

**Agricultural Marketing Service**

# 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 trust protect?

Cash sellers of livestock. If you (as a producer, dealer, or market agency) sell livestock to a packer on a cash basis, the packer trust protects your rights. 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 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 a court may interpret your written agreement as 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. Never sign anything you do not understand, or you could, unwittingly, forfeit the benefits of the packer trust.



## How do you preserve your rights?

Notify both the packer and the nearest Packers and Stockyards Division (PSD) regional office that the packer has failed to pay you for livestock. Your claim must be in writing. If you do not give the required written notice to both the packer and PSD, you will forfeit the benefits of the packer trust.

## How quickly must you file a claim?

- Thirty (30) calendar days after payment was due. Notify the packer and PSD of your claim within 30 calendar days immediately following the day the packer owed you payment. If you sell livestock to a packer on a live basis, the packer must pay you (in person, by wire, or in the mail)

by the close of the next business day following purchase and transfer of possession. If you sell livestock to a packer on a "grade and yield" basis, the packer must pay (in person, by wire, or in the mail) by the close of the next business day following determination of the purchase price.

- Fifteen (15) business days after payment instrument is not honored. Notify the packer and PSD of your claim within 15 business days immediately following the day you receive notice from your bank 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?

Include all of the following in your claim:

- 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
- 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 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, contact the nearest PSD regional office for assistance.

## What assets are subject to the trust?

Subject assets include:

- Livestock a packer bought in cash sales, as well as
- Inventories, receivables, and proceeds derived from meat, meat food products, or livestock products.

Other assets, such as plant equipment and buildings, are not subject to the packer trust.

## What can USDA do about packers non-payment?

### USDA can:

- Notify the packer of its responsibility to hold subject assets in trust for the benefit of unpaid cash sellers

- Penalize a packer for failing to pay for livestock, since that is a violation of the P&S Act
- Ask a court to prohibit a packer from committing future violations of the P&S Act, while these proceedings are in progress

### USDA cannot:

- Furnish you with a lawyer to collect payment for you
- Compel a packer to pay you

## What can courts do about packer non-payment?

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 PSD that the packer failed

to pay you. If you do not file a petition with the court, the court may order distribution of the assets to other unpaid cash sellers who did file a petition.

Contact info for PSD regional offices: [www.ams.usda.gov/about-ams/programs-offices/fair-trade-practices/packers-and-stockyards-contacts](http://www.ams.usda.gov/about-ams/programs-offices/fair-trade-practices/packers-and-stockyards-contacts)

## Please direct comments or questions about this publication to:

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