

# House File 419 - Introduced

HOUSE FILE \_\_\_\_\_  
BY WHITAKER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing protections for contract producers of  
2 agricultural commodities, providing for the administration and  
3 enforcement of its provisions, providing penalties, and  
4 including applicability and effective date provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 2419HH 82  
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1 1 SUBCHAPTER 1  
1 2 GENERAL PROVISIONS  
1 3 Section 1. NEW SECTION. 202D.101 SHORT TITLE ==  
1 4 DECLARATION OF POLICY == STATUTORY CONSTRUCTION.  
1 5 1. This chapter shall be known and may be cited as the  
1 6 "Agricultural Fair Contracting Act".  
1 7 2. The general assembly finds and declares that the  
1 8 traditional system of producing agricultural commodities for  
1 9 sale in open markets is in the process of undergoing a rapid  
1 10 transformation which has reduced the independence of  
1 11 agricultural producers and created a vast disparity in their  
1 12 bargaining power and access to market information when  
1 13 executing contracts for the production and sale of commodities  
1 14 with contractors of agricultural commodities. The purpose of  
1 15 this chapter is to restore healthy competition in agriculture  
1 16 for the benefit of both contract producers and consumers.  
1 17 This chapter shall be liberally construed in order to  
1 18 effectuate this purpose.  
1 19 Sec. 2. NEW SECTION. 202D.102 DEFINITIONS.  
1 20 As used in this chapter, unless the context otherwise  
1 21 requires:  
1 22 1. "Active contractor" means a person who owns a commodity  
1 23 that is produced by a contract producer at the contract  
1 24 producer's contract operation pursuant to a production  
1 25 contract executed pursuant to section 202D.103.  
1 26 2. "Agricultural contract" means a production contract or  
1 27 a marketing contract.  
1 28 3. "Agricultural contract document" means an agricultural  
1 29 contract or a disclosure statement required to be attached to  
1 30 an agricultural contract as provided in subchapter 2.  
1 31 4. "Agricultural land" means land located in this state  
1 32 which is used as part of an agricultural operation to produce  
1 33 a commodity. "Agricultural land" includes any improvements or  
1 34 fixtures associated with agricultural production that are  
1 35 located on the land.  
2 1 5. "Agricultural operation" means an enterprise where an  
2 2 agricultural producer produces a commodity for sale in  
2 3 commercial markets, and that involves maintaining a livestock  
2 4 operation or crop operation. A livestock operation may keep  
2 5 the livestock as part of an animal feeding operation,  
2 6 including a confinement feeding operation or open feedlot  
2 7 operation.  
2 8 6. "Agricultural producer" means a person who produces a  
2 9 commodity at the person's agricultural operation.  
2 10 7. "Animal feeding operation" means the same as defined in  
2 11 section 459.102.  
2 12 8. "Attorney general" means the office of attorney general  
2 13 as established in chapter 13.  
2 14 9. "Capital investment" means an investment associated  
2 15 with an agricultural operation in which financing is provided  
2 16 in order to do any of the following:  
2 17 a. Construct, install, or expand a structure, such as a  
2 18 confinement feeding operation structure or an open feedlot

2 19 operation structure.  
2 20 b. Acquire, including by purchase or lease, machinery or  
2 21 equipment which has a useful life in excess of one year,  
2 22 regardless of whether the machinery or equipment is motorized  
2 23 or fixed to a structure, and includes but is not limited to an  
2 24 implement of husbandry as defined in section 321.1; or a  
2 25 device used to control temperature, odor, or pollution.  
2 26 10. "Capital investment requirement" means a provision in  
2 27 a production contract or arising from the performance of a  
2 28 production contract that requires a contract producer to make  
2 29 capital investments in an agricultural operation.  
2 30 11. "Capital investment value" means the total dollar  
2 31 amount that is required to be expended by the contract  
2 32 producer in order to satisfy the capital investment  
2 33 requirements provided in a production contract.  
2 34 12. "Commodity" means the following:  
2 35 a. For crops: the plant, any part of the plant, or items  
3 1 produced by the plant having commercial value in an  
3 2 unprocessed form.  
3 3 b. For livestock: the animal, any part of the animal, or  
3 4 items produced by the animal in unprocessed form.  
3 5 13. "Confinement feeding operation" means the same as  
3 6 defined in section 459.102.  
3 7 14. "Confinement feeding operation structure" means the  
3 8 same as defined in section 459.102.  
3 9 15. "Contract crop operation" means an agricultural  
3 10 operation where a crop is produced according to a production  
3 11 contract executed pursuant to section 202D.103 by a contract  
3 12 producer who holds a legal interest in the agricultural  
3 13 operation, including the crop field.  
3 14 16. "Contract input" means a commodity or an organic or  
3 15 synthetic substance or compound that is used to produce a  
3 16 commodity including but not limited to any of the following:  
3 17 a. For crops: seeds or plants; or a fertilizer or soil  
3 18 conditioner as defined in section 200.3, or pesticide as  
3 19 defined in section 206.2.  
3 20 b. For livestock: animals; semen, embryos, or oocytes for  
3 21 use in breeding; or materials or services used to provide for  
3 22 the care and feeding of the livestock, including but not  
3 23 limited to feed, nutritional supplements, medication, or  
3 24 bedding.  
3 25 17. "Contract livestock operation" means an agricultural  
3 26 operation where livestock are produced according to a  
3 27 production contract executed pursuant to section 202D.103 by a  
3 28 contract producer who holds a legal interest in the  
3 29 agricultural operation.  
3 30 18. "Contract operation" means an agricultural operation  
3 31 which is a contract livestock operation or contract crop  
3 32 operation.  
3 33 19. "Contract producer" means a person who holds a legal  
3 34 interest in a contract operation and who produces a commodity  
3 35 according to an agricultural contract executed pursuant to  
4 1 section 202D.103.  
4 2 20. "Contractor" means any of the following:  
4 3 a. An active contractor or a passive contractor who  
4 4 executes a production contract as provided in section  
4 5 202D.103.  
4 6 b. A processor who executes a marketing contract as  
4 7 provided in section 202D.103.  
4 8 21. "Crop" means a seed or germinating or developing  
4 9 plant, which is used for food, animal feed, fiber, oil,  
4 10 alcohol, pharmaceuticals, or nutraceuticals. "Crop" includes  
4 11 but is not limited to alfalfa, barley, buckwheat, corn, flax,  
4 12 forage, millet, oats, popcorn, rye, sorghum, soybeans,  
4 13 sunflowers, wheat, and grasses used for forage or silage.  
4 14 22. "Livestock" means a gestating or born animal belonging  
4 15 to the bovine, caprine, equine, ovine, or porcine species,  
4 16 ostriches, rheas, emus; farm deer, as defined in section  
4 17 170.1; or poultry.  
4 18 23. "Marketing contract" means an oral or written  
4 19 agreement executed between a processor and a contract producer  
4 20 pursuant to section 202D.103 in which the processor purchases  
4 21 a commodity from a contract producer, if the commodity is  
4 22 produced as part of the contract producer's agricultural  
4 23 operation.  
4 24 24. "Open feedlot" means the same as defined in section  
4 25 459A.102.  
4 26 25. "Open feedlot effluent" means the same as defined in  
4 27 section 459A.102.  
4 28 26. "Open feedlot operation" means the same as defined in  
4 29 section 459A.102.

4 30 27. "Open feedlot operation structure" means the same as  
4 31 defined in section 459A.102.

4 32 28. "Passive contractor" means a person who furnishes  
4 33 management services to a contract producer, and who does not  
4 34 own a commodity that is produced by the contract producer at  
4 35 the contract producer's contract operation according to a  
5 1 production contract executed pursuant to section 202D.103.

5 2 29. "Processing" means turning a commodity into a product  
5 3 by physical or chemical modification, including but not  
5 4 limited to slaughtering, cutting, canning, freezing, drying,  
5 5 dehydrating, cooking, pressing, powdering, packaging,  
5 6 repacking, baking, heating, mixing, grinding, churning,  
5 7 separating, extracting, fermenting, eviscerating, preserving,  
5 8 jarring, or brewing.

5 9 30. "Processor" means a person who is engaged in the  
5 10 business of processing a commodity, if the products derived  
5 11 from a commodity are directly or indirectly to be offered for  
5 12 resale or for public consumption.

5 13 31. "Produce" means to do any of the following:

5 14 a. For a crop operation, provide for planting, raising,  
5 15 harvesting, or storing a crop as part of the contract crop  
5 16 operation on agricultural land. "Produce" includes preparing  
5 17 the soil for planting and nurturing the crop on a crop field  
5 18 by the application of fertilizers or soil conditioners as  
5 19 defined in section 200.3, or pesticides as defined in section  
5 20 206.2.

5 21 b. For a livestock operation, provide for the feed or care  
5 22 of livestock on agricultural land, including but not limited  
5 23 to providing for the handling, health, and security of  
5 24 livestock maintained at the operation; and the storage and  
5 25 disposal of manure originating from the operation. If the  
5 26 livestock are dairy cattle or goats, "produce" includes  
5 27 milking the dairy cattle or goats and storing raw milk at the  
5 28 contract producer's livestock operation. If the livestock are  
5 29 sheep, "produce" includes shearing the sheep and storing the  
5 30 wool at the contract producer's livestock operation. If the  
5 31 livestock are poultry, "produce" includes collecting and  
5 32 storing eggs at the contract producer's livestock facility.

5 33 32. "Production contract" means an oral or written  
5 34 agreement executed pursuant to section 202D.103 that provides  
5 35 for the production of a commodity or the provision of  
6 1 management services relating to the production of a commodity  
6 2 by a contract producer.

6 3 33. "Termination action" means an action by a contractor  
6 4 who is a party to a production contract based on an alleged  
6 5 breach of contract by a contract producer who is also a party  
6 6 to the contract, if the contractor does any of the following:

6 7 a. Ceases performance under the production contract in a  
6 8 manner that would constitute a breach of the contract absent  
6 9 the alleged breach of contract by the contract producer.

6 10 b. Initiates a civil proceeding seeking damages.

6 11 c. Seizes, levies, attaches, garnishes, or executes on  
6 12 property of the contract producer or a contract input provided  
6 13 under the agricultural contract.

6 14 Sec. 3. NEW SECTION. 202D.103 AGRICULTURAL CONTRACTS  
6 15 GOVERNED BY THIS CHAPTER.

6 16 1. This chapter applies to an agricultural contract as  
6 17 follows:

6 18 a. For a production contract, the contract must relate to  
6 19 the production of a commodity owned by an active contractor  
6 20 and produced by a contract producer at the contract producer's  
6 21 contract operation, and one of the following must apply:

6 22 (1) A production contract must be executed by an active  
6 23 contractor and a contract producer, and the active contractor  
6 24 must have sold commodities produced under all production  
6 25 contracts for an amount equal to or more than five hundred  
6 26 thousand dollars during the active contractor's previous  
6 27 fiscal year.

6 28 (2) A production contract must be executed by an active  
6 29 contractor and a passive contractor and a contract producer  
6 30 for the provision of management services to the contract  
6 31 producer in the production of the commodity, and the active  
6 32 contractor must have sold commodities produced under all  
6 33 production contracts for an amount equal to or more than five  
6 34 hundred thousand dollars during the active contractor's  
6 35 previous fiscal year.

7 1 (3) A production contract must be executed by a passive  
7 2 contractor and a contract producer, and all of the following  
7 3 must apply:

7 4 (a) The production contract must provide for management  
7 5 services furnished by the passive contractor to the contract

7 6 producer in the production of the commodity.

7 7 (b) The passive contractor must have a contractual  
7 8 relationship with the active contractor involving the  
7 9 production of the commodity.

7 10 (c) The active contractor must have sold commodities  
7 11 produced under all production contracts for an amount equal to  
7 12 or more than five hundred thousand dollars during the active  
7 13 contractor's previous fiscal year.

7 14 b. For a marketing contract, the contract must relate to  
7 15 the processor's purchase of a commodity owned by an  
7 16 agricultural producer if the processor purchased commodities  
7 17 under all marketing contracts for an amount equal to or more  
7 18 than five hundred thousand dollars during the processor's  
7 19 previous fiscal year.

7 20 2. This chapter does not apply to a contract involving any  
7 21 of the following:

7 22 a. A professional service rendered by a person serving a  
7 23 client who is an agricultural producer, such as a person  
7 24 licensed as a veterinarian or a holder of a temporary permit  
7 25 under chapter 169, a feed supplier, or a crop specialist.

7 26 b. Testing, developing, or producing seeds or plants for  
7 27 sale or resale to agricultural producers as seed stock, if the  
7 28 sale of the crops or grain which is not sold as seed stock is  
7 29 incidental.

7 30 c. Research or experimental activities, if the sale of the  
7 31 commodity produced from the agricultural operation is an  
7 32 incidental part of the research or experimental activities.

7 33 Sec. 4. NEW SECTION. 202D.104 AGRICULTURAL CONTRACTS ==  
7 34 INTEGRATION.

7 35 An agreement executed between an active contractor and a  
8 1 passive contractor and an agreement executed between a passive  
8 2 contractor and a contract producer as provided in section  
8 3 202D.103 shall be deemed to be part of the same agricultural  
8 4 contract. To the extent that provisions remain in force,  
8 5 provisions contained in multiple oral or written agreements or  
8 6 amendments to agreements executed by the same parties shall be  
8 7 deemed to be part of an integrated agricultural contract. All  
8 8 related agricultural contract documents shall be deemed to be  
8 9 part of the same agricultural contract.

8 10 Sec. 5. NEW SECTION. 202D.105 NOTICE REQUIREMENTS.

8 11 A notice required to be delivered under this chapter to a  
8 12 party to an agricultural contract shall be delivered by  
8 13 restricted certified mail or by hand with receipt of delivery,  
8 14 unless the manner of delivery is otherwise specified in an  
8 15 agricultural contract executed by the parties.

8 16 Sec. 6. NEW SECTION. 202D.106 OBLIGATION OF GOOD FAITH.

8 17 An obligation of good faith, as provided in section  
8 18 554.1203 of the uniform commercial code, is imposed on all  
8 19 parties to an agricultural contract with respect to the  
8 20 performance and enforcement of its provisions.

#### 8 21 SUBCHAPTER 2

#### 8 22 AGRICULTURAL CONTRACT DOCUMENTS

8 23 Sec. 7. NEW SECTION. 202D.201 AGRICULTURAL CONTRACT  
8 24 DOCUMENTS == READABILITY REQUIREMENTS.

8 25 This section applies to an agricultural contract document  
8 26 that is an agricultural contract executed by a contractor or a  
8 27 disclosure statement required to be attached to the  
8 28 agricultural contract, as provided in this subchapter.

8 29 1. An agricultural contract document shall be readable and  
8 30 understandable. In order to comply with this subsection, the  
8 31 agricultural contract shall be all of the following:

8 32 a. Printed in a legible font type in at least twelve point  
8 33 type size.

8 34 b. Appropriately divided into captioned sections.

8 35 c. Written in a clear and coherent style.

9 1 2. An agricultural contract is not in violation of this  
9 2 section because of any of the following:

9 3 a. The agricultural contract uses language, including  
9 4 terms or phrases, punctuation, or grammar, that is any of the  
9 5 following:

9 6 (1) Required, recommended, or endorsed by federal or state  
9 7 law.

9 8 (2) Understandable by a person of average intelligence,  
9 9 education, and experience in producing or marketing the same  
9 10 type of commodity that is required to be produced or marketed  
9 11 under the agricultural contract.

9 12 (3) Customarily used by agricultural producers who produce  
9 13 or market the same type of commodity that is required to be  
9 14 produced or marketed under the agricultural contract.

9 15 b. The agricultural contract is prepared in a form or  
9 16 utilizes a style that is required, recommended, or endorsed by

9 17 federal or state law.  
9 18 Sec. 8. NEW SECTION. 202D.202 DISCLOSURE STATEMENT  
9 19 REQUIRED.

9 20 A contractor shall not execute a written agricultural  
9 21 contract unless the agricultural contract as executed by an  
9 22 agricultural producer contains a disclosure statement as  
9 23 provided in this section.

9 24 1. The disclosure statement may contain one or more pages  
9 25 and shall be attached to the front of the agricultural  
9 26 contract.

9 27 2. The disclosure statement shall include all of the  
9 28 following:

9 29 a. A general notice that shall read as follows:

9 30 ATTENTION

9 31 READ YOUR CONTRACT CAREFULLY BEFORE SIGNING

9 32 This disclosure statement is required under Iowa's  
9 33 agricultural fair contracting Act (Iowa Code chapter 202D) and  
9 34 provides only a brief summary of the provisions in your  
9 35 contract. This disclosure statement is not the contract and  
10 1 only the terms of the actual contract are legally binding.  
10 2 The contract itself sets forth, in detail, the rights and  
10 3 obligations of both you as a contract producer and the  
10 4 contractor, including your right to review and cancel this  
10 5 contract. If you have any questions or doubts, you are  
10 6 advised to discuss them with your attorney prior to executing  
10 7 this contract.

10 8 b. The name of the contractor who is a party to the  
10 9 contract. If the agricultural contract is a production  
10 10 contract, the disclosure statement shall include the name of  
10 11 any active contractor to whom a passive contractor has  
10 12 contracted in order to carry out the production contract.

10 13 c. A summary of the terms and conditions of the  
10 14 agricultural contract, including a description of the material  
10 15 risks that the agricultural producer assumes by executing the  
10 16 agricultural contract, and provisions for renegotiating the  
10 17 agricultural contract.

10 18 d. The duration of the agricultural contract, including  
10 19 the date that the contract will commence and terminate.

10 20 e. The party responsible for addressing environmental  
10 21 damages caused by the agricultural operation, including the  
10 22 party responsible for bearing any civil or criminal penalty  
10 23 imposed by the state or federal government.

10 24 f. All factors used to determine compensation paid to the  
10 25 agricultural producer, including but not limited to any  
10 26 formula used to calculate payment based on quality or quantity  
10 27 of commodities produced or sold.

10 28 g. Any capital investment requirements.

10 29 h. The party who is responsible for obtaining and  
10 30 complying with a permit or certification requirements by a  
10 31 local government or the state or federal government, including  
10 32 requirements imposed under chapters 206, 455B, 459, and 459A.

10 33 i. For a production contract, an explanation of the  
10 34 contract producer's right to review and cancel the contract as  
10 35 provided in section 202D.302.

11 1 Sec. 9. NEW SECTION. 202D.203 TERMS AND CONDITIONS.

11 2 A contractor shall not execute a written agricultural  
11 3 contract unless the agricultural contract, as executed by the  
11 4 contract producer, complies with this section.

11 5 1. The agricultural contract must include all of the  
11 6 following major provisions:

11 7 a. The names of all parties to the contract.

11 8 b. Definitions for key words contained in the contract.

11 9 c. Provisions governing the termination, cancellation,  
11 10 renewal, and amendment of the contract by any party.

11 11 d. The duties or obligations of each party to perform  
11 12 under the contract.

11 13 e. Any provisions subject to change in the contract.

11 14 2. The agricultural contract shall not include any of the  
11 15 following:

11 16 a. A provision that constitutes an unfair practice as  
11 17 provided in section 202D.303.

11 18 b. A waiver of any right, obligation, or procedure  
11 19 provided in this chapter, including but not limited to a  
11 20 contract producer's right as provided in section 202D.302,  
11 21 unless otherwise specifically allowed to be waived by law.

11 22 c. A requirement providing for any of the following:

11 23 (1) That a dispute must be settled by arbitration in lieu  
11 24 of a judicial proceeding.

11 25 (2) That a legal cause of action must be commenced in a  
11 26 jurisdiction outside this state.

11 27 (3) That the law of another state must be applied to an

11 28 issue or controversy.  
11 29 Sec. 10. NEW SECTION. 202D.204 CAPITAL INVESTMENT  
11 30 REQUIREMENTS.

11 31 A contractor shall not provide for a capital investment  
11 32 requirement that obligates a contract producer to make new or  
11 33 additional capital investments that have a value of twenty  
11 34 thousand dollars or more during the period that the existing  
11 35 production contract would be effective, unless the contractor  
12 1 contributes to satisfying the capital investment requirement.  
12 2 In order to make a contribution, the contractor may provide a  
12 3 portion of the capital investment value or offset other  
12 4 compensation or modifications to the terms of the production  
12 5 contract. Each party to the contract must execute the  
12 6 amendment providing a contribution that constitutes an  
12 7 acceptable and satisfactory consideration for satisfying the  
12 8 capital investment requirement.

12 9 Sec. 11. NEW SECTION. 202D.205 PROVISIONS VOID AND  
12 10 UNENFORCEABLE.

12 11 A provision of an agricultural contract that contains a  
12 12 provision in violation of this subchapter is void and  
12 13 unenforceable. However, this section does not affect other  
12 14 provisions of the agricultural contract, including any  
12 15 agricultural contract document or any other related document,  
12 16 policy, or agreement which can be given effect without the  
12 17 voided provision.

12 18 SUBCHAPTER 3  
12 19 CONTRACT PRODUCER RIGHTS

12 20 Sec. 12. NEW SECTION. 202D.301 CONTRACT PRODUCER RIGHTS  
12 21 DEFINED.

12 22 As used in this subchapter, "contract producer right" means  
12 23 a right of a contract producer to do any of the following:

12 24 1. Join or belong to, or to refrain from joining or  
12 25 belonging to, an association of producers.

12 26 2. Enter into a membership agreement or marketing contract  
12 27 with an association of agricultural producers, a processor, or  
12 28 another agricultural producer, and the right of the contract  
12 29 producer to exercise contractual rights under such a  
12 30 membership agreement or marketing contract.

12 31 3. Make a statement or provide information, including to  
12 32 the attorney general, another state agency, the United States  
12 33 secretary of agriculture, or to a law enforcement agency  
12 34 regarding alleged improper actions or violations of law by a  
12 35 contractor. This subsection does not apply to a contract  
13 1 producer making a statement or providing information in  
13 2 violation of statute or court order. This subsection also  
13 3 does not apply to a statement or information which is  
13 4 slanderous or libelous, including as provided under chapter  
13 5 659.

13 6 4. Disclose information contained in an agricultural  
13 7 contract notwithstanding any provision requiring that the  
13 8 information is confidential.

13 9 5. Create, perfect, continue, terminate, or enforce a  
13 10 security interest, including but not limited to filing a  
13 11 financing statement under chapter 554, or a lien under chapter  
13 12 579B.

13 13 6. Review or cancel a production contract as provided in  
13 14 section 202D.302.

13 15 7. Enforce any provision of this chapter or rule adopted  
13 16 pursuant to this chapter that provides a right or grants a  
13 17 protection to an agricultural producer.

13 18 Sec. 13. NEW SECTION. 202D.302 RIGHT TO REVIEW AND  
13 19 CANCEL.

13 20 1. A contract producer may cancel a production contract by  
13 21 delivering a written cancellation notice to the contractor who  
13 22 is a party to the production contract. The contract producer  
13 23 may deliver the cancellation notice after the day that the  
13 24 contract producer executes the production contract but must  
13 25 deliver it earlier than the following:

13 26 a. Within three business days after the production  
13 27 contract is executed by the contract producer, or before a  
13 28 later cancellation deadline if a later deadline is specified  
13 29 in the production contract.

13 30 b. Before the time that the contract producer accepts a  
13 31 contract input.

13 32 2. a. Following delivery of the cancellation notice, all  
13 33 the following shall apply:

13 34 (1) Each party shall return any compensation made by a  
13 35 party under the production contract and any negotiable  
14 1 instrument executed by a party.

14 2 (2) Any security interest arising out of the production  
14 3 contract is terminated upon the return of any compensation

14 4 made by the party taking the security interest. A party  
14 5 filing a lien or financing statement shall terminate the lien  
14 6 or financing statement.

14 7 b. The parties shall comply with the requirements of this  
14 8 subsection within forty-five days following the contractor's  
14 9 receipt of the cancellation notice, unless the production  
14 10 contract specifies a shorter period of time.

14 11 3. This section does not apply to restrict the right of a  
14 12 contract producer to terminate performance of a production  
14 13 contract based on breach of contract by a contractor.

14 14 Sec. 14. NEW SECTION. 202D.303 CONTRACT PRODUCER RIGHTS  
14 15 == UNFAIR PRACTICES.

14 16 A contractor commits an unfair practice if the contractor  
14 17 knowingly engages or permits any employee or agent of the  
14 18 contractor to engage in any of the following:

14 19 1. Take any action in order to coerce, intimidate,  
14 20 disadvantage, retaliate against, or discriminate against a  
14 21 contract producer because the contract producer exercises, or  
14 22 attempts to exercise, a contract producer's right, including  
14 23 an action affecting any of the following:

14 24 a. The execution, termination, extension, or renewal of an  
14 25 agricultural contract.

14 26 b. The treatment of a contract producer, which may include  
14 27 providing discriminatory or preferential terms in an  
14 28 agricultural contract or interpreting terms of an existing  
14 29 agricultural contract in a discriminatory or preferential  
14 30 manner. The terms may relate to the price paid for a  
14 31 commodity; the quality or the quantity of a commodity  
14 32 demanded; or financing, including but not limited to capital  
14 33 investment requirements.

14 34 c. The grant of a reward or imposition of a penalty,  
14 35 including the denial of a reward. The reward or penalty may  
15 1 be in any form, including but not limited to financial rewards  
15 2 or penalties. Financial rewards or penalties may relate to  
15 3 loans, bonuses, or inducements.

15 4 d. Alter the quality, quantity, or delivery times of  
15 5 contract inputs provided to the contract producer.

15 6 2. Provide false information to the contract producer,  
15 7 which may include false information relating to any of the  
15 8 following:

15 9 a. An agricultural producer with whom the contract  
15 10 producer associates or an association of agricultural  
15 11 producers or an agricultural organization with which the  
15 12 contract producer is affiliated, including but not limited to  
15 13 any of the following:

15 14 (1) The character of the agricultural producer.

15 15 (2) The condition of the finances or the management of the  
15 16 association of agricultural producers or agricultural  
15 17 organization.

15 18 b. A right of a contract producer provided under this  
15 19 chapter or other provision of law, including but not limited  
15 20 to chapter 579B.

15 21 3. Refuse, upon request of a contract producer, to provide  
15 22 the contract producer statistical information and data used to  
15 23 determine compensation paid to the contract producer under a  
15 24 production contract, including but not limited to feed  
15 25 conversion rates, feed analyses, origination and livestock  
15 26 breeder history.

15 27 4. Refuse to allow a contract producer or the contract  
15 28 producer's designated representative to observe, by actual  
15 29 observation at the time of weighing, the weights and measures  
15 30 used to determine the contract producer's compensation under a  
15 31 production contract.

15 32 5. a. Use the performance of another agricultural  
15 33 producer as a basis for compensating the contract producer or  
15 34 for instituting a termination action under a production  
15 35 contract for the production of livestock.

16 1 b. Refuse, upon request of a contract producer, to provide  
16 2 the contract producer with all relevant information requested  
16 3 regarding the performance of another agricultural producer  
16 4 that is used as a basis for compensating the contract producer  
16 5 or for instituting a termination action under a production  
16 6 contract for the production of crops. The contract producer  
16 7 shall not release information required under this paragraph  
16 8 that is a trade secret if the contractor notifies the contract  
16 9 producer that the information is a trade secret. The  
16 10 contractor must identify specific information as a trade  
16 11 secret at the time that the contractor delivers the  
16 12 information. If a majority of the information identified as a  
16 13 trade secret is not a trade secret, the contract producer is  
16 14 not required to consider any of the information a trade

16 15 secret.

16 16 6. Institute a termination action in violation of section  
16 17 202D.304.

16 18 Sec. 15. NEW SECTION. 202D.304 PRODUCTION CONTRACTS ==  
16 19 TERMINATION ACTIONS AND RIGHT TO CURE NOTICE.

16 20 1. Except as otherwise provided in this section, a  
16 21 contractor who is a party to a production contract shall not  
16 22 institute a termination action, unless the contractor provides  
16 23 the contract producer who is also a party to the production  
16 24 contract with a right to cure.

16 25 2. In order to provide a contract producer with a right to  
16 26 cure as required in this section, all of the following must  
16 27 apply:

16 28 a. The contractor must deliver a written notice of the  
16 29 right to cure to the contract producer. The notice must  
16 30 provide for all of the following:

16 31 (1) A statement that the contractor may initiate a  
16 32 termination action based on the alleged breach of contract,  
16 33 including an explanation of the termination action, and the  
16 34 contractor's possible remedies.

16 35 (2) A list of complaints identifying all causes for the  
17 1 alleged breach of contract. The list must specify each  
17 2 complaint in detail sufficient to allow a reasonable contract  
17 3 producer engaged in the same type of agricultural operation to  
17 4 cure each complaint listed in the notice.

17 5 (3) The date by which the complaints must be cured in  
17 6 order to avoid the termination action.

17 7 b. The contract producer must fail to cure each complaint  
17 8 alleged to have caused the breach of contract as listed in the  
17 9 notice within thirty days from the receipt of the notice or a  
17 10 longer period if specified in the production contract or in  
17 11 the notice.

17 12 3. The failure by a contract producer to cure a complaint  
17 13 alleged to cause the breach of contract as listed in a notice  
17 14 of cure shall not be construed as an admission of a breach of  
17 15 contract in a civil cause of action.

17 16 4. A contractor is not required to provide for a right to  
17 17 cure as otherwise required in this section, if any of the  
17 18 following applies:

17 19 a. The production contract does not contain a capital  
17 20 investment requirement or has a capital investment requirement  
17 21 with a capital investment value of less than one hundred  
17 22 thousand dollars.

17 23 b. The contract producer voluntarily abandons the  
17 24 contractual relationship with the contractor. A complete  
17 25 failure of the contract producer's performance under the  
17 26 production contract shall be deemed to be abandonment.

17 27 c. The contract producer is convicted for an offense of  
17 28 fraud or theft committed against the contractor on a date  
17 29 after the date that the contractor executed the production  
17 30 contract.

17 31 SUBCHAPTER 4  
17 32 JUDICIAL REMEDIES

17 33 Sec. 16. NEW SECTION. 202D.401 CHAPTER NOT EXCLUSIVE.

17 34 This chapter does not limit the right of a contract  
17 35 producer to raise a claim for relief or defense under common  
18 1 law or statute that is otherwise available to the contract  
18 2 producer and does not limit the authority of a court to  
18 3 provide a remedy in law or equity available to a court, to the  
18 4 extent that the claim, defense, or remedy is not based on a  
18 5 provision of this chapter.

18 6 Sec. 17. NEW SECTION. 202D.402 PRIVATE CAUSE OF ACTIONS  
18 7 COMMENCED UNDER THIS CHAPTER.

18 8 A contract producer who is a real party in interest may  
18 9 commence a civil action or raise a claim for relief or defense  
18 10 in another civil action, based on a violation of this chapter,  
18 11 and may obtain appropriate legal and equitable relief,  
18 12 including damages or injunctive relief, as provided in this  
18 13 subchapter and the Iowa rules of civil procedure.

18 14 Sec. 18. NEW SECTION. 202D.403 INJUNCTIVE RELIEF.

18 15 In order to obtain injunctive relief, a contract producer  
18 16 who commences a civil action as provided in section 202D.402  
18 17 is not required to post a bond, prove the absence of an  
18 18 adequate remedy at law, or show the existence of special  
18 19 circumstances, unless the court for good cause otherwise  
18 20 orders. The court may order any form of prohibitory or  
18 21 mandatory relief that is appropriate under principles of  
18 22 equity, including but not limited to issuing a temporary or  
18 23 permanent restraining order.

18 24 Sec. 19. NEW SECTION. 202D.404 ATTORNEY FEES.

18 25 If in a civil action arising out of an agricultural



18 26 contract, in which the contract producer and the contractor  
18 27 are parties, and the contract producer prevails, there shall  
18 28 be provided in the judgment for the contract producer, and  
18 29 entered and taxed as a part of the costs in the case, a  
18 30 reasonable sum as compensation to the contract producer's  
18 31 attorney, not exceeding the amount provided by law for  
18 32 attorney fees as provided in section 625.22 together with the  
18 33 costs of the case incurred by the contract producer.

18 34 Sec. 20. NEW SECTION. 202D.405 SPECIAL PROVISIONS FOR  
18 35 ILLEGAL TERMINATION ACTIONS.

19 1 If a contractor who is a party to a production contract  
19 2 institutes a termination action in violation of section  
19 3 202D.304, the contract producer may treat the termination  
19 4 action as a breach of contract. The contractor shall pay all  
19 5 damages for the breach, including but not limited to damages  
19 6 associated with maintaining a commodity produced under the  
19 7 production contract. In addition to other damages, the  
19 8 contractor shall be liable for an amount equal to the value of  
19 9 the remaining useful life of the structures and machinery or  
19 10 equipment which is part of the contract producer's  
19 11 agricultural operation.

#### 19 12 SUBCHAPTER 5

#### 19 13 ADMINISTRATION, ENFORCEMENT, AND PENALTIES

19 14 Sec. 21. NEW SECTION. 202D.501 ADMINISTRATIVE RULES.

19 15 The attorney general shall adopt rules as provided in  
19 16 chapter 17A necessary for the efficient administration of this  
19 17 chapter.

19 18 Sec. 22. NEW SECTION. 202D.502 INVESTIGATIONS.

19 19 1. The attorney general may conduct an investigation to  
19 20 determine if a contractor is complying with the requirements  
19 21 of this chapter.

19 22 2. Any person may file a complaint with the attorney  
19 23 general regarding a violation of this chapter according to  
19 24 procedures adopted by the attorney general.

19 25 3. The attorney general may conduct investigations at  
19 26 times and places and to an extent that the attorney general  
19 27 determines are necessary in order to conclude whether a  
19 28 violation of this chapter has occurred. The attorney general  
19 29 may inspect records relating to agricultural contracts  
19 30 executed by a contractor or contract producer under this  
19 31 chapter. The attorney general may enter upon any public or  
19 32 private premises during regular business hours in a manner  
19 33 consistent with the laws of this state and the United States,  
19 34 including Article I, section 8, of the Constitution of the  
19 35 State of Iowa, or the fourth amendment to the Constitution of  
20 1 the United States for purposes of carrying out an inspection.

20 2 Sec. 23. NEW SECTION. 202D.503 ENFORCEMENT.

20 3 1. The attorney general's office is the primary agency  
20 4 responsible for enforcing this chapter.

20 5 2. In enforcing the provisions of this chapter, the  
20 6 attorney general may do all of the following:

20 7 a. Apply to the district court for an injunction to do any  
20 8 of the following:

20 9 (1) Restrain a contractor from engaging in conduct or  
20 10 practices in violation of this chapter.

20 11 (2) Require a contractor to comply with a provision of  
20 12 this chapter.

20 13 b. Apply to the district court for the issuance of a  
20 14 subpoena to obtain a copy of an agricultural contract for  
20 15 purposes of enforcing this chapter.

20 16 c. Establish, assess, and collect civil penalties for  
20 17 violations of this chapter in accordance with section  
20 18 202D.504, including by instituting a contested case proceeding  
20 19 as provided in chapter 17A in order to assess civil penalties,  
20 20 or bring an action in district court in order to assess and  
20 21 collect civil penalties. Moneys collected from civil  
20 22 penalties shall be deposited into the general fund of the  
20 23 state.

20 24 d. Commence, file, and prosecute any action or information  
20 25 based on an alleged commission by a contractor of a criminal  
20 26 offense as provided in this chapter.

20 27 3. The attorney general may transmit evidence, proof, and  
20 28 information pertaining to a criminal offense as provided in  
20 29 this chapter to the county attorney of the county in which the  
20 30 alleged offense occurred, and the county attorney may  
20 31 commence, file, and prosecute the action or information.

20 32 4. This chapter does not do any of the following:

20 33 a. Limit the authority of the attorney general to seek  
20 34 administrative, legal, or equitable relief as provided by  
20 35 other statutes or at common law.

21 1 b. Require the attorney general to institute a proceeding

21 2 for a violation of this chapter, if the attorney general  
21 3 concludes that the public interest will be best served by a  
21 4 suitable notice of warning in writing.

21 5 Sec. 24. NEW SECTION. 202D.504 CIVIL PENALTIES.

21 6 A contractor who violates a provision of this chapter is  
21 7 subject to a civil penalty of not more than ten thousand  
21 8 dollars.

21 9 1. A contractor may be assessed a civil penalty for  
21 10 committing different acts in violation of this chapter which  
21 11 arise from an agricultural contract involving the same  
21 12 agricultural operation, but the contractor shall not be  
21 13 assessed an aggregate amount of more than the maximum amount  
21 14 provided in this subsection.

21 15 2. A contractor shall not be assessed a civil penalty for  
21 16 violating section 202D.202 to the extent that a contractor  
21 17 made a good faith and reasonable effort to comply with the  
21 18 section.

21 19 Sec. 25. NEW SECTION. 202D.505 CRIMINAL PENALTIES.

21 20 1. A contractor who executes a production contract that  
21 21 includes a provision in violation of section 202D.204 is  
21 22 guilty of a fraudulent practice as provided in section 714.8.

21 23 2. A contractor who commits an unfair practice as provided  
21 24 in section 202D.303 is guilty of a simple misdemeanor.

21 25 Sec. 26. Section 459A.103, subsection 1, paragraph d, Code  
21 26 2007, is amended to read as follows:

21 27 d. For purposes of determining whether two or more open  
21 28 feedlot operations are under common management, a person must  
21 29 have significant control of the management of the day-to-day  
21 30 operations of each of the open feedlot operations. Common  
21 31 management does not include control over a contract livestock  
21 32 facility by a contractor, ~~as defined in section 202.1.~~

21 33 Sec. 27. Section 579B.1, subsection 12, Code 2007, is  
21 34 amended to read as follows:

21 35 12. "Open feedlot" means the same as defined in section  
22 1 ~~202.1~~ 459A.102.

22 2 Sec. 28. NEW SECTION. 614.28A AGRICULTURAL CONTRACTS.

22 3 An action based upon an agricultural contract in which a  
22 4 claim arises out of the failure of a contractor to meet the  
22 5 requirements regarding an agricultural contract as provided in  
22 6 chapter 202D, subchapter 2, shall not be maintained after six  
22 7 years from the date that the agricultural producer knew or  
22 8 should have known of the alleged violation by using due  
22 9 diligence.

22 10 Sec. 29. RULEMAKING PROCEDURES. In adopting rules in  
22 11 order to implement this Act, the attorney general shall  
22 12 consult with the department of agriculture and land  
22 13 stewardship. The attorney general shall also consult with  
22 14 organizations representing agricultural producers, including  
22 15 contract producers, and contractors including active  
22 16 contractors and passive contractors executing production  
22 17 contracts and processors executing marketing contracts.

22 18 Sec. 30. APPLICABILITY.

22 19 1. Except as provided in subsection 2, this Act applies to  
22 20 agricultural contracts in force on or after the date of  
22 21 enactment of this Act, regardless of the date that the  
22 22 agricultural contract is executed.

22 23 2. Notwithstanding subsection 1, the following provisions  
22 24 shall apply to agricultural contracts executed or  
22 25 substantially amended after the date of enactment of this Act:

22 26 a. Section 202D.201, relating to readability requirements  
22 27 for agricultural contract documents.

22 28 b. Section 202D.202, relating to disclosure statements.

22 29 c. Section 202D.203, subsection 2, paragraph "c", relating  
22 30 to the settlement of disputes.

22 31 d. Section 202D.302, relating to a contract producer's  
22 32 right to review or cancel an agricultural contract.

22 33 Sec. 31. DIRECTIONS TO CODE EDITOR. The Code editor is  
22 34 directed to transfer section 202.3 to chapter 202D, subchapter  
22 35 2, as enacted in this Act, and renumber the section as  
23 1 202D.206 or another number consistent with this Act, and  
23 2 correct internal references as necessary.

23 3 Sec. 32. Sections 202.1, 202.2, 202.4, and 202.5, Code  
23 4 2007, are repealed.

23 5 Sec. 33. EFFECTIVE DATE. This Act, being deemed of  
23 6 immediate importance, takes effect upon enactment.

#### 23 7 EXPLANATION

23 8 This bill creates a new Code chapter 202D, which replaces  
23 9 Code chapter 202 enacted by the Seventy-eighth General  
23 10 Assembly in 1999 (1999 Acts, chapter 169), providing a number  
23 11 of protections for contract producers of agricultural  
23 12 commodities. The bill rewrites a number of those provisions,

23 13 creates a number of new provisions, and transfers one  
23 14 provision to the new Code chapter that has been organized into  
23 15 a number of subchapters.

23 16 GENERAL PROVISIONS. Subchapter 1 provides a number of  
23 17 general provisions with general applicability, including  
23 18 provisions relating to the new Code chapter's title and  
23 19 purpose, definitions, and applicability.

23 20 Code section 202D.101 provides the Code chapter's short  
23 21 title, the "Agricultural Fair Contracting Act", and provides  
23 22 findings and a declaration of purpose which is to restore  
23 23 healthy competition in agriculture for the benefit of both  
23 24 contract producers and consumers.

23 25 Code section 202D.102 provides a number of definitions,  
23 26 many of them variations upon definitions provided in Code  
23 27 chapter 202, and includes definitions for contract producers  
23 28 and contractors. A contract producer is a person who holds a  
23 29 legal interest in an agricultural operation that produces a  
23 30 commodity according to a contract. A contractor is a person  
23 31 who executes a contract for the production of the commodity.  
23 32 The bill provides that a marketing contract is a contract in  
23 33 which a processor agrees to purchase a commodity from the  
23 34 contract producer. The commodity may be livestock or raw  
23 35 products derived from the livestock such as milk or eggs, or a  
24 1 crop including corn and soybeans.

24 2 Code section 202D.103 provides for the general  
24 3 applicability of the Code chapter. Similar to Code chapter  
24 4 202, it provides for the regulation of a production contract  
24 5 executed by a contract producer and a contractor (i.e.,  
24 6 "active contractor") or a contract producer and another person  
24 7 ("passive contractor") who is under contract with the active  
24 8 contractor.

24 9 It provides that the Code chapter governs agricultural  
24 10 contracts (production or marketing contracts) upon meeting a  
24 11 threshold. For a production contract, the bill's provisions  
24 12 apply if the contractor sold commodities under all production  
24 13 contracts in the last year of \$500,000 or more. For a  
24 14 marketing contract, the bill's provisions apply if the  
24 15 contractor purchased commodities under all marketing contracts  
24 16 in the last year of \$500,000 or more. The bill makes a number  
24 17 of exceptions for certain contracts such as contracts for  
24 18 professional services; the testing, development, or production  
24 19 of seeds or plants for sale or resale to producers as seed  
24 20 stock; and contracts involving research or experimental  
24 21 activities, if the sale of the commodity is incidental.

24 22 Code section 202D.104 provides for the integration of  
24 23 agreements between active and passive contractors and contract  
24 24 producers involving the production of a commodity. It  
24 25 provides for the integration of multiple oral or written  
24 26 agreements or amendments executed by the same parties, and for  
24 27 the integration of all documents related to the same  
24 28 agricultural contract.

24 29 Code section 202D.105 provides procedures for notice  
24 30 between contract producers and contractors, including delivery  
24 31 by certified mail.

24 32 Code section 202D.106 imposes an obligation of good faith  
24 33 on parties to an agricultural contract in the same manner as  
24 34 provided to merchants under the uniform commercial code, and  
24 35 specifically Code section 554.1203.

25 1 AGRICULTURAL CONTRACT DOCUMENTS. Subchapter 2 provides for  
25 2 the agricultural contract documents, including requirements  
25 3 for a disclosure statement, and the contents of agricultural  
25 4 contracts.

25 5 Code section 202D.201 provides that an agricultural  
25 6 contract document (the agricultural contract or a disclosure  
25 7 statement required to be attached to the agricultural  
25 8 contract) must be readable and understandable. In order to  
25 9 comply with this requirement, the bill provides that the  
25 10 agricultural contract be in a legible type, appropriately  
25 11 divided into captioned sections, and written in a clear and  
25 12 coherent style.

25 13 Code section 202D.202 provides that a contractor is  
25 14 prohibited from executing a written agricultural contract,  
25 15 unless the agricultural contract as executed by the contract  
25 16 producer contains a disclosure statement that must be attached  
25 17 to the agricultural contract. The statement must include a  
25 18 general notice to contract producers, the name of the  
25 19 contractor, a summary of the contract's terms and conditions,  
25 20 its duration, the party responsible for addressing  
25 21 environmental damages caused by the agricultural operation,  
25 22 factors used to determine compensation paid to the contract  
25 23 producer, capital investment requirements, and the party who

25 24 is responsible for obtaining and complying with a permit or  
25 25 certification requirements. In addition, for a production  
25 26 contract, it must include an explanation of the contract  
25 27 producer's right to review and cancel the contract.

25 28 The bill also provides that the disclosure statement must  
25 29 be printed in a legible font type and point size, be  
25 30 appropriately divided and captioned into sections, and must be  
25 31 written in a clear and coherent style using words,  
25 32 punctuation, and grammar that is understandable by an ordinary  
25 33 agricultural producer producing or marketing the same type of  
25 34 commodity.

25 35 Code section 202D.203 prohibits a contractor from executing  
26 1 a written agricultural contract, unless it complies with  
26 2 certain requirements. It must include the names of all  
26 3 parties; key definitions; provisions governing termination,  
26 4 cancellation, renewal, and amendment; the duties and  
26 5 obligations of the parties; and provisions subject to change.  
26 6 The Code section provides that an agricultural contract cannot  
26 7 include a provision that constitutes an unfair practice as  
26 8 provided in the bill; a waiver or a right, obligation, or  
26 9 procedure contained in the bill; a requirement providing for  
26 10 dispute resolution by arbitration; or a provision governing  
26 11 choice of law or choice of forum.

26 12 Code section 202D.204 prohibits a contractor from executing  
26 13 an amendment to a production contract that obligates a  
26 14 contract producer to make new or additional capital  
26 15 investments of \$20,000 or more under certain circumstances, if  
26 16 the contractor does not contribute to satisfying the capital  
26 17 investment requirement.

26 18 Code section 202D.205 provides that any provision of an  
26 19 agricultural contract that contains a provision in violation  
26 20 of the subchapter is void and unenforceable.

26 21 CONTRACT PRODUCER RIGHTS. Subchapter 3 provides for  
26 22 contract producer rights, including a listing of those rights,  
26 23 the right to review and cancel an agricultural contract, and  
26 24 unfair practices by contractors.

26 25 Code section 202D.301 provides a list of contract producer  
26 26 rights. The Code section includes the right to join or belong  
26 27 to or to refrain from joining or belonging to an association  
26 28 of producers, enter into membership agreements or marketing  
26 29 contracts with associations of producers or a processor, make  
26 30 statements or provide information to governmental officials  
26 31 such as the attorney general's office, disclose information  
26 32 contained in an agricultural contract notwithstanding any  
26 33 provision requiring that the information is confidential,  
26 34 create and enforce a security interest, review and cancel a  
26 35 production contract as provided in the bill, and enforce a  
27 1 provision of the bill.

27 2 Code section 202D.302 provides that a contract producer may  
27 3 cancel the production contract by delivering a written  
27 4 cancellation notice to the contractor who is a party to the  
27 5 contract. Generally, the contract producer must deliver the  
27 6 notice within three days following execution or before  
27 7 accepting contract inputs, whichever occurs first. The bill  
27 8 also provides for reversing actions taken by the parties if  
27 9 the contract is cancelled.

27 10 Code section 202D.303 sets out unfair practices committed  
27 11 by a contractor, including taking an action in order to coerce  
27 12 or retaliate against a contract producer because the contract  
27 13 producer exercises a right relating to the contract or the  
27 14 treatment of the contract producer; the grant of a reward or  
27 15 imposition of a penalty; or altering the quality, quantity, or  
27 16 delivery times of a contract input. It prohibits a contractor  
27 17 from providing false information to the contract producer,  
27 18 which may include false information relating to an  
27 19 agricultural contract, an agricultural producer, or the  
27 20 contract operation. It prohibits a contractor from refusing a  
27 21 request by a contract producer to provide statistical  
27 22 information used to determine compensation levels or to  
27 23 observe the weighing and measuring of a commodity. It  
27 24 prohibits a contractor from using the performance of another  
27 25 livestock producer as the basis for compensation or from  
27 26 refusing a request to provide the contract producer  
27 27 information regarding the performance of another agricultural  
27 28 producer that is used as the basis for compensation.

27 29 Code section 202D.304 prohibits a contractor from  
27 30 terminating a production contract, including by bringing a  
27 31 legal action or enforcing a security interest against a  
27 32 contract producer, unless the contractor provides the contract  
27 33 producer with a right to cure. The contractor must provide a  
27 34 notice of any breach of contract to the contract producer,

27 35 including a list of complaints causing the alleged breach, and  
28 1 allow the contract producer at least 30 days in order to cure  
28 2 the complaints. The bill provides that the right to cure does  
28 3 not apply to a production contract that does not contain a  
28 4 capital investment requirement or has such an investment  
28 5 requirement with a capital investment value of less than  
28 6 \$100,000. It also does not apply if the contract producer  
28 7 voluntarily abandons the contractual relationship with the  
28 8 contractor or is convicted of an offense of fraud or theft  
28 9 committed against the contractor.

28 10 JUDICIAL REMEDIES. Subchapter 4 provides a number of  
28 11 judicial remedies that supplement common law remedies,  
28 12 including the right to injunctive relief, attorney fees, and  
28 13 special damages.

28 14 Code section 202D.401 provides that the bill's new chapter  
28 15 does not limit the right of a contract producer to raise a  
28 16 claim for relief or defense under common law or statute that  
28 17 is otherwise available.

28 18 Code section 202D.402 provides that a contract producer may  
28 19 commence a civil action or raise a claim for relief or defense  
28 20 in another civil action, based on a violation of the bill's  
28 21 new Code chapter.

28 22 Code section 202D.403 provides that in order to obtain  
28 23 injunctive relief, a contract producer who commences a civil  
28 24 action is not required to post a bond, prove the absence of an  
28 25 adequate remedy at law, or show the existence of special  
28 26 circumstances.

28 27 Code section 202D.404 provides that a contract producer who  
28 28 prevails in a civil action against a contractor is entitled to  
28 29 receive attorney fees paid by the contractor.

28 30 Code section 202D.405 provides that if a contractor  
28 31 institutes a termination action in violation of provisions  
28 32 allowing contract producers a right to cure an alleged breach  
28 33 of production contracts with capital investment requirements,  
28 34 the contract producer may treat the termination action as a  
28 35 breach of contract, the contractor is liable for damages, and  
29 1 is liable for an amount equal to the value of the remaining  
29 2 useful life of the structures and machinery or equipment which  
29 3 is part of the contract producer's agricultural operation.

29 4 ADMINISTRATION, ENFORCEMENT, AND PENALTIES. Subchapter 5  
29 5 provides for the administration and enforcement of the new  
29 6 Code chapter by the attorney general, and provides both civil  
29 7 and criminal penalties.

29 8 Code section 202D.501 provides that the attorney general  
29 9 must adopt rules necessary for the efficient administration of  
29 10 the bill's new Code chapter.

29 11 Code section 202D.502 provides that the attorney general  
29 12 may conduct an investigation to determine if a contractor is  
29 13 complying with the requirements of the new Code chapter.

29 14 Code section 202D.503 provides that the attorney general's  
29 15 office is the primary agency responsible for enforcing the  
29 16 bill's new Code chapter. It provides that the attorney  
29 17 general's office may apply to district court for injunctive  
29 18 relief or a subpoena; establish, assess, and collect civil  
29 19 penalties for violations of the chapter; and prosecute a case  
29 20 based on a criminal violation of the new Code chapter. The  
29 21 bill also provides that the attorney general may transmit  
29 22 information to a county attorney for prosecution.

29 23 Code section 202D.504 provides for civil penalties.  
29 24 Generally, a contractor who violates a provision of the bill  
29 25 is subject to a civil penalty of not more than \$10,000. The  
29 26 bill provides that the civil penalty does not apply to a  
29 27 violation involving a disclosure requirement, if the  
29 28 contractor made a good faith and reasonable effort to comply  
29 29 with the requirements.

29 30 Code section 202D.505 provides for criminal penalties  
29 31 imposed upon a contractor who commits certain offenses  
29 32 specified in the new Code section. A contractor who commits  
29 33 an unfair practice is guilty of a simple misdemeanor. A  
29 34 contractor who imposes a confidentiality requirement in a  
29 35 production contract in violation of Code section 202.3 as  
30 1 transferred into the new Code chapter is guilty of a  
30 2 fraudulent practice (no change from current law).

30 3 MISCELLANEOUS PROVISIONS. The bill provides a number of  
30 4 related miscellaneous provisions, many appearing only in  
30 5 session law.

30 6 The bill amends Code chapter 614 that provides for statutes  
30 7 of limitations. The bill creates Code section 614.28A that  
30 8 provides a six-year statute of limitations for civil actions  
30 9 involving the failure of a contractor in meeting requirements  
30 10 regarding the contents of agricultural contracts as provided

30 11 in the bill.

30 12 The bill provides rulemaking authority to the attorney  
30 13 general's office, by requiring the office to consult with the  
30 14 department of agriculture and land stewardship and  
30 15 organizations interested in agricultural contracting.

30 16 The bill provides for its applicability. With limited  
30 17 exceptions, the bill applies to agricultural contracts in  
30 18 force on or after the date of enactment of the bill. The  
30 19 exceptions relate to provisions relating to the settlement of  
30 20 disputes, requirements for readability and disclosure  
30 21 statements, and the right of a contract producer to review and  
30 22 cancel a contract.

30 23 The bill directs the Code editor to transfer Code section  
30 24 202.3 to the new Code chapter, into subchapter 2. The bill  
30 25 repeals the remaining Code sections in Code chapter 202.

30 26 The bill takes effect upon enactment.

30 27 LSB 2419HH 82

30 28 da:nh/es/88.1