

# Enrolled House Bill 3964

Sponsored by Representative KROPF

CHAPTER .....

AN ACT

Relating to agricultural seed; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. As used in this section and section 2 of this 2001 Act:**

**(1) "Final payment date" means a date specified in a seed production or purchase contract by which the wholesale seed dealer must complete payment to the seed grower or, if a date is not specified in the contract, May 1 of the year following production and harvesting of the grass or clover seed.**

**(2) "Seed delivery" means the date on which the seed grower delivers grass or clover seed to the wholesale seed dealer pursuant to a notice from the dealer.**

**(3) "Seed production or purchase contract" means a written agreement that must include:**

- (a) The estimated date for seed delivery;**
- (b) The terms and estimated dates for the wholesale seed dealer to pay the seed grower;**
- (c) The number of acres of grass or clover seed to be grown; and**
- (d) The species, cultivars and quality standards of the grass or clover seed to be produced or purchased.**

**SECTION 2. (1) A seed production or purchase contract must require the wholesale seed dealer to make payment to the seed grower within 30 days after seed delivery. Upon written mutual agreement of the seed grower and the wholesale seed dealer, the grower may extend the period available for the dealer to make payment.**

**(2) If a licensed wholesale seed dealer fails to pay a seed grower as required pursuant to subsection (1) of this section, the grower may notify the State Department of Agriculture. Upon notification by a grower, the department shall determine whether payment has been made in accordance with terms of the contract. If the department determines that payment has not been made, the department shall notify the wholesale seed dealer in writing that the dealer has 30 days to pay the seed grower all delinquent amounts plus interest on each delinquent amount at the rate of one percent per month simple interest from the final payment date for that delinquent amount.**

**(3) A seed production or purchase contract may not vary the terms of the remedy provided by subsection (2) of this section. A wholesale seed dealer may appeal the notice given by the department under subsection (2) of this section as provided in ORS 183.310 to 183.550. Subsection (2) of this section does not prevent a seed grower from filing a notice of lien against a wholesale seed dealer.**

(4) If a wholesale seed dealer fails to make payment as required by a notice given by the department under subsection (2) of this section, the department shall suspend the license of the dealer until the dealer demonstrates to the satisfaction of the department that the dealer is current on all payments due to seed growers.

(5) A wholesale seed dealer who fails to make payment as required by a notice given by the department under subsection (2) of this section is considered to have authorized the seed grower to sell any seed from the contract that is still in the possession of the grower and to use the variety as provided under the federal Plant Variety Protection Act, 7 U.S.C. 2541(b), subject to a right of first refusal by the owner of a protected variety. This subsection does not prevent a wholesale seed dealer from giving consent to the seed grower by other means and does not supersede the terms of a consent given by other means.

**SECTION 3.** Section 2 of this 2001 Act applies to seed production or purchase contracts entered into on or after the effective date of this 2001 Act.

**SECTION 4.** This 2001 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2001 Act takes effect on its passage.

Passed by House April 27, 2001

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Chief Clerk of House

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Speaker of House

Passed by Senate May 11, 2001

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President of Senate

Received by Governor:

.....M.,....., 2001

Approved:

.....M.,....., 2001

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2001

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Secretary of State