

IC 15-15-7

Chapter 7. Inspections Under Seed Contracts

IC 15-15-7-1

Application; applicable law

Sec. 1. (a) Except as provided in section 2 of this chapter, this chapter applies to the inspection of:

- (1) seed; and
- (2) the crop growing from seed;

by a seed supplier under the seed supplier's rights in a seed contract.

(b) Other applicable Indiana law not in conflict with this chapter applies to a seed supplier inspecting:

- (1) seed; and
- (2) the crop growing from seed;

under the seed supplier's rights in a seed contract.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-2

Application to production contract

Sec. 2. This chapter does not apply to an inspection by a seed supplier under a production contract.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-3

"Farmer"

Sec. 3. As used in this chapter, "farmer" refers to a person who is engaged in commercial farming and who plants seed in Indiana under a seed contract to grow a commercial crop.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-4

"Production contract"

Sec. 4. As used in this chapter, "production contract" refers to any of the following:

- (1) A contract to grow seed for demonstration purposes.
- (2) A contract to grow seed for research purposes.
- (3) A contract to grow seed under which the seed supplier:
 - (A) retains title to the crop or a product from the crop; or
 - (B) has the right or obligation to purchase, receive, or direct the disposition of the crop or a product from the crop.
- (4) A contract to grow seed in connection with an identity preserved crop program.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-5

"Seed"

Sec. 5. As used in this chapter, "seed" refers to agricultural seed (as defined in IC 15-15-1-2) or vegetable seed (as defined in

IC 15-15-1-24) used to grow a commercial agricultural or a commercial vegetable crop.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-6

"Seed contract"

Sec. 6. As used in this chapter, "seed contract" refers to a written contract between a seed supplier and a farmer that a farmer must sign to obtain the seed or the right to plant the seed.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-7

"Seed supplier"

Sec. 7. As used in this chapter, "seed supplier" refers to a person engaged in commercial production or supply of either of the following:

(1) Seed.

(2) Technology genetically engineered into seed.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-8

Unenforceable seed contract provisions; conflict with law

Sec. 8. A provision of a seed contract in conflict with this chapter is unenforceable against a farmer.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-9

Unenforceable seed contract provisions; waiver of law

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

As added by P.L.2-2008, SEC.6.

IC 15-15-7-10

Inspection under seed contract; procedure; court order; rules

Sec. 10. (a) As used in this section, "commissioner" refers to the state seed commissioner.

(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) business days before the day the seed supplier or the seed supplier's agent enters the real property. The notice must include the following information:

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

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

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

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

(c) The seed supplier must provide reasonable cooperation to the farmer, the commissioner, or the agents of the farmer or the commissioner during the course of activities described in subsection (b)(2) and (b)(3).

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

(e) In an action on the seed contract between the seed supplier and the farmer, the prevailing party may recover the costs that the prevailing party paid under subsection (d) in addition to any other damages to which the prevailing party is entitled.

(f) A seed supplier may obtain an order from a court with jurisdiction authorizing the seed supplier or the seed supplier's agent to enter real estate owned or occupied by a farmer and on which seed that is the subject of a seed contract is growing. If the court issues an order, the order must require that if any samples are taken, matching or split samples must be taken by a person who is independent from the seed supplier.

(g) The commissioner may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.2-2008, SEC.6.

IC 15-15-7-11

Notice of seed contract suit; violations

Sec. 11. (a) As used in this section, "suit" refers to a suit commenced against a farmer by a seed supplier to enforce the seed supplier's rights under, or in connection with, a seed contract.

(b) If a seed supplier files suit against a farmer, the seed supplier shall provide simultaneous written notice of the suit to the director of the Indiana state department of agriculture.

(c) Failure to give notice of the suit to the director of the Indiana state department of agriculture as provided in subsection (b) does not impair the jurisdiction of the court to hear the suit.

(d) A seed supplier that fails to give notice to the director of the Indiana state department of agriculture as provided in subsection (b) commits a Class B infraction.

(e) The director of the Indiana state department of agriculture shall keep a file of all notices of suits received under this section.

As added by P.L.2-2008, SEC.6. Amended by P.L.120-2008, SEC.49.

IC 15-15-7-12

Farmer right of action for violations; damages; attorney's fees

Sec. 12. (a) A farmer has a right of action against a seed supplier if the seed supplier or an agent of the seed supplier enters real property owned or occupied by the farmer in violation of section 10 of this chapter.

(b) If a farmer prevails in an action filed under this section, the farmer is entitled to recover from the seed supplier all the following:

- (1) Any actual damages proven by the farmer resulting from the seed supplier's violation of section 10 of this chapter.
- (2) The farmer's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

As added by P.L.2-2008, SEC.6.