

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By Chairman Joe Barnett, on January 10, 1995, at
3:00 P.M.

ROLL CALL

Members Present:

Rep. Joe Barnett, Chairman (R)
Rep. Don Larson, Vice Chairman (Minority) (D)
Rep. Jon Ellingson (D)
Rep. Dick Green (R)
Rep. Harriet Hayne (R)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Karl Ohs (R)
Rep. George Heavy Runner (D)
Rep. William M. "Bill" Ryan (D)
Rep. Dore Schwinden (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Kenneth Wennemar (D)

Members Excused: Rep. Sam Rose and Rep. Gay Ann Masolo

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Jaelene Racicot, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 95
Executive Action: HB 95 DO PASS & HB 27 TABLED

As requested by **CHAIRMAN BARNETT**, each member received a handout
by the Department of State Lands. **EXHIBIT 1.**

HEARING ON HB 95

Opening Statement by Sponsor:

REP. KARL OHS, HD 33, stated HB 95 was requested by the Department of Livestock's Brand Office. He said if passed, HB 95 would be great for protecting producers. REP. OHS read testimony. EXHIBIT 2

Proponents' Testimony:

Cork Mortensen, Executive Secretary of the Board of Livestock, urged the committee to support HB 95 for the following reasons:

The Department of Livestock has been accepting bond equivalents which are similar to letters of credit and trust fund agreements. The department has been accepting bond equivalents because they have been accepted by the USDA Packers and Stockyards Administration. At the present time, the department does not currently have statutory authority to accept bond equivalents and HB 95 would allow the industry to do so. This bill would reduce potential liability by making the bond equivalents equal. HB 95 would make the Department of Livestock's statutes parallel with the USDA Packers and Stockyards Administration.

A change in section 81-8-231 would specifically require periodic audits of livestock markets and dealers. This change would help the department assure the dealers and markets would be maintained and be in accordance with the statutory requirement of assets in excess of liabilities.

In addition, changing section 81-8-302 would provide debtors the legal authority to sign security interests; these security interest are currently filed with the department. At the present time, the law mandates the department shall accept security agreements even though they may not be signed by the debtor. This creates credit problems with producers when they go to sell livestock. It is at that time, the producer discovers a security agreement has been filed. Mr. Mortensen handed in testimony. EXHIBIT 3

Maureen Cleary-Schwinden, Women Involved In Farm Economics, declared HB 95 cleaned up regulatory issues and it would change some language to make it gender neutral to assist women who sell livestock as well as men. She added it would not affect small family farms and urged the committee to support HB 95.

Jennifer Hill, Montana Stockgrowers, Montana Wool Growers, and the Montana Cattlewomen Association, concurred with the previous testimony and urged the committee's passage of the bill.

Les Graham, Montana Association of Livestock Auction Markets, affirmed they had reviewed this issue for several years and it was not long ago when auctions and dealers had to have two bonds;

one bond was a state bond and the other was a federal bond. He remarked how the department has worked the problem out and will comply with the federal bond. He recommended a do pass.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. CLIFF TREXLER asked **Cork Mortensen** and **Mr. Mortensen** referred the question to **Marc Bridges, Administrator of the Brands Enforcement Division**, asked if he took some bulls to an association sale, how would this bill affect him. **Mr. Bridges** replied that **HB 95**, if passed, would not affect him at all. If he consigned livestock to an association sale, the association would have sent an application to the department which in turn would allow him to consign his livestock to the sale.

REP. TREXLER asked **Mr. Bridges** if a person had a sale on his ranch and the cattle were his own, would they be exempt from the requirements of the bill. **Mr. Bridges** replied yes, the person would be exempt.

REP. DORE SCHWINDEN asked **Lon Mitchell, Staff Attorney for the Department of Livestock**, why there was a severability clause and if one portion of the clause would be deemed unconstitutional. **Mr. Mitchell** replied the standard verbiage was added in case any section was found unconstitutional. **Mr. Mitchell** added that they did not anticipate any part of the bill to be unconstitutional.

REP. SCHWINDEN asked again if there was suspicion that any part of the bill was unconstitutional. **Mr. Mitchell** replied he did not have any fears the bill was unconstitutional.

REP. SCHWINDEN asked again why a severability clause was included in the bill. **Mr. Mitchell** said it was in there because the legislative council wanted it there.

REP. SCHWINDEN asked **Connie Erickson** to explain why the severability clause was in there. **Ms. Erickson** affirmed she questioned why a severability clause was in the bill because she had not seen a need for one. She spoke with the drafter of the bill and he did not feel there would be a constitutional problem with the bill that would require a severability clause. However, when a bill such as this that covers a number of issues like audits, bonding, and security agreements it would be wise to include a severability clause.

REP. JAY STOVALL asked **Marc Bridges, Department of Livestock**, how extensive the periodic audit of livestock marketers and dealers would be. **Mr. Bridges** claimed a schedule noting the frequency of an audit was not available. He said there was about 500 licensed livestock dealers in the state. This would be between the

markets and dealers and it would be on a random basis and not on a monthly schedule.

REP. STOVALL asked **Mr. Bridges** how HB 95 changed the way they conducted audits. **Mr. Bridges** related that prior to this, they relied on manpower. He used **EXHIBIT 3** and read the duties of the department to the committee. He said two years ago, they almost had a market failure in the state. He explained one of the duties was to supervise and regulate the livestock markets and livestock dealers in the state. He said if there was a market failure in the state and they did not supervise and regulate livestock markets and dealers, the department could be liable to the producers for the funds that weren't paid to them.

Mr. Bridges used **EXHIBIT 3** to read to the committee a code of federal regulations stating the equivalency requirements. He said the department shall prescribe by general order or otherwise rules in conformity with this part applicable to all livestock markets or livestock dealers and it was not in conflict with the laws of the United States or other federal agencies. At the present time, the department is not legally able to accept the bond equivalents.

REP. STOVALL asked **Mr. Bridges** if HB 95 were passed, could this help them manage dealers. **Mr. Bridges** remarked yes, HB 95 was a "checks and balance" system. Currently, the dealers were on a quarterly basis and they were the only ones in the nation on a quarterly basis.

Closing by Sponsor:

REP. OHS urged the committee to pass HB 95.

EXECUTIVE ACTION ON HB 27

REP. SCHWINDEN asked **CHAIRMAN BARNETT** if the people who were not able to attend the original hearing on HB 27 would be given the opportunity to testify. **CHAIRMAN BARNETT** expressed that he would not rehear HB 27 and these people were free to lobby.

Motion: **REP. SCHWINDEN MOVED HB 27 DO PASS.**

Motion: **REP. SCHWINDEN MOVED REP. JOHNSON'S AMENDMENT.**

Discussion: **REP. LARSON** asked **REP. JOHNSON** the purpose of an immediate effective date. He replied when it goes off the codes, the date would be 1996. This amendment stipulates it would be effective upon passage and approval. If the bill would pass in February, then all of the laws would be in effect as of that date instead of waiting until October of 1995.

REP. LARSON asked **Connie Erickson** what the purpose of an immediate effective date was and why not make the effective date

HOUSE AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

January 10, 1995

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October 1. He also asked if anyone who was foreclosed on between now and October could redeem his property. **Ms. Erickson** replied there were three dates within the bill the members had to take into consideration. First, the approval date of April 15, 1987. From April 15, 1987 to June 30, 1991 the law was in effect on the right of first refusal. After June 30, 1991, any land that was acquired by foreclosure after June 30, 1991, there was no right of first refusal. The reason for the termination date of 1996 was because of other laws relating to the statute of limitations. This would allow for a time period if a lease had been obtained and it came due after the 1991 date--it would allow the person to get a right of first refusal.

Ms. Erickson explained that the proponents want to take off the termination date of June 30, 1996 in order to make the law permanent. In addition, they had to amend the applicability portion of the law and this was the reason for the amendment.

In summary, to pass the bill with the amendment it would apply to agricultural land acquired by foreclosure or by judgment in satisfaction of debt after the effective date.

REP. STOVALL asked **Connie Erickson** if the committee would pass the bill without the amendment, this would mean the bill would be effective until 1996. **Ms. Erickson** replied if the bill was passed without the amendment, there would be no right of first refusal because of the applicability date. The right of first refusal only applies from 1987 to 1991. If the bill passed without the amendment, the law would be created without being applicable to anyone.

REP. STOVALL asked **Ms. Erickson** if passed without the amendment would it be applicable in 1996. **Ms. Erickson** said no, it would not. If you want the first right of refusal to continue, the committee had to pass the bill with the amendment.

REP. JON ELLINGSON asked **Connie Erickson** if the committee passed the bill with the amendment with the effective date of October 1, any property acquired by foreclosure or judgment between now and October 1 would not give the debtor the first right of refusal. **Ms. Erickson** stated that was correct.

REP. LARSON called for the question on the amendment.

Vote: The motion carried unanimously.

Motion: **REP. SCHWINDEN** MOVED HB 27 DO PASS AS AMENDED.

REP. STOVALL said he would not support the bill because there was no need for it. He said at the time the bill was passed, many farm and ranch foreclosures were taking place. This resulted in declining land values. As time progressed, due to the foreclosures, people could purchase the land for less money. At the present time, there are fewer foreclosures and the land value

is climbing. He related that this could hurt agricultural people because it would add more paperwork for the banks; it was difficult enough for ranchers and farmers to get a loan without more paperwork.

REP. OHS said he agreed with REP. STOVALL. He said he came in 1987 to lobby for this bill. At that time, banks made a lot of collateral loans and did not take into consideration the person's cash flow. Since that time, the bank will only make cash flow loans. He said he had friends and neighbors that had a financial difficulty during the 1980's and had tried chapter 13. This resulted in prolonging their agony.

MOTION: REP. HAYNE MOVED TO TABLE HB 27.

CHAIRMAN BARNETT asked REP. HAYNE to withdraw her motion so the members of the committee would have the opportunity to speak for or against the bill.

REP. HAYNE WITHDREW HER TABLING MOTION.

REP. ELLINGSON said he was in favor of HB 27. He said the bill would impose additional work for the bank to allow the right of first refusal. He wanted to remind the committee of property that was acquired by reason of mortgage foreclosure was subject to a one year right of redemption. He said this may be exercised by the judgment debtor. REP. ELLINGSON added the right of redemption was a serious condition bankers would have to deal with. HB 27 would not add any more paperwork to the banks that they were not subject to do at the present time in terms of the right of redemption. The right of redemption means the property would be tied up one year after the person acquires the land by foreclosure. HB 27 would allow a resolution of the creditor/debtor problem of a period less than a year. He said if the bank would come forward with a legitimate offer to purchase the property, it could be matched by the debtor. This could simplify the resolution and offer some hope for distressed ranchers and farmers.

REP. TREXLER said he agreed with REP. ELLINGSON. He felt the bill would only help people and urged the committee to support it.

REP. WENNEMAR commented HB 27 would benefit more people than it would hurt. He said if the bank was unable to sell the property and was searching for a lessor, the person who was being foreclosed on may be able to match the lease.

REP. LARSON replied he was in favor of the bill. Banking laws have changed considerably since the hearing on this bill. In 1993, the legislature legalized interstate banking in Montana; thus creating a major change within the state. He said banks in Denver, Seattle, or Chicago would not be as sensitive to farmers and ranchers in Montana as a local bank would be. As a

protection against the out-of-state banks, **REP. LARSON** recommended passage of HB 27.

REP. SCHWINDEN said the Farm Home Administration and the Farm Credit Service extended the right of refusal to their customers. They are two of the biggest agricultural lenders that exist in Montana. He said the proponents on this bill was the Governor's Office and the only opponents was the banker's association. He said the bill may not do a lot but it sends the right message to the people in agriculture.

REP. GEORGE HEAVY RUNNER said he agreed with HB 27 and his constituents urged him to support this bill.

REP. DICK GREEN said he thought it was strange that a person who could not make the payments on his or her land, could magically come up with the money at some other point in time.

CHAIRMAN BARNETT said he was not in favor of this bill. He said there was a time in his life when he was going under and the bank was willing to work with him when he could come up with a little extra cash. He said he believed everything was in the contract up front and he didn't believe one should come in with legislation to bail people out.

REP. LARSON called for the question.

Vote: A roll call vote was called. The motion failed with eight representatives voting yes and ten representatives voting no.

Motion: **REP. HAYNE** MOVED TO TABLE HB 27.

Motion/Vote: A roll call vote was called. The motion passed with ten representatives voting yes and eight representatives voting no.

EXECUTIVE ACTION ON HB 95

Motion/Vote: **REP. LARSON** MOVED HB 95 DO PASS. The motion carried unanimously.

REP. HEAVY RUNNER moved to adjourn.

ADJOURNMENT

Adjournment: 3:47 P.M.



JOE BARNETT, Chairman



JAELENE RACICOT, Secretary

JB/jr

HOUSE OF REPRESENTATIVES

Agriculture

ROLL CALL

DATE 1/10/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Joe Barnett, Chairman	✓		
Rep. Sam Rose, Vice Chairman, Majority			✓
Rep. Don Larson, Vice Chairman, Minority	✓		
Rep. Jon Ellingson	✓		
Rep. Dick Green	✓		
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Rick Jore	✓		
Rep. Gay Ann Masolo			✓
Rep. Judy Rice Murdock	✓		
Rep. Karl Ohs	✓		
Rep. Jay Stovall	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Robert Story	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Ken Wennemar	✓		



HOUSE STANDING COMMITTEE REPORT

January 10, 1995

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Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that House Bill 95 (first reading copy -- white) do pass.

Signed: Joe Barnett
Joe Barnett, Chair

Committee Vote:
Yes 8, No 0.

081622SC.Hdh

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Agriculture Committee

DATE 1/10/95 BILL NO. NB NUMBER 27

MOTION: DO PASS AS AMENDED

NAME	AYE	NO
Rep. Sam Rose, Vice Chairman, Majority		✓
Rep. Don Larson, Vice Chairman, Minority	✓	
Rep. Jon Ellingson	✓	
Rep. Dick Green		✓
Rep. Harriet Hayne		✓
Rep. George Heavy Runner	✓	
Rep. Rick Jore		✓
Rep. Gay Ann Masolo		✓
Rep. Judy Rice Murdock	✓	
Rep. Karl Ohs		✓
Rep. Jay Stovall		✓
Rep. Bill Ryan	✓	
Rep. Dore Schwinden	✓	
Rep. Robert Story		✓
Rep. Lila Taylor		✓
Rep. Cliff Trexler	✓	
Rep. Ken Wennemar	✓	
Rep. Joe Barnett, Chairman		✓

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Agriculture Committee

DATE 11/10/95 BILL NO. HB NUMBER 27

MOTION: TABLE

NAME	AYE	NO
Rep. Sam Rose, Vice Chairman, Majority	✓	
Rep. Don Larson, Vice Chairman, Minority		✓
Rep. Jon Ellingson		✓
Rep. Dick Green	✓	
Rep. Harriet Hayne	✓	
Rep. George Heavy Runner		✓
Rep. Rick Jore	✓	
Rep. Gay Ann Masolo	✓	
Rep. Judy Rice Murdock		✓
Rep. Karl Ohs	✓	
Rep. Jay Stovall	✓	
Rep. Bill Ryan		✓
Rep. Dore Schwinden		✓
Rep. Robert Story	✓	
Rep. Lila Taylor	✓	
Rep. Cliff Trexler		✓
Rep. Ken Wennemar		✓
Rep. Joe Barnett, Chairman	✓	

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 1/10/94

I request to be excused from the Agriculture
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Rep Barnett.

Indicate **Bill Number** and your vote **Aye** or **No**. If there are
amendments, list them **by name and number** under the bill and
indicate a **separate vote** for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
<u>HB 27</u>		<u>X</u>

SENATE BILL/AMENDMENT	AYE	NO

Rep. John R. Rame
(Signature)

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 1/10/94

I request to be excused from the Agriculture
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Rep Barnett.

Indicate **Bill Number** and your vote **Aye** or **No**. If there are
amendments, list them **by name and number** under the bill and
indicate a **separate vote for each amendment**.

HOUSE BILL/AMENDMENT	AYE	NO

SENATE BILL/AMENDMENT	AYE	NO

Rep. John M. Rose
(Signature)

COMMITTEE PROXY

Date 1-9-95

I request to be excused from the Agriculture
Committee meeting this date because of other commitments. I
desire to leave my proxy vote with Harriet Hayne.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

HB 27		✓
table	✓	

SENATE BILL/AMENDMENT AYE NO

Rep. Gay Ann Masolo
(Signature)

COMMITTEE PROXY

Date 1/10/94

I request to be excused from the Agriculture
 Committee meeting this date because of other commitments. I
 desire to leave my proxy vote with Rip Barnett.

Indicate Bill Number and your vote Aye or No. If there are
 amendments, list them by name and number under the bill and
 indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

Table AB 27	X	

SENATE BILL/AMENDMENT AYE NO

Rep. John M. Rose
 (Signature)

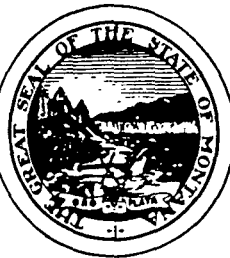
DEPARTMENT OF STATE LANDS

EXHIBIT 1

DATE HB 1/10/95

HB

P.O. BOX 201001



MARC RACICOT, GOVERNOR

STATE OF MONTANA

(406) 444-2074

1625 ELEVENTH AVENUE
HELENA, MONTANA 59620-1601

PRESS RELEASE

For Immediate Release
January 4, 1995Contact Persons: Bud Clinch or
Jeff Hagener 444-2074

Commissioner of State Lands, Bud Clinch, announced today the locations, dates and times for Public Hearings pertaining to cabinsite and grazing lease rates for state lands and the state land recreational use license fee. The passage of Senate Bill 424 during the 53rd Legislative session clearly placed the responsibility of obtaining full market value for uses of state trust lands with the Board of Land Commissioners. SB 424 required that the Board must seek recommendations from the State Land Board Advisory Council before establishing new rental rates. In November of 1993 the Board appointed a 15 member Council which met eight times to review and discuss fees for most surface uses of state lands. The Council ultimately arrived at recommendations to change the cabinsite and grazing lease fees and the state land recreational use license. Those recommendations were:

	<u>CURRENT RENTAL</u>	<u>RECOMMENDED</u>
GRAZING	6 X \$/LB (\$4.09/AUM) (using 1993 beef \$/lb)	7.54 X \$/LB (\$5.14/AUM)
RECREATIONAL USE	\$5.00	\$25.00 residents \$50.00 nonresidents
CABINSITE/ HOMESITE	3.5% of appr value or \$150.00 minimum	3.5% of appr value or \$250.00 minimum

At the November 21, 1994 Land Board meeting the Board accepted the Council's recommendations and proceed to rulemaking regarding grazing and cabinsite lease fees. After considerable discussion the Board voted 4-1 to proceed to rulemaking with the recreational use fee at \$10 for both residents and nonresidents.

DSL
Fee rules
Press Release
2

Copies of the official proposed rules can be obtained at the hearings or from any Department of State Lands Office. Oral comments will be accepted at the hearings listed below. Written comments may also be submitted to Bud Clinch, Commissioner, Department of State Lands, P.O. Box 201601, Helena, MT 59620-1601, no later than January 24, 1995.

- **Helena** - At the auditorium in the Scott Hart Building, 301 Roberts Street, on **January 16**, at 7:00 p.m.
- **Dillon** - At the courtroom located on the third floor of the Beaverhead County Courthouse at 2 South Pacific, on **January 17**, at 7:00 p.m.
- **Seeley Lake** - At the Seeley Lake Community Hall, on **January 17**, at 7:00 p.m.
- **Glasgow** - In the Lodge Room of the Elks Lodge, 309 2nd Avenue, on **January 18**, at 7:00 p.m.
- **Miles City** - In the Middle, Auditorium, Room 316, Miles Community College, 2715 Dickinson, on **January 19**, at 7:00 p.m.

-End-

HOUSE BILL 95

This bill clarifies section 81-8-214, subsection (1), and (2) (e) by inserting "or its equivalent". The U.S.D.A. - Packers & Stockyards Administration currently accepts bond equivalents such as Letters of Credit and Trust Fund Agreements or any combination of the three types of coverage. Our current statute only allows the use of a bond as coverage. This change would allow our current marketing statutes to be less restrictive and consistent with the Packers & Stockyards Administration.

As written under this legislation, section 81-8-231 would specifically mandate the periodic audit of livestock market and dealers to insure that they (markets and dealers) maintain assets in excess of liabilities (statutory) and can then pay according to statutory requirements. This will allow the department to be assured that the requirements are met and that the producers of livestock are better protected.

This legislation mandates under section 81-8-302 that debtors must sign security agreements (or proper legal authority). The department is currently mandated to accept security agreements even though they may not be signed by those affected. This can and does create some problems for the alleged debtors when they attempt to sell their livestock and discover a security agreement has been filed.

House BILL NO. 95

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS REGARDING THE SALE OF LIVESTOCK; ALLOWING THE POSTING OF A BOND EQUIVALENT AS A CONDITION OF APPROVAL FOR NONMARKET SALES AND FOR LICENSURE AS A LIVESTOCK DEALER; REQUIRING THE DEPARTMENT OF LIVESTOCK TO CONDUCT A PERIODIC AUDIT OF LIVESTOCK MARKETS AND DEALERS; REQUIRING THAT A NOTICE OF SECURITY AGREEMENT BE SIGNED BY THE AFFECTED DEBTOR OR PROPER LEGAL AUTHORITY; AND AMENDING SECTIONS 81-8-214, 81-8-231, 81-8-271, AND 81-8-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 81-8-214, MCA, is amended to read:

"81-8-214. Regulation of certain nonmarket sales. (1) A person not a livestock market operator authorized under this part conducting the sale of livestock in a breed sale, a breed association sale, or at a test station sale, except when all of the livestock are his owned by that person and are being sold from his that person's own place, shall obtain approval from the department before conducting the sale.

(2) The department, as conditions to granting approval, may require:

- (a) the names and addresses of those conducting the sale;
- (b) the date and time when and the place where the sale will be conducted;
- (c) a detailed statement of the assets and liabilities of the persons conducting the sale;
- (d) the establishment of a custodial account into which all money received for the sale of livestock must be deposited;
- (e) the posting of a reasonable bond or its equivalent in an amount determined by the department;
- (f) the commissions or charges proposed to be imposed on the owners of livestock for services associated with the sale;
- (g) a guarantee to pay all consignors in full within a reasonable time as set by the department; and
- (h) ~~such~~ other information as that the department considers necessary."

1 Section 2. Section 81-8-231, MCA, is amended to read:

2 **"81-8-231. Duties of department.** The department shall:

3 (1) supervise and regulate livestock markets and livestock dealers in this state and periodically audit
4 the records of those markets and dealers;

5 (2) regulate the properties, facilities, operations, services, and practices of all livestock markets
6 and livestock dealers;

7 (3) supervise and regulate livestock markets in all matters affecting the relationship between the
8 livestock market and owners of livestock and between the livestock market and purchasers of livestock;

9 (4) prescribe, by general order or otherwise, rules in conformity with this part applicable to all
10 livestock markets or livestock dealers and not in conflict with the laws of the United States or regulations
11 of the United States department of agriculture or other federal agencies;

12 (5) enforce this part and adopt rules necessary to carry out this part."
13

14 Section 3. Section 81-8-271, MCA, is amended to read:

15 **"81-8-271. License to operate as livestock dealer -- application.** (1) A person may not operate as
16 a livestock dealer without a license. A person who wishes to operate as a livestock dealer shall file with
17 the department an application for a license to transact ~~such~~ business on a form prescribed by the
18 department, stating the type of license sought and the following information:

19 (a) the names of the persons applying for the license, together with their permanent addresses and,
20 if the applicant is a firm, association, partnership, or corporation, the names of its directors, officers, and
21 members, if applicable;

22 (b) the post-office address and principal place of business of the applicant;

23 (c) if the applicant is a foreign corporation, its principal place of business outside the state, the
24 name of the state in which it is incorporated, and a statement showing that it has complied with the laws
25 of this state relating to foreign corporations and its right to do business in this state; and

26 (d) proof of acquisition of a bond or its equivalent from the packers and stockyards administration
27 of the United States department of agriculture.

28 (2) An application fee of \$50 must be submitted with each application for a livestock dealer's
29 license. The fee ~~shall be~~ is the first annual fee if the license is granted.

30 (3) A person who purports to act as an agent for a livestock dealer in the purchase or sale of

1 livestock may not engage in ~~such~~ those business activities without a livestock dealer's license."

2

3 **Section 4.** Section 81-8-302, MCA, is amended to read:

4 "81-8-302. **Contents of notices.** The notices ~~shall~~ must consist of a statement showing the date
5 of security agreement; the names and addresses of the debtors and secured parties or holders and owners
6 ~~thereof of the security agreement;~~ a description of the livestock covered by the security agreement, ~~and;~~
7 in the case of a notice of renewal, the date of renewal; ~~and,~~ in the case of a notice of assignment of a
8 security interest, the date of the assignment, ~~and~~ a description of the security agreement to which the
9 assignment is made, and the parties to the assignment; and any additional information ~~which~~ that is
10 required by the department of livestock. The notice of security agreement must be signed by the affected
11 debtor or proper legal authority."

12

13 NEW SECTION. **Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
15 applications, the part remains in effect in all valid applications that are severable from the invalid
16 applications.

17

-END-

Cross-References

Collection and disposition of fines, penalties, forfeitures, and fees, 3-10-601.

81-8-217. Jurisdiction. The justices' courts have jurisdiction of all misdemeanor and civil violations of this part.

History: En. Sec. 32, Ch. 566, L. 1979.

81-8-218 through 81-8-230 reserved.

81-8-231. Duties of department. The department shall:

(1) supervise and regulate livestock markets and livestock dealers in this state;

(2) regulate the properties, facilities, operations, services, and practices of all livestock markets and livestock dealers;

(3) supervise and regulate livestock markets in all matters affecting the relationship between the livestock market and owners of livestock and between the livestock market and purchasers of livestock;

(4) prescribe by general order or otherwise rules in conformity with this part applicable to all livestock markets or livestock dealers and not in conflict with the laws of the United States or regulations of the United States department of agriculture or other federal agencies;

(5) enforce this part and adopt rules necessary to carry out this part.

History: En. Sec. 4, Ch. 566, L. 1979; amd. Sec. 4, Ch. 52, L. 1985.

Cross-References

Montana Administrative Procedure Act — adoption and publication of rules, Title 2, ch. 4, part 3.

Penalties for violation of rules, 81-8-279.

81-8-232. Posting of certificate or license. Every person certified or licensed under the provisions of this part shall conspicuously post at his place of business for inspection by any other person the certificate or license issued by the department.

History: En. Sec. 5, Ch. 566, L. 1979.

81-8-233. Title warranty of livestock sold. A livestock market or livestock dealer shall warrant to the purchaser thereof the title of all livestock sold. A livestock market is liable to the rightful owner of all livestock sold for the net proceeds for such livestock whether or not the rightful owner was known to the market at the time of the sale.

History: En. Sec. 8, Ch. 566, L. 1979; amd. Sec. 5, Ch. 52, L. 1985.

81-8-234. Financial responsibility. (1) Every livestock market or livestock dealer shall maintain a financial condition of total assets in excess of total liability, including total current assets in excess of total current liabilities.

(2) Payment for livestock purchased shall be made upon completion of the sales transaction. Payment in all livestock transactions shall be made by cash, check, or draft, as defined in 30-3-104; by electronic funds transfer, as defined in 32-6-103; or by any other bankable instrument.

History: En. Sec. 6, Ch. 566, L. 1979; amd. Sec. 6, Ch. 52, L. 1985.

81-8-235. Penalties for financial violations. (1) A person found, after notice and hearing, to be in violation of 81-8-234 shall be assessed a civil

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GENERAL BONDING PROVISIONS

§201.27 Underwriter: equivalent in lieu of bonds; standard forms.

(a) The surety on bonds maintained under the regulations in this part shall be a surety company (1) which is currently approved by the United States Treasury Department for bonds executed to the United States, and (2) which has not failed or refused to satisfy its legal obligations under bonds issued under said regulations.

(b) A bond equivalent may be filed in lieu of a bond. A bond equivalent shall be in the form of a trust fund agreement based on funds actually deposited and readily convertible to currency in the amount required by §201.30. Such funds shall be invested or deposited, in the name of a trustee as set forth in §201.32, in: (1) Fully negotiable obligations of the United States, or (2) deposits or accounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The provisions of §§201.27 through 201.34 shall be applicable to such trust agreements.

(c) Bonds and trust fund agreements shall be filed on forms approved by the Administrator.

[19 FR 4527, Jul. 22, 1954, as amended; further amended at 30 FR 8513, Jul. 3, 1965; 38 FR 33966, Dec. 10, 1973; 38 FR 35297, Dec. 27, 1973; 41 FR 53771, Dec. 9, 1976; 47 FR 32695, Jul. 29, 1982]

§201.28 Duplicates of bonds or equivalents to be filed with Regional Supervisors.

Fully executed duplicates of bonds or trust fund agreements maintained under the regulations in this part, and duplicates of all endorsements, amendments, riders, indemnity agreements, and other attachments thereto, shall be filed with the Regional Supervisor for the region in which the registrant, or packer or person applying for registration resides, or in the case of a corporation, where the corporation has its home office: *Provided*, That if such registrant, or packer or person does not engage in business in such area, the foregoing documents shall be filed with the Regional Supervisor for the region in which the registrant's or packer's or person's principal place of business is located.

[19 FR 4527, Jul. 22, 1954, as amended; further amended at 41 FR 53773, Dec. 9, 1976; 44 FR 45361, Aug. 2, 1979; 47 FR 32695, Jul. 29, 1982]

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