
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 75

Session of
1987

INTRODUCED BY STUBAN, COY, KOSINSKI, PETRARCA, WOZNIAK, DALEY,
CHADWICK, MRKONIC, LLOYD, STABACK, HAYES, WAMBACH, STEIGHNER,
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JANUARY 28, 1987

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
JANUARY 28, 1987

AN ACT

1 Establishing the Auctioneer Recovery Fund.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Auctioneer
6 Recovery Fund Act.

7 Section 2. Establishment of fund.

8 There is hereby established the Auctioneer Recovery Fund for
9 the purposes hereinafter set forth in this act.

10 Section 3. Funding.

11 An auctioneer, apprentice auctioneer, auction company or
12 auction house licensee entitled to renew his license on or after
13 July 1, 1987, shall, when so renewing his license, pay in
14 addition to the applicable license fee a further fee of \$50
15 which shall be paid and credited to the Auctioneer Recovery
16 Fund. Thereafter, any person, upon receiving his initial

1 auctioneer's license, shall, in addition to all fees, pay into
2 the Auctioneer Recovery Fund a sum of \$50. If, at the
3 commencement of any biennial renewal period beginning in 1987
4 and thereafter, the balance of the fund is less than \$100,000,
5 the State Board of Auctioneer Examiners may assess an additional
6 fee, in addition to the renewal fee, against each licensee in an
7 amount, not to exceed \$25, which will yield revenues sufficient
8 to bring the balance of the fund to \$100,000. All said fees
9 shall be paid into the State Treasury and credited to the
10 Auctioneer Recovery Fund, and said deposits shall be allocated
11 solely for the purposes of the fund as provided in this act. The
12 fund shall be invested, and interest and dividends shall accrue
13 to the fund.

14 Section 4. Application for recovery from fund.

15 (a) Procedure following judgment.--When any aggrieved person
16 obtains a final judgment in any court of competent jurisdiction
17 against any person licensed under the act of December 22, 1983
18 (P.L.327, No.85), known as the Auctioneer and Auction Licensing
19 Act, upon grounds of fraud, misrepresentation or deceit with
20 reference to any transaction for which a license is required
21 under the Auctioneer and Auction Licensing Act and the cause of
22 action occurred on or after the effective date of this act, the
23 aggrieved person may, upon termination of all proceedings,
24 including reviews and appeals, file an application in the court
25 in which the judgment was entered for an order directing payment
26 out of the Auctioneer Recovery Fund of the amount unpaid upon
27 the judgment.

28 (b) Application requirements.--The aggrieved person shall be
29 required to show:

30 (1) That he is not a spouse of the debtor or the

1 personal representative of said spouse.

2 (2) That he has obtained a final judgment as set out in
3 this section.

4 (3) That all reasonable personal acts, rights of
5 discovery and such other remedies at law and in equity as
6 exist have been exhausted in the collection thereof.

7 (4) That he is making said application no more than one
8 year after the termination of the proceedings, including
9 reviews and appeals in connection with the judgment.

10 (c) Payments from fund.--When there is an order of the court
11 to make payment or a claim is otherwise to be levied against the
12 fund, such amount shall be paid to the claimant in accordance
13 with the limitations contained in this section. Notwithstanding
14 any other provisions of this section, the liability of that
15 portion of the fund allocated for the purpose of this act shall
16 not exceed \$20,000 for any one claim and shall not exceed
17 \$100,000 per licensee. If the \$100,000 liability of the
18 Auctioneer Recovery Fund, as provided herein, is insufficient to
19 pay in full claims adjudicated valid of all aggrieved persons
20 against any one licensee, such \$100,000 shall be distributed
21 among them in such ratio that the respective claims of the
22 aggrieved applicants bear to the aggregate of such claims held
23 valid. If, at any time, the money deposited in the Auctioneer
24 Recovery Fund is insufficient to satisfy any duly authorized
25 claim or portion thereof, the State Board of Auctioneer
26 Examiners shall, when sufficient money has been deposited in the
27 fund, satisfy such unpaid claims or portions thereof in the
28 order that such claims or portions thereof were originally
29 filed, plus accumulated interest at the rate of 6% a year.

30 (d) Joinder.--Upon petition of the State Board of Auctioneer

1 Examiners, the court may require all claimants and prospective
2 claimants against one licensee to be joined in one action, to
3 the end that the respective rights of all such claimants to the
4 Auctioneer Recovery Fund may be equitably adjudicated and
5 settled.

6 (e) License suspension.--Should the State Board of
7 Auctioneer Examiners pay from the Auctioneer Recovery Fund any
8 amount in settlement of a claim as provided for in this act
9 against a licensee, the license of that person shall
10 automatically suspend upon the effective date of the payment
11 thereof by the State Board of Auctioneer Examiners. No licensee
12 shall be granted reinstatement until he has paid in full, plus
13 interest at the rate of 10% a year, the amount paid from the
14 Auctioneer Recovery Fund.

15 (f) Use of excess funds.--The State Board of Auctioneer
16 Examiners, in its discretion, may use all funds in excess of
17 \$100,000 for the following purposes:

18 (1) To carry out the advancement of education and
19 research in the auctioneering profession for the benefit of
20 those licensed under the provisions of the Auctioneer and
21 Auction Licensing Act and to improve and make even more
22 efficient the industry as such.

23 (2) To underwrite educational seminars, training centers
24 and other forms of educational projects for the use and
25 benefit generally of licensees.

26 (3) To sponsor, contract for and underwrite any and all
27 other educational and research projects of a similar nature
28 having to do with the advancement of the auctioneer
29 profession in Pennsylvania.

30 (4) To cooperate with associations of auctioneers and

1 any and all other groups for the enlightenment and
2 advancement of the auctioneer profession of Pennsylvania.
3 Section 5. Effective date.
4 This act shall take effect on July 1, 1987.