

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 874

Agriculture/Environment, and Natural Resources Committee Substitute Adopted 6/3/97

Short Title: Resolution of Seed Claims.

(Public)

Sponsors:

Referred to: Finance.

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE INVESTIGATION AND RESOLUTION OF
3 CLAIMS RESULTING FROM DEFECTIVE SEED.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 106-277.29 is repealed.

6 Section 2. Article 31 of Chapter 106 of the General Statutes is amended by
7 adding the following new sections:

8 "**§ 106-277.30. Filing complaint; investigation; referral to Seed Board.**

9 (a) Complaint by Buyer. – When a buyer believes that he or she has suffered
10 damages due to the failure of agricultural or vegetable seed to produce or perform as
11 labeled or as warranted, the buyer may make a sworn complaint against the dealer from
12 whom the seeds were purchased, alleging the damages sustained or to be sustained, and
13 file the complaint with the Commissioner of Agriculture within such time as to permit
14 inspection of the seed, crops, or plants. The buyer shall send a copy of the complaint to
15 the dealer by registered mail. A filing fee of one hundred dollars (\$100.00) shall be paid
16 to the Commissioner of Agriculture with each complaint filed. This fee may be used by
17 the Commissioner to offset the expenses of the Seed Board incurred under G.S. 106-
18 277.32. Within 10 days after receipt of a copy of the complaint, the dealer may file an

1 answer to the complaint and, in that event, shall send a copy to the buyer by registered
2 mail.

3 (b) Investigation Requested by Seed Dealer. – Any seed dealer who has received
4 notice, either orally or in writing, that a buyer believes that he or she has suffered damage
5 due to the failure of agricultural or vegetable seed sold by the dealer to perform as labeled
6 or as warranted, may request an investigation by the Seed Board pursuant to G.S. 106-
7 277.32. A filing fee of one hundred dollars (\$100.00) shall be paid to the Department of
8 Agriculture by the party requesting the investigation. The dealer shall send a copy of the
9 request to the buyer by registered mail. The buyer may file a response to the request with
10 the Commissioner within 10 days of receipt of the request for an investigation.

11 (c) Referral to Seed Board. – The Commissioner of Agriculture shall refer the
12 complaint or request for investigation to the Seed Board to investigate and make findings
13 and recommendations on the matters complained of pursuant to G.S. 106-277.32.

14 **"§ 106-277.31. Notice required.**

15 Seed dealers shall legibly print or type on each seed container or affix a label on each
16 seed container a notice in the following form or using reasonably equivalent language:

17 **'NOTICE OF CLAIMS PROCEDURE FOR DEFECTIVE SEED**

18 North Carolina provides an opportunity for persons who believe that they have
19 suffered damage from the failure of agriculture or vegetable seeds to perform as labeled
20 or warranted to have the matter investigated and heard before a special seed board as an
21 alternative to filing a court action. To take advantage of this procedure, a purchaser of
22 seed must file a complaint with the North Carolina Commissioner of Agriculture in time
23 for the seed, crop, or plants to be inspected. Please contact the Commissioner of
24 Agriculture for information about this claims procedure.'

25 **"§ 106-277.32. Seed Board created; membership; duties.**

26 (a) The Commissioner of Agriculture shall appoint a Seed Board composed of five
27 members, three of whom shall be appointed upon the recommendation of the following:
28 Director of the Agricultural Research Service, North Carolina State University; Director
29 of the North Carolina Cooperative Extension Service, North Carolina State University;
30 and President of the North Carolina Seedsmen's Association. The other two members
31 shall include: one farmer who is not connected in any way to selling seeds at retail or
32 wholesale and one employee of the Department of Agriculture. An alternate for each
33 member shall also be appointed in the same manner as that member was appointed to
34 serve whenever that member is unable or unwilling to serve. Each member of the Board
35 shall serve until replaced by the Commissioner of Agriculture. The Board shall elect a
36 chairperson. The chairperson shall conduct all meetings and deliberations and direct all
37 other activities of the Board.

38 (b) A clerk shall be appointed to serve the Board. The clerk shall be an employee
39 of the Department of Agriculture. The clerk shall keep accurate and correct records of all
40 meetings and deliberations and perform other duties for the Board as directed by the
41 chairperson.

1 (c) The Department shall provide administrative support for the investigation
2 under this section. The Board shall adopt rules to govern investigations and hearings. A
3 copy of the rules shall be mailed to each party to a dispute upon receipt of a complaint.

4 (d) Members of the Board appointed by the Commissioner who are not
5 governmental employees shall be entitled to receive reimbursement for necessary travel
6 and subsistence expenses pursuant to G.S. 138-5. Members of the Board who are State
7 employees shall be entitled to receive reimbursement for necessary travel and subsistence
8 expenses pursuant to G.S. 138-6.

9 (e) The Attorney General shall represent the Board in any and all legal
10 proceedings that may arise concerning or against the Board.

11 **"§ 106-277.33. Duties of Seed Board.**

12 (a) In conducting its investigation of claims referred by the Commissioner of
13 Agriculture, the Seed Board may engage in the following activities:

14 (1) Examine the buyer regarding the buyer's use of the seed of which the
15 buyer complains and examine the seed dealer on the dealer's packaging,
16 labeling, and selling of the seed alleged to be faulty.

17 (2) Grow a representative sample of the alleged faulty seed to production
18 when such action is deemed by the Board to be necessary.

19 (3) Hold informal hearings at a time and place directed by the chairperson
20 upon reasonable notice to the buyer and the seed dealer.

21 (4) Seek evaluations from authorities in allied disciplines, when deemed
22 necessary by the Board.

23 (5) Visit and inspect the affected site and take samples, make plant counts,
24 and take pictures of affected and unaffected areas.

25 (b) The Board shall keep a record of its activities and reports on file in the
26 Department of Agriculture. The Department shall transmit all findings and
27 recommendations to the buyer and to the seed dealer within 30 days of completion of the
28 investigation.

29 (c) No investigation shall be made by less than the whole membership of the
30 Board unless the chairperson directs such investigation in writing. Such investigation
31 shall be summarized in writing and considered by the Board in reporting its findings and
32 making its recommendations.

33 (d) The report of the investigation and the recommendations of the Seed Board
34 shall be binding upon all parties to the extent, if any, that they have so agreed in writing
35 subsequent to the filing of the complaint pursuant to G.S. 106-277.30.

36 **"§ 106-277.34. Actions regarding defective seed claims; evidence.**

37 In any action involving a complaint that has been the subject of an investigation under
38 G.S. 106-277.32, any party may introduce evidence of seed quality, cultivation practices
39 and procedures, and scientific opinion contained in the report of the Seed Board.
40 Statements of the parties and recommendations of the Seed Board as resolution of the
41 dispute are not admissible as evidence unless such evidence is otherwise discoverable."

42 Section 3. The Cooperative Extension Service shall make information about
43 the alternative claims procedure set forth in this act available to the farmers of the State.

1 Among the means used to disseminate information about the program, the Cooperative
2 Extension Service may consider the publication of brochures, inclusion of the material in
3 relevant continuing education programs, and through routine contacts with farmers by
4 county extension agents.

5 Section 4. There is appropriated from the General Fund to the Department of
6 Agriculture the sum of ten thousand dollars (\$10,000) for the 1997-98 fiscal year and the
7 sum of ten thousand dollars (\$10,000) for the 1998-99 fiscal year to be used to implement
8 and administer this act.

9 Section 5. This act becomes effective July 1, 1997.