

## **BILL ANALYSIS**

C.S.H.B. 338  
By: Burrows  
Agriculture & Livestock  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Informed observers note that the practice of agriculture and the related industry can be unpredictable and that farmers and producers are often unable to accurately predict crop yields, which has led to certain acreage contract disputes pitting large multinational agricultural product buyers with dedicated litigation budgets against much smaller producers and farmers. C.S.H.B. 338 seeks to avoid these disputes by providing for a contract type disclosure for the purchase of an agricultural product.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 338 amends the Agriculture Code to require a contract between a producer and a purchaser regarding an agricultural product to clearly and conspicuously state on its face that it is an acreage contract or a quantity contract, as applicable. The bill defines "acreage contract" as a contract that requires a producer to deliver to a purchaser all of the production of a specified agricultural product grown on land described in the contract, unless clearly and conspicuously stated otherwise in the contract's language, and expressly excludes from the term a contract that requires a producer to deliver a specified quantity of an agricultural product. The bill defines "quantity contract" as a contract that requires a producer to deliver to a purchaser a specified quantity of an agricultural product, regardless of the amount of the product grown by the producer. The bill prohibits a purchaser from filing suit against a producer under an acreage contract unless the producer knowingly fails to deliver to the purchaser all of an agricultural product grown on specified land as provided by the acreage contract.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 338 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. This Act may be cited as the Producer Protection Act.

SECTION 2. Subtitle D, Title 5, Agriculture Code, is amended by adding Chapter 104 to read as follows:

CHAPTER 104. ACREAGE CONTRACTS AND QUANTITY CONTRACTS

Sec. 104.001. DEFINITIONS. In this chapter:

(1) "Acreage contract" means a contract that requires a producer to deliver to a purchaser all of the production of a specified agricultural product grown on land described in the contract.

The term does not include a contract that requires a producer to deliver a specified quantity of an agricultural product.

(2) "Producer" means a person who produces an agricultural product and sells the product under an acreage contract or a quantity contract.

(3) "Purchaser" means a person who purchases an agricultural product under an acreage contract or a quantity contract.

(4) "Quantity contract" means a contract that requires a producer to deliver to a purchaser a specified quantity of an agricultural product, regardless of the amount of the product grown by the producer.

Sec. 104.002. CONTRACT TYPE DISCLOSURE.

Sec. 104.003. PRODUCER'S ESTIMATE FOR ACREAGE CONTRACT; PREREQUISITE TO SUIT BY PURCHASER. (a) A purchaser may request from a producer information supporting the producer's estimate of production under an acreage contract.

(b) A purchaser may not file suit against a producer based on inaccuracies in the producer's estimate of production under an acreage contract unless the purchaser makes a written request for information under Subsection (a) not later than the 30th day after the date the acreage contract is executed.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Subtitle D, Title 5, Agriculture Code, is amended by adding Chapter 104 to read as follows:

CHAPTER 104. ACREAGE CONTRACTS AND QUANTITY CONTRACTS

Sec. 104.001. DEFINITIONS. In this chapter:

(1) "Acreage contract" means a contract that requires a producer to deliver to a purchaser all of the production of a specified agricultural product grown on land described in the contract, unless clearly and conspicuously stated otherwise in the contract's language. The term does not include a contract that requires a producer to deliver a specified quantity of an agricultural product.

(2) "Producer" means a person who produces an agricultural product and sells the product under an acreage contract or a quantity contract.

(3) "Purchaser" means a person who purchases an agricultural product under an acreage contract or a quantity contract.

(4) "Quantity contract" means a contract that requires a producer to deliver to a purchaser a specified quantity of an agricultural product, regardless of the amount of the product grown by the producer.

Sec. 104.002. CONTRACT TYPE DISCLOSURE.

Sec. 104.003. SUIT BY PURCHASER UNDER ACREAGE CONTRACT.

A purchaser may not file suit against a producer under an acreage contract unless the producer knowingly fails to deliver to the purchaser all of an agricultural product grown on specified land as provided by the acreage contract.

SECTION 3. Chapter 104, Agriculture Code, as added by this Act, applies only to a contract executed on or after the effective date of this Act. A contract executed before the effective date of this Act is governed by the law in effect when the contract was executed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.