

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

926A0040

HOUSE ENGROSSED NO. **SB202** - 3/4/97

Introduced by: Senators Frederick, Hainje, Halverson, Hunhoff, and Symens and
Representatives Crisp, Diedrich, Duxbury, Haley, Jorgensen, Putnam,
Schaunaman, Sperry, and Weber

1 FOR AN ACT ENTITLED, An Act to regulate certain agricultural contracts.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Agricultural commodity," any material produced for use as food, feed, seed, or fiber
5 and includes fiber crops, food crops, oilseeds, seeds, livestock, livestock products,
6 poultry, poultry products, and other farm products or by-products. The term,
7 agricultural commodity, does not include timber or trees;

8 (2) "Contractor," any person who, in the ordinary course of business, contracts with a
9 producer to grow or raise agricultural commodities in this state; and

10 (3) "Producer," any person who produces an agricultural commodity and desires to
11 transfer title to another or who provides management, labor, machinery, facilities, or
12 any other production input for the production of an agricultural commodity.

13 Section 2. A contract for an agricultural commodity between a contractor and a producer
14 may contain language providing for resolution of contract disputes by mediation. The mediator
15 shall be agreed upon by both the contractor and the producer. Litigation of a contract dispute

1 may not begin until mediation has failed. Either party to a contract may initiate mediation and
2 the mediation process shall be completed within forty-five days, or the parties shall be released.
3 The cost of mediation shall be shared equally between the parties. Any mediation or litigation
4 to resolve contract disputes shall take place in South Dakota.

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

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

1 **BILL HISTORY**

2 1/29/97 First read in Senate and referred to Agriculture & Natural Resources. S.J. 218

3 2/11/97 Scheduled for Committee hearing on this date.

4 2/13/97 Scheduled for Committee hearing on this date.

5 2/13/97 Agriculture & Natural Resources Deferred to another day. S.J. 437

6 2/18/97 Scheduled for Committee hearing on this date.

7 2/18/97 Agriculture & Natural Resources Do Pass, Passed, AYES 9, NAYS 0. S.J. 506

8 2/19/97 Motion to Amend, Failed, AYES 15, NAYS 19. S.J. 541

9 2/19/97 Motion to Amend, Passed. S.J. 543

10 2/19/97 Motion to Amend,. S.J. 543

11 2/19/97 Tabled amendment, AYES 19, NAYS 15. S.J. 543

12 2/19/97 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 544

13 2/20/97 First read in House and referred to Agriculture & Natural Resources. H.J. 622

14 2/25/97 Agriculture & Natural Resources Do Pass, Passed, AYES 13, NAYS 0. H.J. 676

15 2/25/97 Agriculture & Natural Resources Place on Consent Calendar. H.J. 676

16 2/25/97 Scheduled for Committee hearing on this date.

17 2/27/97 House of Representatives Deferred to another day. H.J. 755

18 2/28/97 House of Representatives Deferred to another day. H.J. 784

19 3/3/97 Motion to Amend, Passed. H.J. 809

20 3/3/97 Motion to Amend, Passed. H.J. 809

21 3/3/97 House of Representatives Do Pass Amended, Passed, AYES 64, NAYS 4. H.J. 809