

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0211

HOUSE BILL NO. 1040

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Public Utilities Commission

1 FOR AN ACT ENTITLED, An Act to revise the statute of frauds within the uniform
2 commercial code with respect to the sale of pulse crops.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 57A-2-201 be amended to read as follows:

5 57A-2-201. (1) Except as otherwise provided in this section a contract for the sale of goods
6 for the price of five hundred dollars or more is not enforceable by way of action or defense
7 unless there is some writing sufficient to indicate that a contract for sale has been made between
8 the parties and signed by the party against whom enforcement is sought or by his authorized
9 agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed
10 upon but the contract is not enforceable under this paragraph beyond the quantity of goods
11 shown in such writing.

12 (2) Between merchants if within a reasonable time a writing in confirmation of the contract
13 and sufficient against the sender is received and the party receiving it has reason to know its
14 contents, it satisfies the requirements of subsection (1) against such party unless written notice
15 of objection to its contents is given within ten days after it is received.



1 (3) A contract which does not satisfy the requirements of subsection (1) but which is valid
2 in other respects is enforceable

3 (a) If the goods are to be specially manufactured for the buyer and are not suitable for
4 sale to others in the ordinary course of the seller's business and the seller, before
5 notice of repudiation is received and under circumstances which reasonably indicate
6 that the goods are for the buyer, has made either a substantial beginning of their
7 manufacture or commitments for their procurement; or

8 (b) If the party against whom enforcement is sought admits in his pleading, testimony or
9 otherwise in court that a contract for sale was made, but the contract is not
10 enforceable under this provision beyond the quantity of goods admitted; or

11 (c) With respect to goods for which payment has been made and accepted or which have
12 been received and accepted (§ 57A-2-606); or

13 (d) With respect to the sale of grain, grain sorghums, beans, pulse crops, and oil seeds:

14 (i) If the party seeking enforcement of the contract has a recorded statement of the
15 contract terms with the party against whom enforcement is sought or a
16 noncontract party's verbal or written verification of the contract terms
17 confirmed by the party against whom enforcement is sought; or

18 (ii) If the party seeking enforcement of the contract has a written agreement by the
19 party against whom enforcement is sought providing for the enforcement of
20 verbal contracts; or

21 (iii) If within a reasonable time a writing in confirmation of the contract and
22 sufficient against the sender is received and the party receiving the writing in
23 confirmation has reason to know its contents, the writing in confirmation
24 satisfies the requirements of subsection (1) of this section against such party

1 unless written notice of objection to its contents is given within two days after
2 the writing in confirmation is received.