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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 75**

Session of  
1987

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INTRODUCED BY STUBAN, COY, KOSINSKI, PETRARCA, WOZNIAK, DALEY,  
CHADWICK, MRKONIC, LLOYD, STABACK, HAYES, WAMBACH, STEIGHNER,  
F. TAYLOR, JAROLIN, CAWLEY, PHILLIPS, HASAY AND BALDWIN,  
JANUARY 28, 1987

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
JANUARY 28, 1987

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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.