



Livestock Identification and Commerce Act Regulation Development

Information on Policy Change Highlights

February 2007

Prepared by the Working Group
comprised of members from
Alberta Agriculture and Food
and
Livestock Identification Services (LIS)

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Livestock Identification & Commerce Act - Regulatory Policy Development

- The *Livestock Identification and Commerce Act* (LICA) was passed by the Alberta Legislature in May 2006. The Act will not be proclaimed into force until the regulations are finalized.
- In 2006 and 2007, Alberta Agriculture and Food (AF) and Livestock Identification Services (LIS) have been consulting with industry stakeholders on the proposed policies to be addressed in the LICA regulations.
 - As part of this consultation process, industry stakeholders have been provided with detailed proposals for the regulations.
 - AF and LIS have been revising the proposed policies based on the industry feedback.
 - The consultation process is in its final stages.
 - A final draft proposal will be circulated to industry stakeholders later in February and the industry groups will be asked to provide any final comments to the AF-LIS Steering Committee by March 16, 2007.
 - This document summarizes some of the key policies. A detailed policy document is available from your industry association or LIS.

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Overview of LICA's Parts

- LICA is organized into 4 parts. The regulations will follow the same organizational structure.
 - **Part 1 – Livestock Brands:** application forms, fees, & registry
 - **Part 2 – Sales Documentation, Transportation and Inspection**
 - Division 1 – Livestock Transactions: bills of sale, settlement statements and prompt payment details
 - Division 2 – Transportation within Alberta: manifests and permits.
 - Division 3 – Inspection of Livestock: inspection sites and exemptions
 - Division 4 – Livestock Permits: shipping for export, leaving inspection sites, horses and pedigree cattle
 - Division 5 – Notices and Fees
 - **Part 3 – Dealing in Livestock**
 - **Part 4 – Tribunal and Assurance Funds**
 - Division 1 – Non-Payment by Licenced Livestock Dealers
 - Division 2 - Non-Payment by Licenced Buyers for Assured Livestock
 - Division 3 – Non-Payment by Non-Licenced Buyers for Assured Livestock
 - Division 4 – Fund Levies and Withdrawing from Protection
 - Division 5 - Livestock Assurance Funds Tribunal
- Please refer to the draft consultation discussion paper and the Act for pertinent details*

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Highlights of Draft Regulatory Policies

- This summary highlights key policy areas based on industry feedback to date including:
 - Sales Documentation: a more flexible approach to sales documentation and more choices in the use of manifests.
 - Definitions of Prompt Payment: inclusion of proposed details on 'payment', 'price discovery' and 'possession.'
 - Animal Movement Tracking - mandatory transportation permits (A-Forms) from auction markets, assembly stations and 'inspected' country sales.
 - Transportation Documentation: increased recognition of other provinces' transportation documents.
 - Dealer Trust Funds: simplified trust accounting requirements.
 - Dealer Education: to be determined by the Dealers' and Livestock Dealer's Agents Licensing Advisory Committee and the Minister.
 - Dealer Bonds and Payment Assurance Funds: description of the eligibility criteria, levy payment options, and program rules for the Livestock Assurance Funds.

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Sales Documentation – Bills of Sale

- The Act requires all sellers to provide bills of sale (regulations can define what constitutes a bill of sale).
- Bills of sale are important for a number of reasons, one of which is buyers paying in accordance with a bill of sale or manifest gain the protection of the statutory bar against conversion lawsuits.
- Industry has requested flexibility in sales documentation requirements.

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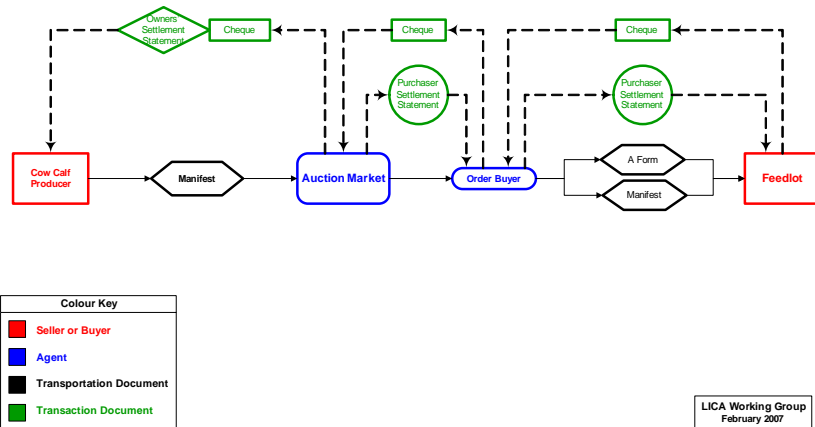


Sales Documentation – Flexibility

- The proposed regulations reflect the types of transaction documents that the industry currently uses at the various stages of the production chain.
- Industry currently uses manifests, settlement statements, and invoices as sales documentation depending on where in the production chain the transaction is occurring.
- The current draft seeks to give legal recognition to those transaction documents to minimize changes to current industry practices.

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Sales Documentation Flow



Sales Documentation – Manifest

- A producer selling livestock will be permitted to use either a bill of sale or a manifest.
- The intent is to have the regulations deem a 'manifest' to be a bill of sale. This should avoid sellers and agents from having to complete separate bills of sale, if they so choose.
- The manifest will have three check-box choices for a person to indicate how he or she is using the manifest:
 - *Sale only, Transport for sale, or Transport only*

LIVESTOCK IDENTIFICATION SERVICES LTD.		DRAFT
OFFICIAL ALBERTA LIVESTOCK MANIFEST		
AG999999		
Purpose of Manifest (Check One)		
<input type="checkbox"/> Transport Only	<input type="checkbox"/> Transport for Sale	<input type="checkbox"/> Sale Only (Bill of Sale)
Transportation (Sale) Details:		
Pen or Lot Number	Date	LG1MM / YYYY
Name	Phone Number	
Press Hard		
Person's Address	Postal Code	
You Are Making		

Sales Documentation – Deemed Bills of Sale

- If a combination of a manifest, settlement statement, or invoice contain the information required on a bill of sale, that combination of documents could be deemed to be a bill of sale. Thereby, sellers would have the option of not preparing a separate bill of sale.
- The intent is to have regulations use the following terminology:

Current Industry Terms

- Manifest
- Settlement Statement
- Invoice

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New LICA Terms

- Manifest*
- Owner's Settlement Statement*
- Purchaser's Settlement Statement*

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Sales Documentation - Required Information

- Information to be required on an Owner's Settlement Statement or Purchaser's Settlement Statement:
 - (a) the name of the owner as shown on the relevant manifest or, in the alternative, a unique numerical or alphabetical code assigned to the owner;
 - (b) the unique numerical code(s) shown on the relevant livestock manifest(s);
 - (c) a description of the livestock sufficient to identify the livestock being purchased which may include some or all of the following information:
 - (i) the number of livestock,
 - (ii) the colour of the livestock,
 - (iii) the kind of livestock, and
 - (iv) the proper description and location of the brand, if any, on the livestock and other marks of ownership on the livestock;
 - (d) the purchase price of the livestock;
 - (e) the weights, if the livestock is purchased on a weight basis; and
 - (e) any expenses, deductions and commission that may be properly charged to the purchaser.

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Prompt Payment

- Section 16 of the Act requires payment within two business days of price discovery or possession, whichever occurs later.
- The regulations will define:
 - what constitutes making a payment,
 - what price discovery means; and
 - when possession is deemed to occur.
- The goal is to not require payment until:
 - Buyers, such as feedlots, are able to inspect the livestock
 - Packers are able to grade livestock, when sold on a grade basis
 - Financiers, such as feeder associations, banks, and private lenders, have time to inspect and identify the livestock

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Prompt Payment: Price Discovery

- It is proposed that “price discovery” means:
 - (a) for the purposes of section 16(1)(a) of the Act, the point of time when all of the elements necessary to calculate the purchase price of the livestock and the sales proceeds are known to the owner of the livestock or the owner’s agent, as the case may be, and the purchaser; and
 - (b) for the purposes of section 16(1)(b) of the Act, the point of time when all of the elements necessary to calculate:
 - (i) the purchase price of the livestock are known to the owner’s agent and the purchaser, and
 - (ii) the amount of the sale proceeds payable to the owner of the livestock by the owner’s agent are known to the owner’s agent and the owner of the livestock.

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Prompt Payment: Possession

- A person has “possession” of livestock when that person has control over the livestock or has the right to take control over the livestock.
- However, if a person has possession of livestock in order to approve or examine the livestock for the purpose of ascertaining whether:
 - a) the livestock is in conformity with the contract;
 - b) any express, implied or trade terms and conditions of the contract have been met; or
 - c) funds can be released for the purchase of the livestock by a feeder association, government program, private lender or financial institutionpossession could be deemed to occur two days after that person has control over the livestock or has the right to take control over the livestock.

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Prompt Payment: Making Payment

- Everyone who is paying for livestock will have the option of paying by:
 - a) by wiring collect or electronic transfer;
 - b) by sending the sale proceeds by mail, courier or personal delivery;
 - c) by making the sale proceeds available by pick-up.
- Payment by way of a loan from the seller, if in writing and properly documented, could be deemed payment (note, this provision is still under consideration)
- Payment could be deemed to have been made if
 - a) the letter is postmarked or delivered within two business days of possession or price discovery; or
 - b) the cheque is available for pick up within two business days of possession or price discovery.

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Transportation Documentation

- For cattle entering Alberta from other provinces, changes have been made to give greater recognition to the originating province's transportation documents.
- However, if the sale is taking place in Alberta, and the seller's agent (auction market) or the buyer want to be protected against conversion lawsuits, the seller's agent or the buyer will need to request that the out-of-province seller complete an Alberta manifest or a bill of sale with a security interest disclosure. This will enable the seller's agent or buyer to direct payment jointly to the seller and a disclosed security interest holder.
- Provisions have also been made to allow for provincial bordering farms to move livestock out of Alberta without inspection, provided certain conditions are met.

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Animal Movement Tracking

- Industry consultation has recognized the need for animal movement tracking in Alberta – one of the three pillars to full Livestock Traceability (Animal ID, Premises ID and Movement Tracking)
- It has recognized that with destination information on the existing A-Form that Alberta is already very close to having animal movement tracking without undue recourse to the speed of commerce and with little or no additional cost.
- By requiring mandatory transportation permits (A-Forms) from Auction Markets, Assembly Stations and 'Inspected' Country Sales – Alberta can have a very robust animal movement tracking system in the very near future.
- A significant project is currently underway to automate the generation of A-Forms and the export of manifests at the auction markets with funding support from Alberta Agriculture and Food, CCIA, LIS, Viewtrak and the federal Canadian Integrated Traceability Program.

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Dealer Trust Accounts & Education

- The requirements for dealer trust accounts have been simplified and made less onerous.
- The educational requirements to become a licensed livestock dealer in Alberta, showing that the dealer has sufficient knowledge of the Act and the regulations, will be determined in conjunction with the Dealers' and Livestock Dealer's Agents Licensing Advisory Committee and the Minister.

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Payment Assurance

- Dealer Bonds – eligible livestock: cattle, horses, hogs, sheep, bison, and diversified livestock.
- Assurance Funds – only cattle and horses are eligible (assured livestock).
- Bond Claim determinations made by LIS.
- Assurance Funds claims determined by the Livestock Assurance Funds Tribunal.

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Bond Eligibility

Where LIS determines that a licensed buyer (dealer) has committed a default in payment, a seller or seller's agent is entitled to share in the proceeds of a dealer's bond if LIS is satisfied that:

- (a) the livestock were alive and in Alberta when the person agreed to supply or sell the livestock to the dealer;
- (b) the person who supplied or sold the livestock
 - (i) notified LIS of the non-payment
 - (A) as soon as was reasonably possible after the person knew or should have known of the non-payment, and
 - (B) within the earlier of the date specified in the notice published by LIS or 60 days of the livestock being supplied to the dealer,
 - (ii) filed a claim under the Act;
 - (iii) did not extend credit to the dealer in the supply or sale of the livestock that is the basis of the claim,
 - (iv) did not collude with the dealer to make a claim against the dealer's security; and
 - (v) was not an associated person to the licensed dealer.

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Livestock Assurance Funds Tribunal

The Tribunal continues to be comprised of the following members:

- (a) Alberta Auction Markets Association;
- (b) Alberta Beef Producers;
- (c) Alberta Cattle Feeders Association;
- (d) Feeders Associations of Alberta Ltd.;
- (e) Alberta Livestock Dealers & Order Buyers Association;
- (f) Western Stock Growers Association; and
- (g) Any new members appointed by associations or entities designated by the Tribunal.

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Fund Eligibility: Owner Selling to Licensed Buyer – Eligibility

- The assured livestock (i.e., cattle and horses) must have been alive and in Alberta for a minimum of 30 days prior to when the seller or seller's agent agreed to sell or supply the assured livestock to the licensed dealer.
- An exception to the 30-day rule is where the assured livestock have been sold or supplied through an Alberta livestock market, in which case the assured livestock are not required to have been in Alberta for the previous 30 days. The purpose of this exemption is to allow auction markets to be protected. It recognizes the industry practice of buyers at auction markets treating the auction market as the seller.

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Fund Eligibility: Owner Selling to Licensed Buyer – Eligibility Criteria

The claimant

- (a) is an Alberta resident, Alberta corporation or a non-resident individual or company licensed as a livestock dealer in Alberta;
- (b) notified LIS of the non-payment as soon as was reasonably possible after the person knew or should have known of the non-payment;
- (c) did not extend credit to the licensed dealer in the supply or sale of the assured livestock that is the basis of the claim,
- (d) had the assured livestock inspected where an inspection was required under the Act;
- (e) did not collude with the licensed dealer to make a claim against the Livestock Assurance Fund;
- (f) paid levies on the assured livestock that are the subject matter of the claim;
- (g) the assured livestock were not supplied or sold in a year in respect of which the claimant had withdrawn from the protection of the Funds;
- (h) was acting at arm's length with, and was not an associated person to, the dealer;
- (i) received payment from dealer security.

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Dealer Fund Eligibility: Dealer Selling to Non-Licensed Buyer – Eligible Cattle

- The assured livestock must have been alive and in Alberta for a minimum of 30 days prior to when the licensed dealer agreed to supply or sell the assured livestock to the non-licensed buyer.
- An exception to the 30-day rule is where the assured livestock have been sold or supplied through an Alberta livestock market, in which case the assured livestock are not required to have been in Alberta for the previous 30 days. The purpose of this exemption is to allow auction markets to be protected and recognizes the industry practice of buyers at auction markets treating the auction market as the seller.

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Dealer Fund Eligibility: Dealer Selling to Non-Licensed Buyer – Eligible Criteria

The licensed livestock dealer

- (a) notified LIS of the non-payment as soon as was reasonably possible after the licensed dealer knew or should have known of the non-payment by the non-licensed buyer;
- (b) did not extend credit to the non-licensed buyer in the supply or sale of the assured livestock that is the basis of the claim;
- (c) had the assured livestock inspected where an inspection was required under the Act;
- (d) did not collude with the non-licensed buyer to make a claim against the Livestock Dealers' Assurance Fund;
- (e) paid levies to the Livestock Dealers' Assurance Fund for the assured livestock that are the subject matter of the claim,
- (f) the assured livestock were not supplied or sold in a year in respect of which the licensed livestock dealer is ineligible to receive payments from the Tribunal,
- (g) was acting at arm's length with the non-licensed buyer; and
- (h) was not an associated person to the non-licensed buyer.

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Assurance Fund Levies

- Levy amount, as well as when and how levies are paid are determined by the Tribunal.
- Option for advance payment of levies: goal is to allow dealers and others to pay levies in advance, allocate to patron's or dealer funds, and top-up at year-end.
- Sellers can withdraw from fund protection by providing advance notice.