

47-1808. Bonding of livestock dealers; exceptions; amount of bond; who bond benefits; additional bond may be required; attorney fees assessed as costs in certain actions; penalties. (a) Except if bonded under the packers and stockyards act, 1921, as amended and supplemented, 7 U.S.C. § 181 et seq., every livestock dealer required to be registered pursuant to K.S.A. 47-1805, and amendments thereto, upon notification by the animal health commissioner of the amount of bond required, shall file with the animal health commissioner a bond with good corporate surety qualified under the laws of the state of Kansas in a sum computed by dividing the dollar value of livestock sold during the preceding business year, or the substantial part of that business year, in which the livestock dealer did business, by the actual number of days on which livestock was sold. The divisor, the number of days on which livestock was sold, shall not exceed 130. The amount of bond coverage must be the next multiple of \$5,000 above the amount so determined. When the computation exceeds \$75,000, the amount of bond coverage need not exceed \$75,000 plus 10% of the excess over \$75,000, raised to the next \$5,000 multiple. In cases where a business operation is being commenced, an estimated amount of business to be transacted during the next 12 months may be used subject to adjustment later, if indicated. In no event shall the bond be for an amount less than \$10,000.

(b) The bond shall be in favor of the state of Kansas for the benefit of all persons interested, their legal representatives, attorneys or assigns and shall be conditioned on the faithful performance of all the registrant's duties as a livestock dealer. Any person injured by the breach of any obligation of the livestock dealer may commence suit on the bond in any court of competent jurisdiction to recover damages that the person has sustained, but any suit commenced shall either be a class action or shall join as parties plaintiff or parties defendant or other persons who may be affected by such suit on the bond. No bond shall be canceled by the surety on less than 30 days' notice by mail to the animal health commissioner and the principal except that no such notice shall be required for cancellation of any bond by reason of nonpayment of the premium thereon. The liability of the surety on the bond may continue for each successive registration period the bond covers. The total liability of the surety shall be limited to the amount stated on the current bond or on an appropriate rider or endorsement to the current bond. It is the intent of this statute that the bonds be nonaccumulative, that stacking of bonds not occur in excess of the face value of the current bond.

(c) Whenever the animal health commissioner determines that any bond given by any livestock dealer is inadequate and insufficient security against any loss that might arise under the terms of the bond, the animal health commissioner shall require any additional bond that the animal health commissioner considers necessary to provide adequate security. If the animal health commissioner considers the financial condition of the surety upon any livestock dealer and the livestock dealer's bond to be impaired, the animal health commissioner shall require any substituted or additional bond that the animal health commissioner considers necessary except this act shall not apply to those who buy livestock for others incidentally to their own farming operation.

(d) In all actions hereafter commenced in which judgment is rendered against any surety company on any surety bond furnished under the provisions of this section, if it appears from the evidence that the surety company has refused without just cause to pay the loss upon demand, the court shall allow the plaintiff a reasonable sum as attorney fees to be recovered and collected as a part of the costs. When a tender is made by the surety company before the commencement of the action in which judgment is rendered and the amount recovered is not in excess of the tender, no such costs shall be allowed.

(e) Any person violating or failing to comply with the provisions of this section shall be deemed guilty of a class A misdemeanor.

(f) This section shall be part of and supplemental to article 18 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 1990, ch. 193, § 1; L. 2012, ch. 140, § 104; July 1.