

Article 35A.

North Carolina Livestock Prompt Pay Law.

§ 106-418.1. Short title.

This Article shall be known by the short title of "North Carolina Livestock Prompt Pay Law." (1973, c. 38, s. 2.)

§ 106-418.2. Legislative intent and purpose.

The purpose of the Article is to regulate the sale of livestock by auction at public livestock markets and to assure prompt payment for livestock sold. (1973, c. 38, s. 1.)

§ 106-418.3. Definitions.

As used in this Article, unless the context clearly requires otherwise:

- (1) "Banking business day" means a day in which banks are normally open for business in North Carolina.
- (2) "Commissioner" means the Commissioner of Agriculture of North Carolina or his designated agent or agents.
- (3) "Custodial accounts" means custodial accounts for trust funds as explained in the Code of Federal Regulations, January 1, 1972, § 201.42.
- (4) The "North Carolina Public Livestock Market Advisory Board" means the Board established under G.S. 106-407.1.
- (5) "Public livestock market" means livestock sales at a market duly licensed under G.S. 106-406. (1973, c. 38, s. 3; 1975, c. 19, s. 33.)

§ 106-418.4. Duties of Commissioner.

The Commissioner shall regulate, by and with the consent of the Board of Agriculture as provided herein, the payment for livestock sold at auction. (1973, c. 38, s. 4.)

§ 106-418.5. Collection of payment.

Collection of payment for livestock purchased at auction shall be made by the public livestock market on the same date of purchase of the livestock, and the proceeds therefrom shall be deposited by the public livestock market in their custodial account not later than the next banking business day following the date of sale. Collection for livestock purchased by auction shall be made by cash, check, or draft. There shall be no loans made from the custodial account of any public livestock market to any purchaser of livestock at said sales establishment. Payment shall be made by the public livestock market to the seller of livestock at auction not later than one banking business day after the date of sale of the animal or animals. (1973, c. 38, s. 5.)

§ 106-418.6. Action upon failure of payment.

It shall be the duty and responsibility of each public livestock market to report to the Commissioner within 24 hours after having knowledge that a check or draft issued in payment for livestock has been dishonored or that a buyer of livestock at auction has not fulfilled his obligation to pay for livestock within the prescribed time in G.S. 106-418.5. It shall be the duty and

responsibility of the Commissioner to notify all public livestock markets of the fact of dishonor of any such check issued or the failure to honor any draft upon presentation used in payment for livestock or due to the lack of satisfactory payment for livestock. (1973, c. 38, s. 6.)

§ 106-418.7. Authority of Board of Agriculture, North Carolina Public Livestock Market Advisory Board and the Commissioner.

The Board of Agriculture shall establish rules and regulations pertaining to the purchase and payment of livestock sold in this State at public livestock markets. The North Carolina Public Livestock Market Advisory Board shall recommend rules and regulations pertaining to the administration of this Article to the Board of Agriculture for their consideration. The Commissioner is authorized to revoke any livestock market operator's license issued or to refuse to issue a livestock market license to any person as hereinafter provided upon satisfactory proof that said person has repeatedly violated any of the provisions of this Article or any of the rules and regulations made and promulgated thereunder; provided that no license shall be revoked or refused until the person, firm or corporation shall have first been given an opportunity to appear at a hearing before the Commissioner or his agent. Any person who is refused a license, or whose license is revoked by any order of the Commissioner, may appeal within 30 days from said order to the Superior Court of Wake County or the superior court of the county of his residence. (1973, c. 38, s. 7; 1989, c. 770, s. 25.)

§ 106-418.7A. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 10; 1998-215, s. 14.)