
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1899 Session of
2007

INTRODUCED BY STURLA, M. KELLER, MAHONEY, BRENNAN, CLYMER, HELM,
HORNAMAN, JOSEPHS, KORTZ, MARKOSEK, SIPTROTH AND J. WHITE,
OCTOBER 24, 2007

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
OCTOBER 24, 2007

AN ACT

1 Amending the act of December 22, 1983 (P.L.327, No.85), entitled
2 "An act imposing regulations and licensing requirements on
3 auctioneers, apprentice auctioneers, auction houses and
4 auction companies; imposing powers and duties on the State
5 Board of Auctioneer Examiners; and making repeals," further
6 providing for definitions and for auctioneer and apprentice
7 auctioneer licenses.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definitions of "apprentice auctioneer,"
11 "auctioneer" and "licensee" in section 2 of the act of December
12 22, 1983 (P.L.327, No.85), known as the Auctioneer and Auction
13 Licensing Act, are amended and the section is amended by adding
14 definitions to read:

15 Section 2. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Apprentice auctioneer." [A person who is licensed under

1 this act as an apprentice auctioneer.] Includes:

2 (1) A person licensed under this act to work under the
3 direction and close supervision of a licensed auctioneer.

4 (2) An individual who may further engage in the
5 recognition of competitive bids for the purchase of property
6 in order to obtain the highest market price for those goods
7 at the behest of the individual's sponsoring auctioneer.

8 * * *

9 "Auctioneer." [A person who sells or offers or attempts to
10 sell property at auction. The term includes any person who holds
11 himself out as engaged in the business of selling property at
12 auction.] Includes:

13 (1) A person licensed under this act who is engaged by
14 an owner of property to direct, conduct or be responsible for
15 a sale by auction.

16 (2) An individual who engages in the recognition of
17 competitive bids for the purchase of property in order to
18 obtain the highest market price for those goods and who works
19 for the owner of the property in exchange for something of
20 value such as a fee or commission.

21 * * *

22 "Electronic auction." The offer to sell property by an
23 auctioneer, apprentice auctioneer or electronic auction broker
24 to the members of an audience remotely located and participating
25 by electronic means such as a commercial electronic information
26 service for the purpose of making bids for the purchase of the
27 property in an effort by the auctioneer, apprentice auctioneer
28 or electronic auction broker to advance the amount of the bids
29 to obtain the highest or most favorable offer.

30 "Electronic auction broker." A person licensed under this

1 act who sells or offers to sell on consignment or by virtue of a
2 fee or commission charged to the consignor personal property at
3 electronic auction. The term includes any person who holds
4 himself out as engaged in the business of selling property by
5 electronic auction for others.

6 "Licensee." A person licensed under this act including an
7 auctioneer, apprentice auctioneer, electronic auction broker,
8 holder of a special license and, in the case of an auction house
9 or company, the person required to obtain the license.

10 * * *

11 Section 2. Section 3 of the act is amended to read:

12 Section 3. Auctioneer [and], apprentice auctioneer
13 and electronic auction broker licenses.

14 (a) Requirement for license.--

15 (1) It is unlawful for any person to engage in or carry
16 on the profession of auctioneer, apprentice auctioneer or
17 electronic auction broker without first obtaining a license
18 from the board or a determination by the board that the
19 person is exempt from the licensure requirements of this act.

20 (2) It is unlawful for any person to conduct a sale at
21 auction or electronic auction, to hold himself out as an
22 auctioneer [or as an], apprentice auctioneer or electronic
23 auction broker or to offer to conduct sales at auction or
24 electronic auction in this Commonwealth without first
25 obtaining from the board a license as an auctioneer [or],
26 apprentice auctioneer or electronic auction broker.

27 (3) Any member, officer or employee of a partnership,
28 association or corporation who attempts to sell at auction or
29 electronic auction or who is actively engaged in the auction
30 or electronic auction profession must have a license as an

1 auctioneer [or], apprentice auctioneer or electronic auction
2 broker.

3 (b) Issuance and supervision of licenses.--It is the duty of
4 the board, upon payment of the license fees required and upon
5 compliance with the requirements of this act, to issue a license
6 as an auctioneer [or], apprentice auctioneer or electronic
7 auction broker to individuals or as an auctioneer or electronic
8 auction broker to partnerships, associations and corporations
9 who qualify under and comply with this act. The board shall
10 supervise and control all licenses issued under this act.

11 (c) Qualifications in general for license.--Licenses shall
12 be granted only to persons who have a good reputation for
13 honesty, truthfulness, integrity and competence to transact the
14 business of auctioneer [or], apprentice auctioneer or electronic
15 auction broker in a manner as to safeguard the interest of the
16 public and only after satisfactory proof of these qualifications
17 has been presented to the board as required by regulation.

18 (d) Qualifications for apprentice auctioneer license.--To
19 qualify for an apprentice auctioneer license, a person must be
20 sponsored and employed for compensation by a qualified
21 auctioneer who employs no more than one other apprentice
22 auctioneer.

23 (e) Qualifications for auctioneer license.--To qualify for
24 an auctioneer license, a person must have passed the prescribed
25 examination after having:

26 (1) served an apprenticeship as a licensed apprentice
27 auctioneer for a period of not less than two years in the
28 employ of a qualified auctioneer and participated for
29 compensation in no less than 30 auctions; or

30 (2) successfully completed a prescribed course of study

1 in auctioneering of at least 20 credit hours at a school
2 approved by the board.

3 (f) Qualifications for license reissued after long
4 inactivity.--Any person to whom an auctioneer or apprentice
5 auctioneer license has been issued and who has been inactive as
6 an auctioneer or apprentice auctioneer for a period of seven
7 years without renewing the license issued to him shall be
8 required to submit to and pass an examination approved by the
9 board prior to having a license reissued to him.

10 (g) Designation of auctioneer-of-record.--If the applicant
11 for a license is a partnership, association or corporation, then
12 a member of the partnership or association or an officer of the
13 corporation, who is licensed in this Commonwealth as an
14 auctioneer, must be designated as the auctioneer-of-record. The
15 auctioneer-of-record is principally responsible for the conduct
16 of the auctions of the partnership, association or corporation
17 in accordance with this act. A partnership, association or
18 corporation auctioneer license becomes invalid if the license of
19 the auctioneer-of-record is not renewed or is suspended or
20 revoked.

21 (h) Sales exempt from license requirements.--The requirement
22 to obtain a license under this act does not apply to sales at
23 auction or electronic auction in the following circumstances:

24 (1) To a specified single sale per year conducted by the
25 owner of property if the owner is not engaged in the business
26 of selling the property and if the property is owned by the
27 person in an individual capacity.

28 (2) To a sale conducted by or on behalf of a State-
29 recognized charitable organization if the person conducting
30 the sale receives no compensation therefor.

1 (3) To a sale conducted by or on behalf of a person
2 appointed by judicial order or decree.

3 (4) To a sale conducted in the settlement of any
4 decedent's estate by an heir or executor of the estate.

5 (5) To a sale conducted by or under the direction of any
6 public authority.

7 (6) To any sale required by law to be at auction.

8 (7) To sales at electronic auction conducted by the
9 owner of the property.

10 (8) To sales that are offered electronically in a fixed
11 price format with no element of bidding or increasing price
12 present.

13 (9) To any sales which are offered electronically in a
14 best offer format where the previous offers for the goods are
15 not published and the offer amounts are kept private from
16 other potential purchasers.

17 (i) Special license to conduct auction.--An auctioneer
18 authorized to engage in auctioneering in another state shall,
19 upon application and payment of the license fee, be issued a
20 special license for each auction conducted by him. Applications
21 must be made 20 days in advance of the sale and must include the
22 name and address of the consignor or owner of all items to be
23 sold. All applications are subject to approval by the board and
24 shall include proof of authority to engage in auctioneering in
25 the other state.

26 (j) Special license for electronic auction broker.--A person
27 wishing to conduct electronic auctions within this Commonwealth
28 upon application and payment of a license fee shall be issued a
29 special license to conduct electronic auctions for a period of
30 not more than two years. All applications are subject to the

1 approval of the board and shall include proof of successfully
2 passing a written examination prescribed by the board. Except
3 for the educational and apprenticeship requirements of a
4 licensed auctioneer required under this act, an electronic
5 auction broker is required to perform the same duties and
6 responsibilities described in this act for all licensees.
7 Failure to act in a manner consistent with these duties and
8 responsibilities shall be cause for fines, suspension and
9 possible revocation of the electronic auction broker license at
10 the discretion of the board.

11 Section 3. This act shall take effect in 60 days.