

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 704 Session of 1999

INTRODUCED BY KUKOVICH, MELLOW, LAVALLE, BODACK, BELAN, O'PAKE,
TARTAGLIONE, MUSTO, SCHWARTZ AND HUGHES, APRIL 7, 1999

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
APRIL 7, 1999

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act, reenacted and amended Nov. 24, 1976,
3 (P.L.1166, No.260), prohibiting unfair methods of competition
4 and unfair or deceptive acts or practices in the conduct of
5 any trade or commerce, giving the Attorney General and
6 District Attorneys certain powers and duties and providing
7 penalties," providing for protection for public sales.

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

10 Section 1. The act of December 17, 1968 (P.L.1224, No.387),
11 known as the Unfair Trade Practices and Consumer Protection Law,
12 reenacted and amended November 24, 1976 (P.L.1166, No.260), is
13 amended by adding a section to read:

14 Section 9.4. Public Sale Protection.--(a) Any person who,
15 as part of his business, arranges, manages, sponsors, advertises
16 or carries out a "public sale" must conduct its business in
17 accordance with the provisions of this section.

18 (b) Prior to conducting a public sale, the person hired to
19 conduct the sale shall enter into a written contract, in
20 duplicate, with the owner or fiduciary of the property to be

1 sold. The contract shall contain the terms and conditions upon
2 which the contractor agrees to conduct the public sale and shall
3 include an inventory of items to be sold. If a minimum price is
4 agreed upon for any or all items, the agreed upon price shall be
5 so stated either in the original contract or through an addendum
6 or amendment to the contract prior to the date of the public
7 sale.

8 (c) Every person, whether acting in his own behalf or as the
9 officer, agent or representative of another, after receipt or
10 acceptance by him of any property for sale at a public sale,
11 shall maintain a written record which shall contain the
12 following information:

13 (1) The name and address of the person who employed him to
14 conduct the public sale, the name and address of the owner, the
15 owner's authorized agent or consignor of the property to be
16 sold.

17 (2) A copy of the written contract authorizing the public
18 sale and containing the terms and conditions of the contractor's
19 employment.

20 (3) A written record of the results of the public sale,
21 including, but not limited to, a pre-sale and post-sale
22 accounting of inventory.

23 The records shall be kept on file in the office of the person
24 who conducted the public sale and shall be maintained for at
25 least two years. If the contractor is notified of a complaint
26 against him the records shall be maintained by the contractor
27 until the complaint is resolved.

28 (d) Persons who are retained for the purpose of conducting a
29 public sale are prohibited from engaging in any fraudulent,
30 deceptive or other conduct which creates a likelihood of

confusion or of misunderstanding. Any of the following acts are considered to be unfair or deceptive acts or practices and are prohibited under this section:

(1) Knowingly making any substantial misrepresentation.

(2) Knowingly making any false promise of a character likely to influence, persuade or induce.

(3) A continued or flagrant course of misrepresentation or making false promises through agents or associates.

(4) Any failure to account for or to pay over moneys belonging to others which have come into his or her possession arising out of a sales transaction within a reasonable time.

(5) Any misleading or untruthful advertising.

(6) Any act or conduct in connection with a sales transaction which demonstrates incompetency, bad faith or dishonesty.

(7) Buying for himself or herself at any public sale he is conducting.

(8) Paying any compensation in money or other valuable thing to any person for the rendering of any service or the doing of any of the acts forbidden under this section.

(e) (1) The Office of Attorney General shall enforce this section.

(2) A civil penalty not to exceed one thousand dollars (\$1,000) shall be imposed on any person who violates any provision of this section.

(3) Complaints under this section shall be filed with the Bureau of Consumer Protection in the Office of Attorney General.

Section 2. This act shall take effect immediately.