

The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition, & Forestry
United States Senate
Washington, DC 20510

The Honorable Collin Peterson
Chairman
Committee on Agriculture
United States House of Representatives
Washington, DC 20515

The Honorable Debbie Stabenow
Ranking Member
Committee on Agriculture, Nutrition, & Forestry
United States Senate
Washington, DC 20510

The Honorable Michael Conaway
Ranking Member
Committee on Agriculture
United States House of Representatives
Washington, DC 20515

April 20, 2020

Dear Chairman Roberts, Chairman Peterson, and Ranking Members Stabenow and Conaway:

We write in support of the Securing All Livestock Equitably (SALE) Act, (S. 3419 / H.R. 6067), introduced to establish a Dealer Statutory Trust. Dealer Statutory Trust is a practical solution to a problem facing livestock producers and markets across the United States.

A Dealer Statutory Trust would correct a fundamental unfairness in current law where the farmers and ranchers who produce livestock and their sales agents are left unpaid in the event of a livestock dealer default. Congress created a Packer Statutory Trust in 1976 to protect people selling livestock to packers in the event of a payment default. A Dealer Statutory Trust would provide the same protection when selling to livestock dealers. Dealers are in the business of buying and reselling livestock, often grouping them to meet volume and type needs of their customers.

Unfortunately, we have seen a pattern of livestock dealer payment defaults. In these situations, sellers often lack the legal ability to reclaim the livestock and are left financially devastated. Although dealer bonds under P&S Act are designed to protect sellers in the event of a dealer default, bond payments average less than 15 cents on the dollar. At the same time, significantly increasing these bond amounts could push many dealers out of business.

The creation of a Dealer Statutory Trust would greatly improve financial recovery by giving unpaid sellers of livestock (producers selling directly, markets selling on their behalf, and dealers selling to other dealers) the legal priority to reclaim livestock for which they haven't been paid. If the dealer already re-sold the livestock, the unpaid seller would have first priority in the proceeds from those livestock.

A Dealer Statutory Trust would also have the added benefit of protecting livestock sellers from preferential transfer claims in bankruptcy. These potentially devastating claims arise when a bankruptcy trustee seeks to pull back 90 days' worth of past payments made by a now bankrupt dealer.

At the same time, a Dealer Statutory Trust would be simple and efficient because it would not require a separate account, changes to current business practices, or a pool of government or industry funds.

This concept has been thoroughly vetted, including Congress directing the U.S. Department of Agriculture (USDA) to do a feasibility study of Dealer Statutory Trust as part of the 2018 Farm Bill. The

USDA study, which was released in December, states a Dealer Statutory Trust would improve seller recovery in the event of a dealer default. Additionally, the USDA study found that commerce would continue as usual with a Dealer Statutory Trust in place and implementation of a Dealer Statutory Trust would be unlikely to significantly impact credit availability or lender behavior.

The time has come to pass Dealer Statutory Trust, especially as volatile and low cattle prices, partially due to COVID-19, are sure to create liquidity and default issues in the livestock industry.

Thank you for your leadership on this critical topic.

Sincerely,

American Farm Bureau Federation

American Sheep Industry

Livestock Marketing Association

National Cattlemen's Beef Association

National Farmers Union

R-CALF USA

United States Cattlemen's Association