

1 State of Arkansas *As Engrossed: H2/4/15 H2/12/15*

2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1214

4

5 By: Representative Eubanks

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For An Act To Be Entitled

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AN ACT TO REQUIRE THAT NOTICE BE GIVEN TO GROWERS

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CONCERNING ADDITIONAL INVESTMENTS THAT MAY BE

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REQUIRED UNDER A PRODUCTION CONTRACT; *TO DECLARE AN*

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EMERGENCY; AND FOR OTHER PURPOSES.

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Subtitle

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TO REQUIRE THAT NOTICE BE GIVEN TO

16

GROWERS CONCERNING ADDITIONAL INVESTMENTS

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THAT MAY BE REQUIRED UNDER A PRODUCTION

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CONTRACT; AND TO DECLARE AN EMERGENCY.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code § 2-32-201(b) and (c), concerning production
24 contracts, are amended to read as follows:

25 (b) A production contract shall:

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(1) Be written in a readable form and ~~shall~~ be accompanied by a
27 clearly written disclosure *statement, signed by the grower*, setting forth the
28 nature of the material risk faced by all growers if the growers enter into
29 the production contract;

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(2) Be negotiated, entered into, and executed in an environment
31 free from unfair or deceptive trade practices or other violations of law;

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(3) Not prohibit or discourage a grower from associating with
33 other growers to compare production contract terms or to address concerns or
34 problems;

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(4) Not prohibit or discourage growers from seeking professional,
36 legal, financial, and agricultural production advice and counsel related to



1 the production contract's terms, obligations, and responsibilities; ~~and~~

2 (5)(A) Not deny ~~any~~ a party to the production contract the
3 ability to address a dispute in ~~any~~ a court of competent jurisdiction.

4 (B) If after a dispute arises, all parties to the
5 production contract agree, then ~~any~~ a dispute arising under the contract may
6 be submitted to arbitration; ~~and~~

7 (6) Contain certain disclosure notices, including without
8 limitation:

9 (A) The notices required under 7 U.S.C. § 197a, as it
10 existed on January 1, 2015; and

11 (B) Notice that the grower's execution of the production
12 contract establishes that the grower understands and acknowledges that
13 additional large capital investments, including without limitation the
14 purchase of additional equipment, the completion of improvements, and the
15 upgrade of structures housing poultry or livestock, may be required of the
16 grower during the term of the production contract.

17 (c)(1) ~~Any~~ A production contract or a provision of a production
18 contract that violates a provision of subsection (b) of this section is void
19 and unenforceable.

20 (2) This subsection shall not affect another provision of a
21 production contract, including a contract or related document, policy, or
22 agreement that can be given effect without the voided provision.

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24 SECTION 2. Arkansas Code Title 4, Chapter 86, Subchapter 1, is amended
25 to add an additional section to read as follows:

26 4-86-110. Additional investment for production contracts.

27 (a) For purposes of this section, "production contract" means the same
28 as defined in § 2-32-201.

29 (b) A lender or loan originator shall provide the following notice in
30 boldface in or attached as a separate document to a commercial loan agreement
31 if the borrower is obtaining financing relating to a production contract:
32 "NOTICE: The Borrower may be required to make additional investments to
33 comply with the related production contract before the term of this agreement
34 is complete. The Lender is not obligated to make any additional loans to the
35 Borrower if additional investments are required to comply with the related
36 production contract.

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SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that agriculture is an essential element of Arkansas's economy; that protecting the members of the agricultural community in Arkansas is in the best interests of the state; that the failure of some contractors to notify growers in advance that additional investments may be required under a production contract has resulted in some growers being forced to close their businesses; and that this act is immediately necessary because the unexpected closure of these businesses is harmful to the state's agricultural community and overall economy. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Eubanks

APPROVED: 04/07/2015