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Read between the lines of contract farming bill

WEST LAFAYETTE, Ind. – Legislation protecting farmers from confusing grain and livestock contracts is being bandied about in Congress and state capitals across the country. While well-intentioned, the proposals may not help producers understand contracts and their implications, said Michael Boehlje, a Purdue University agricultural economist.

"The best arrangements are those entered into by the well-informed," Boehlje said. "But even the most complete contracts are incomplete. There are always gray areas."

Model legislation, known as the Producer Protection Act, was crafted by Iowa Attorney General Tom Miller and attorneys general in 15 other agricultural states, including former Indiana Attorney General Karen Freeman-Wilson.

A few states in the Western Corn Belt have enacted parts of the model legislation. A producer protection bill was introduced in the U.S. Senate last year but failed to gain a floor vote.

The Producer Protection Act aims to preserve competition in the agriculture industry by clearing up complex language in grain and livestock contracts. It also addresses what the attorneys general call a "great disparity" in bargaining power between farmers and contractor companies, such as meat packers and grain processors.

Among the act's key provisions:

- Requires contracts be written in plain language and contain disclosure of material risks.
- Allows producers a three-day cancellation period to review production contracts.
- Provides producers a first-priority lien for payment, should the contractor company go out of business.

- Prohibits contractor companies from terminating producer contracts at will or in retribution if producers already have made sizable capital investments as required by the contracts.
- Bans "tournament contracts," which base producer compensation, in part, on the productivity of other farmers.

The Producer Protection Act leaves many issues unresolved, Boehlje said. The model legislation may be written too broadly to correct production contract problems, and may even encourage contractor companies to get into direct production, he said.

"An issue that must be considered in any legislation concerning the provisions surrounding contracting is that it is virtually impossible to write a long-term contract that will meet all contingencies," Boehlje said. "Because of this, contracts must be flexible and based on trust."

Boehlje said producer protection laws could have the unintended effect of driving farm production from states with such laws to states or nations with fewer producer contract rules.

"Binding regulation at the federal level could result in a movement of an industry to Canada, Latin America, Asia or Australia," he said. "Are the benefits of contract regulation worth the risk of losing the economic and employment benefits of these industries?"

Another possible consequence is the accelerated consolidation of businesses in agriculture, Boehlje said. Some contractor companies may decide to drop their producer networks and raise the crops and livestock themselves. The pork and poultry industries are especially vulnerable to consolidation, he said.

"If we move down this road of rhetoric of 'protecting the independent family farm,' you may find you've created a set of incentives for packers to build their own hog barns," Boehlje said. "Then you've accomplished what you set out to avoid: putting the independent producer out of business."

Boehlje said current laws may provide more producer protection than commonly believed, and that fine-tuning existing statutes may be enough.

"Whether or not this specific legislative proposal is

debated in the state legislature or in the U.S. Congress, concerns about the impacts of the trend to more contract production and vertical coordination in agriculture will abound in the future," Boehlje said.

Boehlje, Purdue agricultural economists Chris Hurt, Ken Foster and James Pritchett, and retired Purdue agricultural economist Lee Schrader have written a report on the model legislation. The report, "The Producer Protection Act – Will it Protect Producers?" appears in the current issue of the Purdue Agricultural Economics Report. The [report](#) can be downloaded online.

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