

## AN ACT

ENTITLED, An Act to regulate certain agricultural contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Terms used in this Act mean:

- (1) "Agricultural commodity," any material produced for use as food, feed, seed, or fiber and includes fiber crops, food crops, oilseeds, seeds, livestock, livestock products, poultry, poultry products, and other farm products or by-products. The term, agricultural commodity, does not include timber or trees;
- (2) "Contractor," any person who, in the ordinary course of business, contracts with a producer to grow or raise agricultural commodities in this state; and
- (3) "Producer," any person who produces an agricultural commodity and desires to transfer title to another or who provides management, labor, machinery, facilities, or any other production input for the production of an agricultural commodity.

Section 2. A contract for an agricultural commodity between a contractor and a producer may contain language providing for resolution of contract disputes by mediation. Mediation of a contract dispute shall take place prior to litigation. The mediator shall be agreed upon by both the contractor and the producer. Either party to a contract may initiate mediation and the mediation process shall be completed within forty-five days, or the parties shall be released. The cost of mediation shall be shared equally between the parties. Any mediation or litigation to resolve contract disputes shall take place in South Dakota.

Section 3. If a contractor is the subsidiary of another corporation, limited liability company, limited partnership, limited liability partnership, partnership, or association, the parent corporation, limited liability company, limited partnership, limited liability partnership, partnership, or association is liable to a producer for the amount of any unpaid claim or contract performance claim if the contractor fails to pay or perform according to the terms of the contract.

Section 4. There is an implied promise of good faith as defined in § 57A-1-201(19), by all parties to any agricultural contract. In any action to recover damages, if the court finds that there has been a violation of this provision, damages, court costs, and attorney fees may be awarded by the court.

An Act to regulate certain agricultural contracts.

I certify that the attached Act  
originated in the

SENATE as Bill No. 202

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 202  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 19\_\_

\_\_\_\_\_  
Governor

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State