

Amendment No. 177

Senate Amendment to Senate Bill No. 400	(BDR 50-634)
Proposed by: Senate Committee on Natural Resources	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ERS/HAC



Date: 4/8/2019

S.B. No. 400—Revises provisions governing the auditing and bonding of public livestock auctions. (BDR 50-634)



SENATE BILL NO. 400—SENATORS GOICOECHEA AND SETTELMAYER

MARCH 20, 2019

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing the auditing and bonding of public livestock auctions. (BDR 50-634)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public livestock auctions; revising the amount of certain surety bonds required to be submitted to the Director of the State Department of Agriculture by an applicant for a license to operate a public livestock auction; revising certain requirements for an application to renew a license to operate a public livestock auction; requiring each holder of a license to operate a public livestock auction to submit to the Director an annual audit of the licensee's custodial consignment account; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, before the State Department of Agriculture may issue a license to an operator of a public livestock auction, the applicant for the license must deliver to the Director of the Department a: (1) surety bond; (2) bond approved by the Secretary of Agriculture of the United States; or (3) deposit receipt in lieu of a bond. (NRS 573.030) If the applicant delivers a surety bond to the Director, the amount of the surety bond must be \$200,000 or more but less than \$1,000,000. (NRS 573.033) ~~Section 1.3~~ Section 1.3 of this bill revises the required amount of the surety bond to be in the amount of \$200,000 or the amount of bond coverage calculated for a market agency pursuant to certain federal regulations, whichever is greater. Sections 1, 1.5 and 2.5 of this bill make conforming changes.

Existing law requires each holder of a license to include a full audit with his or her application for renewal of a license to operate a public livestock auction. (NRS 573.080) Each holder of a license to operate a public livestock auction is also required to deposit the gross proceeds received by him or her from the sale of livestock handled on a commission or agency basis into a custodial account for consignors' proceeds. (NRS 573.104) Section 1.7 of this bill removes the requirement for a licensee to submit a full audit with his or her application for renewal. Section 2 of this bill instead requires a licensee to submit to the Director an annual audit of the licensee's custodial account for consignors' proceeds, which must be ~~signed and certified~~ performed by ~~the holder of a live permit to engage in the practice of~~ a certified public ~~accounting~~ accountant.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 573.030 is hereby amended to read as follows:

573.030 Before a license is issued by the Department to an operator of a public livestock auction, the applicant must deliver to the Director:

1. A surety bond pursuant to the provisions of NRS 573.033; or
2. ~~[A bond approved by the Secretary of Agriculture of the United States pursuant to the provisions of NRS 573.035; or~~
3. A deposit receipt pursuant to the provisions of NRS 573.037.

~~[Section 1.]~~ **Sec. 1.3.** NRS 573.033 is hereby amended to read as follows:

573.033 1. If an applicant delivers a surety bond to the Director pursuant to the provisions of subsection 1 of NRS 573.030, the surety bond must be:

(a) In the amount of \$200,000 or ~~[more but less than \$1,000,000.]~~ the amount of bond coverage calculated for a market agency pursuant to 9 C.F.R. § 201.30(a), whichever is greater.

(b) Executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety.

(c) A standard form and approved by the Director as to terms and conditions.

(d) Conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules and regulations adopted by the Department.

(e) To the State of Nevada in favor of every consignor creditor whose livestock was handled or sold through or at the licensee's public livestock auction.

2. The total and aggregate liability of the surety for all claims upon the bond must be limited to the face amount of the bond.

Sec. 1.5. NRS 573.037 is hereby amended to read as follows:

573.037 1. As authorized by subsection ~~[3]~~ 2 of NRS 573.030, in lieu of filing the bond described in NRS 573.033, ~~[for 573.035.]~~ the applicant may deliver to the Director the receipt of a bank, credit union or trust company doing business in this state showing the deposit with that bank, credit union or trust company of cash or of securities endorsed in blank by the owner thereof and of a market value equal at least to the required principal amount of the bond, the cash or securities to be deposited in escrow under an agreement conditioned as in the case of a bond. A receipt must be accompanied by evidence that there are no unsatisfied judgments against the applicant of record in the county where the applicant resides.

2. An action for recovery against any such deposit may be brought in the same manner as in the case of an action for recovery on a bond filed under the provisions of this chapter.

3. If any licensed operator of a public livestock auction for any reason ceases to operate the auction, the amount of money or securities deposited in lieu of a bond must be retained by the Department for 1 year. If 1 year after the cessation of the operation, no legal action has been commenced to recover against the money or securities, the amount thereof must be delivered to the owner thereof. If a legal action has been commenced within that period, all such money and securities must be held by the Director subject to the order of a court of competent jurisdiction.

Sec. 1.7. NRS 573.080 is hereby amended to read as follows:

573.080 Licenses must be renewed annually upon like application and procedure as in the case of original licenses. An application for renewal must be accompanied by ~~[f]~~

~~1. A full audit completed not more than 2 months before the date of the application which must be signed and certified as correct by a holder of a live permit issued pursuant to chapter 628 of NRS.~~

~~2. The~~ *the* name and address of the bank or credit union where the custodial account for consignors' proceeds will be established and maintained by the operator of the public livestock auction in compliance with the provisions of NRS 573.104.

Sec. 2. NRS 573.104 is hereby amended to read as follows:

573.104 1. Each licensee shall deposit the gross proceeds received by him or her from the sale of livestock handled on a commission or agency basis in a separate account established and maintained by the licensee in the bank or credit union at which the licensee's line of credit, as required by paragraph (g) of subsection 2 of NRS 573.020, is established. The separate account must be designated a "custodial account for consignors' proceeds."

2. The custodial account for consignors' proceeds may be drawn on only:

(a) For the payment of net proceeds to the consignor, or any other person or persons of whom the licensee has knowledge who is entitled to those proceeds;

(b) To obtain the sums due the licensee as compensation for his or her services; and

(c) For such sums as are necessary to pay all legal charges against the consignment of livestock which the licensee in his or her capacity as agent is required to pay for and on behalf of the consignor.

3. The licensee shall:

(a) In each case keep such accounts and records that will at all times disclose the names of the consignors and the amount due to each from the money in the custodial account for consignors' proceeds.

(b) Maintain the custodial account for consignors' proceeds in a manner that will expedite examination by the Director and indicate compliance with the requirements of this section.

(c) On or before January 15 of each year, submit to the Director an annual audit of the licensee's custodial account for consignors' proceeds for the immediately preceding year, which must be ~~signed and certified as correct by a holder of~~ performed by a certified public accountant. The certified public accountant:

(1) Must hold a ~~live~~ permit issued pursuant to ~~chapter 628 of~~ NRS ~~7~~ 628.380; and

(2) May be provided by the Packers and Stockyards Division of the United States Department of Agriculture if he or she meets the requirements of subparagraph (1).

Sec. 2.5. NRS 573.035 is hereby repealed.

Sec. 3. This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

573.035 Bond of market agency. In compliance with the provisions of subsection 2 of NRS 573.030, if the applicant is bonded as a market agency under the provisions of the Packers and Stockyards Act, 7 U.S.C. § 204, as amended, and the regulations adopted pursuant thereto, in a sum equal to or greater than the sum required by the provisions of NRS 573.033, the applicant may deliver to the Director a bond approved by the Secretary of Agriculture of the United States naming the Director as trustee.