

SENATE, No. 3838

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Allows commercial farmer to be awarded reasonable costs and attorney fees for defending against bad faith complaints under “Right to Farm Act”.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the filing of complaints about farming
2 activities, and supplementing P.L.1983, c.31 (C.4:1C-1 et seq.).
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
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7 1. A respondent who prevails in an action brought pursuant to
8 section 5 of P.L.1998, c.48 (C.4:1C-10.1) because the commercial
9 agricultural operation, activity or structure is found to be entitled to
10 the irrebuttable presumption established in section 7 of P.L.1983,
11 c.31 (C.4:1C-10) shall be awarded reasonable costs and attorney
12 fees to be paid by the complainant upon a determination supported
13 by a preponderance of the evidence that the complaint was brought
14 in bad faith.

15 A respondent seeking an award under this section shall submit an
16 application to the county board or committee detailing the costs and
17 attorney fees incurred in the defense of the complaint. If the county
18 board or committee finds that a preponderance of the evidence
19 supports a determination that the complaint was brought in bad
20 faith, the county board or committee shall determine if the costs and
21 attorney fees, or a portion thereof, are reasonable, and shall issue an
22 order requiring the complainant to pay the reasonable costs and
23 attorney fees.
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25 2. This act shall take effect immediately.
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28 STATEMENT 29

30 This bill would strengthen the legal protections provided to
31 farmers under the “Right to Farm Act.” Specifically, the bill would
32 allow farmers to recover reasonable costs and attorney fees incurred
33 in the defense of bad faith complaints against commercial
34 agricultural operations, activities or structures when a county
35 agriculture development board or the State Agriculture
36 Development Committee (SADC), as applicable:

37 1) finds the farmer is entitled to the irrebuttable presumption
38 established under the “Right to Farm Act”; and

39 2) determines, supported by a preponderance of the evidence,
40 that the complaint was brought in bad faith and all or a portion of
41 the costs and attorney fees are reasonable.

42 Under the “Right to Farm Act,” the established irrebuttable
43 presumption is that a commercial agricultural operation, activity or
44 structure or specific operation or practice does not constitute a
45 public or private nuisance, or does not otherwise invade or interfere
46 with the use and enjoyment of any other land or property, if:

47 1) the commercial agricultural operation, activity or structure
48 conforms to agricultural management practices recommended and

1 adopted by the SADC, or the specific operation or practice of the
2 commercial agricultural operation has been determined to constitute
3 a generally accepted agricultural operation or practice, either by the
4 appropriate county agriculture development board or the SADC, as
5 applicable; and
6 2) the commercial agricultural operation, activity or structure
7 or specific operation or practice complies with all relevant federal
8 and State statutes and regulations, and does not pose a direct threat
9 to public health and safety.
10 Under the bill, a farmer seeking an award of reasonable costs and
11 attorney fees would submit an application therefor to the county
12 agriculture development board or the SADC as applicable, after
13 being found entitled to the irrebuttable presumption. The county
14 agriculture development board or the SADC would then determine,
15 whether a preponderance of the evidence supports a determination
16 that the complaint was made in bad faith and if the costs and fees,
17 or a portion thereof, are reasonable. If so, the county agriculture
18 development board or the SADC would issue an order for the
19 person filing the complaint to pay the reasonable costs and fees to
20 the farmer.