

Stricken language would be deleted from and underlined language would be added to present law.  
Act 1169 of the Regular Session

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: H2/4/15 H2/12/15  
**A Bill**

HOUSE BILL 1214

By: Representative Eubanks

### **For An Act To Be Entitled**

AN ACT TO REQUIRE THAT NOTICE BE GIVEN TO GROWERS  
CONCERNING ADDITIONAL INVESTMENTS THAT MAY BE  
REQUIRED UNDER A PRODUCTION CONTRACT; *TO DECLARE AN  
EMERGENCY; AND* FOR OTHER PURPOSES.

### **Subtitle**

*TO REQUIRE THAT NOTICE BE GIVEN TO  
GROWERS CONCERNING ADDITIONAL INVESTMENTS  
THAT MAY BE REQUIRED UNDER A PRODUCTION  
CONTRACT; AND TO DECLARE AN EMERGENCY.*

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

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

(b) A production contract shall:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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 Emergency Clause failed.**