

House Study Bill 721

Bill Text

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1 1 Section 1. Section [202.1](#), Code Supplement 1999, is amended
1 2 by adding the following new subsections:
1 3 NEW SUBSECTION. 1A. "Agricultural producer" means a
1 4 person who produces a commodity, including but not limited to
1 5 a contract producer.
1 6 NEW SUBSECTION. 1B. "Capital investment" means an
1 7 investment in any the following:
1 8 a. Farmland.
1 9 b. A structure, such as a building or manure storage
1 10 structure as defined in section 455B.161 associated with
1 11 producing a commodity.
1 12 c. Machinery or equipment associated with producing a
1 13 commodity which has a useful life in excess of one year.
1 14 NEW SUBSECTION. 2A. "Contract" means an oral or written
1 15 agreement, including but not limited to a production contract.
1 16 NEW SUBSECTION. 3A. "Contract input" means a commodity or
1 17 an organic or synthetic substance or compound that is used to
1 18 produce a commodity including but not limited to any of the
1 19 following:
1 20 a. Livestock or plants.
1 21 b. Agricultural seed as regulated pursuant to chapter 199.
1 22 c. Semen or eggs for breeding livestock.
1 23 d. A fertilizer as regulated pursuant to chapter 200 or
1 24 pesticide as regulated pursuant to chapter 206.
1 25 NEW SUBSECTION. 8A. "Entity" includes a corporation,
1 26 cooperative association, limited liability company,
1 27 partnership, limited partnership, or limited liability
1 28 partnership. It also includes a business trust,
1 29 unincorporated association, or any other domestic or foreign
1 30 entity organized under law and formed on a profit or nonprofit
1 31 basis. An entity does not include a natural person or
1 32 governmental body.
1 33 NEW SUBSECTION. 8B. "Equity interest" means a voting
1 34 interest in an entity which includes any of the following:
1 35 a. The issued shares in a corporation or cooperative
2 1 association, including common stock or preferred stock,
2 2 regardless of a right to receive dividends or earning
2 3 distributions. A security such as a warrant or option that
2 4 may be converted to voting stock shall be considered as issued
2 5 shares.
2 6 b. The membership interests held in a limited liability
2 7 company.
2 8 c. The partnership interests in a partnership, limited
2 9 partnership, or limited liability partnership.
2 10 NEW SUBSECTION. 9A. "Investment requirements" means
2 11 provisions in a contract which require the contract producer
2 12 to make capital investments associated with producing a
2 13 commodity subject to a production contract. The provisions
2 14 may be included as part of one or more contracts, and may be
2 15 included as part of a production contract.
2 16 NEW SUBSECTION. 11A. "Parent entity" means an entity that
2 17 controls a subsidiary entity as evidenced by the entity's
2 18 ownership of a majority of the equity interest in the
2 19 subsidiary entity.
2 20 NEW SUBSECTION. 15. "Subsidiary entity" means an entity
2 21 that is controlled by a parent entity as evidenced by the

2 22 parent entity's ownership of a majority of the equity interest
2 23 in the entity.
2 24 Sec. 2. Section [202.1](#), subsections 6 and 14, Code
2 25 Supplement 1999, are amended to read as follows:
2 26 6. "Contract producer" means

~~a person~~

~~an agricultural~~

2 27 producer who holds a legal interest in a contract operation
2 28 and who produces a commodity at the contract producer's
2 29 contract operation under a production contract executed
2 30 pursuant to section 202.2.
2 31 14. "Production contract" means

~~an oral or written~~

2 32

~~agreement~~

~~a contract~~ executed pursuant to section 202.2 that

2 33 provides for the production of a commodity or the provision of
2 34 management services relating to the production of a commodity
2 35 by a contract producer.

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

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

3 7 Sec. 4. NEW SECTION. 202.3A CONTRACTS INVOLVING
3 8 INVESTMENT REQUIREMENTS.

3 9 This section governs a production contract executed by a
3 10 contract producer and a contractor, if the contract producer
3 11 must make capital investments of twenty-five thousand dollars
3 12 or more according to investment requirements provided in all
3 13 production contracts in which the contract producer and the
3 14 contractor are parties. The value of the capital investments
3 15 shall be deemed to be the total dollar amount spent by the
3 16 contract producer in satisfying the investment requirements,
3 17 if that amount is ascertainable.

3 18 1. Unless a contractor terminates a production contract
3 19 without notice and remedy as authorized in subsection 2, the
3 20 contractor shall not terminate a production contract until the
3 21 contractor complies and provides notice and remedy to the
3 22 contract producer and otherwise complies with this subsection.
3 23 The notice shall be printed in at least twelve point type and
3 24 delivered to the contract producer by restricted certified
3 25 mail. In addition, the following shall apply:

3 26 a. If the contractor is not claiming a breach of contract,
3 27 including a breach based on the failure to comply with
3 28 investment requirements, all of the following apply:

3 29 (1) The contractor must provide a notice of termination to
3 30 the contract producer at least one hundred eighty days prior
3 31 to the effective date of the termination.

3 32 (2) The contractor must pay the contract producer for the
3 33 amount of damages incurred by the contract producer, including
3 34 but not limited to the cost of the required capital
3 35 investments made by the contract producer.

4 1 b. If the contractor is claiming a breach of contract,
4 2 including a breach based on the failure to comply with
4 3 investment requirements, all of the following apply:

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

4 8 (2) The contract producer must fail to remedy each cause
4 9 of the breach as alleged in the list of complaints provided in

4 10 the notice of termination within sixty days following receipt
4 11 of the termination notice. An effort by a contract producer
4 12 to remedy a cause of an alleged breach shall not be construed
4 13 as an admission of a breach in a civil cause of action.

4 14 2. A contractor may terminate a contract without notice or
4 15 remedy if the basis for the termination is any of the
4 16 following:

4 17 a. A voluntary abandonment of the contractual relationship
4 18 by the contract producer. A complete failure of a contract
4 19 producer's performance under a contract shall be deemed to be
4 20 abandonment.

4 21 b. The conviction of a contract producer of an offense of
4 22 fraud or theft committed against the contractor.

4 23 Sec. 5. NEW SECTION. 202.3B UNFAIR INFLUENCE PROHIBITED.

4 24 1. As used in this section, "unfair influence" means to
4 25 influence a contract producer to do any of the following:

4 26 a. Alter associations or affiliations which provide that a
4 27 contract producer must do any of the following:

4 28 (1) Associate or refrain from associating with
4 29 agricultural producers.

4 30 (2) Affiliate with, refrain from affiliating with, or quit
4 31 an affiliation with an organization representing agricultural
4 32 producers.

4 33 b. Alter the manner in which the contract producer uses
4 34 liens provided in chapter 579A or 579B, including but not
4 35 limited to any of the following:

5 1 (1) Refraining from filing, continuing, or terminating
5 2 such lien.

5 3 (2) Refraining from enforcing such lien.

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

5 7 2. A contractor, or its employees or agents, shall not
5 8 unfairly influence or attempt to unfairly influence a contract
5 9 producer or conspire, agree, or arrange with another person to
5 10 unfairly influence another person to take an action which
5 11 affects any of the following:

5 12 a. The execution, termination, extension, or renewal of a
5 13 production contract.

5 14 b. The treatment of a contract producer, which may include
5 15 providing discriminatory or preferential terms in a production
5 16 contract or interpreting terms of an existing production
5 17 contract in a discriminatory or preferential manner. The
5 18 terms may relate to the price paid for a commodity; the
5 19 quality or quantity of a commodity demanded; or financing,
5 20 including investment requirements.

5 21 c. The grant of a reward or imposition of a penalty,
5 22 including the denial of a reward. The reward or penalty may
5 23 be in any form, including but not limited to financial rewards
5 24 or penalties. Financial rewards or penalties may relate to
5 25 loans, bonuses, or inducements.

5 26 d. Alter the quality, quantity, or delivery times of
5 27 contract inputs provided to the contract producer.

5 28 3. A contractor shall not unfairly influence a contract
5 29 producer by providing false information to the contract
5 30 producer, which may include false information relating to any
5 31 of the following:

5 32 a. An agricultural producer with whom the contract
5 33 producer associates or an agricultural organization with which
5 34 the contract producer is affiliated, including but not limited
5 35 to any of the following:

6 1 (1) The character of the agricultural producer.

6 2 (2) The condition of the finances or the management of the
6 3 agricultural organization.

6 4 b. The legal requirements or effect of filing or
6 5 terminating a lien as provided in chapter 579A or 579B.

6 6 c. The rights and protections provided under 1999 Iowa

6 7 Acts, chapter 88, or this chapter.

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

6 10 If a contractor is a subsidiary entity, and fails to
6 11 perform according to the terms of a production contract, the
6 12 parent entity shall be liable to the contract producer to
6 13 perform under the production contract as if the parent entity
6 14 were the subsidiary entity. The parent entity shall
6 15 immediately pay the contract producer amounts necessary in
6 16 order to preserve the commodities produced under the
6 17 production contract, if commodities being produced under the
6 18 production contract may perish because of the subsidiary
6 19 entity's nonperformance.

6 20 Sec. 7. NEW SECTION. 202.3D CIVIL ACTIONS.

6 21 A contract producer who suffers damages because of a
6 22 contractor's violation of this chapter may obtain appropriate
6 23 legal and equitable relief, including damages, as a suit in
6 24 common law pursuant to Iowa rules of civil procedure.

6 25 1. In such a civil action against the contractor, the
6 26 court shall award the contract producer who is the prevailing
6 27 party reasonable attorney fees and other litigation expenses.

6 28 2. In order to obtain injunctive relief, the contract
6 29 producer is not required to post a bond, prove the absence of
6 30 an adequate remedy at law, or show the existence of special
6 31 circumstances, unless the court for good cause otherwise
6 32 orders. The court may order any form of prohibitory or
6 33 mandatory relief that is appropriate under principles of
6 34 equity, including but not limited to issuing a temporary or
6 35 permanent restraining order.

7 1 Sec. 8. NEW SECTION. 202.3E WAIVERS UNENFORCEABLE.

7 2 A waiver of a right created by this chapter is void and
7 3 unenforceable. This section does not affect other provisions
7 4 of a production contract, including a production contract or
7 5 related document, policy, or agreement which can be given
7 6 effect without the voided provision.

7 7 Sec. 9. NEW SECTION. 202.3F RULES.

7 8 The attorney general may adopt rules pursuant to chapter
7 9 17A as is necessary in order to administer and enforce this
7 10 chapter.

7 11 Sec. 10. DIRECTIONS TO CODE EDITOR. The Code editor may
7 12 renumber provisions in chapter 202 in order to enhance its
7 13 readability.

7 14 EXPLANATION

7 15 In 1999, the general assembly enacted House File 322 (1999
7 16 Iowa Acts, chapter 169) which provides for the production and
7 17 purchasing of agricultural commodities, by regulating the
7 18 contracting for the production of agricultural commodities.
7 19 Specifically, the Act regulates the relationship between a
7 20 contractor and contract producer under new Code chapter 202.
7 21 A contractor is a person who contracts with an agricultural
7 22 producer to produce a commodity on a property held by the
7 23 agricultural producer. The contract is referred to as a
7 24 production contract. A "commodity" means crops, raw milk, or
7 25 livestock.

7 26 This bill amends Code chapter 202, by further regulating
7 27 the relationship between a contractor and contract producer.

7 28 The bill provides that there is an implied promise of good
7 29 faith by all parties to a production contract. It regulates
7 30 for production contracts which require a contract producer to
7 31 make capital investments in farmland, structures, or equipment
7 32 or machinery. Specifically, it provides that where a contract
7 33 producer has made capital investments, a contractor is
7 34 prohibited from terminating a contract without notice and
7 35 remedy. The bill requires that the contractor provide notice
8 1 delivered to the contract producer, informing the contract
8 2 producer of a termination, and providing damages. If the
8 3 termination is due to an alleged breach by the contract

8 4 producer, the contractor must provide an opportunity for the
8 5 contract producer to cure the breach.

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

8 15 The bill provides that if a contractor is a subsidiary of a
8 16 another corporation or entity, and fails to perform according
8 17 to the terms of a production contract, the parent entity is
8 18 liable to the contract producer to perform under the
8 19 production contract.

8 20 The bill provides that a contract producer, who suffers
8 21 damages because of a contractor's violation of Code chapter
8 22 202, may obtain appropriate legal and equitable relief,
8 23 including damages, as a suit in common law pursuant to Iowa
8 24 rules of civil procedure. The bill provides that the court
8 25 shall award the contract producer who is the prevailing party
8 26 reasonable attorney fees and other litigation expenses.

8 27 The bill provides that any waiver of a right created by
8 28 Code chapter 202 is void and unenforceable.

8 29 The bill authorizes the attorney general to adopt rules as
8 30 necessary in order to administer and enforce Code chapter 202.

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