

(b) The amount that may be obligated during a fiscal year is limited as required by United States Code, title 42, section 1104(d)(2)(D).

Sec. 11. **EFFECTIVE DATE.**

Sections 1, 2, 4, 5, 6, 7, 8, 9, and 10 are effective the day following final enactment. Section 3 is effective July 1, 1990.

Presented to the governor April 24, 1990

Signed by the governor April 26, 1990, 10:35 p.m.

CHAPTER 517—S.F.No. 1779

An act relating to agriculture; providing for mediation and arbitration of certain contract disputes; providing for recapture of capital investments required by certain agricultural contracts; clarifying responsibility of parent companies for affiliates; requiring good faith; prohibiting unfair practices; creating an ombudsman; appropriating money; amending Laws 1989, chapter 350, article 20, section 25; proposing coding for new law in Minnesota Statutes, chapters 17 and 514.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[17.90] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 1 to 9.

Subd. 2. AGRICULTURAL COMMODITY. "Agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oilseeds, seeds, livestock, livestock products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use.

Subd. 3. CONTRACTOR. "Contractor" means a person who in the ordinary course of business buys agricultural commodities grown or raised in this state or who contracts with a producer to grow or raise agricultural commodities in this state.

Subd. 4. PRODUCER. "Producer" means a person who produces or causes to be produced an agricultural commodity in a quantity beyond the person's own family use and is able to transfer title to another or provides management, labor, machinery, facilities, or any other production input for the production of an agricultural commodity.

Sec. 2. **[17.91] MEDIATION; ARBITRATION.**

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A contract for an agricultural commodity between a contractor and a producer must contain language providing for resolution of contract disputes by either mediation or arbitration. If there is a contract dispute, either party may make a written request to the commissioner for mediation or arbitration services as specified in the contract, to facilitate resolution of the dispute.

Sec. 3. [17.92] RECAPTURE OF CAPITAL INVESTMENT REQUIRED BY AN AGRICULTURAL CONTRACT.

Subdivision 1. NOTICE AND DAMAGES TO BE PAID. A contractor must not terminate or cancel a contract that requires a producer of agricultural commodities to make a capital investment in buildings or equipment that cost \$100,000 or more and have a useful life of five or more years, until:

(1) the producer has been given written notice of the intention to terminate or cancel the contract at least 180 days before the effective date of the termination or cancellation or as provided in subdivision 3; and

(2) the producer has been reimbursed for damages incurred by an investment in buildings or equipment that was made for the purpose of meeting minimum requirements of the contract.

Subd. 2. NOTICE WHEN PRODUCER BREACHES CONTRACT. Except as provided in subdivision 3, if a producer fails to comply with the provisions of a contract that requires a capital investment subject to subdivision 1, a contractor may not terminate or cancel that contract until:

(1) the contractor has given written notice with all the reasons for the termination or cancellation at least 90 days before termination or cancellation or as provided in subdivision 3; and

(2) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice.

Subd. 3. IMMEDIATE EFFECT OF NOTICE. The 180-day notice period under subdivision 1, clause (1), and the 90-day notice period and 60-day notice period under subdivision 2, clauses (1) and (2), are waived and the contract may be canceled or terminated immediately if the alleged grounds for termination or cancellation are:

(1) voluntary abandonment of the contract relationship by the producer; or

(2) conviction of the producer of an offense directly related to the business conducted under the contract.

Sec. 4. [17.93] PARENT COMPANY RESPONSIBILITY FOR CONTRACTS OF SUBSIDIARIES.

Subdivision 1. LICENSING. If a contractor is required to obtain a license to purchase agricultural commodities, the licensing authority may require the

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parent company of a licensee subsidiary to guarantee payment or contract performance as a condition of licensing.

Subd. 2. PARENT COMPANY LIABILITY. If an agricultural contractor is the subsidiary of another corporation, partnership, or association, the parent corporation, partnership, or association is liable to a seller 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.

Sec. 5. [17.94] IMPLIED PROMISE OF GOOD FAITH.

There is an implied promise of good faith as defined in section 336.1-201, subsection 19, by all parties in all agricultural contracts. In an 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 recovered.

Sec. 6. [17.945] RULES.

The commissioner may adopt rules to implement sections 1 to 9 including the prohibition of specific trade practices.

Sec. 7. [17.95] DEPARTMENT OF AGRICULTURE OMBUDSMAN.

A position is created in the department of agriculture to provide information, investigate complaints arising from this chapter, and provide or facilitate dispute resolutions.

Sec. 8. [17.97] AGRICULTURAL INPUT PREPAYMENTS.

If a producer makes a prepayment for agricultural production inputs that include but are not limited to seed, feed, fertilizer, pesticides, or fuel for future delivery, the producer may demand a letter of credit or bank guarantee from the provider of the inputs to ensure reimbursement if delivery does not occur.

Sec. 9. [17.98] DAIRY MARKETING CONTRACTS EXCEPTED.

Dairy marketing agreements between producers and purchasers of milk are not contracts for purposes of sections 1 to 9.

Sec. 10. [514.945] AGRICULTURAL PRODUCER'S LIEN.

Subdivision 1. ATTACHMENT. (a) A person who produces an agricultural commodity as defined in section 1, subdivision 2, except grain as defined in section 232.21, subdivision 7, and raw milk has a lien for the contract price or, if there is no contract the fair market value, of the agricultural commodity produced by the person and delivered to a buyer. The lien attaches to the agricultural commodity and products and proceeds of the agricultural commodity.

(b) If the agricultural commodity is or becomes commingled with other

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agricultural commodities or goods, the lien continues in the proportionate share of the other agricultural commodities or goods.

(c) If an agricultural commodity to which the lien attaches becomes manufactured or processed to become part of another product the lien continues and attaches to the product manufactured or processed.

(d) An agricultural producer's lien does not attach to agricultural commodities:

(1) purchased by a marketing cooperative association; or

(2) purchased free of a security interest or lien as provided in United States Code, title 7, section 1631, and sections 223A.03 and 223A.04.

Subd. 2. PERFECTION. An agricultural producer's lien is perfected from the time the agricultural commodity is delivered until 20 days after the agricultural commodity is delivered without filing. An agricultural producer's lien may continue to be perfected if a lien statement under subdivision 3 is filed in the appropriate filing office under section 336.9-401 by 20 days after the agricultural commodity is delivered.

Subd. 3. LIEN STATEMENT. (a) A lien statement must be in writing and verified by the producer and must contain:

(1) a statement of the amount due for the agricultural commodity after deducting applicable credits and offsets;

(2) the name of the purchaser to whom the agricultural commodity was delivered;

(3) a description sufficient to identify the agricultural commodity delivered and subject to the lien;

(4) the date and location to which the agricultural commodity was delivered; and

(5) the date when payment was due for the agricultural commodity subject to the lien.

(b) A lien statement is void and may be removed from the filing system six months after the date of filing. The lien statement may be physically destroyed 30 months after the date of filing.

Subd. 4. PRIORITY. (a) An agricultural producer's lien has priority over all other liens and encumbrances in:

(1) the agricultural commodity;

(2) proceeds from the agricultural commodity;

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(3) the proportionate share of the agricultural commodities or goods with which the agricultural commodity has been commingled; and

(4) the products manufactured or processed with the agricultural commodity.

(b) An agricultural producer's lien that is continuously perfected from the time of delivery has priority over other liens and encumbrances whether they are filed before or after the agricultural producer's lien.

(c) An agricultural producer's lien that is filed after 20 days after delivery of the agricultural commodity has priority in the order it is filed.

(d) Priority among perfected agricultural producers' liens is according to the first lien filed.

(e) An agricultural producer's lien that is not perfected has the priority of an unperfected security interest under section 336.9-312.

Subd. 5. LIEN TERMINATED. An agricultural producer's lien is terminated on:

(1) full payment for the agricultural commodity delivered;

(2) recovery of the agricultural commodity in kind; or

(3) the date six months after the agricultural commodity is delivered if an action to enforce the lien has not been commenced.

Subd. 6. ENFORCEMENT. The holder of an agricultural producer's lien may enforce the lien in the manner provided in sections 336.9-501 to 336.9-508, subject to section 550.17. For enforcement of the lien, the lienholder is the secured party and the person receiving the agricultural commodity is the debtor, and each has the respective rights and duties of a secured party and a debtor under sections 336.9-501 to 336.9-508. If a right or duty under sections 336.9-501 to 336.9-508 is contingent upon the existence of express language in a security agreement or may be waived by express language in a security agreement, the requisite language does not exist.

Subd. 7. SATISFACTION OF LIEN. A lienholder must remove a lien statement from the filing system after the lien is satisfied. If the lienholder does not remove the lien statement the commissioner shall remove the lien statement upon request of an affected party and providing proof is furnished that the lien has been terminated.

Subd. 8. ENFORCEMENT ACTION. An agricultural producer's lien may be brought in district court in a county where the property to which the lien attaches is located or the county where the agricultural commodity was originally delivered. The court shall allow costs including attorney fees to the prevailing party.

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Sec. 11. Laws 1989, chapter 350, article 20, section 25, is amended to read:

Sec. 25. **FORAGE AND TURF SEED SPECIALIST; CROOKSTON CAMPUS.**

\$50,000 is appropriated from the general fund to the University of Minnesota for a crop management specialist on seed production of forage and turf species in northern Minnesota, and for supplies, services, and expenses related to the specialist's work. The specialist must be located at the Crookston campus of the university. This appropriation is available for the fiscal year ~~year~~ biennium ending June 30, ~~1990~~ 1991.

Presented to the governor April 24, 1990

Signed by the governor April 26, 1990, 11:24 p.m.

CHAPTER 518—S.F.No. 2248

An act relating to education; entering the Midwestern Higher Education Compact; providing the appointment of members; proposing coding for new law in Minnesota Statutes, chapter 135A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [135A.20] **MIDWESTERN HIGHER EDUCATION COMPACT.**

The Midwestern Higher Education Compact is enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Purpose

The purpose of the Midwestern Higher Education Compact shall be to provide greater higher education opportunities and services in the Midwestern region, with the aim of furthering regional access to, research in and choice of higher education for the citizens residing in the several states which are parties to this compact.

ARTICLE II

The Commission

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