

What can USDA do about packers that do not pay for livestock?

USDA can notify the packer of its responsibility to hold subject assets in trust for the benefit of unpaid cash sellers. USDA can penalize a packer for failing to pay for livestock, since that is a violation of the P&S Act. And, while these proceedings are in progress, USDA can also ask a court to enjoin a packer from future violations of the P&S Act.

However, USDA cannot furnish you with a lawyer to collect payment for you. Nor can USDA compel a packer to pay you.

What can courts do about packers that do not pay for livestock?

A district court of the United States (or a bankruptcy court if the packer is in bankruptcy) can order a packer to hold specific assets in trust for the benefit of unpaid cash sellers of livestock who have given the required notices. The court can only order this upon receiving a written complaint. As an unpaid cash seller of livestock, you may file the necessary written complaint with the court.

What should you do after a court issues a trust order against a packer?

As an unpaid cash seller of livestock, you should petition the court to order payment from the assets held in trust. You should file this petition even if you already notified the packer and P&SP that the packer failed to pay you. If you do not file a petition with the court, the court may order that the assets be distributed to other unpaid cash sellers who did file a petition.

Please direct comments or questions about this publication to:

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**Grain Inspection,
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Livestock Sellers' Rights

**United States
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What is the packer trust?

The packer trust is a statutory trust authorized in the Packers and Stockyards Act (P&S Act) to remedy the burden placed on public interests by packers' inadequate financing arrangements. The trust protects certain livestock sellers by making their rights to specific assets of the packer legally superior to the interests of any secured lenders to whom the packer offered those assets as collateral for loans.

Whose rights does the packer trust protect?

Cash sellers of livestock. If you (as a producer, dealer, or market agency) sell livestock on a cash basis, your rights are protected by the packer trust. A cash sale is one in which you do not extend credit to the buyer. The packer trust will not protect you if you extend credit to a packer in a writing which contains a trust waiver.

The prompt payment provisions of the P&S Act permit livestock buyers and sellers to agree, in writing, to payment terms other than those set out in the P&S Act. For example, if you sell livestock to a packer, you may agree, in writing, to give the packer time to cover a check that you know is not good or to allow the packer more time to make payment than permitted under the P&S Act. However, by agreeing to these terms, you may forfeit the benefits of the packer trust, since your written agreement may be considered an extension of credit rather than a cash sale.

Read documents carefully before signing. Credit agreements have sometimes been included in small print on stockyard receipts, scale tickets, and other documents. Therefore, you need to carefully read everything before you sign. Never sign anything you do not understand, or you could, unwittingly, forfeit the benefits of the packer trust.

How do you preserve your rights if you do not get paid?

Notify both the packer and the nearest Packers and Stockyards Program (P&SP) regional office that the packer has failed to pay you for livestock. Your claim can be a letter, mailgram, or fax, but it must be in writing. If you do not give the required written notice to both the packer and P&SP, you will forfeit the benefits of the packer trust.

How quickly must you act to preserve your rights?

30 calendar days after payment was due. You must notify the packer and P&SP of your claim within the 30 calendar days immediately following the day the packer owed you payment. If you sold livestock to a packer on a live basis, the packer owes you payment by the close of the next business day following purchase and transfer of possession. If you sold livestock to a packer on a "grade and yield" basis, the packer owes you payment by the close of the next business day following determination of the purchase price.

15 business days after payment instrument is not honored. You must notify the packer and P&SP of your claim within the 15 business days immediately following the day you receive notice that the payment instrument was not honored. If the packer gave you a payment instrument, you should properly present it for payment and receive notice that it is dishonored (for example, a bounced check), before you make this claim. Do not delay in giving written notice of your claim, or you will forfeit the benefits of the packer trust.

What information should you include in your packer trust claim?

Include the name and contact information of the packer, your name and contact information, the date of the transaction(s) in which the packer failed to pay you, the date you received notice that one or more payment instruments from the packer were dishonored (if applicable), the amount of money the packer owes you, and any other information necessary to support your trust claim.

What is a packer?

Under the P&S Act, a packer is someone engaged in the business of buying livestock in commerce for purposes of slaughter, manufacturing or preparing meats or meat food products for sale or shipment in commerce, or marketing meats, meat food products, or livestock products in an unmanufactured form, acting as a wholesale broker, dealer, or distributor in commerce.

Which packers are subject to the packer trust?

Packers whose average annual purchases of livestock exceed \$500,000 are subject to the packer trust. If you cannot determine if a packer is subject to the packer trust, contact the nearest P&SP regional office for assistance.

What assets of a packer are subject to the packer trust?

Subject assets include livestock a packer bought in cash sales, as well as inventories, receivables, and proceeds derived from that livestock. Other assets, such as plant equipment and buildings, are not subject to the packer trust.