New Rights for Contract Farmers

Poultry, Livestock and Swine Contract Farmers Have New Protections Under the 2008 Farm Bill

Poultry, swine and livestock growers now have the right to:

- **Decline to be bound by an arbitration clause in your contract at the time you sign.** All contracts with arbitration clauses are now required by law to have a provision that allows you to decline to be bound by the arbitration provision in the contract. This choice will be presented to you when you sign a new, renewed, modified, or extended contract. It will not be offered later when you have a dispute with the company.

  Any poultry, swine or livestock contract that is renewed, modified, extended or entered into after May 22, 2008, should contain this provision.

Poultry and swine growers now have the right to:

- **Know if the company will require large capital investments over the life of your contract.** The first page of a poultry or swine contract will contain an "additional capital investments disclosure statement," which will state that additional large capital investments may be required of the poultry or swine producer during the term of the growing arrangement.

- **Settle a dispute with the company in the Federal judicial district where you live rather than where the company is headquartered.** This provision is important for poultry and swine producers who now have provisions in their contracts that require them to go to the state or city where the company is headquartered, even in a state other than the one where the farmer lives.

  Any poultry or swine contract that is renewed, modified, extended or entered into after May 22, 2008, should contain the above two provisions.

About arbitration:

Arbitration is usually more expensive than going to court. The up-front fees to get the process started can be thousands of dollars. Proving a farmer's case in arbitration is harder. Basic legal processes, such as discovery, which allows the farmer to access the company's documents, are very limited. Appealing an adverse decision is nearly impossible. Arbitration is governed by procedures and rules chosen by the company that wrote the contract. You do not have access to a jury of your peers in arbitration as you do in court.

When you receive a contract:

- **A contract cannot include an arbitration clause unless it also gives you an option to opt-out of that clause.** If you want to reserve your right to defend yourself in court with regard to future disputes with your poultry or livestock company, you must make that decision in writing when you sign that contract. If you decline the use of arbitration when you sign the contract, you still have the right, after a dispute arises, to use arbitration if you and the company both agree in writing to do so. However, if you accept the arbitration clause, you will not have the option to go back and chose to go to court after a dispute arises.

- **The contract should have a disclosure statement**. This statement should say that you have the right to decline the mandatory use of arbitration to resolve any controversy that may arise under the contract.

- **It is illegal for the company to threaten to terminate your contract or to withhold birds or animals because you declined the arbitration clause.** Take good notes of what your field representative says to you when you are presented with the option of declining the arbitration clause in a new contract, especially if he or she tries to influence your decision on the arbitration opt out provision in any way.

Flock-to-flock poultry contracts:

If you have a flock-to-flock contract, you should get a new contract or at least a separate provision allowing you to decline to be bound by an arbitration clause when you get your next flock of chickens. These contracts technically get renewed each time you get a new flock.

If you don't get a new contract or a separate sheet on the arbitration clause, ask your service person why. You can show your serviceperson the language from the Farm Bill and point out that it says that this arbitration choice provision applies to any contract that is renewed after the date of the enactment of the Farm Bill (May 22, 2008).

Please let us know if your new contract does not contain a choice on arbitration. If the new contract contains any requirements that you keep the contract confidential, you are urged to consult an attorney.

When you get a new, renewed, amended or altered contract:

If it does not contain the arbitration choice provision and has an arbitration clause, you may want to send a letter to the company that references that arbitration provision in the Farm Bill (available at www.rafiusa.org/docs/arbitrationclause.pdf) and explicitly state that you are opting out of the arbitration provision of the contract.

If it contains the arbitration choice provision, make sure to read the rest of the contract carefully to make sure that there is not anything else new in there that might not be good provisions for you.

The 2008 Farm Bill also:

- Requires USDA to write regulations on whether a company has provided reasonable notice to a poultry grower on suspension of the delivery of birds, when additional capital investments under a poultry or swine contact are unfair under the Act, and what a reasonable period of time is for a poultry or swine producer to remedy a breach of contract that would lead to termination of the contract.

- Improves oversight of USDA's enforcement of the Packers and Stockyards Act by requiring the Department to provide an annual compliance report detailing the number and length of time spent on investigations of potential violations of the Act.

For more information:

These materials provide a very general overview of the protections for contract poultry, livestock and swine producers provided under the 2008 Farm Bill. For more detailed information and/or any questions, please contact:

- Becky Ceartas at RAFI-USA. (919) 542-1396, ext 209, becky@rafiusa.org, PO Box 640, Pittsboro, NC 27312

- An attorney with experience in this area of law. The Farmer's Legal Action Group may be able to help you find an attorney. (651) 223-5400, lawyers@flaginc.org

- The Grain Inspection, Packers and Stockyards Administration, the agency authorized to investigate complaints or violations of the law. You can call GIPSA toll free at 1-800-998-3447 to report a violation. You may do so anonymously, though if you do not provide your name and contact information, GIPSA will not be able to report back to you on the results of its investigation.

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