

4-7-8 Applicant for dealer's license to post security -- Increase in amount of security posted -- Action on security authorized -- Duties of commissioner -- Option to require posting new security if action filed -- Effect of failure to post new security -- Commissioner's authority to call bond if not renewed.

- (1)
 - (a) Before a license is issued to a dealer, the applicant shall post a corporate surety bond, irrevocable letter of credit, trust fund agreement, or any other security agreement considered reasonable in an amount not less than \$10,000 nor more than \$200,000, as determined by the commissioner or as required by the Packers and Stockyards Act, 1921, 7 U.S.C. Section 181 et seq.
 - (b) Any bond shall be written by a surety licensed under the laws of Utah and name the state, as obligee, for the use and benefit of producers.
 - (c) The bond or other security posted shall be conditioned upon:
 - (i) the faithful performance of contracts and the faithful accounting for and handling of livestock consigned to the dealer;
 - (ii) the performance of the obligations imposed under this chapter; and
 - (iii) the payment of court costs and attorney's fees to the prevailing party incident to any suit upon the bond or other security posted.
- (2)
 - (a) The commissioner may require a dealer who is issued a license to increase the amount of the bond or other security posted under Subsection (1)(a) if the commissioner determines the bond or other security posted is inadequate to secure performance of the dealer's obligations.
 - (b) The commissioner shall notify the Packers and Stockyards Administration of an increase made under Subsection (2)(a).
 - (c) The commissioner may suspend a dealer's license for failure to comply with Subsection (2)(a) within 10 days after notice is given to the dealer.
- (3) A consignor claiming damages, as a result of fraud, deceit, or willful negligence by a dealer or as a result of the dealer's failure to comply with this chapter, may bring an action upon the bond or other security posted for damages against both the principal and surety.
- (4)
 - (a) If it is reported to the department by a consignor that a dealer has failed to pay in a timely manner for livestock received for sale, the commissioner shall:
 - (i) ascertain the name and address of each consignor who is a creditor of the dealer; and
 - (ii) request a verified written statement setting forth the amount claimed due from the dealer.
 - (b) Upon receipt of the verified statements, the commissioner shall bring an action upon the bond or other security posted on behalf of the consignors who claim amounts due from the dealer.
- (5)
 - (a) If an action is filed upon the bond or other security posted, the commissioner may require the filing of new security.
 - (b) Immediately upon recovery in the action, the commissioner shall require the dealer to file a new bond or other security.
 - (c) Failure, in either case, to file the bond or other security within 10 days after demand is cause for suspension of the license until a new bond or other security is filed.
 - (d) If the bond or other security posted under this section is not renewed within 10 days of its expiration date, unless the commissioner states in writing that this is unnecessary, the commissioner may obtain, after a hearing, the full amount of the bond or other security before it expires.

Amended by Chapter 383, 2011 General Session