

By: Swinford

H.B. No. 1398

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures for arbitration of seed performance
3 disputes.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 64.002(a), Agriculture Code, is amended
6 to read as follows:

7 (a) When a purchaser of seed designed for planting claims to
8 have been damaged by the failure of the seed to produce or perform
9 as represented by warranty or by the label required to be attached
10 to the seed under this subtitle or as a result of negligence, the
11 purchaser must submit the claim to arbitration as provided by this
12 chapter not later than the 10th day after the date on which the
13 purchaser discovered or reasonably should have discovered the
14 defect as a prerequisite to the exercise of the purchaser's right to
15 maintain a legal action against the labeler [~~as defined by Section~~
16 ~~19.9, Texas Administrative Code (4 TAC Sec. 19.9),~~] or any other
17 seller of the seed.

18 SECTION 2. Section 64.004, Agriculture Code, is amended to
19 read as follows:

20 Sec. 64.004. EFFECT OF ARBITRATION. In any litigation
21 involving a complaint that has been the subject of arbitration
22 under this chapter, any party may introduce the report of
23 arbitration as evidence of the facts found in the report, and the
24 court may give such weight to the arbitration board's findings of

1 fact, conclusions of law, and recommendations as to damages and
2 costs as the court determines advisable. The court may also take
3 into account any findings of the board of arbitration with respect
4 to the failure of any party to cooperate in the arbitration
5 proceedings, including [~~any finding as to the effect of delay in~~
6 ~~filing the arbitration claim or~~] the arbitration board's ability to
7 determine the facts of the case.

8 SECTION 3. Section 64.006(a), Agriculture Code, is amended
9 to read as follows:

10 (a) A purchaser may begin arbitration by filing with the
11 commissioner a sworn complaint and a filing fee, as provided by
12 department rule. The purchaser shall send a copy of the complaint
13 to the seller by certified mail. [~~Except in the case of seed that~~
14 ~~has not been planted, the complaint must be filed within the time~~
15 ~~necessary to permit effective inspection of the plants under field~~
16 ~~conditions.]~~

17 SECTION 4. Chapter 64, Agriculture Code, is amended by
18 adding Section 64.0065 to read as follows:

19 Sec. 64.0065. EFFECT OF NONCOMPLIANCE. (a) The
20 arbitration board may dismiss a purchaser's claim to arbitration if
21 the purchaser fails to submit the claim within the period
22 prescribed by Section 64.002(a).

23 (b) A court does not have jurisdiction to hear a claim
24 dismissed by the board under this section.

25 SECTION 5. Section 64.002(a), Agriculture Code, as amended
26 by this Act, applies only to a claim to arbitration received by the
27 board of arbitration on or after September 1, 2003.

1 SECTION 6. This Act takes effect September 1, 2003.

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COMMITTEE AMENDMENT NO. 1

Amend H.B. 1398 by:

On page 2, line 19, strike "(a)"

On page 2, line 23-24, strike "(b) a court does not have the
jurisdiction to hear a claim dismissed by the board under this
section."

Hardcastle