

House Bill 308

By: Representatives Sims of the 167<sup>th</sup>, McCall of the 90<sup>th</sup>, Hudson of the 156<sup>th</sup>, James of the 140<sup>th</sup>, Shaw of the 176<sup>th</sup> and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to  
2 provide for the regulation of certain agricultural production contracts; to provide for  
3 definitions; to provide for applicability; to provide for the effect and terms of such contracts;  
4 to require and provide for certain requirements and disclosure statements; to provide for  
5 notices; to provide for the rights of parties to such contracts; to provide for review and  
6 enforcement of contracts, contractual rights, and the laws related thereto; to provide for  
7 cancellation of such contracts; to prohibit the inclusion of certain terms and conditions in  
8 such contracts; to provide that certain contracts shall be void and shall not be enforceable;  
9 to provide for liens, the filling thereof, practices and procedures connected therewith, the  
10 foreclosure thereof, and the priority thereof; to provide for fees; to provide for termination,  
11 cancellation, and failure to renew such contracts and the requirements connected therewith;  
12 to prohibit certain unfair practices and conduct; to require mediation and provide for  
13 resolution of disputes; to provide for civil penalties; to provide for criminal penalties; to  
14 provide for enforcement; to provide for injunctions and other legal and equitable relief; to  
15 provide for the duties and powers of the Attorney General; to provide for rules and  
16 regulations; to provide for applicability; to provide for other matters relating to the foregoing;  
17 to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by  
21 adding at the end thereof a new Chapter 22 to read as follows:

22 "CHAPTER 22

23 2-22-1.

24 As used in this chapter, the term:

- 1 (1) 'Active contractor' means a person who owns a commodity that is produced by a  
2 contract producer at the contract producer's contract operation according to a production  
3 contract.
- 4 (2) 'Agricultural contract' means a marketing contract or a production contract.
- 5 (3) 'Animal feeding operation' means a lot, corral, building, or other area in which  
6 livestock is confined and fed. An animal feeding operation does not include a livestock  
7 market.
- 8 (4) 'Capital investment' means an investment in one of the following:
- 9 (A) A structure, such as a building or manure storage structure; or
- 10 (B) Machinery or equipment associated with producing a commodity which has a  
11 useful life in excess of one year.
- 12 (5) 'Commodity' means livestock, raw milk, or a crop.
- 13 (6) 'Confinement feeding operation' means an animal feeding operation in which  
14 livestock is confined to areas which are totally roofed.
- 15 (7) 'Contract crop field' means farmland located in this state where a crop is produced  
16 according to a production contract by a contract producer who owns or leases the  
17 farmland.
- 18 (8) 'Contract livestock facility' means an animal feeding operation located in this state  
19 in which livestock or raw milk is produced according to a production contract by a  
20 contract producer who holds a legal interest in the animal feeding operation. 'Contract  
21 livestock facility' includes a confinement feeding operation, an open feedlot, or an area  
22 which is used for the raising of crops or other vegetation and upon which livestock is fed  
23 for slaughter or is allowed to graze or feed.
- 24 (9) 'Contract operation' means a contract livestock facility or a contract crop field.
- 25 (10) 'Contract producer' means a producer who holds a legal interest in a contract  
26 operation and who produces a commodity under a production contract.
- 27 (11) 'Contractor' means a person who is an active contractor or a passive contractor.
- 28 (12) 'Crop' means a plant used for food, animal feed, fiber, oil, or nutraceuticals,  
29 including, but not limited to, alfalfa, barley, buckwheat, corn, flax, forage, millet, oats,  
30 popcorn, rye, sorghum, soybeans, sunflowers, tobacco, wheat, and grasses used for forage  
31 or silage, but not timber or timber products.
- 32 (13) 'Farmland' means agricultural land that is suitable for use in farming.
- 33 (14) 'Investment requirement' means a provision in a contract which requires the contract  
34 producer to make capital investments associated with producing a commodity subject to  
35 a production contract. The provisions may be included as part of one or more oral or  
36 written agreements or contracts and may be included as part of a production contract.
- 37 (15) 'Livestock' means beef cattle, dairy cattle, poultry, sheep, or swine.

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

5 (17) 'Open feedlot' means an unroofed or partially roofed animal feeding operation in  
6 which no crop, vegetation, or forage growth or residue cover is maintained during the  
7 period that livestock is confined in the operation.

8 (18) 'Passive contractor' means a person who furnishes management services to a  
9 contract producer and who does not own a commodity that is produced by the contract  
10 producer at the contract producer's contract operation according to a production contract.

11 (19) 'Processor' means a person engaged in the business of manufacturing goods from  
12 commodities, including by slaughtering or processing livestock, processing raw milk, or  
13 processing crops.

14 (20) 'Produce' means to do any of the following:

15 (A) Provide feed or services relating to the care and feeding of livestock. If the  
16 livestock is dairy cattle, then 'produce' includes milking the dairy cattle and storing raw  
17 milk; or

18 (B) Provide for planting, raising, harvesting, and storing a crop. 'Produce' includes  
19 preparing the soil for planting and nurturing the crop by the application of fertilizers or  
20 soil conditioners or pesticides.

21 (21) 'Producer' means a person who produces a commodity, including, but not limited  
22 to, a contract producer. 'Producer' does not include a commercial fertilizer or pesticide  
23 applicator, a feed supplier, or a veterinarian when acting in such capacity.

24 (22) 'Production contract' means an oral or written agreement that provides for the  
25 production of a commodity or the provision of management services relating to the  
26 production of a commodity by a contract producer. A production contract is executed  
27 when it is signed or orally agreed to by each party to the contract or by a person  
28 authorized to act on the party's behalf.

29 2-22-2.

30 This chapter applies to production contracts that relate to the production of a commodity  
31 owned by an active contractor and produced by a contract producer at the contract  
32 producer's contract operation, if one of the following applies:

33 (1) The production contract is executed by an active contractor and a contract producer  
34 for the production of the commodity;

1 (2) The production contract is executed by an active contractor and a passive contractor  
 2 for the provision of management services to the contract producer in the production of  
 3 the commodity; or

4 (3) The production contract is executed by a passive contractor and a contract producer  
 5 if:

6 (A) The contract provides for management services furnished by the passive contractor  
 7 to the contract producer in the production of the commodity; and

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

10 2-22-3.

11 An agricultural contract imposes an obligation of good faith, as defined in Code Section  
 12 11-1-201, on all parties with respect to the performance and enforcement of the agricultural  
 13 contract.

14 2-22-4.

15 (a) An agricultural contract must be accompanied by a clear written disclosure statement  
 16 setting forth the nature of the material risks faced by the producer if the producer enters  
 17 into the contract. The statement must meet the readability requirements of subsection (b)  
 18 of this Code section. The statement may be in the form of a written statement or checklist  
 19 and may be developed in cooperation with producers or producer organizations. The  
 20 statement shall disclose the following:

21 (1) In the case of production contracts, the producer's right to review as provided in  
 22 Code Section 2-22-5;

23 (2) Contract duration;

24 (3) Contract termination;

25 (4) Renegotiation standards;

26 (5) Responsibility for environmental damage;

27 (6) Factors to be used in determining payment;

28 (7) Responsibility for obtaining and complying with local, state, federal permits; and

29 (8) Any other contract term which the Attorney General determines is appropriate for  
 30 disclosure.

31 (b)(1) As used in this subsection, the term 'legible type' means a typeface at least as large  
 32 as ten-point modern type, one-point leaded. An agricultural contract entered into,  
 33 amended, or renewed after the effective date of this chapter must contain as the first page,  
 34 or first page of text if it is preceded by a title page or pages, a cover sheet as provided in

1 this section. The cover sheet or sheets must comply with paragraph (2) of this subsection  
2 and must contain all of the following:

3 (A) A brief statement that the document is a legal contract between the parties;

4 (B) The statement:

5 'READ YOUR CONTRACT CAREFULLY. This cover sheet provides only a brief  
6 summary of your contract. This is not the contract and only the terms of the actual  
7 contract are legally binding. The contract itself sets forth, in detail, the rights and  
8 obligations of both you and the contractor or processor. IT IS THEREFORE  
9 IMPORTANT THAT YOU READ YOUR CONTRACT CAREFULLY.';

10 (C) The written disclosure of risks required by subsection (a) of this Code section;

11 (D) A statement detailing, in plain language, the producer's right to review the contract  
12 as described in Code Section 2-22-5;

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

15 (i) The names of all parties to the contract;

16 (ii) The definition sections of the contract;

17 (iii) The provisions governing termination, cancellation, renewal, and amendment of  
18 the contract by either party;

19 (iv) The duties or obligations of each party; and

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

21 (2) An agricultural contract must be in legible type, appropriately divided and captioned  
22 by its various sections, and written in clear and coherent language using words and  
23 grammar that are understandable by a person of average intelligence, education, and  
24 experience within the industry. This paragraph does not apply to the following terms in  
25 an agricultural contract:

26 (A) Particular words, phrases, provisions, or forms of agreement specifically required,  
27 recommended, or endorsed by a state or federal statute, rule, or regulation; or

28 (B) Technical terms used to describe the services or property which are the subject of  
29 the contract if the terms are customarily used by producers in the ordinary course of  
30 business in connection with the services or property being described.

31 (c) A contractor or processor may submit an agricultural contract to the Attorney General  
32 for review as to whether it complies with this Code section. After reviewing the contract,  
33 the Attorney General shall do one of the following:

34 (1) Certify that the contract complies with this section;

35 (2) Decline to certify that the contract complies with this section and note objections;

36 (3) Decline to review the contract because the contract's compliance with this section is  
37 subject to pending litigation; or

- 1 (4) Decline to review the contract because the contract is not subject to this Code section.
- 2 (d) In determining whether an agricultural contract or cover sheet is readable within the  
3 meaning of subsection (b) of this Code section, the Attorney General shall consider at least  
4 the following factors:
- 5 (1) The simplicity of the sentence structure;
- 6 (2) The extent to which commonly used and understood words are employed;
- 7 (3) The extent to which esoteric legal terms are avoided;
- 8 (4) The extent to which references to other sections or provisions of the contract are  
9 minimized;
- 10 (5) The extent to which clear definitions are used in the text of the contract; and
- 11 (6) Additional factors relevant to the readability or understandability of the contract.
- 12 (e) Actions of the Attorney General under this Code section are not subject to judicial  
13 review.
- 14 (f) A contract certified under this Code section is deemed to comply with subsections (a)  
15 and (b) of this Code section. Certification of a contract under this Code section does not  
16 constitute an approval of the contract's legality or legal effect. If the Attorney General  
17 certifies a contract or fails to respond within 30 days of receipt of the contract, then the  
18 contractor or processor will have complied with subsections (a) and (b) of this Code section  
19 and the remedies stated in subsection (h) of this Code section and Code Section 2-22-12  
20 are not available.
- 21 (g) Failure to submit a contract to the Attorney General for review under this Code section  
22 does not show a lack of good faith or raise a presumption that the contract violates this  
23 Code section.
- 24 (h) In addition to the remedies provided in Code Section 2-22-12, a court reviewing an  
25 agricultural contract may change the terms of the contract or limit a provision to avoid an  
26 unfair result if the court finds all of the following:
- 27 (1) A material provision of the contract violates subsection (a) or (b) of this Code  
28 section;
- 29 (2) The violation caused the producer to be substantially confused about any of the  
30 rights, obligations, or remedies of the contract; and
- 31 (3) The violation has caused or is likely to cause financial detriment to the producer.
- 32 (i) If the court reforms or limits a provision of an agricultural contract, the court shall also  
33 make orders necessary to avoid unjust enrichment. Bringing a claim for relief under this  
34 subsection does not entitle a producer to withhold performance of an otherwise valid  
35 contractual obligation. No relief may be granted under this subsection unless the claim is  
36 brought before the obligations of the contract have been fully performed.

1 (j)(1) In a proceeding in which civil penalties are claimed from a party for a violation of  
2 this Code section, it is a defense to the claim that the party made a good faith and  
3 reasonable effort to comply.

4 (2) Notwithstanding Code Section 2-22-12, a party who has made a good faith and  
5 reasonable effort to comply with this Code section may not be assessed attorney's fees  
6 or costs of investigation in an action for violating this Code section.

7 (k) Violation of this Code section is not a defense to a claim arising from a producer's  
8 breach of an agricultural contract. A producer may recover actual damages caused by a  
9 violation of this Code section only if the violation caused the producer to not understand  
10 the rights, obligations, or remedies of the contract.

11 (l) A claim that an agricultural contract violates this Code section must be raised within six  
12 years of the date the contract is executed by the producer.

13 2-22-5.

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

20 2-22-6.

21 (a) A contractor or processor shall not on or after the effective date of this chapter enforce  
22 a provision in an agricultural contract if the provision provides that information contained  
23 in the agricultural contract is confidential.

24 (b) A provision which is part of an agricultural contract is void if the provision states that  
25 information contained in the agricultural contract is confidential. The confidentiality  
26 provision is void whether the confidentiality provision is express or implied; oral or  
27 written; required or conditional; or contained in the agricultural contract, another  
28 agricultural contract, or in a related document, policy, or agreement. This Code section  
29 does not affect other provisions of an agricultural contract or a related document, policy,  
30 or agreement which can be given effect without the voided provision. This Code section  
31 does not require a party to an agricultural contract to divulge information in the agricultural  
32 contract to another person.

1 2-22-7.

2 (a) A lien established under this Code section depends upon the execution of a production  
3 contract that provides for producing a commodity owned by a contractor by a contract  
4 producer at the contract producer's contract operation.

5 (b) A contract producer who is a party to a production contract shall have a lien as  
6 provided in this Code section. The amount of the lien shall be the amount owed to the  
7 contract producer pursuant to the terms of the production contract, which may be enforced  
8 as provided in subsection (f) of this Code section. If the production contract is for the  
9 production of livestock or raw milk, all of the following shall apply:

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

11 (A) If the livestock is not sold or slaughtered by the contractor, the lien shall be on the  
12 livestock;

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

17 (C) If the livestock is slaughtered by the contractor, the lien shall be on any property  
18 of the contractor that may be subject to a security interest as provided in Code Section  
19 11-9-102; and

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

21 (A) If the raw milk is not sold or processed by the contractor, the lien shall be on the  
22 raw milk;

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

27 (C) If the raw milk is processed by the contractor, the lien shall be on any property of  
28 the contractor that may be subject to a security interest as provided in Code Section  
29 11-9-102.

30 (c) The lien on livestock or raw milk is created at the time the livestock arrives at the  
31 contract livestock facility and continues for one year after the livestock is no longer under  
32 the authority of the contract producer. For the purposes of this Code section, livestock is  
33 no longer under the authority of the contract producer when the livestock leaves the  
34 contract livestock facility.

35 (d)(1) If the production contract is for the production of crops, all of the following shall  
36 apply:

37 (A) If the crop is not sold or processed by the contractor, the lien shall be on the crop;

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

5 (C) If the crop is processed by the contractor, the lien shall be on any property of the  
6 contractor that may be subject to a security interest as provided in Code Section  
7 11-9-102.

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

13 (e)(1) In order to preserve a lien created pursuant to this Code section, a contract  
14 producer must file with the clerk of the superior court a lien statement on a form  
15 prescribed by the Georgia Superior Court Clerks' Cooperative Authority. If the lien  
16 arises out of producing livestock or raw milk, the contract producer must file the lien  
17 within 45 days after the day that the livestock first arrives at the contract livestock  
18 facility. If the lien arises out of producing a crop, the contract producer must file the lien  
19 within 45 days after the day that the crop is first planted. The clerk of the superior court  
20 shall charge a fee of \$10.00 for filing the statement. The Georgia Superior Court Clerks'  
21 Cooperative Authority may adopt rules for the electronic filing of the statements.

22 (2) The statement must include all of the following:

23 (A) An estimate of the amount owed pursuant to the production contract;

24 (B) The date when the livestock arrives at the contract livestock facility or the date  
25 when the crop was planted;

26 (C) The estimated duration of the period when the commodity will be under the  
27 authority of the contract producer;

28 (D) The name of the party to the production contract whose commodity is produced  
29 pursuant to the production contract;

30 (E) The description of the location of the contract operation, by county and township;  
31 and

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

33 (3) A lien created under this Code section until preserved and a lien preserved under this  
34 Code section are superior to and shall have priority over a conflicting lien or security  
35 interest in the commodity, including a lien or security interest that was perfected prior to  
36 the creation of the lien under this Code section.

1 (f) Before a commodity leaves the authority of the contract producer, the contract producer  
2 may foreclose a lien created in that subsection in the manner provided for the foreclosure  
3 of secured transactions in Code Sections 11-9-504, 11-9-506 and 11-9-507. After the  
4 commodity is no longer under the authority of the contract producer, the contract producer  
5 may enforce the lien in the manner provided in Part 5 of Chapter 9 of Title 11.

6 2-22-8.

7 (a) This Code section only applies to a production contract executed by a contract producer  
8 and a contractor if the contract producer must make capital investments of \$100,000.00 or  
9 more according to investment requirements provided in all production contracts in which  
10 the contract producer and the contractor are parties. The value of the capital investments  
11 shall be deemed to be the total dollar amount spent by the contract producer in satisfying  
12 the investment requirements, if that amount is ascertainable.

13 (b) Except as provided in subsection (d) of this Code section, a contractor shall not  
14 terminate, cancel, or fail to renew a production contract until the contractor has done the  
15 following:

16 (1) The contractor has provided the contract producer written notice of the intention to  
17 terminate, cancel, or not renew at least 90 days before the effective date of the  
18 termination, cancellation, or nonrenewal; and

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

22 (c) Except as provided in subsection (d) of this Code section, if a contract producer  
23 materially breaches a production contract, including the investment requirements of a  
24 production contract, a contractor may not terminate, cancel, or fail to renew the production  
25 contract until the following have occurred:

26 (1) The contractor has provided a written notice of termination, cancellation, or  
27 nonrenewal at least 45 days before the effective date of such termination, cancellation,  
28 or nonrenewal. The notice must provide a list of complaints alleging causes for the  
29 breach; and

30 (2) The contract producer fails to remedy each cause of the breach as alleged in the list  
31 of complaints provided in the notice within 30 days following receipt of the notice. An  
32 effort by a contract producer to remedy a cause of an alleged breach shall not be  
33 construed as an admission of a breach in a civil cause of action.

34 (d) A contractor may terminate, cancel, or fail to renew a production contract without  
35 notice or remedy as required in subsections (b) and (c) of this Code section if the basis for  
36 the termination, cancellation, or nonrenewal is any of the following:

1 (1) A voluntary abandonment of the contractual relationship by the contract producer.  
 2 A complete failure of a contract producer's performance under a production contract shall  
 3 be deemed to be abandonment; or

4 (2) The conviction of a contract producer of an offense of fraud or theft committed  
 5 against the contractor.

6 (e) If a contractor terminates, cancels, or fails to renew a production contract other than as  
 7 provided in this Code section, the contractor shall pay the contract producer the value of  
 8 the remaining useful life of the structures, machinery, or equipment involved.

9 2-22-9.

10 (a) As used in this section, the term:

11 (1) 'Contract input' means a commodity or an organic or synthetic substance or  
 12 compound that is used to produce a commodity including, but not limited to, any or the  
 13 following:

14 (A) Livestock or plants;

15 (B) Agricultural seeds;

16 (C) Semen or eggs for breeding livestock;

17 (D) A fertilizer or pesticide.

18 (2) 'Producer right' means one of the following legal rights and protections:

19 (A) The right of a producer to join or belong to, or to refrain from joining or belonging  
 20 to, an association of producers.

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

25 (C) The right of a producer to lawfully provide statements or information regarding  
 26 alleged improper actions or violations of law by a contractor or processor. This right  
 27 does not include the right to make statements or provide information if the statements  
 28 or information are determined to be libelous or slanderous;

29 (D) The right of a producer to file, continue, terminate, or enforce a lien under Code  
 30 Section 2-22-7;

31 (E) The right of a contract producer to utilize protections to review production  
 32 contracts under Code Section 2-22-5;

33 (F) The right of a producer to disclose the terms of agricultural contracts under Code  
 34 Section 2-22-6; or

35 (G) The right of a producer to enforce other protections afforded by this chapter or  
 36 other laws or regulations.

1 (b) It shall be unlawful for any contractor or processor knowingly to engage or permit any  
2 employee or agent to engage in the following practices in connection with agricultural  
3 contracts:

4 (1) To take actions to coerce, intimidate, disadvantage, retaliate against, or discriminate  
5 against any producer because the producer exercises, or attempts to exercise, any  
6 producer right, including actions affecting the following:

7 (A) The execution, termination, extension, or renewal of an agricultural contract;

8 (B) The treatment of a producer, which may include providing discriminatory or  
9 preferential terms in an agricultural contract or interpreting terms of an existing  
10 agricultural contract in a discriminatory or preferential manner. The terms may relate  
11 to the price paid for a commodity, the quality or the quantity of a commodity  
12 demanded, or financing, including investment requirements;

13 (C) The grant of a reward or imposition of a penalty, including the denial of a reward.  
14 The reward or penalty may be in any form, including, but not limited to, financial  
15 rewards or penalties. Financial rewards or penalties may relate to loans, bonuses, or  
16 inducements; or

17 (D) The alteration of the quality, quantity, or delivery times of contract inputs  
18 provided to the producer;

19 (2) To provide false information to the producer, which may include false information  
20 relating to any of the following:

21 (A) A producer with whom the producer associates or an association of producers or  
22 an agricultural organization with which the producer is affiliated, including, but not  
23 limited to any of the following:

24 (i) The character of the producer; or

25 (ii) The condition of the finances or the management of the association of producers  
26 or agricultural organization; or

27 (B) Producer rights provided by this chapter or other provisions of law;

28 (3) To refuse to provide to a contract producer upon request the statistical information  
29 and data used to determine compensation paid to the contract producer under a  
30 production contract, including, but not limited to, feed conversion rates, feed analyses,  
31 origination and breeder history;

32 (4) To refuse to allow a contract producer or the contract producer's designated  
33 representative to observe, by actual observation at the time of weighing, the weights and  
34 measures used to determine the contract producer's compensation under a production  
35 contract;

1 (5) To use the performance of any other contract producer to determine the compensation  
 2 of a contract producer under a production contract or as the basis of the termination,  
 3 cancellation, or renewal of a production contract;

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

11 (7) To execute an agricultural contract in violation of the disclosure of risks and  
 12 readability requirements of Code Section 2-22-4;

13 (8) To execute an agricultural contract which includes a confidentiality provision in  
 14 violation of Code Section 2-22-6;

15 (9) To execute an agricultural contract without a mediation provision as required under  
 16 Code Section 2-22-13;

17 (10) To execute an agricultural contract which includes a waiver of any producer right  
 18 or any obligation of a contractor or processor established under this chapter; or

19 (11) To execute an agricultural contract requiring the application of the law of another  
 20 state in lieu of this chapter.

21 2-22-10.

22 Any provision of an agricultural contract which waives a producer's right or an obligation  
 23 of a contractor or processor established by this chapter is void and unenforceable. This  
 24 Code section does not affect other provisions of an agricultural contract, including an  
 25 agricultural contract or related document, policy, or agreement which can be given effect  
 26 without the voided provision.

27 2-22-11.

28 Any condition, stipulation, or provision requiring the application of the law of another state  
 29 in lieu of this chapter is void and unenforceable.

30 2-22-12.

31 An agricultural contract must contain language providing for resolution of disputes  
 32 concerning the contract by mediation. If there is a dispute involving an agricultural  
 33 contract, either party may make a written request for mediation services as specified in the

1 contract to facilitate resolution of the dispute. The parties must receive a release from the  
2 mediator before the dispute can be heard by a court.

3 2-22-13.

4 (a) A contractor or processor committing an unfair practice under Code Section 2-22-9  
5 shall be subject to a civil penalty of up to \$10,000.00.

6 (b) A contractor or processor committing an unfair practice under Code Section 2-22-9  
7 shall be guilty of a misdemeanor and, upon conviction shall be fined \$1,000.00.

8 (c)(1) A producer who suffers damages because of a contractor's or processor's violation  
9 of this chapter may obtain appropriate legal and equitable relief, including damages.

10 (2) In such a civil action against the contractor or processor, the court shall award the  
11 producer who is the prevailing party reasonable attorney's fees and other litigation  
12 expenses.

13 (3) In order to obtain injunctive relief, the producer is not required to post a bond, prove  
14 the absence of an adequate remedy at law, or show the existence of special circumstances,  
15 unless the court for good cause otherwise orders. The court may order any form of  
16 prohibitory or mandatory relief that is appropriate under principles of equity, including,  
17 but not limited to, issuing a temporary or permanent restraining order.

18 (d) The Attorney General shall be primarily responsible for enforcing this chapter. In  
19 enforcing the provisions of this chapter, the Attorney General may do all of the following:

20 (1) Apply to the superior court for an injunction to do any of the following:

21 (A) Restrain a contractor or processor from engaging in conduct or practices in  
22 violation of this act; or

23 (B) Require a contractor or processor to comply with a provision of this chapter;

24 (2) Apply to the superior court for the issuance of a subpoena to obtain an agricultural  
25 contract for purposes of enforcing this chapter; and

26 (3) Bring an action in the superior court to enforce penalties provided in subsections (a)  
27 and (b) of this Code section.

28 2-22-14.

29 The Attorney General may adopt rules to implement this chapter.

30 2-22-15.

31 (a) Except as provided in subsection (b) of this Code section, this chapter applies to  
32 agricultural contracts in force on or after the effective date of this chapter, regardless of the  
33 date the agricultural contract is executed.

1 (b) Code Section 2-22-4 (relating to disclosure of risks and readability), Code Section  
2 2-22-5 (relating to contract producer's three day right to review), Code Section 2-22-8  
3 (relating to production contracts involving investment requirements), Code Section 2-22-9  
4 (relating to the use of 'tournament compensation'), Code Section 2-22-11 (relating to choice  
5 of law), and Code Section 2-22-12 (relating to mediation) shall apply to agricultural  
6 contracts executed or substantively amended after the effective date of this chapter."

7 **SECTION 2.**

8 All laws and parts of laws in conflict with this Act are repealed.