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# HOUSE BILL No. 1119

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-4-13.

**Synopsis:** Seed contracts. Provides that a contract for the delivery of seed in Indiana or seed intended to be grown in Indiana is considered to contain certain provisions relating to: (1) the law under which the contract is interpreted; (2) rights of the parties to the contract to inspect crops grown from the seed and other plants on the farmer's property; (3) certain property rights relating to the seed; and (4) litigation under the contract or property rights in the seed. Provides a farmer a cause of action against a seed supplier that takes certain actions relating to a seed contract that violates the statute. Provides that the statute does not apply to a seed contract entered into before January 1, 2003, or to a seed production contract.

**Effective:** Upon passage.

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### Grubb, Friend

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January 8, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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# HOUSE BILL No. 1119



A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-4-13 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 13. Seed Contracts**

5 **Sec. 1. (a) Except as provided in section 2 of this chapter, this**  
6 **chapter applies to a seed contract for seed that is planted in**  
7 **Indiana.**

8 **(b) Other applicable Indiana law not in conflict with this**  
9 **chapter applies to a seed contract.**

10 **Sec. 2. This chapter does not apply to either of the following:**

- 11 **(1) A seed contract entered into before January 1, 2003.**
- 12 **(2) A production contract.**

13 **Sec. 3. As used in this chapter, "production contract" refers to**  
14 **any of the following:**

- 15 **(1) A contract for seed to be grown to develop new plant**  
16 **varieties for research.**
- 17 **(2) A contract to produce seed for a party to the contract who**



intends to resell the seed produced under the contract.

Sec. 4. As used in this chapter, "seed" refers to agricultural seed or vegetable seed (as defined in IC 15-4-1-3) used to grow a commercial agricultural or a commercial vegetable crop.

Sec. 5. (a) As used in this chapter, "seed contract" refers to the bargain of the parties in fact as found:

(1) in their language; or

(2) by implication from other circumstances, including course of dealing, usage of trade, or course of performance;

under which a farmer acquires the right to plant and grow the seed.

(b) The term does not include a production contract.

Sec. 6. As used in this chapter, "seed supplier" refers to any person who has rights under a seed contract other than the farmer.

Sec. 7. (a) The provisions of this chapter are considered to be a part of a seed contract regardless of whether the contract is oral or in writing.

(b) A written seed contract is not required to contain or restate any provision of this chapter.

(c) A bag or other container used by the seed supplier to deliver the seed to the farmer is not required to have a label or any other writing on the bag or container containing or restating any provision of this chapter. A label or any other writing on a seed bag or container not inconsistent with this chapter does not violate this chapter.

Sec. 8. A provision of a seed contract in conflict with this chapter is void.

Sec. 9. A provision of a seed contract that purports to waive a provision of this chapter is void.

Sec. 10. A seed contract is governed by the laws of Indiana.

Sec. 11. A provision in a seed contract providing confidentiality for the terms of the seed contract is void.

Sec. 12. (a) As used in this section, "commissioner" refers to the state seed commissioner designated under IC 15-4-1-2.

(b) A seed contract may not give or be interpreted to give a seed supplier or an agent of a seed supplier the right to enter real property owned or occupied by the farmer to acquire samples of the crop grown from the seed or any other plant growing on the real property unless all of the following apply:

(1) The seed supplier gives written notice to the farmer and the commissioner of the seed supplier's intent to enter the real property. The notice must be given not later than five (5)

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1           **business days before the day the seed supplier or the seed**  
 2           **supplier's agent enters the real property. The notice must**  
 3           **include the following information:**

4           **(A) The date and time of the entry upon the land.**

5           **(B) The purpose for the entry upon the land.**

6           **(2) The seed supplier must permit the farmer, the**  
 7           **commissioner, or the agents of the farmer or the**  
 8           **commissioner to accompany the seed supplier or the seed**  
 9           **supplier's agent while samples are taken.**

10           **(3) The seed supplier must permit the farmer, the**  
 11           **commissioner, or the agents of the farmer or the**  
 12           **commissioner to take matching samples or receive split**  
 13           **samples of any samples taken by the seed supplier.**

14           **(4) The seed supplier must provide reasonable cooperation to**  
 15           **the farmer, the commissioner, or the agents of the farmer or**  
 16           **the commissioner during the course of activities described in**  
 17           **subdivisions (2) and (3).**

18           **(c) If the commissioner or an agent of the commissioner**  
 19           **accompanies the seed supplier on the real property to take samples**  
 20           **under this section, the seed supplier and the farmer shall each pay**  
 21           **fifty percent (50%) of the reasonable costs incurred by the**  
 22           **commissioner or the commissioner's agent, as determined by the**  
 23           **commissioner, in connection with such activities.**

24           **(d) A seed supplier may obtain an order from a court with**  
 25           **jurisdiction authorizing the seed supplier or the seed supplier's**  
 26           **agent to enter real estate owned or occupied by a farmer where**  
 27           **seed that is the subject of a seed contract is growing. However, if**  
 28           **the court issues such an order, the order must require that if any**  
 29           **samples are taken, matching or split samples must be taken by a**  
 30           **person who is independent from the seed supplier.**

31           **(e) The commissioner of agriculture may adopt rules under**  
 32           **IC 4-22-2 to implement this section.**

33           **Sec. 13. A farmer is not liable for breach of the seed contract or**  
 34           **breach of any of the seed supplier's property rights when a product**  
 35           **in which the seed supplier has rights is possessed by the farmer or**  
 36           **is found on real property owned or occupied by the farmer under**  
 37           **any of the following circumstances:**

38           **(1) Under the seed contract.**

39           **(2) Because of natural contamination or any other**  
 40           **circumstance unintended by the farmer and when the farmer**  
 41           **did not obtain financial benefit from possession of the**  
 42           **product.**

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1           **Sec. 14. (a)** A seed contract may not contain a provision under  
 2 which the farmer agrees to jurisdiction and venue of any named  
 3 courts to adjudicate disputes arising under the seed contract or  
 4 concerning any of the seed supplier's property rights in the seed.

5           **(b)** Jurisdiction and venue shall be determined as provided in  
 6 applicable general law and the applicable federal or state rules of  
 7 civil procedure.

8           **Sec. 15. (a)** As used in this section, "suit" refers to a suit on the  
 9 seed contract or a suit to enforce any of the seed supplier's  
 10 property rights in the seed.

11           **(b)** If a seed supplier files suit against a farmer, all of the  
 12 following apply:

13           **(1)** The seed supplier shall provide simultaneous written  
 14 notice of the suit to the commissioner of agriculture.

15           **(2)** If the farmer substantially prevails in the action or if the  
 16 suit is dismissed, the seed supplier is liable to the farmer for  
 17 all reasonable attorney's fees and other reasonable litigation  
 18 costs. However, this subdivision does not apply in either of the  
 19 following cases:

20           **(A)** All parties to the suit consent to dismissal of the suit.

21           **(B)** All parties to the suit enter into an agreement to settle  
 22 the suit.

23           **(c)** Failure to give notice of the suit to the commissioner of  
 24 agriculture as provided in subsection (b) does not impair the  
 25 jurisdiction of the court to hear the suit.

26           **(d)** A seed supplier that fails to give notice to the commissioner  
 27 of agriculture as provided in subsection (b) commits a Class B  
 28 infraction.

29           **(e)** The commissioner of agriculture shall keep a file of all  
 30 notices of suits received under this section.

31           **Sec. 16. (a)** This section does not apply to a dispute between seed  
 32 suppliers that does not involve a farmer.

33           **(b)** A farmer has a right of action against a seed supplier if any  
 34 of the following apply:

35           **(1)** The seed supplier or an agent of the seed supplier enters  
 36 real property owned or occupied by the farmer in violation of  
 37 section 12 of this chapter.

38           **(2)** The seed supplier attempts to enforce contract rights or  
 39 any property rights in seed provided under a seed contract  
 40 that violates this chapter.

41           **(c)** If a farmer prevails in an action filed under this section, the  
 42 farmer may obtain all the following:

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- 1           **(1) An amount equal to any judgment obtained by the seed**
- 2           **supplier against the farmer in an action for:**
- 3                 **(A) breach of contract; or**
- 4                 **(B) violation of any of the seed supplier's property rights.**
- 5           **(2) Any other actual damages proven by the farmer.**
- 6           **(3) Reasonable attorney's fees and all other reasonable**
- 7           **litigation costs.**
- 8           **SECTION 2. An emergency is declared for this act.**

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