

MAR 10 1999
Agriculture

HOUSE FILE 621
BY WITT

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to production contracts executed between
2 cooperative associations and their members, making penalties
3 applicable, and providing an effective date.

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

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HF 621

1 Section 1. Section 9H.2, unnumbered paragraph 1, Code
2 1999, is amended to read as follows:

3 In order to preserve free and private enterprise, prevent
4 monopoly, and protect consumers, ~~it is unlawful for any a~~
5 processor of beef or pork or limited partnership in which a
6 processor holds partnership shares as a general partner or
7 partnership shares as a limited partner, or limited liability
8 company in which a processor is a member, to shall not own,
9 control, or operate a feedlot in Iowa in which hogs or cattle
10 are fed for slaughter. In addition, a processor shall not
11 directly or indirectly control the manufacturing, processing,
12 or preparation for sale of pork products derived from swine if
13 the processor contracted for the care and feeding of the swine
14 in this state. ~~However, this section does not apply to a~~
15 ~~cooperative association organized under chapter 497, 498, or~~
16 ~~499, if the cooperative association contracts for the care and~~
17 ~~feeding of swine with a member of the cooperative association~~
18 ~~who is actively engaged in farming. This section does not~~
19 ~~apply to an association organized as a cooperative in which~~
20 ~~another cooperative association organized under chapter 497,~~
21 ~~498, or 499 is a member, if the association contracts with a~~
22 ~~member which is a cooperative association organized under~~
23 ~~chapter 497, 498, or 499, which contracts for the care and~~
24 ~~feeding of swine with a member of the cooperative who is~~
25 ~~actively engaged in farming.~~ This section shall not preclude
26 a processor, limited partnership, or limited liability company
27 from contracting for the purchase of hogs or cattle, provided
28 that where the contract sets a date for delivery which is more
29 than twenty days after the making of the contract it shall:

30 Sec. 2. NEW SECTION. 497.36 COOPERATIVE ASSOCIATIONS
31 ENGAGED IN PRODUCTION CONTRACTS WITH MEMBERS.

32 A cooperative association executing a production contract
33 with a member shall comply with the same procedures as
34 required in section 499.81.

35 Sec. 3. NEW SECTION. 498.38 COOPERATIVE ASSOCIATIONS

1 ENGAGED IN PRODUCTION CONTRACTS WITH MEMBERS.

2 A cooperative association executing a production contract
3 with a member shall comply with the same procedures as
4 required in section 499.81.

5 Sec. 4. NEW SECTION. 499.81 COOPERATIVE ASSOCIATIONS
6 ENGAGED IN PRODUCTION CONTRACTS WITH MEMBERS.

7 1. As used in this section, "production contract" means a
8 contract executed by a cooperative association and a member
9 for the production of a farm product on land in which the
10 member holds a legal interest, if the cooperative association
11 owns the farm product during the production or makes
12 management decisions affecting the production of the farm
13 product.

14 2. A cooperative association shall not execute a
15 production contract with a member unless all of the following
16 apply:

17 a. The board of directors of the cooperative association
18 adopts a resolution authorizing contracting. Except as
19 provided in this section, the resolution shall become
20 effective thirty-one days after the date the resolution is
21 adopted. The cooperative association is not otherwise
22 required to comply with the procedures of this section for as
23 long as the resolution remains in effect. The resolution
24 shall contain all of the following:

25 (1) A declaration stating that the cooperative association
26 reserves the right to execute production contracts with its
27 members.

28 (2) A description of contracting planned by the
29 cooperative association, if any, including a description of
30 the following:

31 (a) Production contracts planned to be executed with
32 members, including the terms of the contracts and the number
33 of contracts to be executed.

34 (b) Production contracts planned to be executed with any
35 other association organized on a cooperative basis, including

1 the name of the association, and the terms of the contract.

2 (3) The date of the adoption of the resolution and the
3 date that the resolution will take effect.

4 3. a. Within five days after the date of adoption of the
5 resolution authorizing the cooperative association to execute
6 production contracts, the cooperative association must provide
7 notice of the resolution as provided in this section. The
8 notice shall be in the following form:

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NOTICE

10 MEMBERS OF THE (INSERT NAME OF THE COOPERATIVE ASSOCIATION)

11 THE (INSERT NAME OF THE COOPERATIVE ASSOCIATION) IS

12 PLANNING ON EXECUTING PRODUCTION CONTRACTS WITH ITS MEMBERS

13 FOR THE PRODUCTION OF COMMODITIES, INCLUDING LIVESTOCK OR

14 CROPS. (INSERT NAME OF THE COOPERATIVE ASSOCIATION) HAS

15 PASSED A RESOLUTION AUTHORIZING CONTRACTING. WITHIN A LIMITED

16 TIME PERIOD: ALL DISSENTING MEMBERS OR HOLDERS OF MEMBERS'

17 EQUITY MAY DEMAND PAYMENT OF THE FAIR VALUE OF THEIR

18 INTERESTS.

19 b. The notice must be published in a newspaper having a
20 general circulation in the county where the cooperative
21 association is located as provided in section 618.3. The
22 notice shall be printed as provided in section 618.17.

23 c. The notice shall be delivered to all holders of
24 members' equity in the cooperative association, including
25 members and shareholders, by mailing the notice to the
26 holder's last known address as shown on the books of the
27 cooperative association. The notice shall be accompanied by a
28 copy of the resolution adopted by the board pursuant to this
29 section and a copy of this section.

30 4. Within thirty days after the date of the adoption of
31 the resolution authorizing the contracting, a holder of
32 members' equity, including a member or shareholder, may
33 dissent to the resolution adopted by the board of directors
34 under this section. The holder of members' equity shall
35 dissent by filing a demand with the board of directors.

1 a. If the holder of the equity interest does not surrender
2 the holder's interest in the cooperative association, the
3 cooperative association shall annually do all of the
4 following:

5 (1) Pay the holder of equity interest deferred patronage
6 dividends earned by the holder.

7 (2) Redeem deferred patronage dividend stock earned by the
8 holder.

9 (3) Pay any earnings attributable to the holder of equity
10 that would otherwise be added to surplus.

11 b. If the holder of the equity interest does surrender the
12 holder's interest in the cooperative association, the
13 cooperative association shall pay the holder the fair value of
14 that holder's interest as if the holder were a member
15 dissenting to a merger or consolidation, as provided in
16 section 499.66, upon surrender of the holder's evidence of
17 equity in the cooperative association, including a certificate
18 of membership or shares.

19 Sec. 5. EXISTING CONTRACTS -- APPLICABILITY. This Act
20 shall not apply to a cooperative association organized under
21 chapter 497, 498, or 499 which would be prohibited from
22 contracting for the care and feeding of swine as provided in
23 section 9H.2 and which does not come under the exception
24 applying to cooperative associations as provided in that
25 section. However, a cooperative association shall not execute
26 a new contract or extend or renew an existing contract unless
27 the cooperative association complies with the requirements of
28 this Act.

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

31 EXPLANATION

32 This bill provides for contracting by a cooperative
33 association with its members.

34 Code chapter 9H prohibits a processor from contracting for
35 the care and feeding of swine in this state. The chapter,

1 however, contains an exception for cooperative associations
2 organized in this state that enter into contracts for the care
3 and feeding of swine with their members. Another association
4 organized on a cooperative basis may also contract with a
5 cooperative association organized in this state, if the
6 cooperative association organized in this state contracts with
7 one of its members. This bill provides that the cooperative
8 association organized in this state is prohibited from
9 contracting for the care and feeding of swine.

10 This bill provides that a cooperative association organized
11 under Code chapter 497, 498, or 499 is prohibited from
12 executing contracts for the production of farm products with
13 its members, unless the cooperative association adopts a
14 resolution authorizing contracting.

15 The bill provides that if the holder of the equity interest
16 does not surrender the holder's interest in the cooperative
17 association, the cooperative association must annually pay the
18 holder of equity interest deferred patronage dividends earned
19 by the holder; redeem deferred patronage dividend stock earned
20 by the holder; and pay any earnings attributable to the holder
21 of equity that would otherwise be added to surplus. The bill
22 provides that if the holder of the equity interest does
23 surrender the holder's interest in the cooperative
24 association, the cooperative association must pay the holder
25 the fair value of that holder's interest as if the holder were
26 a member dissenting to a merger or consolidation, as provided
27 in Code section 499.66.

28 The bill does not affect existing contracts that are not
29 renewed or extended.

30 A processor who contracts for the care and feeding of swine
31 in violation of the bill is subject to a civil penalty of not
32 more than \$25,000.

33 The bill takes effect upon enactment.

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