
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 763

Session of
1983

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

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 15, 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.

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27 The General Assembly of the Commonwealth of Pennsylvania
 28 hereby enacts as follows:

29 Section 1. Short title.

30 This act shall be known and may be cited as the Auctioneer

1 and Auction Licensing Act.

2 Section 2. Definitions.

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

6 "Apprentice auctioneer." A person who is licensed under this
7 act as an apprentice auctioneer.

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

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

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

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

28 "Board." The State Board of Auctioneer Examiners in the
29 Department of State.

30 "Commissioner." The Commissioner of Professional and

1 Occupational Affairs in the Department of State.

2 "Department." The Department of State.

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

7 "Person." An individual, partnership, association or
8 corporation.

9 "Property." Real and personal property. The term includes
10 domestic animals and farm products.

11 "Qualified auctioneer." A currently licensed auctioneer.

12 Section 3. Auctioneer and apprentice auctioneer licenses.

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

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

30 (c) Qualifications in general for license.--Licenses shall

1 be granted only to persons who have a good reputation for
2 honesty, truthfulness, integrity and competence to transact the
3 business of auctioneer or apprentice auctioneer in a manner as
4 to safeguard the interest of the public and only after
5 satisfactory proof of these qualifications has been presented to
6 the board as required by regulation.

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

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

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

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

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

29 (g) Designation of auctioneer-of-record.--If the applicant
30 for a license is a partnership, association or corporation, then

1 a member of the partnership or association or an officer of the
2 corporation, who is licensed in this Commonwealth as an
3 auctioneer, must be designated as the auctioneer-of-record. The
4 auctioneer-of-record is principally responsible for the conduct
5 of the auctions of the partnership, association or corporation
6 in accordance with this act. A partnership, association or
7 corporation auctioneer license becomes invalid if the license of
8 the auctioneer-of-record is not renewed or is suspended or
9 revoked.

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

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

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

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

22 (4) TO A SALE CONDUCTED IN THE SETTLEMENT OF ANY
23 DECEDENT'S ESTATE. ←

24 (5) TO A SALE CONDUCTED BY OR UNDER THE DIRECTION OF ANY
25 PUBLIC AUTHORITY.

26 (6) TO ANY SALE REQUIRED BY LAW TO BE AT AUCTION.

27 (7) TO A SALE CONDUCTED BY BROKERS OR SALESPERSONS
28 LICENSED UNDER THE ACT OF FEBRUARY 19, 1980 (P.L.15, NO.9),
29 KNOWN AS THE REAL ESTATE LICENSING AND REGISTRATION ACT.

30 (i) Special license to conduct auction.--An auctioneer

1 authorized to engage in auctioneering in another state shall,
2 upon application and payment of the license fee, be issued a
3 special license for each auction conducted by him. Applications
4 must be made 20 days in advance of the sale and must include the
5 name and address of the consignor or owner of all items to be
6 sold. All applications are subject to approval by the board and
7 shall include proof of authority to engage in auctioneering in
8 the other state.

9 Section 4. Status of existing licensees.

10 (a) Apprentice auctioneers.--An individual licensed as an
11 apprentice auctioneer on the effective date of this act shall
12 thereafter possess the same rights and privileges and be subject
13 to the same requirements pertaining to licensure as individuals
14 to whom licenses as an apprentice auctioneer are issued under
15 this act.

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

20 Section 5. Applications for initial and renewal licenses.

21 (a) Application for auctioneer license.--Applications for
22 license as an auctioneer shall be made to the board in writing
23 upon forms provided by the board which shall contain such
24 information as to the individual or, if the applicant is a
25 partnership, association or corporation, as to its members or
26 officers as the board requires. If the applicant is an
27 individual, the application shall be signed by that individual.
28 If the applicant is a partnership or an association, the
29 application shall be signed by a member. If the applicant is a
30 corporation, the application shall be signed by an officer. Each

1 application shall be accompanied by two photographs of the
2 individual applicant or of the member or officer of the
3 partnership, association or corporation applicant. An
4 application by a licensed apprentice auctioneer seeking to
5 qualify on the basis of an apprenticeship shall contain or be
6 accompanied by satisfactory evidence that the applicant was in
7 the employ of a sponsor for at least two years and participated
8 for compensation in not less than 30 auctions on the dates and
9 at the locations provided by the applicant. Upon the filing of
10 an application, the board shall investigate the allegations
11 contained in the application and if, upon investigation, it
12 finds the allegations untrue, it may refuse to examine or
13 license the applicant or may revoke any license issued to the
14 applicant on the basis of materially untrue allegations
15 contained in the application for a license. The board shall set
16 forth in writing its findings and reasons for its refusal or
17 revocation and furnish a copy to the applicant.

18 (b) Application for apprentice auctioneer license.--
19 Applications for license as an apprentice auctioneer shall be
20 made to the board in writing upon forms provided by the board
21 which shall contain such information as to the applicant as the
22 board requires. For license renewals, the licensee shall set
23 forth the period of time, if any, during which he was engaged in
24 the auction profession, stating the name of his present sponsor
25 and any former sponsor for the period of five years immediately
26 preceding the date of the renewal. If it becomes necessary to
27 change sponsors, the apprentice auctioneer must notify the board
28 by letter upon the termination of the sponsorship and submit a
29 transfer form, provided by the board, when a new sponsor is
30 obtained. An apprentice auctioneer license is invalid when there

1 is no sponsoring auctioneer and credit does not accrue during
2 that time. A license will be reissued when the apprentice
3 auctioneer submits a transfer form which informs the board that
4 he has secured a new sponsor.

5 (c) Examinations.--THE BOARD SHALL CONTRACT WITH A <—
6 PROFESSIONAL TESTING ORGANIZATION FOR THE PREPARATION AND
7 ADMINISTRATION OF THE EXAMINATION, IN ACCORDANCE WITH SECTION
8 812.1(A) OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS
9 THE ADMINISTRATIVE CODE OF 1929. No person may be issued an
10 auctioneer license unless the person passes an examination
11 approved by the board. The board shall hold examinations at
12 locations, times and dates prescribed by regulation of the
13 board.

14 (d) Issuance of new license after revocation.--In the event
15 the license of an auctioneer or an apprentice auctioneer is
16 revoked by the board subsequent to the effective date of this
17 act, no new license may be issued to that person until he
18 ~~complies~~ COMPLIES with all the provisions of this act. <—

19 (e) Expiration and renewal of license.--All licenses issued
20 by the board shall be for a maximum term of two years and shall
21 expire on the last day of February of each odd year. It is the
22 duty of all persons licensed to practice as an auctioneer or
23 apprentice auctioneer or to operate as an auction house or
24 auction company to renew the license biennially with the board
25 and to pay the license fee for each biennial license renewal.
26 Applications for renewals of licenses issued under this act
27 shall be made within 60 days prior to the expiration of the
28 license upon forms and in the manner provided by the board.
29 Section 6. License, examination and other fees.

30 ~~(a) General rule. The license, examination and other fees~~ <—

1 ~~to be paid to the board are as follows:~~

2 ~~(1) The examination fee for an auctioneer license shall~~
3 ~~be \$25 and for an apprentice auctioneer license shall be \$10.~~

4 ~~(2) The fee for the initial license and the renewal of~~
5 ~~an auctioneer license shall be \$50 for the specified two year~~
6 ~~term of the license. The fee for the initial license and the~~
7 ~~renewal of an apprentice auctioneer license shall be \$30 for~~
8 ~~the specified two year term of the license. There are no~~
9 ~~other license fees authorized for the licenses issued at any~~
10 ~~time during the two year term of the license.~~

11 ~~(3) The fee for the initial license and the renewal of a~~
12 ~~license issued to an auction house or auction company shall~~
13 ~~be \$50 for the specified two year term of the license. There~~
14 ~~are no other license fees authorized for licenses issued at~~
15 ~~any time during the two year term of the license.~~

16 ~~(4) The fee for a special license to conduct an auction~~
17 ~~shall be \$100.~~

18 ~~(5) The fee for the replacement of a lost or mislaid~~
19 ~~license is \$5.~~

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

23 ~~(b) Method of payment. The payment of fees required under~~
24 ~~this act may be made to the board by personal check.~~

25 (A) SETTING OF FEES.--THE LICENSE AND EXAMINATION FEES AND <—
26 ALL OTHER FEES IMPOSED UNDER THE PROVISIONS OF THIS ACT SHALL BE
27 FIXED BY THE BOARD BY REGULATION AND SHALL BE SUBJECT TO REVIEW
28 IN ACCORDANCE WITH THE ACT OF JUNE 25, 1982 (P.L.633, NO.181),
29 KNOWN AS THE REGULATORY REVIEW ACT. IF THE REVENUES GENERATED BY
30 FEES, FINES AND CIVIL PENALTIES IMPOSED IN ACCORDANCE WITH THE

1 PROVISIONS OF THIS ACT ARE NOT SUFFICIENT TO MATCH EXPENDITURES
2 OVER A TWO-YEAR PERIOD, THE BOARD SHALL INCREASE THOSE FEES BY
3 REGULATION, SUBJECT TO REVIEW IN ACCORDANCE WITH THE REGULATORY
4 REVIEW ACT, SUCH THAT THE PROJECTED REVENUES WILL MEET OR EXCEED
5 PROJECTED EXPENDITURES.

6 (B) CHANGING FEES.--IF THE BUREAU OF PROFESSIONAL AND
7 OCCUPATIONAL AFFAIRS DETERMINES THAT THE FEES ESTABLISHED BY THE
8 BOARD ARE INADEQUATE TO MEET THE MINIMUM ENFORCEMENT EFFORTS
9 REQUIRED, THEN THE BUREAU, AFTER CONSULTATION WITH THE BOARD,
10 SHALL INCREASE THE FEES BY REGULATION, SUBJECT TO REVIEW IN
11 ACCORDANCE WITH THE REGULATORY REVIEW ACT, SUCH THAT ADEQUATE
12 REVENUES ARE RAISED TO MEET THE REQUIRED ENFORCEMENT EFFORT.

13 Section 7. Special licensees to furnish bond.

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

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

28 (c) Action on bond.--If any person is aggrieved by the
29 misconduct of any special licensee and recovers judgment against
30 the licensee therefor, the person may on any execution issued

1 under the judgment maintain an action upon the bond of the
2 licensee in any court having jurisdiction of the amount claimed.

3 Section 8. Authority to transact business not transferable.

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

12 Section 9. Auction house license.

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

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

28 (c) Investigation and refusal of license.--Upon the filing
29 of an application, the board shall investigate the allegations
30 contained in the application and, if upon investigation it finds

1 the allegations untrue, it may refuse to license the applicant
2 to operate an auction house.

3 (d) Information from auctioneer.--A licensed auctioneer, who
4 also operates an auction house, shall notify the board in
5 writing of the address of each auction house operated by him and
6 of the trade or business name by which each auction house is
7 known. The auctioneer shall notify the board in writing if the
8 operation of the auction house is sold or discontinued or if the
9 name or location of the auction house is changed.

10 Section 10. Auction company license.

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

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

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

1 (d) Information from auctioneer or auction house.--A
2 licensed auctioneer or an individual licensed to operate an
3 auction house, who also operates an auction company, shall
4 notify the board in writing that he is operating an auction
5 company and shall specify the trade or business name and the
6 address of the principal place of business of each auction
7 company which he operates. The individual who is licensed as an
8 auctioneer or to operate as an auction house shall notify the
9 board in writing if the operation of the auction company is sold
10 or discontinued or if the name or location of the auction
11 company is changed.

12 Section 11. Nonresident licensees.

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

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

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

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

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

4 Section 12. Reciprocity with other states.

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

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

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

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

30 (c) Change of nonresident status.--The movement from another

1 state or jurisdiction to domicile in this Commonwealth
2 eliminates the possibility of reciprocal licensing set forth in
3 this section and the individual must qualify for a license under
4 terms of this act which are applicable to residents of this
5 Commonwealth.

6 Section 13. Licensee to furnish bond.

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

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

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

29 Section 14. No other license required.

30 No political subdivision of this Commonwealth shall have the

1 power or authority to levy or collect any license tax or fee
2 which is either a regulatory or a revenue measure upon or from
3 any auctioneer or apprentice auctioneer licensed under this act
4 nor to require any auctioneer or apprentice auctioneer to be
5 licensed by the political subdivision in order to carry on the
6 business of auctioneer or to conduct a sale at auction.

7 Section 15. List of licensees.

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

13 Section 16. Records of sales.

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

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

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

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

27 (b) Inspection of records.--The records referred to in
28 subsection (a) shall be open at all reasonable times for
29 inspection by the board or any person who is authorized in
30 writing for that purpose by the board and who exhibits the

1 written authorization to the auctioneer before making an
2 inspection. ~~This subsection applies only if a complaint against~~ ←
3 ~~the auctioneer has been filed with the board and the identity of~~
4 ~~the complainant is disclosed to the auctioneer.~~

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

10 Section 17. Contracts for conduct of sale.

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

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

25 Section 18. Display of licenses.

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

1 conducted by any licensee.

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

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

28 ~~Section 19. Confidentiality of information.~~ <—

29 ~~(a) General rule. Neither the board nor the commissioner or~~
30 ~~a representative, clerk or other employee of the board shall,~~

1 ~~directly or indirectly, willfully exhibit, publish, divulge or~~
2 ~~make known to any person or persons any record, report,~~
3 ~~statement, letter or any other matter, fact or thing contained~~
4 ~~among the papers, documents or records of the board, or~~
5 ~~ascertain from any of them or from any investigation or~~
6 ~~proceedings made or held by or before the board or any of its~~
7 ~~members or the commissioner or secretary or a representative,~~
8 ~~except:~~

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

10 ~~(2) In accordance with the laws of this Commonwealth~~
11 ~~dealing with the public's right to access to Commonwealth~~
12 ~~records.~~

13 ~~(3) When the production of any information in a~~
14 ~~proceeding in any court is duly required by subpoena issued~~
15 ~~by special order of the court or other regular process.~~

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

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

26 Section ~~20~~ 19. Revocation or suspension of license for violation ←
27 by employee.

28 A violation of this act by an apprentice auctioneer or other
29 employee of a licensed auctioneer shall not be grounds for the
30 revocation or suspension of the license of the sponsor of the

1 apprentice auctioneer or employee unless it appears at the
2 hearing that the sponsor had knowledge of the violation. A
3 course of dealing shown to have been consistently followed by an
4 apprentice auctioneer or employee constitutes prima facie
5 evidence of knowledge upon the part of the sponsor.

6 Section ~~21~~ 20. Investigations and enforcement actions. ←

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

18 (1) Knowingly making any substantial misrepresentation.

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

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

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

29 (5) Any failure to account for or to pay over moneys
30 belonging to others which have come into his or its

1 possession arising out of a sales transaction within a
2 reasonable time.

3 (6) Any misleading or untruthful advertising.

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

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

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

9 (10) Violating any regulation of the board.

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

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

21 (c) Escrow account.--Every auctioneer shall immediately
22 deposit moneys, received from the sale of property, belonging to
23 others, in a separate custodial or trust fund account maintained
24 by the auctioneer until the transaction involved is terminated,
25 at which time the auctioneer shall account for the full amount
26 received.

27 Section ~~22~~ 21. Hearing on charges. <—

28 (a) General rule.--If the applicant or licensee desires, the
29 board shall grant a hearing upon the charges ~~to be held on not~~ <—
30 ~~less than ten days' prior written notice to the applicant or~~

1 ~~licensee. At the hearing, the applicant or licensee may examine,~~
2 ~~either in person or by counsel, any and all persons complaining~~
3 ~~against him and as well all other witnesses whose testimony is~~
4 ~~relied upon to substantiate the charges made. He shall also be~~
5 ~~entitled to present any evidence, oral and written, as he sees~~
6 ~~fit and as may be pertinent to the inquiry. The hearings may be~~
7 ~~held by the board, or any member thereof, or by any other person~~
8 ~~authorized by the board for that purpose in any particular case,~~
9 ~~and they shall be held in Harrisburg, Pennsylvania, or at any~~
10 ~~other place as the board may direct. At the hearings, all~~
11 ~~witnesses shall be sworn by the authorized representative before~~
12 ~~whom the hearing is held and stenographic notes of the~~
13 ~~proceedings shall be taken and filed as part of the record in~~
14 ~~the case. THE SAID HEARINGS MAY BE HELD BY THE BOARD OR ANY~~ ←
15 ~~MEMBER THEREOF OR BY ANY OTHER PERSON DULY AUTHORIZED BY THE~~
16 ~~BOARD FOR SUCH PURPOSE IN ANY PARTICULAR CASE.~~

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

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

30 Section ~~23~~ 22. Administration and enforcement. ←

1 The board shall administer and enforce this act.

2 Section ~~24~~ 23. Injunctive relief. <—

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

6 Section ~~25~~ 24. Records of courts to be evidence before board. <—

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

18 The verdict ~~of the jury~~ in any criminal prosecution in a court <—
19 of record in this or any other state in which the applicant or
20 licensee charged was the defendant shall be conclusive as to the
21 facts charged and at issue in the prosecution.

22 Section ~~26~~ 25. Revocation or suspension of license. <—

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

1 license issued to the licensee.

2 (b) Suspension of license pending trial of crime.--In the
3 event any licensee is indicted in this or any other state of
4 forgery, embezzlement, obtaining money under false pretenses,
5 extortion, criminal conspiracy to defraud or other offense or
6 offenses and a certified copy of the indictment is filed with
7 the board or other proper evidence is given to it, the board
8 may, in its discretion, suspend the license issued to the
9 licensee pending trial of the charges.

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

20 Section ~~27~~ 26. Issuance of new license pending investigation and ←
21 decision.

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

30 Section ~~28~~ 27. Issuance of new license after revocation. ←

1 (A) GENERAL RULE.--After the revocation of any license, no ←
2 new license may be issued to the same licensee within a period
3 of at least one year from the date of the revocation nor, except
4 in the sole discretion of the board and subject to the
5 conditions of this act, at any time thereafter.

6 (B) CRIMINAL CONDUCT.--NO LICENSE SHALL BE ISSUED BY THE ←
7 BOARD TO ANY PERSON KNOWN BY IT TO HAVE BEEN WITHIN FIVE YEARS
8 CONVICTED OF FORGERY, EMBEZZLEMENT, OBTAINING MONEY UNDER FALSE
9 PRETENSES, EXTORTION, CRIMINAL CONSPIRACY TO DEFRAUD OR OTHER
10 LIKE OFFENSE, OR TO ANY COPARTNERSHIP OF WHICH ANY PERSON IS A
11 MEMBER OR TO ANY ASSOCIATION OR CORPORATION OF WHICH ANY PERSON
12 IS AN OFFICER OR EMPLOYEE OR IN WHICH AS A STOCKHOLDER ANY
13 PERSON HAS OR EXERCISES A CONTROLLING INTEREST EITHER DIRECTLY
14 OR INDIRECTLY.

15 Section ~~29~~ 28. Penalties. ←

16 (A) CRIMINAL PENALTIES.--Any individual, partnership, ←
17 association or corporation who engages in or carries on the
18 profession or acts in the capacity of an auctioneer, apprentice
19 auctioneer, auction house or auction company in this
20 Commonwealth without a current license or who employs any person
21 without a current license as an apprentice auctioneer:

22 (1) For a first offense, commits a summary offense and
23 shall, upon conviction, be sentenced to pay a fine not
24 exceeding \$500 or to imprisonment not exceeding three months,
25 or both.

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

1 (B) CIVIL PENALTY.--IN ADDITION TO ANY OTHER CIVIL REMEDY OR <—
2 CRIMINAL PENALTY PROVIDED FOR IN THIS ACT, THE BOARD MAY LEVY A
3 CIVIL PENALTY OF UP TO \$1,000 ON ANY PERSON WHO ENGAGES IN THE
4 PRACTICE OF AUCTIONEERING WITHOUT BEING PROPERLY LICENSED TO DO
5 SO UNDER THIS ACT. THE BOARD SHALL LEVY THIS PENALTY ONLY AFTER
6 AFFORDING THE ACCUSED PARTY THE OPPORTUNITY FOR A HEARING, AS
7 PROVIDED IN TITLE 2 OF THE PENNSYLVANIA CONSOLIDATED STATUTES
8 (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE).

9 ~~Section 30. Witnesses and documentary evidence.~~ <—

10 ~~(a) General rule. The board and each of its authorized~~
11 ~~representatives and any special representative appointed by it~~
12 ~~to hold a hearing in any particular case may require the~~
13 ~~attendance of witnesses and the production of books and papers.~~

14 ~~(b) Service of process. In any hearing, the process issued~~
15 ~~by the board shall extend to all parts of this Commonwealth and~~
16 ~~the process may be served either in the manner that subpoenas in~~
17 ~~the court of common pleas are served or by any person designated~~
18 ~~by the board for that purpose. The person serving the process~~
19 ~~shall receive such compensation as may be allowed by the board~~
20 ~~not to exceed the fee prescribed by law for similar services in~~
21 ~~the court of common pleas and the fees shall be paid in the same~~
22 ~~manner as provided in this act for the fees of witnesses~~
23 ~~subpoenaed at the instance of the board.~~

24 ~~(c) Enforcement of subpoenas. Where, in any proceeding~~
25 ~~before the board, any witness fails or refuses to attend upon~~
26 ~~subpoena issued by the board or any of its representatives or,~~
27 ~~appearing, refuses to testify or produce any books and papers~~
28 ~~the production of which is required by the subpoena, the~~
29 ~~attendance of the witness, the giving of testimony and the~~
30 ~~production of the books and papers required shall be enforced by~~

1 ~~any court.~~

2 Section ~~31~~ 29. Actions by unlicensed persons prohibited. ←

3 No action or proceeding may be instituted and no recovery may
4 be had in any court of this Commonwealth by any individual,
5 partnership, association or corporation for compensation for any
6 act done or services rendered the doing or rendering of which is
7 prohibited under this act to other than persons licensed by the
8 board unless the individual, partnership, association or
9 corporation was licensed at the time of doing the act or
10 rendering of service.

11 Section ~~32~~ 30. State Board of Auctioneer Examiners. ←

12 (a) Representation.--The State Board of Auctioneer Examiners
13 shall consist of the Commissioner of Professional and
14 Occupational Affairs, ex officio, two members who shall be
15 persons representing the public at large, and five members who
16 shall be licensed auctioneers, have served as licensed
17 auctioneers for ten years or more and have conducted at least 50
18 auctions each year.

19 (B) TERMS.--EACH MEMBER OF THE BOARD ON THE EFFECTIVE DATE ←
20 OF THIS ACT SHALL CONTINUE IN OFFICE UNTIL HIS TERM EXPIRES, OR
21 UNTIL HIS SUCCESSOR HAS BEEN APPOINTED AND QUALIFIED, BUT NO
22 LONGER THAN SIX MONTHS BEYOND THE EXPIRATION OF HIS TERM.
23 THEREAFTER THE TERM OF OFFICE OF EACH OF SAID MEMBERS SHALL BE
24 THREE YEARS FROM HIS APPOINTMENT, OR UNTIL HIS SUCCESSOR HAS
25 BEEN APPOINTED AND QUALIFIED, BUT NO LONGER THAN SIX MONTHS
26 BEYOND THE THREE-YEAR PERIOD. IN THE EVENT THAT ANY OF SAID
27 MEMBERS SHALL DIE OR RESIGN DURING HIS TERM OF OFFICE, HIS
28 SUCCESSOR SHALL BE APPOINTED IN THE SAME WAY AND WITH THE SAME
29 QUALIFICATIONS AS ABOVE SET FORTH AND SHALL HOLD OFFICE FOR THE
30 UNEXPIRED TERM.

1 **(b)** (C) Quorum.--Four members of the board shall constitute <—
2 a quorum.

3 **(c)** (D) Chairman AND SECRETARY.--The board shall select a <—
4 chairman AND SECRETARY from among its members ~~and shall elect a~~ <—
5 ~~secretary who need not be a member of the board.~~

6 **(d)** (E) Per diem.--The members of the board, other than the <—
7 Commissioner of Professional and Occupational Affairs, shall
8 receive ~~\$35~~ \$60 per diem, when actually engaged in the <—
9 transaction of official business, ~~and the secretary shall~~ <—
10 ~~receive such reasonable compensation as shall be determined by~~
11 ~~the board, with the approval of the Secretary of the~~
12 Commonwealth. MEMBERS SHALL RECEIVE, IN ADDITION, THE AMOUNT OF <—
13 ACTUAL TRAVEL, HOTEL AND OTHER NECESSARY EXPENSES INCURRED IN
14 PERFORMING THEIR DUTIES FOR THE BOARD.

15 **(e)** (F) Sunset.--The board is subject to evaluation, review <—
16 and termination within the time and in the manner provided in
17 the act of December 22, 1981 (P.L.508, No.142), known as the
18 Sunset Act.

19 **(f)** (G) Attendance.--A member of the board who fails to <—
20 attend three consecutive meetings shall ~~be subject to removal.~~ <—
21 FORFEIT HIS SEAT UNLESS THE COMMISSIONER OF PROFESSIONAL AND <—
22 OCCUPATIONAL AFFAIRS, UPON WRITTEN REQUEST FROM THE MEMBER,
23 FINDS THAT THE MEMBER SHOULD BE EXCUSED FROM A MEETING BECAUSE
24 OF ILLNESS OR THE DEATH OF AN IMMEDIATE FAMILY MEMBER.

25 **(g)** (H) Excuse from attendance.--A board member shall be <—
26 excused from meetings due to illness or death of an immediate
27 family member.

28 (I) REPORTS.-- <—
29 (1) THE BOARD SHALL SUBMIT ANNUALLY A REPORT TO THE
30 PROFESSIONAL LICENSURE COMMITTEE OF THE HOUSE OF

1 REPRESENTATIVES AND TO THE CONSUMER PROTECTION AND
2 PROFESSIONAL LICENSURE COMMITTEE OF THE SENATE A DESCRIPTION
3 OF THE TYPES OF COMPLAINTS RECEIVED, STATUS OF CASES, BOARD
4 ACTION WHICH HAS BEEN TAKEN AND LENGTH OF TIME FROM THE
5 INITIAL COMPLAINT TO FINAL BOARD RESOLUTION.

6 (2) THE BOARD SHALL ALSO SUBMIT ANNUALLY TO THE HOUSE OF
7 REPRESENTATIVES AND THE SENATE APPROPRIATION COMMITTEES, 15
8 DAYS AFTER THE GOVERNOR HAS SUBMITTED HIS BUDGET TO THE
9 GENERAL ASSEMBLY, A COPY OF THE BUDGET REQUEST FOR THE
10 UPCOMING FISCAL YEAR WHICH THE BOARD PREVIOUSLY SUBMITTED TO
11 THE COMMISSIONER.

12 Section ~~33~~ 31. Rules and regulations. <—

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

15 Section ~~34~~ 32. Disposition of fees and fines. <—

16 All fees paid to the board and all fines collected for
17 violations of this act shall be paid into the State Treasury for
18 the use of the board to aid in the administration and
19 enforcement of this act.

20 SECTION 33. REESTABLISHMENT OF AGENCY. <—

21 THIS ACT, WITH RESPECT TO THE STATE BOARD OF AUCTIONEER
22 EXAMINERS, SHALL CONSTITUTE THE LEGISLATION REQUIRED TO
23 REESTABLISH AN AGENCY UNDER THE ACT OF DECEMBER 22, 1981
24 (P.L.508, NO.142), KNOWN AS THE SUNSET ACT.

25 Section ~~35~~ 34. Repeals. <—

26 (a) Absolute repeals.--The following acts and parts of acts
27 are repealed:

28 Section 476 of the act of April 9, 1929 (P.L.177, No.175),
29 known as the Administrative Code of 1929.

30 Act of September 29, 1961 (P.L.1745, No.708), known as The

1 Auctioneers' License Act.

2 (b) Inconsistent repeals.--The following ~~acts or parts of~~ <—
3 ~~acts are~~ ACT OR PART OF AN ACT IS repealed insofar as ~~they are~~ <—
4 IT IS inconsistent with this act: <—

5 ~~Section 812.1 of the act of April 9, 1929 (P.L.177, No.175),~~ <—
6 ~~known as The Administrative Code of 1929.~~

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

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

11 Section ~~36~~ 35. Effective date. <—

12 This act shall take effect in 60 days.