
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 976

Session of
1985

INTRODUCED BY BROUJOS, HAYES, NOYE, COLE, BATTISTO,
G. M. SNYDER, WASS, CAPPABIANCA, SHOWERS, BELFANTI, COY,
GALLAGHER, LLOYD, PRESTON, DAWIDA, McCALL, A. C. FOSTER, JR.,
MORRIS, FARGO, GREENWOOD, CALTAGIRONE, LUCYK, SCHEETZ AND
JACKSON, APRIL 17, 1985

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
APRIL 17, 1985

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 there are insufficient guarantees of payment to
14 poultry and egg farmers.

15 (4) That if poultry and egg farmers are not financially
16 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 directly from the farm
11 in wholesale quantities within this Commonwealth, including, but
12 not limited to, purchases on commission and purchases by a
13 dealer, owner or broker.

14 "Notice." Notice in writing by certified mail at the last
15 known address or by personal service.

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

18 "Personal service." Actual delivery of written notice to the
19 person to whom it is directed or to an adult individual at the
20 residence or place of business of the person.

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

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

27 Section 3. Time for payment.

28 Unless otherwise agreed to in writing by the parties
29 involved, all sums due to a grower by a merchant under a poultry
30 contract shall be paid to the grower within 21 days of the date

1 on which the grower delivers the poultry to the merchant.

2 Section 4. Interest on late payments.

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

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

12 Unless otherwise agreed to by the parties involved, a
13 recorded mortgage or other security given by a grower, as
14 mortgagor or obligor, to a merchant or his assignee or designee,
15 as mortgagee or obligee, shall be satisfied promptly by the
16 merchant upon the delivery of the poultry to the merchant by the
17 grower or the making of a declaration of default by a grower
18 under section 6. In the event of default, a continuing security
19 interest agreed to by both parties shall be satisfied by the
20 party who owes the debt.

21 Section 6. Failure to pay grower.

22 (a) Remedies of grower.--In the event that a grower is not
23 paid by a merchant within the time specified in section 3, is
24 not paid in accordance with a written agreement of the parties,
25 or is not paid by a merchant who files a petition in bankruptcy,
26 the grower may, in addition to other remedies provided in law,
27 in equity and in this act, declare the merchant to be in default
28 under any contract entered into with the merchant. Upon notice
29 to the merchant, to the Secretary of Agriculture and to the
30 secured parties of record, and in the event of bankruptcy, to

1 the bankruptcy court, of such a declaration and of the date and
2 place of the proposed sale, the grower shall have a lien upon
3 any property of the merchant, including poultry, then in the
4 grower's possession, which lien shall take priority over any
5 previously perfected security interest in the property. This
6 property may be sold not less than 14 days after the merchant
7 receives notice, and the proceeds of sale shall be applied in
8 the manner provided in 13 Pa.C.S. § 9504 (relating to right of
9 secured party to dispose of collateral after default; effect of
10 disposition). A buyer of the property shall, notwithstanding any
11 other provision of law to the contrary, take the property free
12 of any security interest.

13 (b) Nonwaiver of remedies.--The provisions of this section
14 are to ensure, for all of the citizens of this Commonwealth, an
15 adequate supply of poultry products. The provisions of this
16 section may not be waived, altered, amended or otherwise avoided
17 by contract. An attempted waiver, alteration or amendment shall
18 be unenforceable in the courts of this Commonwealth and is
19 hereby deemed to be void from its inception. This section shall
20 have no effect on the terms of a contract that are not
21 inconsistent with the provisions of this act.

22 Section 7. Rights of unpaid grower.

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

29 (b) Court may award costs.--In an action instituted under
30 this section, the court, in issuing a final order, may award

1 costs of litigation, including reasonable attorney and expert
2 witness fees, to the grower, whenever the court determines that
3 such an award is appropriate.

4 Section 8. Civil penalties.

5 In an action filed pursuant to section 7, or in a separate
6 action, a person who is found in default and liable more than
7 twice within a 12-month period shall be subject to a civil
8 penalty equal to twice the amount of each late payment. The
9 Secretary of Agriculture shall have the authority to bring a
10 civil action to impose this penalty and to revoke any related
11 licenses of the defaulting merchants within the jurisdiction of
12 the Department of Agriculture.

13 Section 9. Applicability.

14 For a period of two years from the effective date of this
15 act, this act shall not apply to poultry contracts which are in
16 effect prior to the effective date of this act.

17 Section 10. Effective date.

18 This act shall take effect in 90 days.