

1 AN ACT to create the Agriculture Producer Protection Act.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Agriculture Producer Protection Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context otherwise requires:

8 "Active contractor" means a person who owns a commodity
9 that is produced by a contract producer at the contract
10 producer's contract operation according to a production
11 contract.

12 "Agricultural Contract" means a marketing contract or a
13 production contract.

14 "Animal feeding operation" means a lot, corral, building,
15 or other area in which livestock is confined and fed. An
16 animal feeding operation does not include a livestock market.

17 "Capital investment" means an investment in one of the
18 following:

19 (1) A structure, such as a building or manure
20 storage structure.

21 (2) Machinery or equipment associated with
22 producing a commodity that has a useful life in excess of
23 one year.

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

25 "Confinement feeding operation" means an animal feeding
26 operation in which livestock is confined to areas that are
27 totally roofed.

28 "Contract crop field" means farmland located in this
29 State where a crop is produced according to a production
30 contract by a contract producer who owns or leases the
31 farmland.

1 "Contract livestock facility" means an animal feeding
2 operation located in this State in which livestock or raw
3 milk is produced according to a production contract by a
4 contract producer who holds a legal interest in the animal
5 feeding operation. "Contract livestock facility" includes a
6 confinement feeding operation, an open feedlot, or an area
7 that is used for the raising of crops or other vegetation and
8 upon which livestock is fed for slaughter or is allowed to
9 graze or feed.

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

12 "Contract producer" means a producer who holds a legal
13 interest in a contract operation and who produces a
14 commodity under a production contract.

15 "Contractor" means a person who is an active contractor
16 or a passive contractor.

17 "Crop" means a plant used for food, animal feed, fiber,
18 oil, pharmaceuticals, nutraceuticals, or seed, including but
19 not limited to alfalfa, barley, buckwheat, corn, flax,
20 forage, millet, oats, popcorn, rye, sorghum, soybeans,
21 sunflowers, tobacco, wheat, and grasses used for forage or
22 silage.

23 "Department" means the Department of Agriculture.

24 "Director" means the Director of Agriculture.

25 "Farmland" means agricultural land that is suitable for
26 use in farming.

27 "Investment requirement" means a provision in a contract
28 that requires the contract producer to make capital
29 investments associated with producing a commodity subject to
30 a production contract. The provisions may be included as part
31 of one or more oral or written agreements or contracts, and
32 may be included as part of a production contract.

33 "Livestock" means beef cattle, dairy cattle, poultry,
34 sheep, or swine.

1 "Marketing contract" means an oral or written agreement
2 between a processor and a producer for the purchase of
3 commodities grown or raised by the producer in this State. A
4 marketing contract is executed when it is signed or orally
5 agreed to by each party or by a person authorized to act on
6 the party's behalf.

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

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

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

20 "Produce" means to do any of the following:

21 (1) Provide feed or services relating to the care
22 and feeding of livestock. If the livestock is dairy
23 cattle, then "produce" includes milking the dairy cattle
24 and storing raw milk.

25 (2) Provide for planting, raising, harvesting, and
26 storing a crop. "Produce" includes preparing the soil for
27 planting and nurturing the crop by the application of
28 fertilizers or soil conditioners, including those
29 substances regulated under the Illinois Fertilizer Act of
30 1961 or pesticides as defined in paragraph 29 of Section
31 4 of the Illinois Pesticide Act.

32 "Producer" means a person who produces a commodity,
33 including but not limited to, a contract producer. "Producer"
34 does not include a commercial fertilizer or pesticide

1 applicator, a feed supplier, or a veterinarian, when acting
2 in that capacity.

3 "Production contract" means an oral or written agreement
4 that provides for the production of a commodity or the
5 provision of management services relating to the production
6 of a commodity by a contract producer. A production contract
7 is executed when it is signed or orally agreed to by each
8 party to the contract or by a person authorized to act on the
9 party's behalf.

10 Section 10. Production contracts governed by this Act.
11 This Act applies to production contracts that relate to the
12 production of a commodity owned by an active contractor and
13 produced by a contract producer at the contract producer's
14 contract operation, if one of the following applies:

15 (1) Contract with active contractor. The production
16 contract is executed by an active contractor and a
17 contract producer for the production of the commodity.

18 (2) Contract with active contractor and passive
19 contractor. The production contract is executed by an
20 active contractor and a passive contractor for the
21 provision of management services to the contract producer
22 in the production of the commodity.

23 (3) Contract with passive contractor. The
24 production contract is executed by a passive contractor
25 and a contract producer, if all of the following apply:

26 (A) The contract provides for management
27 services furnished by the passive contractor to the
28 contract producer in the production of the
29 commodity.

30 (B) The passive contractor has a contractual
31 relationship with the active contractor involving
32 the production of the commodity.

1 Section 15. Implied obligation of good faith. An
2 agricultural contract imposes an obligation of good faith, as
3 defined in section 1-201 of the Uniform Commercial Code, on
4 all parties with respect to the performance and enforcement
5 of the agricultural contract.

6 Section 20. Disclosure of risks and readability.

7 (a) Disclosure statement. An agricultural contract must
8 be accompanied by a clear written disclosure statement
9 setting forth the nature of the material risks faced by the
10 producer if the producer enters into the contract. The
11 statement must meet the readability requirements of
12 subsection (b). The statement may be in the form of a written
13 statement or checklist and may be developed in cooperation
14 with producers or producer organizations. The statement shall
15 disclose the following:

- 16 (1) in the case of production contracts, the
17 producer's right to review as provided in Section 5;
18 (2) contract duration;
19 (3) contract termination;
20 (4) renegotiation standards;
21 (5) responsibility for environmental damage;
22 (6) factors to be used in determining payment;
23 (7) responsibility for obtaining and complying with
24 local, state, and federal permits;
25 (8) any other contract term that the Director of
26 Agriculture determines is appropriate for disclosure.

27 (b) Readability of contracts.

28 (1) Definition. As used in this subsection,
29 "legible type" means a typeface at least as large as
30 10-point modern type, one-point leaded.

31 (2) Cover sheet requirements. An agricultural
32 contract entered into, amended, or renewed after the
33 effective date of this Act must contain as the first

1 page, or first page of text if it is preceded by a title
2 page or pages, a cover sheet as provided in this Section.
3 The cover sheet or sheets must comply with paragraph (3)
4 and must contain all of the following:

5 (A) A brief statement that the document is a
6 legal contract between the parties.

7 (B) The statement "READ YOUR CONTRACT
8 CAREFULLY. This cover sheet provides only a brief
9 summary of your contract. This is not the contract,
10 and only the terms of the actual contract are
11 legally binding. The contract itself sets forth, in
12 detail, the rights and obligations of both you and
13 the contractor or processor. IT IS THEREFORE
14 IMPORTANT THAT YOU READ YOUR CONTRACT CAREFULLY."

15 (C) The written disclosure of risks required
16 by subsection (a).

17 (D) A statement detailing, in plain language,
18 the producer's right to review the contract as
19 described in section 5.

20 (E) An index of the major provisions of the
21 contract and the pages on which they are found,
22 including all of the following:

23 (i) The names of all parties to the
24 contract.

25 (ii) The definition sections of the
26 contract.

27 (iii) The provisions governing
28 termination, cancellation, renewal, and
29 amendment of the contract by either party.

30 (iv) The duties or obligations of each
31 party.

32 (v) Any provisions subject to change in
33 the contract.

34 (3) Contract format and plain language. An

1 agricultural contract must be in legible type,
2 appropriately divided and captioned by its various
3 sections, and written in clear and coherent language
4 using words and grammar that are understandable by a
5 person of average intelligence, education, and experience
6 within the industry. This paragraph does not apply to the
7 following terms in an agricultural contract:

8 (A) Legally required. Particular words,
9 phrases, provisions, or forms of agreement
10 specifically required, recommended, or endorsed by a
11 state or federal statute, rule, or regulation.

12 (B) Customarily used terms. Technical terms
13 used to describe the services or property that are
14 the subject of the contract, if the terms are
15 customarily used by producers in the ordinary course
16 of business in connection with the services or
17 property being described.

18 (c) Review by Director of Agriculture.

19 (1) Process of review. A contractor or processor
20 may submit an agricultural contract to the Director for
21 review as to whether it complies with this Section. After
22 reviewing the contract, the Director shall do one of the
23 following:

24 (A) Certify that the contract complies with
25 this Section.

26 (B) Decline to certify that the contract
27 complies with this Section and note objections.

28 (C) Decline to review the contract because the
29 contract's compliance with this Section is subject
30 to pending litigation.

31 (D) Decline to review the contract because the
32 contract is not subject to this Section.

33 (2) Factors in determining readability. In
34 determining whether an agricultural contract or cover

1 sheet is readable within the meaning of subsection (b),
2 the Director shall consider at least the following
3 factors:

4 (A) The simplicity of the sentence structure.

5 (B) The extent to which commonly used and
6 understood words are employed.

7 (C) The extent to which esoteric legal terms
8 are avoided.

9 (D) The extent to which references to other
10 sections or provisions of the contract are
11 minimized.

12 (E) The Flesch scale analysis or other
13 readability score as provided by Department rule.

14 (F) The extent to which clear definitions are
15 used in the text of the contract.

16 (G) Additional factors relevant to the
17 readability or understandability of the contract.

18 (3) Process not reviewable. Actions of the Director
19 under this subsection are not subject to judicial
20 review.

21 (4) Limited effect of certification. A contract
22 certified under this subsection is deemed to comply with
23 subsections (a) and (b). Certification of a contract
24 under this subsection does not constitute an approval of
25 the contract's legality or legal effect. If the Director
26 certifies a contract or fails to respond within 30 days
27 after receipt of the contract, then the contractor or
28 processor will have complied with these subsections (a)
29 and (b) and the remedies stated in paragraph (6) and in
30 Section 60 are not available.

31 (5) Review not required. Failure to submit a
32 contract to the Director for review under this subsection
33 does not show a lack of good faith or raise a presumption
34 that the contract violates this Section.

1 (6) Reformation by court.

2 (A) Change terms. In addition to the remedies
3 provided in Section 60, a court reviewing an
4 agricultural contract may change the terms of the
5 contract or limit a provision to avoid an unfair
6 result if the court finds all of the following:

7 (i) A material provision of the contract
8 violates subsection (a) or (b).

9 (ii) The violation caused the producer to
10 be substantially confused about any of the
11 rights, obligations, or remedies of the
12 contract.

13 (iii) The violation has caused or is
14 likely to cause financial detriment to the
15 producer.

16 (B) Avoid unjust enrichment. If the court
17 reforms or limits a provision of an agricultural
18 contract, the court shall also make orders necessary
19 to avoid unjust enrichment. Bringing a claim for
20 relief under this paragraph does not entitle a
21 producer to withhold performance of an otherwise
22 valid contractual obligation. No relief may be
23 granted under this paragraph unless the claim is
24 brought before the obligations of the contract have
25 been fully performed.

26 (7) Limits on remedies.

27 (A) Penalties. In a proceeding in which civil
28 penalties are claimed from a party for a violation
29 of this Section, it is a defense to the claim that
30 the party made a good faith and reasonable effort to
31 comply.

32 (B) Attorneys' Fees. Notwithstanding Section
33 60, a party who has made a good faith and reasonable
34 effort to comply with this Section may not be

1 assessed attorney's fees or costs of investigation
2 in an action for violating this Section.

3 (8) Limits on producer actions. Violation of this
4 Section is not a defense to a claim arising from a
5 producer's breach of an agricultural contract. A producer
6 may recover actual damages caused by a violation of this
7 Section only if the violation caused the producer to not
8 understand the rights, obligations, or remedies of the
9 contract.

10 (9) Statute of limitations. A claim that an
11 agricultural contract violates this Section must be
12 raised within 6 years after the date the contract is
13 executed by the producer.

14 Section 25. Contract producer's 3-day right to review. A
15 contract producer may cancel a production contract by mailing
16 a written cancellation notice to the contractor within 3
17 business days after the contract is executed, or before a
18 later cancellation deadline if a later deadline is specified
19 in the contract. The contract producer's right to cancel, the
20 method by which the contract producer may cancel, and the
21 deadline for canceling the production contract shall be
22 clearly disclosed in every production contract.

23 Section 30. Confidentiality provisions prohibited.

24 (a) Prohibition. A contractor or processor shall not, on
25 or after the effective date of this Act, enforce a provision
26 in an agricultural contract if the provision provides that
27 information contained in the agricultural contract is
28 confidential.

29 (b) Confidentiality provisions void. A provision that is
30 part of an agricultural contract is void if the provision
31 states that information contained in the agricultural
32 contract is confidential. The confidentiality provision is

1 void whether the confidentiality provision is express or
2 implied; oral or written; required or conditional; contained
3 in the agricultural contract, another agricultural contract,
4 or in a related document, policy, or agreement. This Section
5 does not affect other provisions of an agricultural contract
6 or a related document, policy, or agreement that can be given
7 effect without the voided provision. This Section does not
8 require a party to an agricultural contract to divulge
9 information in the agricultural contract to another person.

10 Section 35. Production contract lien.

11 (a) Applicability of Section. A lien established under
12 this Section depends upon the execution of a production
13 contract that provides for producing a commodity owned by a
14 contractor by a contract producer at the contract producer's
15 contract operation.

16 (b) Establishment of lien; priority. A contract producer
17 who is a party to a production contract shall have a lien as
18 provided in this Section. The amount of the lien shall be the
19 amount owed to the contract producer pursuant to the terms of
20 the production contract, which may be enforced as provided in
21 subsection (f).

22 (c) Livestock and raw milk. If the production contract
23 is for the production of livestock or raw milk, the following
24 provisions shall apply.

25 (1) Livestock. For livestock, the lien shall apply
26 to all of the following:

27 (A) If the livestock is not sold or
28 slaughtered by the contractor, the lien shall be on
29 the livestock.

30 (B) If the livestock is sold by the
31 contractor, the lien shall be on cash proceeds from
32 the sale. For purposes of this subparagraph, cash
33 held by the contractor shall be deemed to be cash

1 proceeds from the sale regardless of whether it is
2 identifiable cash proceeds.

3 (C) If the livestock is slaughtered by the
4 contractor, the lien shall be on any property of the
5 contractor that may be subject to a security
6 interest as provided in Section 9-102 of the Uniform
7 Commercial Code.

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

10 (A) Milk not sold. If the raw milk is not sold
11 or processed by the contractor, the lien shall be on
12 the raw milk.

13 (B) Milk is sold. If the raw milk is sold by
14 the contractor, the lien shall be on cash proceeds
15 from the sale. For purposes of this subparagraph,
16 cash held by the contractor shall be deemed to be
17 cash proceeds from the sale regardless of whether it
18 is identifiable cash proceeds.

19 (C) Milk processed. If the raw milk is
20 processed by the contractor, the lien shall be on
21 any property of the contractor that may be subject
22 to a security interest as provided in Section 9-102
23 of the Uniform Commercial Code.

24 (3) Duration of lien. The lien on livestock or raw
25 milk is created at the time the livestock arrives at the
26 contract livestock facility and continues for one year
27 after the livestock is no longer under the authority of
28 the contract producer. For the purposes of this Section,
29 livestock is no longer under the authority of the
30 contract producer when the livestock leaves the contract
31 livestock facility.

32 (d) Crops. If the production contract is for the
33 production of crops, the following provisions shall apply.

34 (1) Crop not sold. If the crop is not sold or

1 processed by the contractor, the lien shall be on the
2 crop.

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

9 (3) Crop processed. If the crop is processed by the
10 contractor, the lien shall be on any property of the
11 contractor that may be subject to a security interest as
12 provided in Section 9-102 of the Uniform Commercial Code.

13 (4) Duration of lien. The lien on a crop is created
14 at the time the crop is planted and continues for one
15 year after the crop is no longer under the authority of
16 the contract producer. For purposes of this Section, a
17 crop is no longer under the authority of the contract
18 producer when the crop or a warehouse receipt issued by a
19 warehouse operator licensed under the Grain Code for
20 grain from the crop is no longer under the custody or
21 control of the contract producer.

22 (e) Preserving the lien; filing requirements.

23 (1) Filing lien statement. In order to preserve a
24 lien created pursuant to this Section, a contract
25 producer must file in the office of the Secretary of
26 State a lien statement on a form prescribed by the
27 Secretary of State. If the lien arises out of producing
28 livestock or raw milk, the contract producer must file
29 the lien within 45 days after the day that the livestock
30 first arrives at the contract livestock facility. If the
31 lien arises out of producing a crop, the contract
32 producer must file the lien within 45 days after the day
33 that the crop is first planted. The Secretary of State
34 shall charge a fee of not more than \$10 for filing the

1 statement. The Secretary of State may adopt rules for the
2 electronic filing of the statements.

3 (2) Contents of lien statement. The statement must
4 include all of the following:

5 (A) An estimate of the amount owed pursuant to
6 the production contract.

7 (B) The date when the livestock arrives at the
8 contract livestock facility or the date when the
9 crop was planted.

10 (C) The estimated duration of the period when
11 the commodity will be under the authority of the
12 contract producer.

13 (D) The name of the party to the production
14 contract whose commodity is produced pursuant to the
15 production contract.

16 (E) The description of the location of the
17 contract operation, by county and township.

18 (F) The printed name and signature of the
19 person filing the form.

20 (3) Priority of Lien. Except for moneys owed to a
21 veterinarian for services rendered to a person subject to
22 this Act, a lien created under this Section until
23 preserved and a lien preserved under this Section are
24 superior to and shall have priority over a conflicting
25 lien or security interest in the commodity, including a
26 lien or security interest that was perfected prior to the
27 creation of the lien under this Section.

28 (f) Enforcement. Before a commodity leaves the authority
29 of the contract producer as provided in subsections (b)
30 through (d), the contract producer may foreclose a lien
31 created in those subsections in the manner provided for the
32 foreclosure of secured transactions in Sections 9-504, 9-506,
33 and 9-507 of the Uniform Commercial Code. After the commodity
34 is no longer under the authority of the contract producer,

1 the contract producer may enforce the lien in the manner
2 provided in Article 9, Part 5, of the Uniform Commercial
3 Code.

4 Section 40. Production contracts involving investment
5 requirements.

6 (a) Applicability. This Section applies only to a
7 production contract executed by a contract producer and a
8 contractor, if the contract producer must make capital
9 investments of \$100,000 or more according to investment
10 requirements provided in all production contracts in which
11 the contract producer and the contractor are parties. The
12 value of the capital investments shall be deemed to be the
13 total dollar amount spent by the contract producer in
14 satisfying the investment requirements, if that amount is
15 ascertainable.

16 (b) Restrictions on contract termination. Except as
17 provided in subsection (d), a contractor shall not terminate,
18 cancel, or fail to renew a production contract until the
19 contractor has done the following:

20 (1) Notice. The contractor has provided the
21 contract producer written notice of the intention to
22 terminate, cancel, or not renew at least 90 days before
23 the effective date of the termination, cancellation, or
24 nonrenewal.

25 (2) Damages. The contract producer has been
26 reimbursed for damages incurred due to the termination,
27 cancellation, or failure to renew. Damages shall be based
28 on the value of the remaining useful life of the
29 structures, machinery or equipment involved.

30 (c) Breach of investment requirements. Except as
31 provided in subsection (d), if a contract producer materially
32 breaches a production contract, including the investment
33 requirements of a production contract, a contractor may not

1 terminate, cancel, or fail to renew the production contract
2 until the following have occurred:

3 (1) Notice. The contractor has provided a written
4 notice of termination, cancellation, or nonrenewal at
5 least 45 days before the effective date of the
6 termination, cancellation, or nonrenewal. The notice must
7 provide a list of complaints alleging causes for the
8 breach.

9 (2) Failure to remedy. The contract producer fails
10 to remedy each cause of the breach as alleged in the list
11 of complaints provided in the notice within 30 days
12 following receipt of the notice. An effort by a contract
13 producer to remedy a cause of an alleged breach shall not
14 be construed as an admission of a breach in a civil cause
15 of action.

16 (d) Exceptions. A contractor may terminate, cancel, or
17 fail to renew a production contract without notice or remedy
18 as required in subsections (b) and (c) if the basis for the
19 termination, cancellation, or nonrenewal is any of the
20 following:

21 (1) Abandonment. A voluntary abandonment of the
22 contractual relationship by the contract producer. A
23 complete failure of a contract producer's performance
24 under a production contract shall be deemed to be
25 abandonment.

26 (2) Fraud conviction. The conviction of a contract
27 producer of an offense of fraud or theft committed
28 against the contractor.

29 (e) Penalty. If a contractor terminates, cancels, or
30 fails to renew a production contract other than provided in
31 this Section, the contractor shall pay the contract producer
32 the value of the remaining useful life of the structures,
33 machinery, or equipment involved.

1 Section 45. Unfair Practices.

2 (a) Definitions. As used in this Section:

3 (1) "Contract input" means a commodity or an
4 organic or synthetic substance or compound that is used
5 to produce a commodity, including but not limited to any
6 of the following:

7 (A) Livestock or plants.

8 (B) Agricultural seeds.

9 (C) Semen or eggs for breeding livestock

10 (D) A fertilizer or pesticide.

11 (2) "Producer right" means one of the following
12 legal rights and protections:

13 (A) Right to join association. The right of a
14 producer to join or belong to, or to refrain from
15 joining or belonging to, an association of
16 producers.

17 (B) Right to contract. The right of a producer
18 to enter into a membership agreement or marketing
19 contract with an association of producers, a
20 processor, or another producer and the right of the
21 producer to exercise contractual rights under such a
22 membership agreement or marketing contract.

23 (C) Right to be a whistleblower. The right of
24 a producer to lawfully provide statements or
25 information (including to the United States
26 Secretary of Agriculture or to a law enforcement
27 agency) regarding alleged improper actions or
28 violations of law by a contractor or processor. This
29 right does not include the right to make statements
30 or provide information if the statements or
31 information are determined to be libelous or
32 slanderous.

33 (D) Right to use contract producer lien. The
34 right of a producer to file, continue, terminate, or

1 enforce a lien under Section 35.

2 (E) Right to review production contracts. The
3 right of a contract producer to utilize protections
4 to review production contracts under Section 25.

5 (F) Right to disclose contractual terms. The
6 right of a producer to disclose the terms of
7 agricultural contracts under Section 30.

8 (G) Right to exercise other protections. The
9 right of a producer to enforce other protections
10 afforded by this Act or other laws or regulations.

11 (b) Unfair practices. It shall be unlawful for any
12 contractor or processor to knowingly engage or permit any
13 employee or agent to engage in the following practices in
14 connection with agricultural contracts:

15 (1) Retaliation. To take actions to coerce,
16 intimidate, disadvantage, retaliate against, or
17 discriminate against any producer because the producer
18 exercises, or attempts to exercise, any producer right,
19 including actions affecting the following:

20 (A) The execution, termination, extension, or
21 renewal of an agricultural contract.

22 (B) The treatment of a producer, which may
23 include providing discriminatory or preferential
24 terms in an agricultural contract or interpreting
25 terms of an existing agricultural contract in a
26 discriminatory or preferential manner. The terms may
27 relate to the price paid for a commodity; the
28 quality or the quantity of a commodity demanded; or
29 financing, including investment requirements.

30 (C) The grant of a reward or imposition of a
31 penalty, including the denial of a reward. The
32 reward or penalty may be in any form, including but
33 not limited to, financial rewards or penalties.
34 Financial rewards or penalties may relate to loans,

1 bonuses, or inducements.

2 (D) Alter the quality, quantity, or delivery
3 times of contract inputs provided to the producer.

4 (2) False information. To provide false information
5 to the producer, which may include false information
6 relating to any of the following:

7 (A) A producer with whom the producer
8 associates or an association of producers or an
9 agricultural organization with which the producer is
10 affiliated, including but not limited to (i) the
11 character of the producer or (ii) the condition of
12 the finances or the management of the association of
13 producers or agricultural organization.

14 (B) Producer rights provided by this Act or
15 other provisions of law.

16 (3) Compensation information. To refuse to provide
17 to a contract producer upon request the statistical
18 information and data used to determine compensation paid
19 to the contract producer under a production contract,
20 including, but not limited to, feed conversion rates,
21 feed analyses, origination and breeder history.

22 (4) Observation of weighing. To refuse to allow a
23 contract producer or the contract producer's designated
24 representative to observe, by actual observation at the
25 time of weighing, the weights and measures used to
26 determine the contract producer's compensation under a
27 production contract.

28 (5) "Tournament" compensation. To use the
29 performance of any other contract producer to determine
30 the compensation of a contract producer under a
31 production contract or as the basis of the termination,
32 cancellation, or renewal of a production contract.

33 (6) Additional capital investments. To require a
34 contract producer to make new or additional capital

1 investments in connection with, or to retain, continue,
2 or renew, a production contract which are beyond the
3 investment requirements of such production contract. It
4 shall not be a violation of this Section if the new or
5 additional capital investments are partially paid for by
6 the contractor, or offset by other compensation or
7 modifications to contract terms, in a manner the contract
8 producer agrees to in writing as constituting acceptable
9 and satisfactory consideration for the new capital
10 investment.

11 (7) Disclosure of risks and readability. To execute
12 an agricultural contract in violation of the disclosure
13 of risks and readability requirements of Section 20.

14 (8) Confidentiality provisions. To execute an
15 agricultural contract which includes a confidentiality
16 provision in violation of Section 30.

17 (9) Mediation provisions. To execute an
18 agricultural contract without a mediation provision as
19 required under Section 60.

20 (10) Waivers. To execute an agricultural contract
21 which includes a waiver of any producer right or any
22 obligation of a contractor or processor established under
23 this Act.

24 (11) Choice of law. To execute an agricultural
25 contract requiring the application of the law of another
26 state instead of this Act.

27 Section 50. Waivers unenforceable. Any provision of an
28 agricultural contract that waives a producer right or an
29 obligation of a contractor or processor established by this
30 Act is void and unenforceable. This Section does not affect
31 other provisions of an agricultural contract, including an
32 agricultural contract or related document, policy, or
33 agreement that can be given effect without the voided

1 provision.

2 Section 55. Choice of law. Any condition, stipulation, or
3 provision requiring the application of the law of another
4 state instead of this Act is void and unenforceable.

5 Section 60. Mediation. An agricultural contract must
6 contain language providing for resolution of disputes
7 concerning the contract by mediation. If there is a dispute
8 involving an agricultural contract, either party may make a
9 written request for mediation services as specified in the
10 contract, to facilitate resolution of the dispute.

11 Section 65. Penalties and enforcement.

12 (a) Civil penalties. A contractor or processor
13 committing an unfair practice under Section 45 shall be
14 subject to a civil penalty of up to \$1000.

15 (b) Criminal penalties. A contractor or processor
16 committing an unfair practice under Section 45 shall be
17 guilty of a Class C misdemeanor.

18 (c) Private cause of action. A producer who suffers
19 damages because of a contractor's or processor's violation of
20 this Act may bring a private civil action against the
21 contractor or processor and obtain appropriate legal and
22 equitable relief, including damages.

23 (1) Attorneys fees. In a civil action against the
24 contractor or processor, the court shall award the
25 producer who is the prevailing party reasonable attorney
26 fees and other litigation expenses.

27 (2) Injunctive relief. In order to obtain
28 injunctive relief, the producer is not required to post a
29 bond, prove the absence of an adequate remedy at law, or
30 show the existence of special circumstances, unless the
31 court for good cause otherwise orders. The court may

1 order any form of prohibitory or mandatory relief that is
2 appropriate under principles of equity, including but not
3 limited to issuing a temporary or permanent restraining
4 order.

5 (d) Enforcement by Attorney General. The Attorney
6 General's office is the agency primarily responsible for
7 enforcing this Act. In enforcing the provisions of this Act,
8 the Attorney General may do all of the following:

9 (1) Injunctions. Apply to the circuit court for an
10 injunction to do any of the following:

11 (A) Restrain a contractor or processor from
12 engaging in conduct or practices in violation of
13 this Act.

14 (B) Require a contractor or processor to
15 comply with a provision of this Act.

16 (2) Subpoenas. Apply to the circuit court for the
17 issuance of a subpoena to obtain an agricultural contract
18 for purposes of enforcing this Act.

19 (3) Penalties. Bring an action in the circuit court
20 to enforce penalties provided in subsections (a) and (b).

21 Section 70. Rulemaking. The Director must adopt any rules
22 necessary to implement this Act.

23 Section 75. Applicability of Act.

24 (a). General rule. Except as provided in subsection (b),
25 this Act applies to agricultural contracts in force on or
26 after the effective date of this Act, regardless of the date
27 the agricultural contract is executed.

28 (b). Exceptions. Section 20 (relating to disclosure of
29 risks and readability), Section 25 (relating to contract
30 producer's three day right to review), Section 40 (relating
31 to production contracts involving investment requirements),
32 Section 45(b)(5) (relating to the use of "tournament

1 compensation"), Section 55 (relating to choice of law), and
2 Section 60 (relating to mediation) shall apply to
3 agricultural contracts executed or substantively amended
4 after the effective date of this Act.

5 Section 99. Effective date. This Act takes effect on
6 July 1, 2001.