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To: Agriculture

HOUSE BILL NO. 1444
(As Passed the House)

1 AN ACT TO CREATE THE "MISSISSIPPI POULTRY FAIR PRACTICES
2 ACT"; TO PROVIDE DEFINITIONS; TO PROVIDE PROHIBITIONS AND
3 REQUIREMENTS FOR PROCESSORS AND PRODUCERS; TO CREATE THE
4 MISSISSIPPI POULTRY INDUSTRY RESOLUTIONS BOARD WHICH SHALL
5 PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF
6 THIS ACT; TO PROVIDE PENALTIES FOR VIOLATIONS; AND FOR RELATED
7 PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. The Legislature finds that the production of
10 poultry constitutes an important and significant portion of the
11 state's economy and that it is beneficial to the citizens of this
12 state to protect the vitality of this enterprise.

13 SECTION 2. For the purposes of this section, the following
14 words and phrases shall have the meanings ascribed herein:

15 (a) "Producer" means any person engaged in the business
16 of raising or caring for live poultry under a poultry-growing
17 arrangement, whether the poultry is owned by such person or by
18 another.

19 (b) "Poultry" means any domesticated bird, whether live
20 or dead, and includes laying hens, broiler breeding hens, broiler
21 breeder pullets, commercial egg hens, commercial egg pullets,
22 broilers, roasters, turkey hens, turkey toms and ducks.

23 (c) "Poultry products" means eggs, poultry carcasses,
24 poultry by-products or any part thereof.

25 (d) "Processor" means any person engaged in the
26 business of obtaining live poultry or poultry products by purchase
27 or under a poultry-growing arrangement for the purpose of
28 slaughter by such person or by another, or any person engaged in

29 the business of obtaining poultry eggs or the care of live poultry
30 under a poultry-growing arrangement.

31 (e) "Poultry-growing arrangement" means any grow-out
32 contract, marketing agreement or other arrangement under which a
33 poultry producer raises or cares for live poultry or poultry
34 products in accord with another's instructions.

35 SECTION 3. (1) No processor or producer shall engage in any
36 unfair, unjustly discriminatory or deceptive act or practice as
37 defined in this act in connection with any poultry or
38 poultry-growing contract.

39 (2) Unfair, unjustly discriminatory or deceptive acts and
40 practices include, but are not limited to, the following, each of
41 which is declared to be a violation of this act:

42 (a) A processor's using coercion, intimidation, the
43 threat of retaliation or the threat of contract termination or
44 cancellation to impose, demand, compel or dictate the terms,
45 payment or manner of payment or the signing of a contract by a
46 producer;

47 (b) A processor's canceling a producer's contract based
48 solely upon his ranking as it compares to the other producers;

49 (c) Any act or omission prohibited by the Packers and
50 Stockyards Act, 7 USCS Section 181 et seq., or the rules and
51 regulations promulgated thereunder.

52 SECTION 4. All contracts shall be entered into with a sense
53 of fairness, and there is an implied promise of good faith as
54 defined in Section 75-1-201(19) by all parties in any poultry or
55 poultry products contract between a processor and a producer.

56 SECTION 5. (1) There is created the Mississippi Poultry
57 Industry Resolutions Board. The board shall be composed of one
58 (1) member appointed by the Governor who has agricultural
59 interests and who is neither a producer nor a processor and whose
60 initial term is six (6) years; one (1) member appointed by the
61 Lieutenant Governor who has agricultural interests and who is
62 neither a producer nor a processor and whose initial term is four
63 (4) years; the Commissioner of Agriculture and Commerce; one (1)
64 processor, or his designee, appointed by the Governor and whose
65 initial term is two (2) years; and one (1) producer appointed by

66 the Lieutenant Governor and whose initial term is two (2) years.
67 After the initial appointments, each appointed member of the board
68 shall serve a term of four (4) years. Any person who is a party
69 to a poultry-growing arrangement may file a claim for resolution
70 of any dispute pertaining to the poultry-growing arrangement with
71 the Department of Agriculture and Commerce that may refer the
72 claim for resolution to the board. The board shall promulgate
73 rules and regulations to implement the provisions of this act and
74 shall operate in accordance with the Administrative Procedures
75 Law. The board shall determine the meaning of the term "fair
76 practices" under this act. If it is determined by a majority of
77 the board that there is substantial evidence showing that a
78 violation of this act has occurred, the commissioner, upon
79 recommendation of the board, may levy a civil penalty in an amount
80 not to exceed Five Thousand Dollars (\$5,000.00) for each
81 violation. The decision of the board shall be in writing, and it
82 shall be delivered to the accused by certified mail. If any cost,
83 fees or penalties assessed hereunder have not been paid, they may
84 be collected through the court system. All fees, costs and
85 penalties collected by the commissioner shall be placed in the
86 State General Fund.

87 (2) Either party may appeal the decision of the board to the
88 circuit court of the First Judicial District of Hinds County,
89 Mississippi. The appellant shall have the obligation of having
90 the record transcribed and filing same with the circuit court.
91 The appeal shall otherwise be governed by all applicable laws and
92 rules affecting appeals to circuit court. If no appeal is
93 perfected within the required time, the decision of the board
94 shall then become final.

95 (3) The decision of the circuit court may then be appealed
96 by either party to the Mississippi Supreme Court in accordance
97 with the existing law and rules affecting such appeals.

98 SECTION 6. This act shall take effect and be in force from

99 and after its passage and shall stand repealed on July 1, 2003.