
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 763

Session of
1983

INTRODUCED BY STAUFFER, STAPLETON, HOLL AND LINCOLN, MAY 25,
1983

SENATOR BELL, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
AS AMENDED, SEPTEMBER 19, 1983

AN ACT

1 Imposing regulations and licensing requirements on auctioneers,
2 apprentice auctioneers, auction houses and auction companies;
3 imposing powers and duties on the State Board of Auctioneer
4 Examiners; and making repeals.

5 TABLE OF CONTENTS

- 6 Section 1. Short title.
- 7 Section 2. Definitions.
- 8 Section 3. Auctioneer and apprentice auctioneer licenses.
- 9 Section 4. Status of existing licensees.
- 10 Section 5. Applications for initial and renewal licenses.
- 11 Section 6. License, examination and other fees.
- 12 Section 7. Special licensees to furnish bond.
- 13 Section 8. Authority to transact business not transferable.
- 14 Section 9. Auction house license.
- 15 Section 10. Auction company license.
- 16 Section 11. Nonresident licensees.
- 17 Section 12. Reciprocity with other states.
- 18 Section 13. Licensee to furnish bond.

1 Section 14. No other license required.
2 Section 15. List of licensees.
3 Section 16. Records of sales.
4 Section 17. Contracts for conduct of sale.
5 Section 18. Display of licenses.
6 Section 19. Confidentiality of information.
7 Section 20. Revocation or suspension of license for violation
8 by employee.
9 Section 21. Investigations and enforcement actions.
10 Section 22. Hearing on charges.
11 Section 23. Administration and enforcement.
12 Section 24. Injunctive relief.
13 Section 25. Records of courts to be evidence before board.
14 Section 26. Revocation or suspension of license.
15 Section 27. Issuance of new license pending investigation and
16 decision.
17 Section 28. Issuance of new license after revocation.
18 Section 29. Penalties.
19 Section 30. Witnesses and documentary evidence.
20 Section 31. Actions by unlicensed persons prohibited.
21 Section 32. Rules and regulations.
22 Section 33. Disposition of fees and fines.
23 Section 34. Repeals.
24 Section 35. Effective date.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Short title.

28 This act shall be known and may be cited as the Auctioneer
29 and Auction Licensing Act.

30 Section 2. Definitions.

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

4 "Apprentice auctioneer." A person who is licensed under this
5 act as an apprentice auctioneer.

6 "Auction" or "sale at auction." The offer to sell property
7 by an auctioneer or apprentice auctioneer to the members of an
8 audience congregated for the purpose of making bids for the
9 purchase of the property in an effort by the auctioneer or
10 apprentice auctioneer to advance the amount of the bids to
11 obtain the highest or most favorable offer.

12 "Auction company." A company which, as part of its business,
13 arranges, manages, sponsors, advertises or carries out auctions.

14 "Auction house." An established place of business, including
15 but not limited to an auction barn, a sale barn and a sale
16 pavilion, where two or more auctions are held within any 12-
17 month period and where representations are regularly made that
18 property is sold at auction. The term does not include premises
19 where isolated sales are conducted by an auctioneer or
20 auctioneer apprentice and which are used primarily for purposes
21 other than auctions or sales at auction.

22 "Auctioneer." A person who sells or offers or attempts to
23 sell property at auction. The term includes any person who holds
24 himself out as engaged in the business of selling property at
25 auction.

26 "Board." The State Board of Auctioneer Examiners in the
27 Department of State.

28 "Commissioner." The Commissioner of Professional and
29 Occupational Affairs in the Department of State.

30 "Department." The Department of State.

1 "Licensee." A person licensed under this act including an
2 auctioneer, apprentice auctioneer, holder of a special license
3 and, in the case of an auction house or company, the person
4 required to obtain the license.

5 "Person." An individual, partnership, association or
6 corporation.

7 "Property." Real and personal property. The term includes
8 domestic animals and farm products.

9 "Qualified auctioneer." A currently licensed auctioneer.

10 Section 3. Auctioneer and apprentice auctioneer licenses.

11 (a) Requirement for license.--It is unlawful for any person
12 to engage in or carry on the profession of auctioneer, to
13 conduct a sale at auction, to hold himself out as an auctioneer
14 or as an apprentice auctioneer or to offer to conduct sales at
15 auction in this Commonwealth without first obtaining from the
16 board a license as an auctioneer or apprentice auctioneer. Any
17 member, officer or employee of a partnership, association or
18 corporation who attempts to sell at auction or who is actively
19 engaged in the auction profession must have a license as an
20 auctioneer or apprentice auctioneer.

21 (b) Issuance and supervision of licenses.--It is the duty of
22 the board, upon payment of the license fees required and upon
23 compliance with the requirements of this act, to issue a license
24 as an auctioneer or apprentice auctioneer to individuals or as
25 an auctioneer to partnerships, associations and corporations who
26 qualify under and comply with this act. The board shall
27 supervise and control all licenses issued under this act.

28 (c) Qualifications in general for license.--Licenses shall
29 be granted only to persons who have a good reputation for
30 honesty, truthfulness, integrity and competence to transact the

1 business of auctioneer or apprentice auctioneer in a manner as
2 to safeguard the interest of the public and only after
3 satisfactory proof of these qualifications has been presented to
4 the board as required by regulation.

5 (d) Qualifications for apprentice auctioneer license.--To
6 qualify for an apprentice auctioneer license, a person must be
7 sponsored and employed for compensation by a qualified
8 auctioneer who employs no more than one other apprentice
9 auctioneer.

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

13 (1) served an apprenticeship as a licensed apprentice
14 auctioneer for a period of not less than two years in the
15 employ of a qualified auctioneer and participated for
16 compensation in no less than 30 auctions; or

17 (2) successfully completed a prescribed course of study
18 in auctioneering of at least 20 credit hours at a school
19 approved by the board.

20 (f) Qualifications for license reissued after long
21 inactivity.--Any person to whom an auctioneer or apprentice
22 auctioneer license has been issued and who has been inactive as
23 an auctioneer or apprentice auctioneer for a period of seven
24 years without renewing the license issued to him shall be
25 required to submit to and pass an examination conducted by the
26 board prior to having a license reissued to him.

27 (g) Designation of auctioneer-of-record.--If the applicant
28 for a license is a partnership, association or corporation, then
29 a member of the partnership or association or an officer of the
30 corporation, who is licensed in this Commonwealth as an

1 auctioneer, must be designated as the auctioneer-of-record. The
2 auctioneer-of-record is principally responsible for the conduct
3 of the auctions of the partnership, association or corporation
4 in accordance with ~~the~~ this act. A partnership, association or ←
5 corporation auctioneer license becomes invalid if the license of
6 the auctioneer-of-record is not renewed or is suspended or
7 revoked.

8 (h) Sales exempt from license requirements.--The requirement
9 to obtain a license under this act does not apply to sales at
10 auction in the following circumstances:

11 (1) To a specified single sale per year conducted by the
12 owner of property if the owner is not engaged in the business
13 of selling the property and if the property is owned by the
14 person in an individual capacity.

15 (2) To a sale conducted by or on behalf of a charitable
16 organization if the person conducting the sale receives no
17 compensation therefor.

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

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

29 Section 4. Status of existing licensees.

30 (a) Apprentice auctioneers.--An individual licensed as an

1 apprentice auctioneer on the effective date of this act shall
2 thereafter possess the same rights and privileges and be subject
3 to the same requirements pertaining to licensure as individuals
4 to whom licenses as an apprentice auctioneer are issued under
5 this act.

6 (b) Auctioneers.--A person licensed as an auctioneer on the
7 effective date of this act shall thereafter possess the same
8 rights and privileges as persons to whom licenses as an
9 auctioneer are issued under this act.

10 Section 5. Applications for initial and renewal licenses.

11 (a) Application for auctioneer license.--Applications for
12 license as an auctioneer shall be made to the board in writing
13 upon forms provided by the board which shall contain such
14 information as to the individual or, if the applicant is a
15 partnership, association or corporation, as to its members or
16 officers as the board requires. If the applicant is an
17 individual, the application shall be signed by that individual.
18 If the applicant is a partnership or an association, the
19 application shall be signed by a member. If the applicant is a
20 corporation, the application shall be signed by an officer. Each
21 application shall be accompanied by two photographs of the
22 individual applicant or of the member or officer of the
23 partnership, association or corporation applicant. An
24 application by a licensed apprentice auctioneer seeking to
25 qualify on the basis of an apprenticeship shall contain or be
26 accompanied by satisfactory evidence that the applicant was in
27 the employ of a sponsor for at least two years and participated
28 for compensation in not less than 30 auctions on the dates and
29 at the locations provided by the applicant. Upon the filing of
30 an application, the board shall investigate the allegations

1 contained in the application and if, upon investigation, it
2 finds the allegations untrue, it may refuse to examine or
3 license the applicant or may revoke any license issued to the
4 applicant on the basis of materially untrue allegations
5 contained in the application for a license. The board shall set
6 forth in writing its findings and reasons for its refusal or
7 revocation and furnish a copy to the applicant.

8 (b) Application for apprentice auctioneer license.--

9 Applications for license as an apprentice auctioneer shall be
10 made to the board in writing upon forms provided by the board
11 which shall contain such information as to the applicant as the
12 board requires. For license renewals, the licensee shall set
13 forth the period of time, if any, during which he was engaged in
14 the auction profession, stating the name of his present sponsor
15 and any former sponsor for the period of five years immediately
16 preceding the date of the renewal. If it becomes necessary to
17 change sponsors, the apprentice auctioneer must notify the board
18 by letter upon the termination of the sponsorship and submit a
19 transfer form, provided by the board, when a new sponsor is
20 obtained. An apprentice auctioneer license is invalid when there
21 is no sponsoring auctioneer and credit does not accrue during
22 that time. A license will be reissued when the apprentice
23 auctioneer submits a transfer form which informs the board that
24 he has secured a new sponsor.

25 (c) Examinations.--No person may be issued an auctioneer
26 license unless the person passes an examination approved by the
27 board. The board shall hold examinations at locations, times and
28 dates prescribed by regulation of the board.

29 (d) Issuance of new license after revocation.--In the event
30 the license of an auctioneer or an apprentice auctioneer is

1 revoked by the board subsequent to the effective date of this
2 act, no new license may be issued to that person until he
3 compiles with all the provisions of this act.

4 (e) Expiration and renewal of license.--All licenses issued
5 by the board shall be for a maximum term of two years and shall
6 expire on the last day of February of each odd year. It is the
7 duty of all persons licensed to practice as an auctioneer or
8 apprentice auctioneer or to operate as an auction house or
9 auction company to renew the license biennially with the board
10 and to pay the license fee for each biennial license renewal.
11 Applications for renewals of licenses issued under this act
12 shall be made within 60 days prior to the expiration of the
13 license upon forms and in the manner provided by the board.

14 Section 6. License, examination and other fees.

15 (a) General rule.--The license, examination and other fees
16 to be paid to the board are as follows:

17 (1) The examination fee for an auctioneer license shall
18 be \$25 and for an apprentice auctioneer license shall be \$10.

19 (2) The fee for the initial license and the renewal of
20 an auctioneer license shall be \$50 for the specified two-year
21 term of the license. The fee for the initial license and the
22 renewal of an apprentice auctioneer license shall be \$30 for
23 the specified two-year term of the license. There are no
24 other license fees authorized for the licenses issued at any
25 time during the two-year term of the license.

26 (3) The fee for the initial license and the renewal of a
27 license issued to an auction house or auction company shall
28 be \$50 for the specified two-year term of the license. There
29 are no other license fees authorized for licenses issued at
30 any time during the two-year term of the license.

1 (4) The fee for a special license to conduct an auction
2 shall be \$100.

3 (5) The fee for the replacement of a lost or mislaid
4 license is \$5.

5 (6) For every copy of paper filed with the commissioner
6 or board in any proceedings before the board, the board may
7 by regulation charge a fee not exceeding 50¢ per page.

8 (b) Method of payment.--The payment of fees required under
9 this act may be made to the board by personal check.

10 Section 7. Special licensees to furnish bond.

11 (a) General rule.--A bond in the penal sum of \$5,000, or in
12 an amount the board by regulation prescribes from time to time,
13 shall accompany every application for a special license. The
14 bond shall be executed by a surety company authorized by the
15 laws of this Commonwealth to transact business in this
16 Commonwealth. The bond shall be for the use of the Commonwealth
17 and for any person or persons who may have a cause of action
18 against a licensee arising under this act.

19 (b) Conditions of bond.--The conditions of the bond shall be
20 that the licensee will comply with and abide by the provisions
21 of this act and will pay to the Commonwealth, the board or any
22 person or persons any and all money that may come due to the
23 Commonwealth, the board or the person or persons from a licensee
24 under and by virtue of this act.

25 (c) Action on bond.--If any person is aggrieved by the
26 misconduct of any special licensee and recovers judgment against
27 the licensee therefor, the person may on any execution issued
28 under the judgment maintain an action upon the bond of the
29 licensee in any court having jurisdiction of the amount claimed.

30 Section 8. Authority to transact business not transferable.

1 The authority to transact business as an auctioneer,
2 apprentice auctioneer, auction house or auction company under a
3 license issued by the board is restricted to the person named in
4 the license and may not be transferred to the benefit of any
5 other person. A partnership, association or corporation licensed
6 under this act is only permitted to transact auction business
7 through a member, officer or employee who is licensed under this
8 act.

9 Section 9. Auction house license.

10 (a) Requirement for license.--Every person, except an
11 individual who is licensed as an auctioneer, shall before
12 operating an auction house obtain a license from the board to
13 operate the auction house. Every partnership, association or
14 corporation must obtain a license even though a member or
15 officer is licensed as an auctioneer.

16 (b) Application for license.--Every person seeking a license
17 to operate an auction house shall file with the board an
18 application in writing upon forms provided by the board which
19 shall contain such information as to the individual or, if the
20 applicant is a partnership, association or corporation, as to
21 the members or officers as the board requires. A person must
22 file a separate application for each auction house to be
23 operated. The application shall be accompanied by the license
24 fee and surety bond required by this act.

25 (c) Investigation and refusal of license.--Upon the filing
26 of an application, the board shall investigate the allegations
27 contained in the application and, if upon investigation it finds
28 the allegations untrue, it may refuse to license the applicant
29 to operate an auction house.

30 (d) Information from auctioneer.--A licensed auctioneer, who

1 also operates an auction house, shall notify the board in
2 writing of the address of each auction house operated by him and
3 of the trade or business name by which each auction house is
4 known. The auctioneer shall notify the board in writing if the
5 operation of the auction house is SOLD OR discontinued or if the ←
6 name or location of the auction house is changed.

7 Section 10. Auction company license.

8 (a) Requirement for license.--Every person, except an
9 individual who is licensed as an auctioneer or an individual who
10 is licensed to operate an auction house, shall before operating
11 an auction company obtain a license from the board to operate
12 the auction company. Every partnership, association or
13 corporation must obtain a license even though a member or
14 officer is licensed as an auctioneer.

15 (b) Application for license.--Every person seeking a license
16 to operate an auction company shall file with the board an
17 application in writing upon forms provided by the board which
18 shall contain such information as to the individual or, if the
19 applicant is a partnership, association or corporation, as to
20 the members or officers as the board requires. Each application
21 shall be accompanied by the license fee and surety bond required
22 by this act.

23 (c) Investigation and refusal of license.--Upon the filing
24 of an application, the board shall investigate the allegations
25 contained in the application and, if upon investigation it finds
26 the allegations untrue, it may refuse to license the applicant
27 to operate an auction company.

28 (d) Information from auctioneer or auction house.--A
29 licensed auctioneer or an individual licensed to operate an
30 auction house, who also operates an auction company, shall

1 notify the board in writing that he is operating an auction
2 company and shall specify the trade or business name and the
3 address of the principal place of business of each auction
4 company which he operates. The individual who is licensed as an
5 auctioneer or to operate as an auction house shall notify the
6 board in writing if the operation of the auction company is SOLD ←
7 OR discontinued or if the name or location of the auction
8 company is changed.

9 Section 11. Nonresident licensees.

10 (a) General rule.--A nonresident of this Commonwealth may be
11 licensed as an auctioneer or apprentice auctioneer or to operate
12 an auction house or auction company upon complying with all the
13 provisions and conditions of this act required of residents of
14 this Commonwealth.

15 (b) Waiver of certain requirements.--The board may waive the
16 requirement for serving an apprenticeship or completing a course
17 of study in auctioneering if the nonresident was:

- 18 (1) licensed by another state for at least two years; or
19 (2) established in the business of auctioneering for at
20 least two years and, in the case of states that do not
21 require a license, the board reviews the application to
22 determine the qualifications of the applicant.

23 (c) Limitation on type of property sold.--The nonresident
24 auctioneer or apprentice auctioneer is only permitted to sell at
25 auction in this Commonwealth whatever property the laws of his
26 state permit nonresident auctioneers and apprentice auctioneers
27 to sell at auction.

28 (d) Ineligibility to sponsor apprentices.--A nonresident
29 auctioneer is not a qualified auctioneer for the purpose of
30 sponsoring or employing an apprentice auctioneer.

1 Section 12. Reciprocity with other states.

2 (a) General rule.--A nonresident of this Commonwealth who
3 applies for a license as an auctioneer or apprentice auctioneer
4 may be granted a license for which he applies if he is licensed
5 as an auctioneer or apprentice auctioneer by the proper
6 authority of the state of his domicile upon the payment by the
7 applicant of the proper license fee and the filing with the
8 board of a properly certified copy of the license issued to the
9 applicant by the state of his domicile subject to the following
10 limitations:

11 (1) The auctioneer licensing laws of the nonresident
12 state must extend to licensed auctioneers and apprentice
13 auctioneers of this Commonwealth the same rights and
14 privileges and the same authority to conduct auction sales in
15 that state as this act extends to nonresidents of this
16 Commonwealth without the necessity of the licensed
17 auctioneers and apprentice auctioneers of this Commonwealth
18 to obtain additional or further licenses or authority from
19 any political subdivision of that state to conduct an auction
20 sale.

21 (2) The nonresident auctioneer or apprentice auctioneer
22 is only permitted to sell at auction in this Commonwealth
23 whatever property the laws of his state permit nonresident
24 auctioneers and apprentice auctioneers to sell at auction.

25 (b) Bond.--The bond required by this act shall accompany the
26 application.

27 (c) Change of nonresident status.--The movement from another
28 state or jurisdiction to domicile in this Commonwealth
29 eliminates the possibility of reciprocal licensing set forth in
30 this section and the individual must qualify for a license under

1 terms of this act which are applicable to residents of this
2 Commonwealth.

3 Section 13. Licensee to furnish bond.

4 (a) General rule.--An auctioneer, apprentice auctioneer,
5 auction company or auction house license shall not be granted or
6 issued to any individual, partnership, association or
7 corporation until the applicant has filed with the board an
8 approved bond payable to the Commonwealth in the amount of
9 \$5,000 or in an amount as the board by regulation prescribes.
10 The bond shall be executed by a surety company authorized by the
11 laws of this Commonwealth to transact business in this
12 Commonwealth. The bond shall be for the use of the Commonwealth
13 and for any person or persons who may have a cause of action
14 against a licensee under this act.

15 (b) Conditions of bond.--The condition of the bond shall be
16 that the licensee will comply with and abide by the provisions
17 of this act and will pay to the Commonwealth, the board or any
18 person or persons any and all money that may come due the
19 Commonwealth, the board or the person or persons from a licensee
20 under and by virtue of this act.

21 (c) Action on bond.--If any person is aggrieved by the
22 misconduct of any licensee and recovers judgment against the
23 licensee therefor, the person may on any execution issued under
24 the judgment maintain an action upon the bond of the licensee in
25 any court having jurisdiction of the amount claimed.

26 Section 14. No other license required.

27 No political subdivision of this Commonwealth shall have the
28 power or authority to levy or collect any license tax or fee
29 which is either a regulatory or a revenue measure upon or from
30 any auctioneer or apprentice auctioneer licensed under this act

1 nor to require any auctioneer or apprentice auctioneer to be
2 licensed by the political subdivision in order to carry on the
3 business of auctioneer or to conduct a sale at auction.

4 Section 15. List of licensees.

5 The board shall maintain a current list of the individuals,
6 partnerships, associations and corporations licensed by the
7 board. The list shall be open to public inspection during the
8 business hours of the department. Copies of the list are to be
9 available to the public at cost.

10 Section 16. Records of sales.

11 (a) General rule.--Every auctioneer, whether acting in his
12 own behalf or as the officer, agent or representative of
13 another, after the receipt or acceptance by him of any property
14 for sale at auction, shall maintain a written record which shall
15 contain the following information:

16 (1) The name and address of the person who employed him
17 to conduct the sale at auction and of the owner, the owner's
18 authorized agent or consignor of the property to be sold at
19 auction.

20 (2) A copy of the written contract authorizing the sale
21 at auction containing the terms and conditions of the
22 auctioneer's employment or a copy of the receiving invoice.

23 (3) A written record of the sale at auction.

24 (b) Inspection of records.--The records referred to in
25 subsection (a) shall be open at all reasonable times for
26 inspection by the board or any person who is authorized in
27 writing for that purpose by the board and who exhibits the
28 written authorization to the auctioneer before making an
29 inspection. This subsection applies only if a complaint against
30 the auctioneer has been filed with the board and the identity of

1 the complainant is disclosed to the auctioneer.

2 (c) Retention of records.--The written records shall be kept
3 on file in the office of the auctioneer for a period of at least
4 two years and, if the auctioneer is notified of a complaint
5 against him, the records shall be maintained by the auctioneer
6 until the complaint is finally resolved.

7 Section 17. Contracts for conduct of sale.

8 (a) General rule.--Prior to conducting an auction sale, an
9 auctioneer shall enter into a written contract in duplicate with
10 the owner or consignor of the property to be sold, containing
11 the terms and conditions upon which the licensee agrees to
12 conduct the auction sale. The contracts shall be kept on file in
13 the office of the auctioneer and shall be open to inspection as
14 provided in this act. It is unlawful for a person to advertise
15 an auction or sale at auction without including in the
16 advertisement or notice of sale the name and license number of
17 the auctioneer, auction house or auction company conducting the
18 sale.

19 (b) Penalty.--A person who violates subsection (a) commits a
20 summary offense and shall, upon conviction, be sentenced to pay
21 a fine not less than \$50.

22 Section 18. Display of licenses.

23 (a) General rule.--Every individual, partnership,
24 association or corporation licensed as an auctioneer under this
25 act shall prominently display the license certificate in their
26 office and the current renewal card or any facsimile thereof
27 shall be shown on demand of any person at all sales at auction
28 conducted by any licensee.

29 (b) Apprentice auctioneers.--All auctioneers shall
30 prominently display in their office the license certificate of

1 any apprentice auctioneer employed by them and the current
2 renewal card or any facsimile thereof of any apprentice
3 auctioneer employed by them shall be available on demand at any
4 sale in which an apprentice is employed. A license issued to an
5 apprentice auctioneer shall designate his sponsor by name.
6 Prompt notice in writing within ten days shall be given to the
7 board by the apprentice auctioneer of any change of sponsor and
8 of the name of the new sponsor into whose service the apprentice
9 auctioneer is about to enter or has entered. A new license shall
10 be issued without charge by the board to the apprentice
11 auctioneer for the unexpired term of the original license. The
12 new sponsor shall be a qualified auctioneer. The change of
13 sponsor or employment by any licensed apprentice auctioneer
14 without notice to the board shall automatically cancel the
15 license issued to him. It is the duty of the sponsor named in
16 the license to notify the board within ten days of any change in
17 status of an apprentice licensed under him. It is unlawful for
18 an apprentice auctioneer to pay compensation to an auctioneer
19 for the sole purpose of listing the apprentice as an employee.

20 (c) Suspension or revocation of license for violation.--The
21 violation of this section by any licensee is sufficient cause
22 for the suspension or revocation of his license at the
23 discretion of the board after a hearing in accordance with this
24 act.

25 Section 19. Confidentiality of information.

26 (a) General rule.--Neither the board nor the commissioner or
27 a representative, clerk or other employee of the board shall,
28 directly or indirectly, willfully exhibit, publish, divulge or
29 make known to any person or persons any record, report,
30 statement, letter or any other matter, fact or thing contained

1 among the papers, documents or records of the board, or
2 ascertain from any of them or from any investigation or
3 proceedings made or held by or before the board or any of its
4 members or the commissioner or secretary or a representative,
5 except:

6 (1) In the manner expressly authorized by this act.

7 (2) In accordance with the laws of this Commonwealth
8 dealing with the public's right to access to Commonwealth
9 records.

10 (3) When the production of any information in a
11 proceeding in any court is duly required by subpoena issued
12 by special order of the court or other regular process.

13 (b) Final rulings or decisions.--This section does not apply
14 to any final ruling or decision of the board, with the record
15 relative thereto and upon which the ruling or decision was
16 founded, made and entered after investigation and hearing. The
17 records shall, immediately upon the entry of any final ruling or
18 decision, become public records of the board subject to
19 inspection by any person interested.

20 (c) Penalty.--A person who violates this section commits a
21 misdemeanor of the third degree and shall, upon conviction, be
22 sentenced to pay a fine not exceeding \$1,000.

23 Section 20. Revocation or suspension of license for violation
24 by employee.

25 A violation of this act by an apprentice auctioneer or other
26 employee of a licensed auctioneer shall not be grounds for the
27 revocation or suspension of the license of the sponsor of the
28 apprentice auctioneer or employee unless it appears at the
29 hearing that the sponsor had knowledge of the violation. A
30 course of dealing shown to have been consistently followed by an

1 apprentice auctioneer or employee constitutes prima facie
2 evidence of knowledge upon the part of the sponsor.

3 Section 21. Investigations and enforcement actions.

4 (a) General rule.--The board may, upon its own motion, and
5 shall, promptly upon the verified complaint in writing of any
6 person setting forth specifically the wrongful act or acts
7 complained of, investigate any action or business transaction of
8 any person licensed by the board and may temporarily suspend or
9 permanently revoke licenses issued by the board or impose a
10 civil penalty not exceeding \$500 at any time when, after due
11 proceedings provided in this act, it finds the holder to have
12 been guilty in the performance or attempt to perform any of the
13 acts prohibited to others than licensees under this act as
14 follows:

15 (1) Knowingly making any substantial misrepresentation.

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

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

20 (4) Within five years prior to the issuance of the
21 license then in force, conviction in a court of competent
22 jurisdiction of IN this or any other state of forgery, ←
23 embezzlement, obtaining money under false pretenses,
24 extortion, conspiracy to defraud or other like offense or
25 offenses.

26 (5) Any failure to account for or to pay over moneys
27 belonging to others which have come into his or its
28 possession arising out of a sales transaction within a
29 reasonable time.

30 (6) Any misleading or untruthful advertising.

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

4 (8) Knowingly using false bidders, cappers or puffers.

5 (9) Violating any of the provisions of this act.

6 (10) Violating any regulation of the board.

7 (11) Having his license to engage in the auction
8 profession revoked or suspended or having other disciplinary
9 action taken or his application for licensure refused,
10 revoked or suspended by the proper licensing authority of
11 another state.

12 (b) Notice of charges.--Before refusing, suspending or
13 revoking any license, the board shall, in writing, notify the
14 applicant or licensee of the charges against him, accompanying
15 the notice with a copy of the complaint filed, if any, and the
16 board shall accord the applicant or licensee ample opportunity
17 to be heard in person or by counsel.

18 (C) ESCROW ACCOUNT.--EVERY AUCTIONEER SHALL IMMEDIATELY ←
19 DEPOSIT MONEYS, RECEIVED FROM THE SALE OF PROPERTY, BELONGING TO
20 OTHERS, IN A SEPARATE CUSTODIAL OR TRUST FUND ACCOUNT MAINTAINED
21 BY THE AUCTIONEER UNTIL THE TRANSACTION INVOLVED IS TERMINATED,
22 AT WHICH TIME THE AUCTIONEER SHALL ACCOUNT FOR THE FULL AMOUNT
23 RECEIVED.

24 Section 22. Hearing on charges.

25 (a) General rule.--If the applicant or licensee desires, the
26 board shall grant a hearing upon the charges to be held on not
27 less than ten days' prior written notice to the applicant or
28 licensee. At the hearing, the applicant or licensee may examine,
29 either in person or by counsel, any and all persons complaining
30 against him and as well all other witnesses whose testimony is

1 relied upon to substantiate the charges made. He shall also be
2 entitled to present any evidence, oral and written, as he sees
3 fit and as may be pertinent to the inquiry. The hearings may be
4 held by the board, or any member thereof, or by any other person
5 authorized by the board for that purpose in any particular case,
6 and they shall be held in Harrisburg, Pennsylvania, or at any
7 other place as the board may direct. At the hearings, all
8 witnesses shall be sworn by the authorized representative before
9 whom the hearing is held and stenographic notes of the
10 proceedings shall be taken and filed as part of the record in
11 the case.

12 (b) Report of hearing officer.--If the hearing is held by a
13 member of the board or by a person authorized by the board, a
14 written report of the hearing shall be made to the board.

15 (c) Action on report of hearing officer.--The board may
16 adopt the findings in the report or may, with or without
17 additional testimony, either return the report for any further
18 consideration the board deems necessary or make additional or
19 other findings of fact on the basis of all the legally probative
20 evidence in the record and enter its findings of fact and
21 conclusions of law and order in accordance with the requirements
22 for the issuance of an adjudication under Title 2 of the
23 Pennsylvania Consolidated Statutes (relating to administrative
24 law and procedure).

25 Section 23. Administration and enforcement.

26 The board shall administer and enforce this act.

27 Section 24. Injunctive relief.

28 The board may authorize its agents to make application to the
29 appropriate court for an order enjoining the acts or practices
30 which constitute or will constitute a violation of this act.

1 Section 25. Records of courts to be evidence before board.

2 In proceedings before the board and in all proceedings upon
3 appeal from any of its decisions, the record, or a duly
4 certified or exemplified copy, in any proceedings at law or in
5 equity in any court of competent jurisdiction in this or any
6 other state in which the applicant or licensee charged or under
7 investigation was a party shall be admissible where the issue of
8 fact involved in the proceedings are pertinent to the inquiry
9 before the board. The verdict of the jury or judgment of the
10 court in any action at law or the decree of the court in any
11 proceeding in equity shall be prima facie as to the facts at
12 issue in the proceedings and necessarily adjudicated therein.
13 The verdict of the jury in any criminal prosecution in a court
14 of record in this or any other state in which the applicant or
15 licensee charged was the defendant shall be conclusive as to the
16 facts charged and at issue in the prosecution.

17 Section 26. Revocation or suspension of license.

18 (a) Revocation or suspension of license for committing
19 crime.--Where, during the term of any license issued by the
20 board, the licensee is convicted in a court of competent
21 jurisdiction in this or any other state of forgery,
22 embezzlement, obtaining money under false pretenses, extortion,
23 criminal conspiracy to defraud or other like offense and a duly
24 certified or exemplified copy of the record in the proceeding is
25 filed with the board, the board may revoke or suspend the
26 license issued to the licensee.

27 (b) Suspension of license pending trial of crime.--In the
28 event any licensee is indicted in this or any other state of
29 forgery, embezzlement, obtaining money under false pretenses,
30 extortion, criminal conspiracy to defraud or other offense or

1 offenses and a certified copy of the indictment is filed with
2 the board or other proper evidence is given to it, the board
3 may, in its discretion, suspend the license issued to the
4 licensee pending trial of the charges.

5 (c) Revocation of license of entity for violation by member
6 or officer.--In the event of the revocation or suspension of the
7 license issued to any member of a partnership or to any officer
8 of an association or corporation, the license issued to the
9 partnership, association or corporation shall be revoked by the
10 board unless, within a time fixed by the board, the connection
11 of the member of the partnership is severed and his interest in
12 the partnership and his share in its activities brought to an
13 end or the officer of the association or corporation is
14 discharged and has no further participation in its activities.

15 Section 27. Issuance of new license pending investigation and
16 decision.

17 Pending an investigation or proceeding before the board
18 affecting any licensee and pending final decision upon any
19 appeal taken by a licensee from the ruling of the board, no new
20 license may be issued to a licensee or to a partnership of which
21 he is a member or employee or to an association or corporation
22 of which he is an officer or employee except for the period of
23 the investigation or proceeding and subject to the action of the
24 board.

25 Section 28. Issuance of new license after revocation.

26 After the revocation of any license, no new license may be
27 issued to the same licensee within a period of at least one year
28 from the date of the revocation nor, except in the sole
29 discretion of the board and subject to the conditions of this
30 act, at any time thereafter.

1 Section 29. Penalties.

2 Any individual, partnership, association or corporation who
3 engages in or carries on the profession or acts in the capacity
4 of an auctioneer, apprentice auctioneer, auction house or
5 auction company in this Commonwealth without a current license
6 or who employs any person without a current license as an
7 apprentice auctioneer:

8 (1) For a first offense, commits a summary offense and
9 shall, upon conviction, be sentenced to pay a fine not
10 exceeding \$500 or to imprisonment not exceeding three months,
11 or both.

12 (2) For a second or subsequent offense, commits a
13 misdemeanor of the third degree and shall, upon conviction,
14 be sentenced to pay a fine of not less than \$2,000 but not
15 more than \$5,000 or to imprisonment for not less than one
16 year but not more than two years, or both.

17 Section 30. Witnesses and documentary evidence.

18 (a) General rule.--The board and each of its authorized
19 representatives and any special representative appointed by it
20 to hold a hearing in any particular case may require the
21 attendance of witnesses and the production of books and papers.

22 (b) Service of process.--In any hearing, the process issued
23 by the board shall extend to all parts of this Commonwealth and
24 the process may be served either in the manner that subpoenas in
25 the court of common pleas are served or by any person designated
26 by the board for that purpose. The person serving the process
27 shall receive such compensation as may be allowed by the board
28 not to exceed the fee prescribed by law for similar services in
29 the court of common pleas and the fees shall be paid in the same
30 manner as provided in this act for the fees of witnesses

1 subpoenaed at the instance of the board.

2 ~~(c) Witness fees and mileage. All witnesses who are~~ <—
3 ~~subpoenaed and who appear in any proceeding before the board~~
4 ~~shall receive the same fees and mileage allowed by law to~~
5 ~~witnesses in the court of common pleas, which amount shall be~~
6 ~~paid by the party at whose instance the subpoena was issued or~~
7 ~~upon whose behalf the witness has been called. When any witness,~~
8 ~~who has not been subpoenaed at the instance any party to the~~
9 ~~proceeding, is subpoenaed at the instance of the board, the fees~~
10 ~~and mileage of the witness shall be paid from the funds~~
11 ~~appropriated to the use of the board in the same manner as other~~
12 ~~expenses of the board are paid.~~

13 ~~(d) (C) Enforcement of subpoenas.--Where, in any proceeding~~ <—
14 ~~before the board, any witness fails or refuses to attend upon~~
15 ~~subpoena issued by the board or any of its representatives or,~~
16 ~~appearing, refuses to testify or produce any books and papers~~
17 ~~the production of which is required by the subpoena, the~~
18 ~~attendance of the witness, the giving of testimony and the~~
19 ~~production of the books and papers required shall be enforced by~~
20 ~~any court.~~

21 Section 31. Actions by unlicensed persons prohibited.

22 No action or proceeding may be instituted and no recovery may
23 be had in any court of this Commonwealth by any individual,
24 partnership, association or corporation for compensation for any
25 act done or services rendered the doing or rendering of which is
26 prohibited under this act to other than persons licensed by the
27 board unless the individual, partnership, association or
28 corporation was licensed at the time of doing the act or
29 rendering of service.

30 Section 32. Rules and regulations.

1 The board may adopt rules and regulations necessary for the
2 proper administration and enforcement of this act.

3 Section 33. Disposition of fees and fines.

4 All fees paid to the board and all fines collected for
5 violations of this act shall be paid into the State Treasury for
6 the use of the board to aid in the administration and
7 enforcement of this act.

8 Section 34. Repeals.

9 (a) Absolute repeal.--The act of September 29, 1961
10 (P.L.1745, No.708), known as The Auctioneers' License Act, is
11 repealed.

12 (b) Inconsistent repeals.--The following acts or parts of
13 acts are repealed insofar as they are inconsistent with this
14 act:

15 Section 812.1 of the act of April 9, 1929 (P.L.177, No.175),
16 known as The Administrative Code of 1929.

17 Act of July 1, 1978 (P.L.700, No.124), known as the Bureau of
18 Professional and Occupational Affairs Fee Act.

19 (c) General repeal.--All other acts or parts of acts are
20 repealed insofar as they are inconsistent with this act.

21 Section 35. Effective date.

22 This act shall take effect in 60 days.