

1 AN ACT concerning agriculture.

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 Agricultural Production Contract Code.

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

8 "Capital investment" means a purchase or lease of any of
9 the following:

10 (1) A structure used for producing or storing a
11 commodity required to be provided by the producer under
12 the terms of the production contract if the structure has
13 a useful life in excess of 3 years. This includes, but
14 is not limited to, swine farrowing buildings, grain
15 storage facilities, and manure storage structures.

16 (2) Machinery or equipment used for producing a
17 commodity required to be provided by the producer under
18 the terms of the production contract if the machinery has
19 a useful life in excess of 3 years. This includes, but
20 is not limited to, trucks, tractors, combines, wagons,
21 augers, and planters.

22 "Commodity" means livestock, raw milk, fruits,
23 vegetables, or a crop.

24 "Contract input" means a commodity or an organic or
25 synthetic substance or compound that is used to produce a
26 commodity, including but not limited to, livestock, plants,
27 agricultural seeds, semen or eggs for breeding livestock,
28 fertilizer, pesticides, or petroleum products.

29 "Contractor" means a person who offers, provides, or
30 enters into a production contract with a producer for the
31 production of commodities in this State by the producer.

1 "Crop" means a plant used for food, animal feed, fiber,
2 oil, pharmaceuticals, nutraceuticals, industrial uses, or
3 seed, including but not limited to, alfalfa, barley,
4 buckwheat, canola, corn, flax, forage, fruits, millet, oats,
5 popcorn, rye, sorghum, soybeans, sunflowers, tobacco,
6 vegetables, wheat, and grasses used for forage or silage.

7 "Livestock" includes, but is not limited to, beef cattle,
8 dairy cattle, poultry, sheep, or swine.

9 "Person" means an individual or entity, including but not
10 limited to, a sole proprietorship, a partnership, a
11 corporation, a cooperative, an association, a limited
12 liability company, an estate, or a trust.

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

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

18 (2) Provide for planting, raising, harvesting,
19 identity preserving, or storing a crop.

20 "Produce" includes preparing the soil for planting and
21 also for nurturing the crop by the application of fertilizers
22 or soil conditioners, including those substances regulated
23 under the Illinois Fertilizer Act of 1961, or pesticides as
24 defined in the Illinois Pesticide Act.

25 "Producer" means a person who has been offered or who has
26 entered into a contract to produce a commodity. "Producer"
27 does not include a fertilizer or pesticide applicator, a feed
28 supplier, or a veterinarian, when acting in that capacity.

29 "Production contract" means: (1) Any written document
30 offered to or executed by a producer, under the provisions of
31 which (i) the producer would sell to a contractor, or the
32 contractor's designee, an identified commodity or commodities
33 and (ii) the contractor has, or exercises some control or
34 direction over, the production process; or (2) any written

1 agreement offered to or executed by a producer under the
2 provisions of which the producer would produce, care for, or
3 raise a commodity or commodities not owned by the producer,
4 using land, equipment, or facilities owned or leased by the
5 producer, in exchange for payment. For purposes of this
6 definition, control or direction over the production process
7 includes (i) the contractor's designation of special
8 commodity characteristics, such as those present in
9 value-enhanced grains, or specific genetics in livestock or
10 (ii) the contractor's designation of a production input, such
11 as a seed variety, to be used by the producer to fulfill the
12 production contract.

13 Section 10. Limited applicability. This Act shall not
14 apply to a production contract under the provisions of which
15 the commodity is to be delivered by the producer to the
16 contractor or the contractor's designee within 30 days after
17 the date of the production agreement.

18 Section 20. Readability of production contracts.

19 (a) A production contract must comply with all of the
20 following:

21 (1) It must be in a typeface at least as large as
22 10-point modern, one-point leaded.

23 (2) It must be divided and captioned by its various
24 sections, have an index of the major provisions of the
25 production contract and the pages on which they are
26 found, and use commonly-used and understood words and
27 terms, but may include technical or industry terms
28 customarily used and understood by producers in the
29 ordinary course of business.

30 (3) It must limit references to other sections or
31 provisions and, when incorporating a document, have a
32 copy of the document attached.

1 (4) It must have a Flesch scale analysis
2 readability score of at least 50.

3 (b) A contractor may include a provision in the index
4 required by Section 25 that the production contract being
5 offered meets the requirements of this Section as to
6 readability.

7 Section 25. Index. An index of the major portions of
8 the contract and the pages on which they are found must be
9 included with each production contract offered to a producer
10 that exceeds 2 pages in length. The index must contain
11 references for any of the following that are included in the
12 contract:

13 (1) The names of the parties to the contract.

14 (2) The definition sections of the contract.

15 (3) The provisions governing cancellation, renewal,
16 or amendment of the contract by either party.

17 (4) The sections outlining the duties or
18 obligations of each party.

19 (5) The compensation information.

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

22 (7) Any special provisions relative to production
23 guidelines.

24 Section 30. Confidentiality clauses. A production
25 contract may include a confidentiality provision, but
26 communications with any of the following shall not be
27 considered a breach of any such provision: (i) a producer's
28 spouse; (ii) a producer's parents, siblings, and children of
29 the age of majority if these persons are partners,
30 shareholders, officers, or directors of the producer's
31 agricultural operations; (iii) accountants; (iv) attorneys;
32 (v) bankers; (vi) financial institutions; (vii) farm

1 managers; (viii) trusts or trust beneficiaries; or (ix) the
2 partners, officers, or directors of the producer's
3 agricultural operations. When communicating with these
4 persons, the producer must request each person to treat the
5 information as privileged and confidential.

6 Section 35. Special provisions. If a production
7 contract requires any special production or handling
8 guidelines required by the producer, these provisions must be
9 fully explained in the contract. These provisions include,
10 but are not limited to, disease protocols for livestock and
11 segregation or identity preservation for grain.

12 Section 40. Termination or alteration of contracts.

13 (a) A contractor may not provide, offer, or execute a
14 production contract that allows the contractor to
15 unilaterally terminate the contract unless (i) the
16 termination is the result of a legitimate force majeure as
17 applied to the contractor or (ii) the producer breaches a
18 material term of the contract or voluntarily abandons the
19 contractual relationship.

20 (b) A contractor may not alter the quality, quantity, or
21 delivery times of contract inputs provided to the producer,
22 unless agreed to by the producer.

23 (c) Any cancellation or termination provisions must
24 include specific causes for the cancellation or termination
25 and any circumstances under which the commodity produced
26 under the contract might be rejected in whole or part by the
27 contractor.

28 (d) Any circumstances in which the compensation to be
29 paid by a producer may be discounted or increased shall
30 include specific causes to be clearly and concisely stated.

31 Section 45. Investment requirements.

1 (a) This Section applies to all production contracts
2 that have capital investment requirements.

3 (b) Except as provided in subsection (c), a contractor
4 shall not take action to terminate or cancel a production
5 contract until the contractor has done the following:

6 (1) Provided the producer with written notice of
7 the intention to terminate or cancel at least 60 days
8 before the effective date of the termination or
9 cancellation.

10 (2) Reimbursed the contract producer for the value
11 of the remaining useful life of the capital investment
12 items. In calculating this reimbursement amount, the
13 contractor may take into account the producer's ability
14 to use the capital investments in other business
15 enterprises of the producer and the opportunity to recoup
16 the cost of the capital improvements by sale or lease.

17 (c) Exceptions. A contractor may terminate or cancel a
18 production contract without remedy as required in subsection
19 (b) if the basis for the termination or cancellation is any
20 of the following:

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

25 (2) Failure of the producer to meet the specific
26 provisions of the contract and failure to remedy his or
27 her default.

28 (3) The conviction of a producer of an offense of
29 fraud or theft committed against the contractor.

30 Section 50. Enforcement; offenses; remedies. The
31 Attorney General is primarily responsible for enforcing this
32 Act.

33 A person who violates Section 20, 25, 30, or 35 commits a

1 business offense under the Code of Civil Procedure.

2 A producer may recover his or her actual damages for a
3 contractor's violation of Section 40 or 45 of this Act.

4 Section 55. Statute of limitations. A claim that a
5 production contract violates this Act must be filed within 4
6 years after the date on which the party alleging the
7 violation knew or should have known of the existence of the
8 violation.

9 Section 60. Conflict with the Uniform Commercial Code.
10 To the extent that any provision of this Act conflicts with
11 or is inconsistent with any provision of the Uniform
12 Commercial Code, the provision of this Act shall control.

13 Section 90. The Uniform Commercial Code is amended by
14 adding Section 1-104b as follows:

15 (810 ILCS 5/1-104b new)

16 Sec. 1-104b. Agriculture Production Contract Code. This
17 Act is subject to the provisions of the Agriculture
18 Production Contract Code.

19 Section 99. Effective date. This Act takes effect on
20 January 1, 2005.