
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2035

Session of
1984

INTRODUCED BY BROUJOS, NOYE, COLE, CORDISCO, CAPPABIANCA,
BATTISTO, SCHEETZ, WASS, G. M. SNYDER, GODSHALL, SHOWERS,
DeVERTER, BELFANTI, RUDY, COY, GALLAGHER, LLOYD, PRESTON,
DAWIDA, DUFFY, McCALL, A. C. FOSTER, JR., MORRIS, FARGO,
RUDY, GREENWOOD AND ALDERETTE, MARCH 27, 1984

SENATOR HELFRICK, AGRICULTURE AND RURAL AFFAIRS, IN SENATE,
AS AMENDED, NOVEMBER 20, 1984

AN ACT

1 Providing for the provisions of poultry and egg contracts; and
2 imposing civil penalties.

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

5 Section 1. Findings and purpose.

6 The General Assembly hereby finds:

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

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

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

15 (4) That if poultry and egg farmers are not financially

1 secure, these industries would collapse, thereby threatening
2 the jobs, health and welfare of thousands of Pennsylvanians.

3 Section 2. Definitions.

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

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

11 "Merchant." A person who buys poultry DIRECTLY FROM THE FARM <—
12 in wholesale quantities within this Commonwealth, including, but
13 not limited to, purchases on commission, purchases by a dealer
14 or purchases by a broker.

15 "Person." Any individual, partnership, sole proprietorship,
16 corporation or entity.

17 "PERSONAL SERVICE." ACTUAL DELIVERY OF WRITTEN NOTICE TO THE <—
18 PERSON TO WHOM IT IS DIRECTED OR TO SOMEONE AUTHORIZED TO
19 RECEIVE IT IN HIS BEHALF.

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

23 "Poultry contract." Any agreement, either oral or written,
24 between a grower and a merchant relating to the raising of
25 poultry by the grower.

26 Section 3. Time for payment.

27 Unless otherwise agreed to IN WRITING by the parties <—
28 involved, all sums due to a grower by a merchant under a poultry
29 contract shall be paid to the grower within ~~14~~ 21 days of the <—
30 date on which the grower delivers the poultry to the merchant.

1 Section 4. Interest on late payments.

2 Beginning on the ~~15th~~ 22ND day after the date of delivery, <—
3 the merchant shall be liable to the grower for interest on the
4 unpaid balance. Unless otherwise agreed to by the parties
5 involved, the interest is to be simple interest at the rate
6 published by the Secretary of Revenue pursuant to section 806 of
7 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
8 Code.

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

11 Unless otherwise agreed to by the parties involved, a
12 mortgage or other security given by a grower, as mortgagor or
13 obligor, to a merchant or his assignee or designee, as mortgagee
14 or obligee, shall be satisfied by the merchant upon either of
15 the following conditions: (i) the delivery of the grown flock of
16 birds to the merchant by the grower; or (ii) the making of a
17 declaration of default by a grower under section 6. Such a <—
18 ~~mortgage or other security shall not be deemed to be a~~
19 ~~continuing obligation, but shall cease and determine when either~~
20 ~~of the conditions set forth in this section are met.~~

21 ~~Section 6. Failure to pay grower.~~

22 ~~In the event that a grower is not paid by a merchant within~~
23 ~~the time specified in section 3, the grower may, in addition to~~
24 ~~other remedies provided in law, in equity or in other sections~~
25 ~~of this act, declare the merchant to be in default under any~~
26 ~~contract entered into with the merchant. Upon notice to the~~
27 ~~merchant of such a declaration and of the date and place IN THE <—~~
28 ~~EVENT OF DEFAULT, A CONTINUING SECURITY INTEREST AGREED TO BY~~
29 ~~BOTH PARTIES SHALL BE SATISFIED BY THE PARTY WHO OWES THE DEBT.~~

30 SECTION 6. FAILURE TO PAY GROWER.

1 (A) REMEDIES OF GROWER.--IN THE EVENT THAT A GROWER IS NOT
2 PAID BY A MERCHANT WITHIN THE TIME SPECIFIED IN SECTION 3 OR IS
3 NOT PAID BY A MERCHANT WHO FILES A PETITION IN BANKRUPTCY, THE
4 GROWER MAY, IN ADDITION TO OTHER REMEDIES PROVIDED IN LAW, IN
5 EQUITY AND IN THIS ACT, DECLARE THE MERCHANT TO BE IN DEFAULT
6 UNDER ANY CONTRACT ENTERED INTO WITH THE MERCHANT. UPON WRITTEN
7 NOTICE TO THE MERCHANT, TO THE SECRETARY OF AGRICULTURE AND TO
8 THE SECURED PARTIES OF RECORD, AND IN THE EVENT OF BANKRUPTCY,
9 TO THE BANKRUPTCY COURT, OF SUCH A DECLARATION AND OF THE DATE
10 AND PLACE of the proposed sale, the grower shall have a lien
11 upon any property of the merchant, including poultry, then in
12 the grower's possession, which lien shall take priority over any
13 previously perfected security interest in the property. This
14 property shall be sold NOT LESS THAN 14 DAYS AFTER THE MERCHANT <—
15 RECEIVES WRITTEN NOTICE, and the proceeds of sale shall be
16 applied in the manner provided in 13 Pa.C.S. § 9504 (relating to
17 right of secured party to dispose of collateral after default;
18 effect of disposition). A buyer of the property shall,
19 notwithstanding any other provision of law to the contrary, take
20 the property free of any security interest. ~~Notice~~ WRITTEN <—
21 NOTICE under this section shall be given by personal service or
22 by certified mail to the merchant at his last known address.

23 (B) REMEDIES OF MERCHANT.--BEFORE A PROPOSED SALE MAY TAKE <—
24 PLACE, THE SECRETARY OF AGRICULTURE SHALL EVALUATE DISPUTES
25 BETWEEN THE GROWER AND THE MERCHANT OVER LATE PAYMENT WITHIN 14
26 DAYS OF WRITTEN NOTICE OF DEFAULT AT THE REQUEST OF EITHER OF
27 THE INVOLVED PARTIES.

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

29 The provisions of this act are to ensure, for all of the
30 citizens of this Commonwealth, an adequate supply of poultry

1 products. The provisions of this act may not be waived, altered,
2 amended or otherwise avoided by contract. An attempted waiver,
3 alteration or amendment shall be unenforceable in the courts of
4 this Commonwealth and is hereby deemed to be void from its
5 inception. This section shall have no effect on the terms of a
6 contract that are not inconsistent with the provisions of this
7 act.

8 Section 8. Rights of unpaid grower.

9 (a) Civil action authorized.--A grower who is not paid
10 within ~~14~~ 21 days or who is not paid interest on a late payment, <—
11 as provided in sections 3 and 4, may bring a civil action
12 against the merchant in a county where the grower resides or
13 does business or in any other county provided by law or rule of
14 court.

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

20 Section 9. Civil penalties.

21 A person who is found in default under section 6 more than
22 twice within a 12-month period shall be subject to a civil
23 penalty equal to twice the amount of each late payment. The
24 Secretary of Agriculture shall have the authority to bring a
25 civil action to impose this penalty AND TO REVOKE ANY RELATED <—
26 LICENSES OF THE DEFAULTING MERCHANTS WITHIN THE JURISDICTION OF
27 THE DEPARTMENT OF AGRICULTURE.

28 Section 10. Application.

29 For a period of two years from the effective date of this
30 act, this act shall not apply to poultry contracts which are in

- 1 effect prior to the effective date of this act.
- 2 Section 11. Effective date.
- 3 This act shall take effect in 90 days.