

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 440

Introduced by Kremer, 34

Read first time January 13, 2005

Committee: Agriculture

A BILL

- 1 FOR AN ACT relating to agriculture; to adopt the Feedlot Statutory
- 2 Trust Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 through 4 of this act shall be
2 known and may be cited as the Feedlot Statutory Trust Act.

3 Sec. 2. The Legislature finds that there is a burden on
4 and obstruction to commerce regarding livestock financing
5 arrangements under which feedlot operators encumber, give lenders
6 security interest in, or allow liens to be placed on livestock
7 purchased by feedlot operators from cash sellers or on the
8 receivables or proceeds from such livestock, and when such
9 encumbrances, security interests, and liens take priority over cash
10 sellers that have not been paid, such arrangements are contrary to
11 the public interest. The Feedlot Statutory Trust Act is intended
12 to remedy such burden on and obstruction to commerce regarding
13 livestock and to protect the public interest.

14 Sec. 3. For purposes of the Feedlot Statutory Trust Act:

15 (1) Cash seller means a person selling livestock,
16 including a livestock dealer or market agency buying and selling
17 livestock on commission, who (a) has not entered into a written
18 credit agreement with the feedlot operator, (b) has made a demand
19 for payment within fifteen days after the feedlot operator has
20 possession of the livestock, and (c) has not been paid by the
21 feedlot operator for the livestock;

22 (2) Director means the Director of Agriculture or his or
23 her designated representative;

24 (3) Dishonored means that a payment instrument is not
25 paid when presented;

26 (4) Feedlot means an enterprise engaged in the business
27 of feeding livestock for itself or for other persons;

28 (5) Livestock means cattle, swine, or sheep;

1 (6) Person means an individual, partnership, limited
2 liability company, corporation, association, or other entity; and

3 (7) Operator means the owner or person managing or in
4 control of.

5 Sec. 4. (1) Except for livestock that serve as
6 purchase-money collateral for a perfected purchase money security
7 interest, all livestock purchased by a feedlot operator, whether
8 directly or by its agent or representative, from a cash seller and
9 all receivables and proceeds from the sale of such livestock shall
10 be held by the feedlot operator in trust for the benefit of the
11 cash seller of such livestock until full payment has been received
12 by the cash seller. For purposes of this section, a secured
13 party's purchase-money security interest shall not extend beyond
14 the value given by the secured party to enable the feedlot operator
15 to acquire rights in the livestock involved in the specific
16 transaction at issue. Payment shall not be deemed to have been
17 made if the cash seller receives a payment instrument that is
18 dishonored. A cash seller loses the benefit of the trust if the
19 cash seller fails to give written notice of nonreceipt of payment
20 to the feedlot operator and to the director:

21 (a) Within thirty days after the next business day
22 following the purchase and transfer of possession of the livestock;
23 or

24 (b) Within fifteen business days after the cash seller
25 receives notice that a payment instrument promptly presented for
26 payment has been dishonored.

27 (2) The trust interest of a cash seller under this
28 section cannot be waived prior to the feedlot operator's purchase

1 of the livestock. Livestock or the proceeds from the sale of
2 livestock do not lose their status as trust assets as a result of
3 being commingled with other livestock or funds and no tracing of
4 specific livestock or proceeds therefrom is required. The trust
5 interest of a cash seller under this section does not impair the
6 passage of title to livestock obtained from a cash seller in
7 accordance with relevant provisions of law but continues in the
8 proceeds from the sale of such livestock and is preserved
9 irrespective of title to the livestock.

10 (3) A cash seller may institute legal action to enforce
11 the trust created by this section. The director may institute
12 legal action, or intervene in any legal proceeding, for the benefit
13 of beneficiaries of a trust created by this section if necessary to
14 effect the purpose of this section.