

ENGROSSED HOUSE
BILL NO. 2988

By: Leist of the House

and

Muegge of the Senate

(agriculture - amending 2 O.S., Sections 9-132, 9-133 and
9-138 - Livestock Auction Market Act - codification -
effective date)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 1991, Section 9-132, is
amended to read as follows:

Section 9-132. A. Except as otherwise provided by subsection C
of this section, no person shall operate, conduct or maintain a
livestock auction market unless such person holds a livestock
auction market license issued by the State Board of Agriculture and
has:

1. Executed a corporate surety bond pursuant to the provisions
of this section. The bond shall be conditioned upon the prompt and
faithful accounting for all livestock received, handled or sold, and
the remittance of the proceeds from any sale, purchase or exchange
of any livestock to the consignor thereof; ~~or~~

2. Opened a certificate of deposit account or a money market
savings account. For a certificate of deposit account or a money
market savings account to be eligible pursuant to the provisions of
this section:

- a. the account must be opened at a federally insured financial depository,
- b. an officer of the financial depository must specifically acknowledge and guarantee the deposit of the funds required by subsection B of this section until otherwise released pursuant to this subsection,
- c. the person operating, conducting or maintaining a livestock auction market may only withdraw any funds deposited in a certificate of deposit account or a money market savings account one hundred twenty (120) days after such person has permanently ceased operations of such livestock auction market unless such person presents to the financial institution a written authorization for release of funds by the Oklahoma Department of Agriculture; or

3. Provided other financial instruments allowable for livestock markets by the U.S. Packers and Stockyards Act, as amended.

B. The corporate surety bond or account required by subsection A of this section for any person operating, conducting or maintaining a livestock auction market shall be in the amount of Twenty-five Thousand Dollars (\$25,000.00).

C. The corporate surety bond or account required by subsection A of this section shall not be required of any person who, as to such livestock auction markets, has executed and maintained a corporate surety bond or account of Twenty-five Thousand Dollars (\$25,000.00) to secure the performance of his obligations under the provisions of the federal Packers and Stockyards Act, as amended. ~~A letter of credit shall not be acceptable.~~

D. 1. Any corporate surety company issuing a bond to any person as specified by subsection A or C of this section for operating, conducting or maintaining a livestock auction market

shall notify the Board within seven (7) days in writing of such notice of cancellation or nonrenewal of the bond.

2. The Board shall provide for the publication of notice to the public of the nonrenewal or cancellation of the bond for a livestock auction market upon any notification that the bond of the livestock auction market has been nonrenewed or canceled and no new bond has been obtained.

3. No person shall knowingly operate, conduct or maintain a livestock auction market without a bond in place. Any person violating the provisions of this paragraph, upon conviction, shall be guilty of a felony.

E. All records relating to the prompt and faithful accounting for all livestock received, handled or sold, and the remittance of the proceeds from any sale, purchase or exchange of any livestock to the consignor thereof shall be in accordance with the provisions of the federal Packers and Stockyards Act, as amended. The State Board of Agriculture or its authorized agent shall audit such records at least once a year. Any violation of the standards of said Act ~~shall~~ may result in the ~~immediate~~ suspension of the livestock auction market license.

F. Except as otherwise provided by this section, any person violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor.

SECTION 2. AMENDATORY 2 O.S. 1991, Section 9-133, is amended to read as follows:

Section 9-133. A. Every application for a livestock auction market license shall be on a form prescribed by the State Board of Agriculture. Each such license shall expire one (1) year after its issuance or renewal, and a fee of Twenty-five Dollars (\$25.00) shall be charged and collected for the issuance or renewal of any such license. Any such license may be revoked or suspended by the Board, after due notice in writing and an opportunity to be heard has been

given to the holder thereof, upon the failure of such holder to comply with the corporate surety bond or account requirements or upon failure of the licensee to comply with any of the provisions of Section 6-102 of this title or the Livestock Auction Market Act or any rule or regulation adopted thereto.

B. The Board shall provide for the publication of notice to the public of the suspension or revocation of the livestock auction market license.

SECTION 3. AMENDATORY 2 O.S. 1991, Section 9-138, is amended to read as follows:

Section 9-138. As used in ~~this act, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section.~~ the Livestock Auction Market Act:

~~A. 1.~~ "Livestock" means cattle, ~~hogs or~~ swine, ~~sheep,~~ horses, mules or goats and includes exotic animals;

~~B. 2.~~ "Slaughter" means killing livestock with the intent to process and distribute the meat and byproducts of such livestock, regardless of the period of time elapsing between the purchase and the killing of such livestock-;

~~C. 3.~~ "Person" means any individual, firm, partnership, corporation or other organization or business entity-;

~~D. 4.~~ "Payment by check" means the actual delivery of the check to the seller or his representative at the location where the transfer of ownership is accomplished. In the case of grade and yield selling, payment by check means making the check available at the packing plant, subject to the instructions of the seller or his representative-;

~~E. 5.~~ "Wire transfer" means any telephonic, telegraphic, electronic or similar communication between the bank of the purchaser and the bank of the seller which results in the transfer of funds or credit of the purchaser to an account of the seller; and

6. "Exotic animals" means commercially raised animals of the families bovidae, cervidae, anticopradae and ratites.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-134.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Upon the suspension or revocation of any livestock auction market license as a result of a custodial account default, the Board shall have the authority to take possession of any and all assets which belong to the custodial account for shippers' proceeds, including custodial account checking or savings accounts, custodial account certificates of deposit, receivables and livestock for which the custodial account has not been reimbursed or any other assets which belong to the custodial account as determined by the Board.

B. Any taking possession of assets shall be limited to custodial account assets as determined by the Board. All funds collected from custodial account assets shall be placed in an account of the Department of Agriculture specifically designated as a shippers' proceeds trust fund.

C. 1. The Board shall have the authority to receive, deposit and administer all proceeds belonging to the custodial account for shippers' proceeds of any livestock auction market whose license has been suspended or revoked.

2. Should taking possession of livestock be necessary, any cost to the Board in marketing the livestock such as hauling, feed, yardage or commissions, shall be deducted from the proceeds from the sale of said livestock.

D. Upon taking possession of any such assets specified by this section, the Board shall distribute the assets as follows:

1. The Board shall receive an amount equal to the cost incurred by the Board in handling and maintenance of the trust fund of shippers' proceeds, including cost of hauling, yardage, watering,

feeding, commissions or other costs in the marketing or handling of any livestock taken into possession.

2. All remaining funds shall be proportioned among all persons submitting valid claims as determined by the Board.

E. To afford added protection to the custodial account for shippers' proceeds, upon suspension or revocation of the state license, the State Board of Agriculture may file a lien in the office of the court clerk of any county in which such person operating, conducting or maintaining a livestock auction market has property against all assets of the person operating, conducting or maintaining a livestock auction market in such county, in an amount to be fixed by the Board. Such lien may be enforced in a court of competent jurisdiction.

SECTION 5. This act shall become effective November 1, 1996.

Passed the House of Representatives the 4th day of March, 1996.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate