



**Ninety-Ninth Legislature - First Session - 2005**  
**Committee Statement**  
**LB 440**

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**Hearing Date:** March 1, 2005  
**Committee On:** Agriculture

**Introducer(s):** (Kremer)  
**Title:** Adopt the Feedlot Statutory Trust Act

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

6	Yes	Senator(s): Kremer, Wehrbein, Burling, Cunningham, Erdman, Fischer
	No	
	Present, not voting	
2	Absent	Senator(s): Chambers, Preister

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**Proponents:**  
Senator Bob Kremer  
Ted Baum  
Ernest VanHooser  
Michael Kelsey

**Representing:**  
Introducer  
Nebraska Livestock Markets Association  
Nebraska Livestock Markets Association  
Nebraska Cattlemen

**Opponents:**  
Bob Hallstrom

**Representing:**  
Nebraska Bankers Association

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 440 creates a statutory trust for the benefit of unpaid sellers of livestock purchased by feedlots. The primary substantive provision of LB 440 is found in Section 4 which declares that a statutory trust exists for the benefit of unpaid cash sellers of livestock to a feedlot operator. The trust is modeled after the “packer trust” provisions of the federal Packers & Stockyards Act (P&SA). Specifically, section 4 provides that livestock purchased by a feedlot from a cash seller, and all proceeds and receivables from any subsequent sale of the livestock, are held in trust by the feedlot operator for the benefit of unpaid cash seller until the seller has been paid in full. The remainder of the bill primarily adds clarification, definition and interpretation of the trust created by the bill:

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- Section 1 names the sections of the bill the Feedlot Statutory Trust Act;
- Section 2 declares legislative intent that the Act is intended to remedy a burden on commerce caused by security agreements entered into between feedlot operators and their lenders granting security interests in livestock obtained from unpaid cash sellers creates;
- Cash seller is defined in section 3 as a livestock seller who has not entered into a written credit agreement with a feedlot purchaser, demands payment within 15 days after transfer of possession, and is not paid;
- Payment is deemed not to have been made if a check or other instrument in payment is dishonored;
- The trust interest of unpaid cash sellers is lost if a seller fails to give timely notice of nonreceipt of payment to the purchaser and the Director of Agriculture within 30 days of the transfer of possession or within 15 days after the seller receives notice that a payment instrument is dishonored;
- Trust assets exclude livestock that are collateral for a perfected purchase money security interest taken by a feedlot creditor that has advanced value to secure the feedlot's rights to the livestock;
- The trust interest may not be waived by the seller prior to purchase;
- Livestock and proceeds remain assets of the trust even if commingled with other livestock or funds of the purchaser and courts are instructed that trust beneficiaries are not required to identify specific funds or assets of the purchaser's estate that are trust assets;
- The trust interest of cash sellers does not conflict with provisions of the UCC that specifically allow title to pass to subsequent purchasers but the trust is preserved irrespective of title to livestock.

Cash sellers are authorized to initiate legal proceedings to enforce their trust interest. Additionally, the Director of Agriculture is authorized by the bill to institute legal action, or to intervene in any legal proceeding, to assert the trust interests of cash sellers created by the bill.

**Explanation of amendments, if any:**

The committee amendment shortens the period for a seller to declare his or her status as a cash seller by demanding payment from 15 days to 7 days after transfer of possession.

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**Senator Bob Kremer, Chairperson**