

SEED ARBITRATION ACT

(Ill. Compiled Statutes, Ch. 710, Par. 25/1 et seq.)

AN ACT concerning arbitration of seed disputes. P.A. 87-186, §1, approved Sept. 3, 1991, eff. Jan. 1, 1992.

25/1. Short title.

§1. Short title. This Act may be cited as the Seed Arbitration Act.

25/5. Definitions.

§5. Definitions.

"Arbitration" means arbitration under this Act.

"Council" means the Seed Arbitration Council.

"Department" means the Illinois Department of Agriculture.

"Director" means the Illinois Director of Agriculture.

"Seed" means agricultural and vegetable seed as defined in the Illinois Seed Law.¹

¹ 505 ILCS 110/1 et seq.

25/10. Purchaser required to arbitrate claim.

§10. Purchaser required to arbitrate claim.

(a) A purchaser of seed cannot maintain a civil action against the seller for failure of the seed to produce or perform (i) as represented by a label attached to the seed or furnished under the Illinois Seed Law,¹ (ii) as represented by warranty, or (iii) because of negligence, unless the buyer has first submitted the claim to arbitration.

(b) Any applicable period of limitation with respect to a claim subject to arbitration is tolled for the period beginning on the date the arbitration complaint is filed and the filing fee paid and ending on the date the findings of the administrative hearing officer are rendered.

¹ 505 ILCS 110/1 et seq.

25/15. Review Committee.

§15. Review Committee.

(a) There shall be established a Review Committee consisting of the Director, the President of the Illinois Seed Dealers'

Association, and the director of the Cooperative Extension Service, or a designee for each person. Membership on the Review Committee shall be for a period of one year. Each respective organization shall appoint its member.

(b) The Review Committee shall have the following powers: (1) to meet and review all complaints filed under this Act; (2) to require the purchaser and seller to be present when the complaint is reviewed; (3) to subpoena, through the Director; (4) to negotiate factors and to make recommendations concerning settlement of a complaint; (5) to prepare and present to the purchaser and seller the recommended arbitration procedure and costs if agreement cannot be attained through the review process; and (6) to prepare and report to the Seed Arbitration Council on the Review Committee's results and recommendations.

(c) The Review Committee shall prepare and provide to both parties estimates of costs that will be incurred during the investigation of the complaint. Costs deposits shall be remitted to the Department before beginning the investigation process. It is the responsibility of the purchaser to pay one-half and the seller to pay one-half of the total estimated costs. Cost deposits shall be deposited by the Department into a non-appropriated trust account in an adequately protected financial institution, and the Department shall pay costs from that account. In the event the actual costs exceed the original estimated costs, each party shall pay one-half of the difference. In the event the actual costs are less than the original estimated costs, each party shall be reimbursed a prorated portion of the original funds.

(d) The Review Committee shall serve without pay, but members shall be reimbursed for reasonable travel expenses.

25/20. Filing and serving of complaint.

§20. Filing and serving of complaint. A purchaser shall start the arbitration procedure by filing a verified complaint with the Director together with a filing fee which shall be deposited into the General Revenue Fund. The amount of the filing fee shall be set by rule. The Director shall serve a copy of the complaint upon the seller by certified mail. Except in case of seed that has not been planted, the claim shall be filed within a time that will permit effective inspection of the plants under field conditions and in no case later than 90 days after completion of harvest.

Amended by P.A. 89-463, §55, eff. May 31, 1996.

25/25. Filing and serving of answer.

§25. Filing and serving of answer. Within 10 days after the seller receives a copy of the complaint, the seller shall file with the Director an answer to the complaint and serve a copy of the answer upon the purchaser by certified mail.

25/30. Referral of complaint to Review Committee.

§30. Referral of complaint to Review Committee. The Director shall refer the complaint and the seller's response to the Review Committee for negotiation and recommendations.

25/35. Seed Arbitration Council.

§35. Seed Arbitration Council.

(a) The Seed Arbitration Council is established.

(b) The following persons or their designees are members of the Council:

(1) The Director.

(2) The Director of Extension Services of the University of Illinois College of Agriculture.

(3) The Dean of the University of Illinois College of Agriculture.

(4) The president of an Illinois seed dealers trade association selected by the Director.

(5) The president of an Illinois farmers organization selected by the Director.

(c) The Council shall meet at the call of the Director, who shall serve as its chairperson.

(d) Members shall serve without pay but shall be reimbursed for their reasonable and necessary expenses.

(e) The Council shall be staffed by employees of the Department.

25/40. Powers of the Council.

§40. Powers of the Council.

The Council shall have the following duties: (1) to examine all records of the purchaser and seller that the Council may consider relevant to the complaint; (2) to investigate and conduct such tests as may be necessary to determine the validity of the complaint or to contract for qualified persons to perform such investigation and tests; (3) to hold meetings at a time and place as the chairperson may direct upon at least 10 days written notice to all parties; (4) to negotiate and recommend to the purchaser and seller conditions for settlement of the complaint; (5) to present at an administrative hearing results of the investigation of the complaint with recommendations to the purchaser and seller of conditions for settlement of the complaint; (6) to subpoena the purchaser and seller; (7) to require all records and information to be presented to the Council (duces tecum); (8) to enter upon the premises of the purchaser and seller to secure information and perform investigations under this Act; and (9) to recommend to the Director that an administrative hearing be held when the arbitration recommendation was not accepted by the purchaser and

seller.

25/45. Investigation and report of Council.

§45. Investigation and report of Council.

(a) Upon referral by the Review Committee of a complaint for investigation, the Council shall make a prompt and full investigation of the matters complained of, attempt to negotiate a settlement, and report its findings and recommendations to the Director.

(b) The report of the Council shall include its findings and recommendations as to damages and costs, if any.

(c) After the Council has made its report, the Director shall promptly transmit the report by certified mail to all parties.

25/50. Delegated investigation.

§50. Delegated investigation. The Council may delegate all or any part of an investigation to one or more of its members. A delegated investigation shall be summarized in writing and considered by the Council in its report.

25/55. Administrative hearing.

§55. Administrative hearing.

(a) The Department shall within 10 days of receipt of the Seed Arbitration Council's report and recommendation set a date for an administrative hearing to be held not less than 30 days after receiving the Council's report and recommendation.

(b) The Department at the administrative hearing shall present the Council's report and recommendation for the record. The purchaser and seller may present any testimony and evidence pertinent to the complaint. The hearing officer shall issue an order within 30 days from the conclusion of the hearing. The hearing officer's decision is the final decision and terminates arbitration.

25/60. Failure of parties to participate in proceedings.

§60. Failure of parties to participate in proceedings. Failure of the parties to participate in the proceedings as set forth in this Act shall not constitute a defense in any court proceedings. The Council, based upon its investigation and findings, shall issue a report concerning the complaint that is admissible as evidence in any court proceedings.

25/65. Legal representation.

§65. Legal representation. Any party may be represented by legal council at all proceedings as set forth in accordance with

this Act.

25/70. Arbitration.

§70. Arbitration. Participation in the arbitration proceedings is required by all parties, but the arbitration findings are non-binding.

25/75. Inapplicability of Uniform Arbitration Act and Health Care Arbitration Act.

§75. Inapplicability of Uniform Arbitration Act¹ and Health Care Arbitration Act.² Claims to which this Act applies are not subject to the Uniform Arbitration Act or the Health Care Arbitration Act.

¹ 710 ILCS 5/1 et seq.

² 710 ILCS 15/1 et seq.

25/80. Rules.

§80. Rules. The Department may adopt rules for the enforcement of this Act.