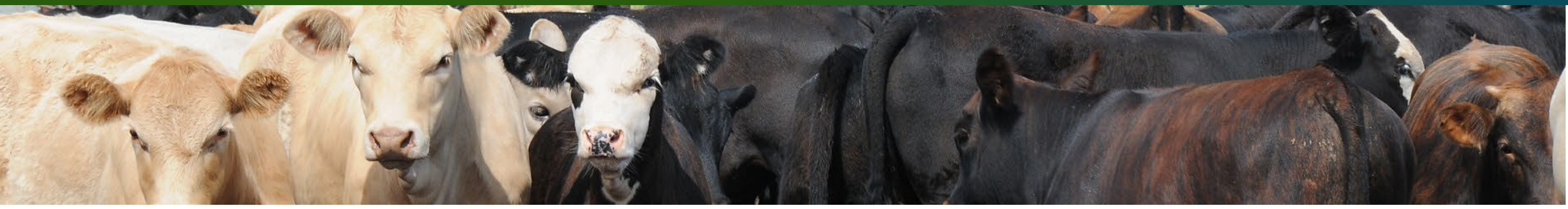
USDA Agricultural Marketing Service
U.S. DEPARTMENT OF AGRICULTURE

Packers and Stockyards Division



# Livestock Seller Rights Under the Dealer Statutory Trust

**The dealer statutory trust** (the dealer trust) is authorized by the Packers and Stockyards Act (P&S Act). The dealer trust protects certain livestock sellers by legally elevating their rights to specific dealer assets over those of any secured lenders to whom the dealer used those assets as collateral for loans.

**Whose rights does the dealer trust protect?** The dealer trust protects cash sellers of livestock. If you, as a producer, sell livestock to a dealer on a cash basis, the dealer trust protects your rights. A cash sale is one in which you do not extend credit to the buyer. The P&S Act's prompt payment provisions permit livestock buyers and sellers to agree, in writing, to payment terms other than those set out in the P&S Act. For example, if you sell livestock to a dealer, you may agree, in writing, to give the dealer time to cover a check that you know is not good or to allow the dealer more time to make payment than permitted under the P&S Act. However, by agreeing to these terms, you may forfeit the benefits of the dealer trust since a court may interpret your written agreement as an extension of credit rather than a cash sale. You have expressly extended credit if you have signed a written credit agreement that includes a trust waiver.

## How do you preserve your rights if a dealer does not pay for livestock?

Notify both the dealer and the Packers and Stockyards Division (PSD) that the dealer has failed to pay you for livestock. Your claim must be in writing by mail or email to both the dealer and PSD or you will forfeit the benefits of the dealer trust. You may notify PSD at PSDClaims@usda.gov.

## How quickly must you act to preserve your rights?

You must notify the dealer and PSD of your claim **no later than**:

- *Thirty (30) calendar days after payment was due.* The dealer owes you payment (in person, by wire, or in the mail) by the close of the next business day following purchase and transfer of possession.
- *Fifteen (15) business days after you are notified that a payment instrument is not honored.* If the dealer gave you a payment instrument (e.g., a check), you should promptly present it for payment and receive notice that it is dishonored before you make this claim.

## What information should you include in your dealer trust claim?

- Your name and contact information, and the name and contact information of the dealer;
- The date of the transaction(s) in which the dealer failed to pay you;
- The date you received notice that one or more payment instruments from the dealer were dishonored (if applicable); and
- The amount of money the dealer owes you and any other information to support your trust claim.

## What is a dealer? Which dealers are subject to the dealer trust?

Under the P&S Act, a dealer is someone engaged in the business of buying and selling in commerce livestock on their own account or as the employee or agent of the vendor or purchaser. Dealers whose average annual purchases of livestock exceed $100,000 are subject to the dealer trust. If you cannot determine if a dealer is subject to the trust, contact PSD for assistance.

## What assets of a dealer are subject to the dealer trust?

The dealer's assets subject to the dealer trust include livestock a dealer bought in cash, as well as receivables and proceeds from such livestock. Other assets (such as equipment, vehicles, land, buildings, or unrelated bank accounts) are not subject to the dealer trust.

**If dealers do not pay for livestock, USDA *can*:** Notify the dealer of its responsibility to hold subject assets in trust for the benefit of unpaid cash sellers; penalize a dealer for failing to pay for livestock, since that is a violation of the P&S Act; and ask a court to prohibit a dealer from committing future violations of the P&S Act while these proceedings are in progress. **USDA cannot:** Provide you with a lawyer to collect payment for you or compel a dealer to pay you.

## What can courts do about dealers that do not pay for livestock?

Unpaid cash sellers of livestock can file complaints with a U.S. District Court (or a bankruptcy court, if the dealer is in bankruptcy). The court may order a dealer to hold specific assets in trust for the benefit of unpaid cash sellers of livestock who have given the required notices.

## What can you do after a court issues a trust order against a dealer?

Unpaid cash sellers of livestock can petition the court to order payment from the assets held in the dealer trust. They can file this petition even if they filed trust claims with the dealer and PSD. Courts may order distribution of the dealer's assets only to unpaid cash sellers who filed a petition.

**Please direct comments or questions to:** USDA AMS, Fair Trade Practices Program, Packers and Stockyards Division. **Phone**: (202) 720-7051 / PSDWashingtonDC@usda.gov

**Toll-Free HOTLINE:** 1-800-998-3447 / PSDClaims@usda.gov / Regional office contacts: www.ams.usda.gov/about-ams/programs-offices/fair-trade-practices/packers-and-stockyards-contacts

*This publication does not create or confer any rights for or on any person. Nor does it operate to bind the public. You can use an alternative approach if the approach satisfies the requirements of the P&S Act and regulations. See 7 U.S.C. 182(4), 201(d), 210, 213, 214, 215, 216, 217b, 224, 228a and 228b and 9 CFR 201.43 and 201.200(b), which relate to the content in this publication. You may also want to see 9 CFR 203.15 and 203.16.*