

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** 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



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19 an annual audit of the licensee's custodial account for consignors' proceeds, which
20 must be performed by a certified public accountant.

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

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

2 573.030 Before a license is issued by the Department to an
3 operator of a public livestock auction, the applicant must deliver to
4 the Director:

5 1. A surety bond pursuant to the provisions of NRS 573.033;
6 *or*

7 2. ~~[A bond approved by the Secretary of Agriculture of the~~
8 ~~United States pursuant to the provisions of NRS 573.035; or~~

9 ~~—3.]~~ A deposit receipt pursuant to the provisions of
10 NRS 573.037.

11 **Sec. 1.3.** NRS 573.033 is hereby amended to read as follows:

12 573.033 1. If an applicant delivers a surety bond to the
13 Director pursuant to the provisions of subsection 1 of NRS 573.030,
14 the surety bond must be:

15 (a) In the amount of \$200,000 or ~~[more but less than~~
16 ~~\$1,000,000.]~~ *the amount of bond coverage calculated for a market*
17 *agency pursuant to 9 C.F.R. § 201.30(a), whichever is greater.*

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

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

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

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

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

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

32 573.037 1. As authorized by subsection ~~[3]~~ 2 of NRS
33 573.030, in lieu of filing the bond described in NRS 573.033, ~~for~~
34 ~~573.035.]~~ the applicant may deliver to the Director the receipt of a
35 bank, credit union or trust company doing business in this state
36 showing the deposit with that bank, credit union or trust company of
37 cash or of securities endorsed in blank by the owner thereof and of a
38 market value equal at least to the required principal amount of the
39 bond, the cash or securities to be deposited in escrow under an



1 agreement conditioned as in the case of a bond. A receipt must be
2 accompanied by evidence that there are no unsatisfied judgments
3 against the applicant of record in the county where the applicant
4 resides.

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

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

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

18 573.080 Licenses must be renewed annually upon like
19 application and procedure as in the case of original licenses. An
20 application for renewal must be accompanied by ~~1:~~

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

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

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

29 573.104 1. Each licensee shall deposit the gross proceeds
30 received by him or her from the sale of livestock handled on a
31 commission or agency basis in a separate account established and
32 maintained by the licensee in the bank or credit union at which the
33 licensee's line of credit, as required by paragraph (g) of subsection 2
34 of NRS 573.020, is established. The separate account must be
35 designated a "custodial account for consignors' proceeds."

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

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

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

43 (c) For such sums as are necessary to pay all legal charges
44 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 performed by a certified public accountant. The certified public accountant:

(1) Must hold a permit issued pursuant to NRS 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.

