

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1963

5 By: Representatives Eubanks, Branscum, Gillam, Gossage, Payton, Pitsch, Ratliff, Wardlaw  
6 By: Senators B. Pierce, J. Cooper  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE PRODUCTION CONTRACT ARBITRATION  
10 PROCEDURE ACT; TO PROVIDE AN ARBITRATION PROCESS FOR  
11 DISPUTES BETWEEN GROWERS AND CONTRACTORS RELATING TO  
12 A PRODUCTION CONTRACT; AND FOR OTHER PURPOSES.  
13

## Subtitle

16 TO CREATE THE PRODUCTION CONTRACT  
17 ARBITRATION PROCEDURE ACT; AND TO PROVIDE  
18 AN ARBITRATION PROCESS FOR DISPUTES  
19 BETWEEN GROWERS AND CONTRACTORS RELATING  
20 TO A PRODUCTION CONTRACT.  
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22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code Title 2 is amended to add an additional  
26 chapter to read as follows:

### Chapter 50

#### Production Contract Arbitration Procedure Act

##### 2-50-101. Title.

31 This chapter shall be known as the "Production Contract Arbitration  
32 Procedure Act".  
33

##### 2-50-102. Definitions.

35 As used in this chapter:

36 (1) "Contractor" means the same as defined in § 2-32-201;



1           (2) "Grower" means the same as defined in § 2-32-201; and

2           (3) "Production contract" means the same as defined in § 2-32-  
3 201.

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5           2-50-103. Prerequisite to arbitration – Notice – Filings.

6           (a)(1) When a grower believes that he or she has been damaged by the  
7 failure of a contractor to perform under a production contract, as a  
8 prerequisite to the grower's right to bring a claim for arbitration against  
9 the contractor under this chapter, the grower shall file a complaint with the  
10 grievance committee established by the contractor.

11           (2) If the contractor has not established a grievance committee  
12 to handle growers' claims related to production contracts or if the grower  
13 wants to appeal the finding of the grievance committee established by the  
14 contractor, a grower may proceed with an arbitration claim under this  
15 chapter.

16           (b)(1) Within a reasonable time after the alleged violation becomes  
17 apparent or within thirty (30) days of a grievance committee's final  
18 determination on a contract dispute between a grower and contractor, the  
19 grower shall file a written notice of intent to seek arbitration with the  
20 Arkansas Livestock and Poultry Commission.

21           (2) A meeting shall be scheduled by the Executive Director of  
22 the Arkansas Livestock and Poultry Commission between the grower and  
23 contractor for the purpose of resolving the dispute, or if the dispute is not  
24 resolved, for officially filing the complaint.

25           (3) The grower shall:

26                   (A) Make a sworn complaint against the contractor alleging  
27 the damages sustained or to be sustained;

28                   (B) File the complaint with the executive director; and

29                   (C) Send a copy of the complaint to the contractor by  
30 United States registered mail.

31           (c) Complaints shall be filed on forms provided by the commission.

32           (d)(1) A filing fee of two hundred fifty dollars (\$250) shall be paid  
33 to the executive director with each complaint filed.

34           (2) The filing fee shall be deposited into the Livestock and  
35 Poultry Fund Account in the State Treasury and may be used by the executive  
36 director to offset expenses of the investigation.

1       (e) Within ten (10) days after receipt of a copy of the complaint, the  
2 contractor shall:

3               (1) File with the executive director the contractor's answer to  
4 the complaint; and

5               (2) Send a copy of the answer to the grower by certified mail,  
6 return receipt requested.

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8       2-50-104. Arbitration committee – Members.

9       (a)(1)(A) The Governor shall appoint an arbitration committee composed  
10 of seven (7) members and seven (7) alternate members as follows:

11               (i) The Governor shall appoint three (3) members and  
12 three (3) alternates from a list provided by the Arkansas Farm Bureau  
13 Federation of potential members who are growers;

14               (ii) The Governor shall appoint three (3) members  
15 and three (3) alternates from a list of potential members provided by the  
16 Poultry Federation; and

17               (iii)(a) The Governor shall appoint one (1) member  
18 and one (1) alternate from the public at large.

19               (b) The member and alternate appointed under  
20 this subdivision (a)(1)(A)(iii) shall not be a grower or contractor.

21               (B)(i) The terms of the initial members and alternates  
22 appointed to the committee shall be as follows:

23               (a) One (1) member and one (1) alternate  
24 appointed under subdivision (a)(1)(A)(i) of this section and one (1) member  
25 and one (1) alternate appointed under subdivision (a)(1)(A)(ii) of this  
26 section shall serve a one-year term;

27               (b) One (1) member and one (1) alternate  
28 appointed under subdivision (a)(1)(A)(i) of this section and one (1) member  
29 and one (1) alternate appointed under subdivision (a)(1)(A)(ii) of this  
30 section shall serve a two-year term; and

31               (c) One (1) member and one (1) alternate  
32 appointed under subdivision (a)(1)(A)(i) of this section, one (1) member and  
33 one (1) alternate appointed under subdivision (a)(1)(A)(ii) of this section,  
34 and the member and alternate appointed under subdivision (a)(1)(A)(iii) of  
35 this section shall serve a four-year term.

36               (ii) Successor members shall serve four-year terms,

1 except that a person appointed to fill a vacancy resulting in an unexpired  
2 term shall serve only for the remainder of that term.

3 (2)(A) The Vice President of Agriculture for the University of  
4 Arkansas Division of Agriculture, or his or her designee, shall serve as an  
5 ex officio member.

6 (B) The ex officio member described under subdivision  
7 (a)(2)(A) of this section shall serve until replaced by his or her  
8 organization.

9 (3) Recommending organizations under subdivision (a)(1)(A) of  
10 this section shall submit member recommendations not less than thirty (30)  
11 days before the expiration day of an expiring term.

12 (4) Each alternate member shall serve only in the absence of the  
13 member for whom he or she is an alternate.

14 (5) Members of the arbitration committee may receive expense  
15 reimbursement in accordance with § 25-16-901 et seq.

16 (b)(1)(A) The arbitration committee shall elect a chairperson from its  
17 membership.

18 (B) The chairperson shall conduct all meetings and  
19 deliberations held by the arbitration committee and direct all other  
20 activities of the arbitration committee.

21 (2)(A) The Executive Director of the Arkansas Livestock and  
22 Poultry Commission, or his or her designee, shall serve as secretary of the  
23 arbitration committee and shall not vote.

24 (B) The secretary shall keep accurate and correct records  
25 on all meetings and deliberations and perform other duties for the  
26 arbitration committee as directed by the chairperson.

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28 2-50-105. Arbitration committee – Purpose.

29 (a) The purpose of the arbitration committee is to assist growers and  
30 contractors in determining the facts relating to matters alleged in  
31 complaints made by growers against contractors.

32 (b) The arbitration committee may recommend that:

33 (1) Money damages be paid to the grower as a result of the  
34 alleged failure of the contractor to perform under a production contract; and

35 (2) The contractor reimburse the grower for the amount of the  
36 filing fee paid by the grower.

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2 2-50-106. Arbitration committee – Meetings – Informal hearing.

3 (a) The Executive Director of the Arkansas Livestock and Poultry  
4 Commission or the chairperson of the arbitration committee may call the  
5 arbitration committee into session to consider the matters referred to the  
6 arbitration committee by the Arkansas Livestock and Poultry Commission.

7 (b) If the arbitration committee determines that an informal hearing  
8 should be conducted to allow each party an opportunity to present his or her  
9 respective side of the dispute, attorneys may be present at the hearing to  
10 confer with their clients but may not participate directly in the proceedings  
11 unless requested to do so by the chairperson of the arbitration committee.

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13 2-50-107. Committee – Hearing and report – Findings as evidence.

14 (a) When the Executive Director of the Arkansas Livestock and Poultry  
15 Commission refers to the arbitration committee a complaint made by a grower  
16 against a contractor, the arbitration committee shall:

17 (1) Hold a hearing on the matters stated in the complaint; and

18 (2) At the conclusion of the hearing, the secretary of the  
19 arbitration committee shall report through its secretary the findings and  
20 recommendations to the grower and the contractor by United States registered  
21 mail.

22 (b)(1) The report of the arbitration committee shall be binding upon  
23 all parties to the extent, if any, that they have so agreed:

24 (A) In the relevant production contract; or

25 (B) Before the official filing of arbitration.

26 (2) In the absence of an agreement to be bound by arbitration, a  
27 grower may commence legal proceedings against a contractor or assert such  
28 claims, as a counterclaim or defense in any action brought by the contractor,  
29 at any time after receipt of the report of arbitration.

30 (3)(A) In litigation involving a complaint that has been the  
31 subject of arbitration under this section, a party may introduce the report  
32 of arbitration as evidence of the facts found in the report, and the court  
33 may give such weight to the arbitration committee's findings and conclusions  
34 of law and recommendations as to damages and costs as the court may see fit  
35 based upon all the evidence before the court.

36 (B) The court may also take into account the findings of

1 the arbitration committee with respect to the failure of a party to cooperate  
2 in the arbitration proceedings, including any finding as to the effect of  
3 delay in filing the arbitration claim upon the arbitration committee's  
4 ability to determine the facts of the case.

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6 2-50-108. Arbitration committee – Investigative powers.

7 (a) In conducting its investigation, the arbitration committee may:

8 (1) Examine the grower and contractor on their performance under  
9 the performance contract;

10 (2) Hold informal hearings at a time and place directed by the  
11 chairperson of the arbitration committee upon reasonable notice to the grower  
12 and the contractor; and

13 (3) Seek evaluations from authorities in allied disciplines,  
14 when necessary.

15 (b) An investigation made by less than the whole membership of the  
16 arbitration committee shall be by authority of a written directive by the  
17 chairperson, and the investigation shall be summarized in writing and  
18 considered by the arbitration committee in reporting its findings and making  
19 its recommendations.

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21 2-50-109. Arbitration committee – Records.

22 The arbitration committee shall keep a record of its activities and  
23 reports on file in the Arkansas Livestock and Poultry Commission.

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25 2-50-110. Rules.

26 The arbitration committee may make rules to carry out the purposes of  
27 this chapter.

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29 2-50-111. Notice.

30 The grower or contractor shall give written notice to the Arkansas  
31 Livestock and Poultry Commission of the acceptance or rejection of the  
32 arbitration committee's recommended terms of settlement within thirty (30)  
33 days from the date the recommended terms of settlement are issued by the  
34 arbitration committee.

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