

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2035

Session of  
1984

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INTRODUCED BY BROUJOS, NOYE, COLE, CORDISCO, CAPPABIANCA,  
BATTISTO, SCHEETZ, WASS, G. M. SNYDER, GODSHALL, SHOWERS,  
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PRESTON, DAWIDA, DUFFY, McCALL, A. C. FOSTER, JR. AND MORRIS,  
MARCH 27, 1984

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AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 14, 1984

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## AN ACT

1 Providing for the provisions of poultry and egg contracts.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Findings and purpose.

5 The General Assembly hereby finds:

6 (1) That the poultry and egg industries in Pennsylvania  
7 are vital to the health and welfare of all Pennsylvanians.

8 (2) That all segments of these industries, including  
9 farmers, brokers, processors and retailers, need to be  
10 financially secure in order for the industry to benefit the  
11 citizens of this Commonwealth.

12 (3) That, at present, poultry and egg farmers often do  
13 business without having any guarantee of payment.

14 (4) That if poultry and egg farmers are not financially  
15 secure, these industries would collapse, thereby threatening

1 the jobs, health and welfare of thousands of Pennsylvanians.

2 Section 2. Definitions.

3 The following words and phrases when used in this act shall  
4 have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 "Grower." A person who provides physical facilities for  
7 housing and labor for raising poultry, whether or not he  
8 provides additional services incidental to the raising of  
9 poultry.

10 "Merchant." A person who buys poultry in wholesale  
11 quantities within this Commonwealth, including, but not limited  
12 to, purchases on commission, purchases by a dealer or purchases  
13 by a broker.

14 "PERSON." ANY INDIVIDUAL, PARTNERSHIP, SOLE PROPRIETORSHIP, <—  
15 CORPORATION OR ENTITY.

16 "Poultry." All types of chickens, whether raised to be sold  
17 as layers or for processing, chicken eggs, ducks, geese, turkeys  
18 and all game birds raised for processing.

19 "Poultry contract." Any agreement, either oral or written,  
20 between a grower and a merchant ~~leading~~ RELATING to the raising <—  
21 of poultry by the grower.

22 Section 3. Time for payment.

23 Notwithstanding the provisions of a poultry contract to the  
24 contrary, all sums due to a grower by a merchant under a poultry  
25 contract shall be paid to the grower within 14 days of the date  
26 on which the grower delivers the poultry to the merchant.

27 Section 4. Interest on late payments.

28 Beginning on the 15th day after the date of delivery, the  
29 merchant shall be liable to the grower for interest on the  
30 unpaid balance. ~~The~~ UNLESS OTHERWISE AGREED TO BY THE PARTIES <—

1 INVOLVED, THE interest is to be simple interest at the rate  
2 published by the Secretary of Revenue pursuant to section 806 of  
3 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal  
4 Code.

5 Section 5. Mortgages or other security given by growers to  
6 merchants.

7 A UNLESS OTHERWISE AGREED TO BY THE PARTIES INVOLVED, A <—  
8 mortgage or other security given by a grower, as mortgagor or  
9 obligor, to a merchant or his assignee or designee, as mortgagee  
10 or obligee, shall be satisfied by the merchant upon either of  
11 the following conditions: (i) the delivery of the grown flock of  
12 birds to the merchant by the grower; or (ii) the making of a  
13 declaration by a grower under section 6. Such a mortgage or  
14 other security shall not be deemed to be a continuing  
15 obligation, but shall cease and determine when either of the  
16 conditions set forth in this section are met.

17 Section 6. Failure to pay grower.

18 In the event that a grower is not paid by a merchant within  
19 the time specified in section 3, the grower may, in addition to  
20 other remedies provided in law, in equity or in other sections  
21 of this act, declare ~~his~~ ANY contract ENTERED INTO with the <—  
22 merchant to be void. Upon NOTICE TO THE MERCHANT OF such a <—  
23 declaration, ~~written notice of which must be given to the~~ <—  
24 ~~merchant within five days thereof~~ AND OF THE DATE AND PLACE OF <—  
25 THE PROPOSED SALE, the grower may take ~~ownership~~ POSSESSION of <—  
26 any property of the merchant, including poultry, then in the  
27 grower's possession. This property shall be sold, for a fair  
28 consideration, by the grower within 90 days of the date of the  
29 declaration. If the proceeds of the sale exceed the sum of (i)  
30 the indebtedness owed by the merchant to the grower, (ii) the

1 cost of the grower of raising the poultry, if any, that was in  
2 his possession and (iii) the cost of selling the property, the  
3 grower shall refund the excess to the merchant within ten days  
4 of the date of the sale. NOTICE UNDER THIS SECTION SHALL BE  
5 GIVEN BY PERSONAL SERVICE OR BY CERTIFIED MAIL TO THE MERCHANT  
6 AT HIS LAST KNOWN ADDRESS.

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7 Section 7. Provisions of act may not be waived.

8 The provisions of this act are to ensure, for all of the  
9 citizens of this Commonwealth, an adequate supply of poultry  
10 products. The provisions of this act may not be waived, altered,  
11 amended or otherwise avoided by contract. An attempted waiver,  
12 alteration or amendment shall be unenforceable in the courts of  
13 this Commonwealth and is hereby deemed to be void from its  
14 inception. This section shall have no effect on the terms of a  
15 contract that are not inconsistent with the provisions of this  
16 act.

17 Section 8. Rights of unpaid grower.

18 (a) Civil action authorized.--A grower who is not paid  
19 within 14 days or who is not paid interest on a late payment, as  
20 provided in sections 3 and 4, may bring a civil action against  
21 the merchant in a county where the grower resides or does  
22 business or in any other county provided by law or rule of  
23 court.

24 (b) Court may award costs.--In an action instituted under  
25 this section, the court, in issuing a final order, may award  
26 costs of litigation, including reasonable attorney and expert  
27 witness fees, to the grower, whenever the court determines that  
28 such an award is appropriate.

29 Section 9. Civil penalties.

30 A person who is found in default under section 6 more than

1 twice within a 12-month period shall be subject to a civil  
2 penalty equal to twice the amount of each late payment. The  
3 secretary shall have the authority to bring a civil action to  
4 impose this penalty.

5 Section 10. Effective date.

6 This act shall take effect in 90 days.