

Senate Bill 390

By: Senator Bulloch of the 11th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 11 of Title 2 of the Official Code of Georgia Annotated, relating to seeds
2 and plants, so as to provide immunity from civil liability for the agency designated to provide
3 for seed certification; to revise provisions relating to claims filed with the Seed Arbitration
4 Council for damages relating to seed or tree nonconformity or nonperformance; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 11 of Title 2 of the Official Code of Georgia Annotated, relating to seeds and plants,
9 is amended by revising Code Section 2-11-52, relating to the designation of an agency for
10 certification of seeds and plants and to liability for damages resulting from certification work,
11 as follows:

12 "2-11-52.

13 In order to execute the policy stated in Code Section 2-11-50, the dean of the College of
14 Agricultural and Environmental Sciences of the University of Georgia is authorized to
15 provide for seed, plant, and variety certification and labeling. The dean shall designate ~~the~~
16 ~~Georgia Crop Improvement Association, Inc.,~~ as a certifying agency, provided that ~~the~~
17 ~~Georgia Crop Improvement Association, Inc.,~~ such designee must be in good standing with
18 the Association of Official Seed Certifying Agencies. The College of Agricultural and
19 Environmental Sciences of the University of Georgia shall not be held responsible for any
20 claim, debt, obligation, or damage of any kind to any person in conducting certification
21 work or in the work of the certifying agent. The certifying agency so designated by the
22 dean shall, along with its employees, be immune from liability to the same extent as the
23 state and state officers and employees under Article 2 of Chapter 21 of Title 50, "The
24 Georgia Tort Claims Act."

25 **SECTION 2.**

26 Said chapter is further amended in Code Section 2-11-73, relating to the filing of complaints
 27 with the Seed Arbitration Council, by revising subsection (a) as follows:

28 "(a) When any farmer or seed purchaser alleges to have been damaged by the failure of any
 29 agricultural, flower, tree, shrub, or vegetable seed, except for vegetable and flower seed in
 30 packets weighing less than one pound for use in home gardens or household plantings, to
 31 conform to or perform as represented by the label required to be attached to such seed
 32 under Code Section 2-11-22 or by warranty or as a result of negligence, as a prerequisite
 33 to the purchaser's right to maintain a legal action against the seller, the purchaser shall
 34 submit a complaint against the seller alleging the damages sustained or to be sustained and
 35 shall file such complaint with the Commissioner ~~within ten days after the alleged defect or~~
 36 ~~violation becomes apparent to allow inspection of the alleged deficiencies if deemed~~
 37 ~~necessary~~ in time for the seed, crop, or plants to be inspected to determine if the alleged
 38 deficiencies warrant arbitration. Whenever any farmer or commercial fruit or nut tree
 39 purchaser alleges to have been damaged by the failure of any commercial fruit or nut tree
 40 to be the variety represented by the label or invoice or by warranty or as the result of
 41 negligence, as a prerequisite to the purchaser's right to maintain a legal action against the
 42 seller, the purchaser shall submit a complaint against the seller alleging the damages
 43 sustained or to be sustained and shall file such complaint with the Commissioner ~~within ten~~
 44 ~~days after the alleged defect or violation becomes apparent to allow inspection of the~~
 45 ~~alleged deficiencies if deemed necessary~~ in time for the trees to be inspected to determine
 46 if the alleged deficiencies warrant arbitration. Upon receipt, the Commissioner shall send
 47 a copy of the complaint to the seller by registered or certified mail or statutory overnight
 48 delivery."

49 **SECTION 3.**

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