

No. 1986-74

AN ACT

HB 976

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

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

Section 1. Findings and purpose.

The General Assembly hereby finds:

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

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

(3) That there are insufficient guarantees of payment to poultry and egg farmers.

(4) That, if poultry and egg farmers are not financially secure, these industries would collapse, thereby threatening the jobs, health and welfare of thousands of Pennsylvanians.

Section 2. Definitions.

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

“Grower.” A person who provides physical facilities for housing and labor for raising poultry, whether or not he provides additional services incidental to the raising of poultry.

“Merchant.” A person who buys poultry directly from the farm in wholesale quantities within this Commonwealth, including, but not limited to, purchases on commission and purchases by a dealer, owner or broker.

“Notice.” Notice in writing by certified mail at the last known address or by personal service.

“Person.” Any individual, partnership, sole proprietorship, corporation or entity.

“Personal service.” Actual delivery of written notice to the person to whom it is directed or to an adult individual at the residence or place of business of the person.

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

“Poultry contract.” Any agreement, either oral or written, between a grower and a merchant relating to the raising of poultry by the grower.

Section 3. Time for payment.

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

Section 4. Interest on late payments.

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

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

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

Section 6. Rights of unpaid grower.

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

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

Section 7. Civil penalties.

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

Section 8. Applicability.

This act shall not apply to poultry contracts which are in effect prior to the effective date of this act.

Section 9. Effective date.

This act shall take effect in 90 days.

APPROVED—The 2nd day of July, A. D. 1986.

DICK THORNBURGH