

House approves prompt payment for poultrymen

HARRISBURG — "I am encouraged by this effort on the part of the State House to help the state's poultry farmers," State Grange Master Charles Wismer said following the House's passage of a bill requiring prompt payment to poultry farmers. The House approved the measure by an overwhelming 180-15 vote.

H.B. 2035, initiated by the Grange and introduced by Rep. John Broujos (D-Adams), requires poultry processors to pay poultry farmers for live birds or eggs within 14 days of delivery to the plant.

"This would prevent situations such as the Mandata Poultry Processing Plant's (Northumberland County) failure to pay its growers for 16 weeks last year," Wismer said. "When the company finally declared bankruptcy, farmers were really left holding the bag."

Wismer said that when processors are late in payment, farmers find themselves without cash to pay utility bills, feed costs and labor for raising the birds. "H.B. 2035 will simply ensure fair business practices," Wismer said.

The legislation holds a merchant or processor liable for payment plus interest on the 15th day after delivery is made by the farmer. If a farmer is not paid on time, he can declare any contract with the merchant void by written notice and sell the birds on the market, keeping the money owed him and returning any excess profit to the merchant. Farmers also can respond with civil action.

"Poultry farmers have been the victims of late payments or no payments at a time of severe economic crisis," said Rep. Broujos. The poultry industry has been faced with drought, avian flu,

a large influx of foreign capital, high interest rates and a recession.

"Even without the adverse economic impact of these conditions, the structure of the marketing of poultry and eggs deprives the farmer of leverage or bargaining power," Broujos continued. "Lacking organization and failing to insist on adequate security and contract terms, the farmer sells his services and product on terms providing inadequate protection."

"The majority of distributors and processors on fair and honorable. However, there are market and supply and demand conditions that seem to be beyond the control of anyone."

According to the bill's principle sponsor, H.B. 2035 contains the following provisions:

- Moneys due to a grower by a merchant (processor or distributor) shall be paid to the grower within 14 days of delivery of poultry by grower to merchant, unless the parties otherwise agree. (This latter condition is important. The bill does not require money to be paid within 14 days for all contracts; only those in which the two parties do not agree otherwise. Grower and merchant can agree in writing to 30 or more days, if they desire.

- Interest is due on the unpaid amount at rate set under the Fiscal Code of the Commonwealth, unless otherwise agreed to by the parties.

- If timely payment is not made, the grower can declare the merchant to be in default and impose a lien on the poultry in the possession of the grower.

- The lien so imposed shall take priority over any previous lien or security interest created in the poultry, such as a bank security agreement.

- Sale of the poultry held for the unpaid claim shall be in accordance with the sale provisions of the Uniform Commercial Code, section 9504, relating to the right of a secured party to dispose of collateral after default.

- To prevent retroactive effect, which is illegal, the act would not apply to contracts in effect prior to the effective date.

In response to a number of commonly asked questions, Representative Broujos provides the following information:

Q. Will this law interfere with normal market conditions and methods of financing?

A. The market condition is not normal when the farmer is the victim of a product marketing practice that leaves him unpaid for services and goods provided. From a broad base of many unorganized growers, to a narrowing of control within a few persons, the market place does not operate in a normal supply and demand way. Nor can we say that this bill interferes significantly with normal financing practices of banks.

Q. Is this not special legislation affecting only one group?

A. The Legislature can and does respond to one group's problems. The farmer is a special person. One of the objective commonly held by legislators is the preservation of the small family farm. On other occasions, special groups have been accommodated by law: there is a mechanics lien for contractors; a lien for auto repairs; and a documents retaining lien for attorneys.

Q. Will lending institutions lose their security by being subordinate to the lien created for the grower for unpaid bills?

A. Although the bill specifically states that the grower shall have a

right to a lien upon default of the merchant, and that the lien takes priority over any prior security interest, the actual mechanics of default-lien-sale must be examined to see that there is no serious threat to security holders.

If a grower has \$60,000 worth of chickens of a processor, he may sell about \$1500 to \$3000 worth of eggs per week. If default occurs after two weeks and the grower claims a lien, he would only threaten to sell 5 to 10% of the total value of the chickens to recoup his unpaid bill. If a bank had a security interest in the chickens, its interest would be protected in the remaining collateral.

In the case of the broilers, if a processor delivered 10,000 chickens and later took all of them out, there would be none left on which to assert a lien by the grower if he were unpaid. If the grower still had possession of other flocks of chickens delivered, then he could claim a lien for the unpaid bill against those remaining in his possession.

Q. Why should farmers have a lien priority over the lender financing the chickens owned by the processor?

A. One answer is: Why should the lender have priority of claim for his lending service over the feeding and growing service of the farmer? Just because the bank is first in line to finance the chickens, the farmer should not be completely stripped of any security interest in the same property.

There is probably enough collateral for both bank and farmer. If not, then they should share.

Resolving the problem of sharing security for money or services advanced should be through reconciliation, not legal confrontation.

Statutory priority of liens is not new to the law. The law recognizes certain priorities in the standing of creditors, based on public policy. Wage earners, landlords, and taxing authorities have priorities over general creditors in some property dispositions.

A major advantage of this bill is to set some standards in the industry which will act as incentives to the essential parties to correct the imbalance in negotiation and in contracts.

The bill will now be sent to the senate agriculture committee for consideration.

Those interested in commenting on H.B. 2035 are invited to contact Rep. John Broujos, Room 628, Main Capitol Bldg, Harrisburg, Pa. 17120.

Corn contest

sign-up deadline

FLEMINGTON, N.J. — The deadline for sign-up for the Hunterdon County Corn Contest has been extended to Tuesday, June 19, according to Jack Rinehart, Franklin Township, chairman of the board's field crop committee.

"The season has been late, so it does seem logical to extend the registration period," he said.

The rules of the contest require that the field be at least 5-acres in size, must be located in Hunterdon County, and the farmer must be a Hunterdon resident. The contest is limited to one field per entrant.

There will be two awards: "highest yield" and "highest net return."

Details and entry forms are available in the Cooperative Extension office, Extension Center. Phone number is 788-1339 (201 area code).

ATTENTION PORK PRODUCERS

Our Wednesday and Saturday Market Hog Sales now begin
at 8:00 A.M.

We suggest you have your hogs at the stockyards
as early as possible.

No hogs arriving after 10:30 A.M.
will be sold over the auction.

Consign your hogs to McCoys where they will be handled
and sold by experienced and capable personnel.

For More Information Call Ed Prosser.

McCoy Cattle Co.

Lancaster Stockyards

Main Office 717-397-1411

Hog Division
(Mon., Tues., Wed. & Sat. A.M.)
717-291-8912
Ed Prosser's Home 717-367-2368

Bill McCoy's Home 717-569-5044
Pat McCoy's Home 717-656-8076