.5 PENALTIES.

A contractor who executes a production contract that includes a confidentiality provision in a production contract in violation of section 8E.3 is guilty of a fraudulent practice as provided in section 714.8.

Sec. 7. Section 579A.1, subsections 2, 3, and 4, Code 1999, are amended to read as follows:

2. "Custom cattle feedlot" means a feedlot where cattle owned by a person are subject-to-care-and-feeding-performed provided feed and care by another person.

3. "Custom cattle feedlot operator" means the owner of a custom cattle feedlot or a-person-managing-the-custom-cattle feedlot;-if-the-person-is-authorized-by-the-owner-to-file-and enforce-a-lien-under-this-chapter the owner's personal representative.

4. "Feedlot" means the-same-as-defined-in-section-172B-1 a lot, yard, corral, building, or other area in which cattle are confined and fed and maintained for forty-five days or more in any twelve-month period.

Sec. 8. Section 579A.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Personal representative" means a person who is authorized by the owner of a custom cattle feedlot to act on behalf of the owner, including by executing an agreement, managing a custom cattle feedlot, or filing and enforcing liens under this chapter.

Sec. 9. Section 579A.2, subsection 1, Code 1999, is amended to read as follows:

1. A custom cattle feedlot operator shall have a lien upon the cattle and the identifiable cash proceeds from the sale of the cattle for the amount of the contract price for the feed and care of the livestock cattle at the custom cattle feedlot agreed-upon pursuant to a written or oral agreement by the custom cattle feedlot operator and the person who owns the cattle, which may be enforced as provided in section 579A.3.

Sec. 10. Section 579A.2, subsection 2, paragraph e, Code 1999, is amended to read as follows:

e. The printed name and signature of the person filing the form.

Sec. 11. Section 579A.2, subsection 3, Code 1999, is amended to read as follows:

3. Except as provided in chapter 581, a lien created under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting lien or security interest in the cattle, including a lien or security interest that was perfected prior to the creation of the lien provided under this section.

Sec. 12. NEW SECTION. 579A.4 WAIVERS UNENFORCEABLE.

A waiver of a right created by this chapter, including but not limited to, a waiver of the right to file a lien pursuant to this chapter is void and unenforceable. This section does not affect other provisions of a contract, including a production contract or a related document, policy, or agreement which can be given effect without the voided provision.

Sec. 13. NEW SECTION. 579A.5 ALTERNATE LIEN PROCEDURE.

A person who is a custom cattle feedlot operator may file and enforce a lien as a contract producer under this chapter or chapter 579B, but not both.

Sec. 14. NEW SECTION. 579B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Commodity" means livestock, raw milk, or a crop.

2. "Contract crop field" means farmland where a crop is produced according to a production contract executed pursuant to section 579B.2 by a contract producer who owns or leases the farmland.

3. "Contract livestock facility" means an animal feeding operation as defined in section 455B.161, in which livestock or raw milk is produced according to a production contract executed pursuant to section 579B.2 by a contract producer who owns or leases the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 455B.161, an open feedlot, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.

4. "Contract operation" means a contract livestock facility or contract crop field.

5. "Contract producer" means a person who owns or leases a contract operation and who produces a commodity under a production contract executed pursuant to section 579B.2.

6. "Contractor" means a person who owns a commodity at the time that the commodity is under the authority of the contract producer as provided in section 579B.3 pursuant to a production contract executed pursuant to section 579B.2.

7. a. "Crop" means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. A "crop" does not include trees or nuts or fruit grown on trees; sod; shrubs; greenhouse plants; or plants or plant parts produced for precommercial, experimental, or research purposes.

8. "Farmland" means agricultural land suitable for use in farming as defined in section 9H.1.

9. "Livestock" means beef cattle, dairy cattle, sheep, or swine.

10. "Open feedlot" means the same as defined in section 8E.1.

11. "Personal representative" means a person who is authorized by a contract producer to act on behalf of the contract producer, including by executing an agreement, managing a contract operation, or filing and enforcing a lien as provided in this chapter.

12. "Processor" means a person engaged in the business of manufacturing goods from commodities, including by slaughtering or processing livestock, processing raw milk, or processing crops.

13. "Produce" means to do any of the following:

a. Provide feed or services relating to the care and feeding of livestock. If the livestock is dairy cattle, "produce" includes milking the dairy cattle and storing raw milk at the contract producer's contract livestock facility.

b. Provide for planting, raising, harvesting, and storing crop. "Produce" includes preparing the soil for planting and nurturing the crop by the application of fertilizers or soil conditioners as defined in section 200.3 or pesticides as defined in section 206.2.

14. "Production contract" means an oral or written agreement executed pursuant to section 579B.2 that provides for the production of a commodity by a contract producer.

Sec. 15. NEW SECTION. 579B.2 LIEN DEPENDS UPON PRODUCTION CONTRACTS.

1. A lien established under section 579B.3 depends upon the execution of a production contract that provides for producing a commodity owned by a contractor by a contract producer at the contract producer's contract operation.

2. A production contract is executed when it is signed or orally agreed to by each party to the contract or by a person authorized by a party to act on the party's behalf, including the contract producer's personal representative.

3. This chapter applies to any production contract that is in force on or after the effective date of this Act, regardless of the date that the production contract is executed.

Sec. 16. NEW SECTION. 579B.3 ESTABLISHMENT OF LIEN -- PRIORITY.

A contract producer who is a party to a production contract executed pursuant to section 579B.2 shall have a lien as provided in this section. The amount of the lien shall be the amount owed to the contract producer pursuant to the terms of the production contract, which may be enforced as provided in section 579B.5.

1. a. If the production contract is for the production of livestock or raw milk, all of the following shall apply:

(1) For livestock, the lien shall apply to all of the following:

(a) If the livestock is not sold or slaughtered by the contractor, the lien shall be on the livestock.

(b) If the livestock is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the livestock is slaughtered by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

(2) For raw milk, the lien shall apply to all of the following:

(a) If the raw milk is not sold or processed by the contractor, the lien shall be on the raw milk.

(b) If the raw milk is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the raw milk is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

b. The lien on livestock or raw milk is created at the time the livestock arrives at the contract livestock facility and continues for one year after the livestock is no longer under the authority of the contract producer. For purposes of this section, livestock is no longer under the authority of the contract producer when the livestock leaves the contract livestock facility.

2. a. If the production contract is for the production of crops, all of the following shall apply:

(1) If the crop is not sold or processed by the contractor, the lien shall be on the crop.

(2) If the crop is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(3) If the crop is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

b. The lien on a crop is created at the time the crop is planted and continues for one year after the crop is no longer under the authority of the contract producer. For purposes of this section, a crop is no longer under the authority of the contract producer when the crop or a warehouse receipt issued by a warehouse operator licensed under chapter 203C for grain from the crop is no longer under the custody or control of the contract producer.

Sec. 17. NEW SECTION. 579B.4 PRESERVING THE LIEN -- FILING REQUIREMENTS.

1. In order to preserve a lien created pursuant to section 579B.3, a contract producer must file in the office of the

secretary of state a lien statement on a form prescribed by the secretary of state. If the lien arises out of producing livestock or raw milk, the contract producer must file the lien within forty-five days after the day that the livestock first arrives at the contract livestock facility. If the lien arises out of producing a crop, the contract producer must file the lien within forty-five days after the day that the crop is first planted. The secretary of state shall charge a fee of not more than ten dollars for filing the statement. The secretary of state may adopt rules pursuant to chapter 17A for the electronic filing of the statements.

2. The statement must include all of the following:

- a. An estimate of the amount owed pursuant to the production contract.
- b. The date when the livestock arrives at the contract livestock facility or the date when the crop was planted.
- c. The estimated duration of the period when the commodity will be under the authority of the contract producer.
- d. The name of the party to the production contract whose commodity is produced pursuant to the production contract.
- e. The description of the location of the contract operation, by county and township.
- f. The printed name and signature of the person filing the form.

3. Except as provided in chapter 581, a lien created under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting lien or security interest in the commodity, including a lien or security interest that was perfected prior to the creation of the lien under this chapter.

Sec. 18. NEW SECTION. 579B.5 ENFORCEMENT.

Before a commodity leaves the authority of the contract producer as provided in section 579B.3, the contract producer may foreclose a lien created in that section in the manner provided for the foreclosure of secured transactions as

provided in sections 554.9504, 554.9506, and 554.9507. After the commodity is no longer under the authority of the contract producer, the contract producer may enforce the lien in the manner provided in chapter 554, article 9, part 5.

Sec. 19. NEW SECTION. 579B.6 WAIVERS UNENFORCEABLE.

A waiver of a right created by this chapter, including but not limited to a waiver of the right to file a lien pursuant to this chapter, is void and unenforceable. This section does not affect other provisions of a contract, including a production contract or a related document, policy, or agreement which can be given effect without the voided provision.

Sec. 20. NEW SECTION. 579B.7 ALTERNATE LIEN PROCEDURE.

A person who is a custom cattle feedlot operator as defined in section 579A.1 may file and enforce a lien as a contract producer under this chapter or chapter 579A, but not both.

Sec. 21. Section 714.8, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 17. A contractor who enforces a provision in a production contract that provides that information contained in the production contract is confidential as provided in section 8E.3.

Sec. 22. SEVERABILITY. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which shall be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Sec. 23. DIRECTIONS TO CODE EDITOR. The Code editor may codify the provisions of chapter 8E as enacted in this Act into another chapter or combine the provisions of chapter 8E as enacted in this Act with the provisions of chapter 172C as enacted in 1999 Iowa Acts, Senate File 436, into one chapter with multiple subchapters, if Senate File 436 is enacted by the 1999 Session of the Seventy-eighth General Assembly.

Sec. 24. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 322, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 24, 1999

THOMAS J. VILSACK
Governor