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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,  
BALDWIN, DeVERTER, BELFANTI, RUDY, COY, GALLAGHER, LLOYD,  
PRESTON, DAWIDA, DUFFY, McCALL AND A. C. FOSTER, JR.,  
APRIL 24, 1984

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
APRIL 24, 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 "Poultry." All types of chickens, whether raised to be sold  
15 as layers or for processing, chicken eggs, ducks, geese, turkeys  
16 and all game birds raised for processing.

17 "Poultry contract." Any agreement, either oral or written,  
18 between a grower and a merchant leading to the raising of  
19 poultry by the grower.

20 Section 3. Time for payment.

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

25 Section 4. Interest on late payments.

26 Beginning on the 15th day after the date of delivery, the  
27 merchant shall be liable to the grower for interest on the  
28 unpaid balance. The interest is to be simple interest at the  
29 rate published by the Secretary of Revenue pursuant to section  
30 806 of the act of April 9, 1929 (P.L.343, No.176), known as The

1 Fiscal Code.

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

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

13 Section 6. Failure to pay grower.

14 In the event that a grower is not paid by a merchant within  
15 the time specified in section 3, the grower may, in addition to  
16 other remedies provided in law, in equity or in other sections  
17 of this act, declare his contract with the merchant to be void.  
18 Upon such a declaration, written notice of which must be given  
19 to the merchant within five days thereof, the grower may take  
20 ownership of any property of the merchant, including poultry,  
21 then in the grower's possession. This property shall be sold,  
22 for a fair consideration, by the grower within 90 days of the  
23 date of the declaration. If the proceeds of the sale exceed the  
24 sum of (i) the indebtedness owed by the merchant to the grower,  
25 (ii) the cost of the grower of raising the poultry, if any, that  
26 was in his possession and (iii) the cost of selling the  
27 property, the grower shall refund the excess to the merchant  
28 within ten days of the date of the sale.

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

30 The provisions of this act are to ensure, for all of the

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

9 Section 8. Rights of unpaid grower.

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

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

21 Section 9. Civil penalties.

22 A person who is found in default under section 6 more than  
23 twice within a 12-month period shall be subject to a civil  
24 penalty equal to twice the amount of each late payment. The  
25 secretary shall have the authority to bring a civil action to  
26 impose this penalty.

27 Section 10. Effective date.

28 This act shall take effect in 90 days. »ed