

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; 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 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** 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.

Existing law requires each holder of a license to operate a public livestock auction 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 2** of this bill 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 by the holder of a live permit to engage in the practice of public accounting.



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

Section 1. 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. 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



1 each from the money in the custodial account for consignors’
2 proceeds.

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

6 (c) *On or before January 15 of each year, submit to the*
7 *Director an annual audit of the licensee’s custodial account for*
8 *consignors’ proceeds for the immediately preceding year, which*
9 *must be signed and certified as correct by a holder of a live permit*
10 *issued pursuant to chapter 628 of NRS.*

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

