

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 325 Session of 2013

INTRODUCED BY M. K. KELLER, BENNINGHOFF, BROOKS, COHEN, D. COSTA, GINGRICH, HALUSKA, HESS, KORTZ, MACKENZIE, MARSHALL, MILLARD, PICKETT, REESE, SAYLOR, TOEPEL, O'NEILL, FLECK, HELM, MOUL, EVANKOVICH, MARSICO, ROCK, C. HARRIS, GROVE, ROAE, MILLER, MURT, F. KELLER, DENLINGER, P. DALEY, GODSHALL, CLYMER, PYLE, EVERETT, PEIFER, SCHLEGEL CULVER, STURLA, GRELL, MATZIE, GABLER, ROSS, KAMPF, DELUCA, GILLESPIE, KULA, MILNE, REED, MALONEY AND WATSON, JANUARY 24, 2013

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JANUARY 24, 2013

AN ACT

1 Amending the act of December 22, 1983 (P.L.327, No.85),  
 2 entitled, as amended, "An act imposing regulations and  
 3 licensing requirements on auctioneers, apprentice  
 4 auctioneers, auction houses, auction companies and trading  
 5 assistants; imposing powers and duties on the State Board of  
 6 Auctioneer Examiners; and making repeals," further providing  
 7 for the title of the act, for definitions, for auctioneer and  
 8 apprentice auctioneer licenses, for status of existing  
 9 licensees and for applications for initial and renewal  
 10 licenses; providing for registration of trading assistants  
 11 and trading assistant companies; further providing for  
 12 special licensees to furnish bond and for authority to  
 13 transact business not transferable; repealing provisions  
 14 relating to auction house license, auction company license,  
 15 trading assistant registration and nonresident licensees;  
 16 further providing for reciprocity with other states;  
 17 repealing provisions relating to licensee and registrant to  
 18 furnish bond; and further providing for no other license or  
 19 registration required, for list of licensees and registrants,  
 20 for records of sales, for contracts for conduct of  
 21 transaction, for display of licenses, for investigations and  
 22 enforcement actions, for escrow account, for hearing on  
 23 charges, for administration and enforcement, for revocation  
 24 or suspension of license or registration, for issuance of new  
 25 license or registration pending investigation and decision,  
 26 for issuance of new license or registration after revocation,  
 27 for penalties and for actions by unlicensed persons  
 28 prohibited.

1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

3 Section 1. The title and sections 2 and 3 of the act of  
4 December 22, 1983 (P.L.327, No.85), known as the Auctioneer  
5 Licensing and Trading Assistant Registration Act, amended  
6 October 8, 2008 (P.L.1080, No.89), are amended to read:

7 AN ACT

8 Imposing regulations and licensing requirements on auctioneers,  
9 apprentice auctioneers, auction [houses, auction] companies,  
10 trading assistants and trading [assistants] assistant  
11 companies; imposing powers and duties on the State Board of  
12 Auctioneer Examiners; and making repeals.

13 Section 2. Definitions.

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

17 "Apprentice auctioneer." [A person] An individual who is  
18 licensed under this act as an apprentice auctioneer.

19 "Auction" or "sale at auction."

20 (1) The offer [to sell] for sale of property [by an  
21 auctioneer or apprentice auctioneer to the members of an  
22 audience congregated for the purpose of making bids for the  
23 purchase of the property] through the solicitation of bids  
24 from one or more potential buyers in an effort [by the  
25 auctioneer or apprentice auctioneer] to advance the amount of  
26 the bids to obtain the highest or most favorable offer,  
27 regardless of the venue or format utilized.

28 (2) The term "auction" or "sale at auction" includes:

29 (i) live auctions;

30 (ii) online auctions;

1           (iii) real-time auctions;  
2           (iv) extended auctions; and  
3           (v) any similar such events as may be devised with  
4           the development of technology, or otherwise involving the  
5           sale of property and the advancement of the price through  
6           a bidding process.

7           (3) The term "auction" or "sale at auction" excludes any  
8           sale conducted through an [online] Internet [bidding]  
9           competitive consignment sale platform.

10          "Auction company." [A company which, as part of its  
11 business, arranges, manages, sponsors, advertises or carries out  
12 auctions.] A legally recognized entity which sells or attempts  
13 to sell property at auction or performs, or offers to perform,  
14 any of the functions or activities requiring licensure as an  
15 auction company under section 3(a)(1). The term includes any  
16 legally recognized entity which holds itself out as engaged in  
17 the business of selling property at auction.

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

26          "Auctioneer." [A person] An individual who sells or offers  
27 or attempts to sell property at auction. The term includes [any  
28 person who holds] an individual who:

29           (1) Engages in or offers the calling for and recognition  
30           of bids at auction.

1           (2) Engages in or offers any of the activities of an  
2           auction company.

3           (3) Performs, or offers to perform, any of the functions  
4           or activities requiring licensure under section 3(a)(1).

5           (4) Holds himself out as engaged in the business of  
6           selling property at auction.

7           "Auctioneer-of-record." The licensed auctioneer designated  
8           by an auction company as its auctioneer-of-record. The  
9           auctioneer-of-record is principally responsible for the conduct  
10           of the auctions of the auction company in accordance with this  
11           act.

12           "Board." The State Board of Auctioneer Examiners [in the  
13           Department of State].

14           "Commissioner." The Commissioner of Professional and  
15           Occupational Affairs in the Department of State.

16           "Department." The Department of State.

17           "Extended auction." An auction or sale at auction conducted  
18           in whole or in part online at which bids are received over an  
19           extended period of time identified by a starting time and ending  
20           time that may encompass multiple minutes, hours, days or other  
21           periods.

22           "Internet competitive consignment sale platform." Hardware  
23           or software architecture that provides or enables computer  
24           access by multiple users to an interactive computer server for  
25           the purpose of allowing users to offer property for sale and  
26           that does not examine, set the price or prepare the description  
27           of the property to be offered.

28           "Legally recognized entity." A partnership, association,  
29           corporation, limited liability company or other entity  
30           recognized under the laws of this Commonwealth or any other

1 state.

2 "Licensee." [A person licensed under this act including an  
3 auctioneer, apprentice auctioneer, holder of a special license  
4 and, in the case of an auction house or company, the person  
5 required to obtain the license.] An individual licensed under  
6 this act as an auctioneer, apprentice auctioneer or holder of a  
7 special license and a legally recognized entity licensed under  
8 this act as an auction company.

9 "Live auction." An auction or sale at auction at which one  
10 or more members of an audience are present in person, are  
11 communicating telephonically or by other digital or electronic  
12 means or are participating by absentee bid.

13 "Online auction." An auction or sale at auction conducted  
14 over the Internet or similar interactive communication media.

15 ["Online Internet bidding platform." Hardware or software  
16 architecture that provides or enables computer access by  
17 multiple users to an interactive computer server for the purpose  
18 of allowing users to offer property for sale and that does not  
19 examine, set the price or prepare the description of the  
20 property to be offered.]

21 "On-site auction." An auction or sale at auction conducted  
22 at the seller's residential or business location where the  
23 property to be sold is located.

24 "Person." An individual[, partnership, association,  
25 corporation, limited liability company or other] or a legally  
26 recognized entity.

27 "Property." Real and personal property, including both  
28 tangible and intangible personal property. The term includes,  
29 but is not limited to, domestic animals and farm products.

30 "Qualified [auctioneer] sponsor." A currently licensed

1 auctioneer residing in this Commonwealth.

2 "Real-time auction." An auction or sale at auction at which  
3 bids are solicited and received contemporaneously, in real time.

4 "Registrant." A person registered under this act as a  
5 trading assistant or a trading assistant company.

6 "Seller." The owner of property, or the legal representative  
7 or agent of the owner of property, who consigns or otherwise  
8 agrees to have the property sold at auction or sale by auction  
9 or by way of an Internet competitive consignment sale platform.

10 "Special licensee." The holder of a special license issued  
11 pursuant to section 3.

12 "Temporary venue." A venue, including a rented hall, used  
13 primarily for other purposes, at which an auction or sale at  
14 auction is held by an auction company or an auctioneer,  
15 regardless of the frequency of the auctions or sales at auction.

16 "Trading assistant." An individual who, for a commission or  
17 fee, conducts or intends to conduct a business within this  
18 Commonwealth of accepting personal property [to sell] on  
19 consignment from the owner or seller of the personal property to  
20 be sold on behalf of [another] the owner or seller through an  
21 [online] Internet [bidding] competitive consignment sale  
22 platform, or who performs, or offers to perform, any of the  
23 functions or activities requiring registration under section  
24 5.1(a).

25 "Trading assistant company." A legally recognized entity  
26 that for a commission or fee, conducts or intends to conduct a  
27 business within this Commonwealth of accepting personal property  
28 on consignment from the owner or seller of such personal  
29 property, to be sold on behalf of the owner or seller through an  
30 Internet competitive consignment sale platform, or who performs,

1 or offers to perform, any of the functions or activities  
2 requiring registration under section 5.1(a).

3 Section 3. Auctioneer [and], apprentice auctioneer, auctioneer  
4 company and special licenses.

5 (a) Requirement for license.--[Notwithstanding section 10.1,  
6 it]

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

20 (2) (i) Without limiting the other provisions of this  
21 subsection, and regardless of whether the computer system  
22 or server utilized in connection with an online auction  
23 is physically located within this Commonwealth or outside  
24 this Commonwealth, a license under this act shall be  
25 required for any person offering to conduct or agreeing  
26 to conduct an online auction, or conducting an online  
27 auction, if:

28 (A) the seller or owner is situate in this  
29 Commonwealth at the time the offer is made, the  
30 agreement is made or the online auction is held;

1           (B) the online auction involves the sale of real  
2           property situate in this Commonwealth; or

3           (C) the online auction involves the sale of  
4           personal property situate in this Commonwealth at the  
5           time the offer is made, the agreement is made or the  
6           online auction is held.

7           (ii) Under this section licensure is not required  
8           under circumstances in which the owner or seller  
9           initiates contact with an auctioneer, auction company or  
10           other provider of auction services located outside of  
11           this Commonwealth to sell personal property at an online  
12           auction outside of this Commonwealth.

13           (3) Any owner, member, officer or employee of an auction  
14           company who engages in or offers the calling for and  
15           recognition of bids at an auction must have a license as an  
16           auctioneer or apprentice auctioneer.

17           (4) Licensees under this act shall be authorized to  
18           conduct auctions at any venue within this Commonwealth,  
19           including on-site auctions and auctions held at auction  
20           houses and temporary venues, and in any format, including  
21           live auctions and online auctions, whether real-time or  
22           extended, together with any and all related activities.  
23           Events constituting auctions and auction-related activities  
24           shall not be limited by technology existing as of the  
25           effective date of this paragraph.

26           [(b) Issuance and supervision of licenses.--It is the duty  
27 of the board, upon payment of the license fees required and upon  
28 compliance with the requirements of this act, to issue a license  
29 as an auctioneer or apprentice auctioneer to individuals or as  
30 an auctioneer to partnerships, associations and corporations who



1 qualify under and comply with this act. The board shall  
2 supervise and control all licenses issued under this act.]

3 (c) Qualifications in general for license.--[Licenses]  
4 Auctioneer, apprentice auctioneer and special auctioneer  
5 licenses shall be granted only to [persons] individuals who have  
6 a good reputation for honesty, truthfulness, integrity and  
7 competence to transact the business of an auctioneer or  
8 apprentice auctioneer in a manner as to safeguard the interest  
9 of the public and only after satisfactory proof of these  
10 qualifications has been presented to the board as required by  
11 this act and regulation.

12 (d) [Qualifications for apprentice] Apprentice auctioneer  
13 license.--To qualify for an apprentice auctioneer license, [a  
14 person] an individual must be sponsored and employed for  
15 compensation by a qualified [auctioneer] sponsor who employs no  
16 more than one other apprentice auctioneer.

17 (e) [Qualifications for auctioneer] Auctioneer license.--To  
18 qualify for an auctioneer license, [a person] an individual must  
19 have passed the prescribed examination after having:

20 (1) served an apprenticeship as a licensed apprentice  
21 auctioneer for a period of not less than two years in the  
22 employ of a qualified [auctioneer] sponsor and participated  
23 for compensation in no less than 30 auctions; or

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

27 (e.1) Auction company license.--

28 (1) Every legally recognized entity shall, before  
29 operating as an auction company, obtain an auction company  
30 license issued by the board.

1           (2) Every auction company shall designate an auctioneer-  
2 of-record. Each auction company licensed under this act shall  
3 designate an individual licensed as an auctioneer under this  
4 act to serve as the auction company's auctioneer-of-record.  
5 The designation of the auctioneer-of-record shall be made in  
6 the initial application for licensure as an auction company  
7 and in each application for renewal of an auction company  
8 license. The auctioneer-of-record may be an employee,  
9 independent contractor or other agent of the auction company,  
10 and there shall be no requirement that the auctioneer-of-  
11 record have an ownership interest in, or be an officer of,  
12 the auction company. The auctioneer-of-record is principally  
13 responsible for the conduct of the auctions of the auction  
14 company in accordance with this act. However, nothing in this  
15 act shall limit or restrict the ability of an auction company  
16 to utilize the services of one or more auctioneers in  
17 addition to the auctioneer identified as auctioneer of  
18 record, and it shall not be necessary for the auctioneer-of-  
19 record to be present at every auction conducted by the  
20 auction company, provided that a licensed auctioneer is  
21 present to conduct the activities required to be conducted by  
22 a licensed auctioneer under this act and to supervise any  
23 apprentice auctioneer. An auction company license becomes  
24 invalid if the license of the auctioneer-of-record is not  
25 renewed or is suspended or revoked or if the auctioneer-of-  
26 record becomes deceased or otherwise ceases to be the auction  
27 company's auctioneer-of-record without substitution by a  
28 successor auctioneer-of-record.

29           (3) Within 15 calendar days after an auction company's  
30 auctioneer-of-record ceases to serve as auctioneer-of-record,

1 both the auction company and the auctioneer-of-record shall  
2 have the obligation to notify the board in writing of the  
3 termination of such status.

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

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

23 (g.1) Special license to conduct auction.--An auctioneer or  
24 auction company authorized to engage in auctioneering in another  
25 state shall, on application and payment of the license fee, be  
26 issued a special license for each specifically identified  
27 auction conducted in this Commonwealth. Applications must be  
28 made 20 days in advance of the auction or sale at auction and  
29 must include the name and address of the consignor or owner of  
30 all items to be sold. All applications are subject to approval

1 by the board and shall include proof of authority to engage in  
2 auctioneering in the other state.

3 [(h) Sales exempt from license requirements.--

4 The requirement to obtain a license under this act does not  
5 apply to sales at auction in the following circumstances:

6 (1) To a specified single sale per year conducted by the  
7 owner of property if the owner is not engaged in the business  
8 of selling the property and if the property is owned by the  
9 person in an individual capacity.

10 (2) To a sale conducted by or on behalf of a charitable  
11 organization if the person conducting the sale receives no  
12 compensation therefor.

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

15 (4) To a sale conducted in the settlement of any  
16 decedent's estate.

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

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

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 2. The act is amended by adding a section to read:

30 Section 3.1. Sales exempt from license requirements.

1 The requirement to obtain a license under this act does not  
2 apply to sales at auction in the following circumstances:

3 (1) To a specified single sale per year conducted by the  
4 owner of property if the owner is not engaged in the business  
5 of selling the property and if the property is owned by the  
6 person in an individual capacity.

7 (2) To a sale conducted by or on behalf of a charitable  
8 organization if the person conducting the sale receives no  
9 compensation therefor.

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

12 (4) To a sale conducted in the settlement of any  
13 decendent's estate conducted by the executor or administrator  
14 of the estate.

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

17 Section 3. Section 4 of the act is amended by adding a  
18 subsection to read:

19 Section 4. Status of existing licensees.

20 \* \* \*

21 (c) Licensed auction houses.--An auction house license  
22 issued under and pursuant to this act and existing on the  
23 effective date of this paragraph shall remain in full force and  
24 effect through February 28, 2014, at which time the license  
25 shall expire and shall not be subject to renewal. Thereafter,  
26 auction house licenses will no longer be issued or renewed in  
27 this Commonwealth, and any holder of an auction house license as  
28 of February 28, 2014, who is not also the holder of an auction  
29 company license shall be required to obtain either an auction  
30 company license or an auctioneer's license in order to continue

1 in the business and profession of auctioneering in this  
2 Commonwealth.

3 Section 4. Section 5 of the act, amended October 8, 2008  
4 (P.L.1080, No.89), is amended to read:

5 Section 5. Applications for initial and renewal licenses.

6 (a) Application for auctioneer license.--Applications for  
7 license as an auctioneer shall be made to the board in writing  
8 [upon] on forms provided by the board which shall contain such  
9 information as [to the individual or, if the applicant is a  
10 partnership, association or corporation, as to its members or  
11 officers, as] the board requires. [If the applicant is an  
12 individual, the application shall be signed by that individual.  
13 If the applicant is a partnership or an association, the  
14 application shall be signed by a member. If the applicant is a  
15 corporation, the application shall be signed by an officer.] An  
16 application by a licensed apprentice auctioneer seeking to  
17 qualify on the basis of an apprenticeship shall contain or be  
18 accompanied by satisfactory evidence that the applicant was in  
19 the employ of a sponsor for at least two years and participated  
20 for compensation in not less than 30 auctions on the dates and  
21 at the locations provided by the applicant. Upon the filing of  
22 an application, the board shall investigate the allegations  
23 contained in the application and if, upon investigation, it  
24 finds the allegations untrue, it may refuse to examine or  
25 license the applicant or may revoke any license issued to the  
26 applicant on the basis of materially untrue allegations  
27 contained in the application for a license. The board shall set  
28 forth in writing its findings and reasons for its refusal or  
29 revocation and furnish a copy to the applicant.

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

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

19 (b.1) Application for auction company license.--Every  
20 legally recognized entity seeking an auction company license  
21 shall file with the board an application in writing on forms  
22 provided by the board which shall contain such information as to  
23 the applicant and as to the members or officers of the  
24 applicant, as the board shall require. Each application shall  
25 identify an auctioneer-of-record. On the filing of an  
26 application, the board shall investigate the allegations  
27 contained in the application and if, on investigation, it finds  
28 the allegations untrue, it may refuse to license the applicant  
29 to operate an auction company.

30 (c) [Examinations] Auctioneer examinations.--The board shall

1 contract with a professional testing organization for the  
2 preparation and administration of the auctioneer examination, in  
3 accordance with section 812.1(a) of the act of April 9, 1929  
4 (P.L.177, No.175), known as The Administrative Code of 1929. [No  
5 person] Except as otherwise provided under this act or by  
6 regulation, no individual may be issued an auctioneer license  
7 unless the [person] individual passes an examination approved by  
8 the board. The board shall hold examinations at locations, times  
9 and dates prescribed by regulation of the board.

10 (d) Issuance of new license after revocation.--In the event  
11 the license of an auctioneer or an apprentice auctioneer is  
12 revoked by the board subsequent to the effective date of this  
13 act, no new license may be issued to that person until he  
14 complies with all the provisions of this act.

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

25 (f) Internet sales.--An applicant or licensee renewing a  
26 license under this section must indicate to the board whether or  
27 not sales will be conducted via an [online] Internet [bidding]  
28 competitive consignment sale platform.

29 Section 5. The act is amended by adding a section to read:  
30 Section 5.1. Registration of trading assistants and trading



1           assistant companies.

2       (a) Requirement for registration.--It shall be unlawful for  
3 an individual to act as a trading assistant, or for any legally  
4 recognized entity to act as a trading assistant company, for a  
5 sale, or offer to sell, conducted on an Internet competitive  
6 consignment sale platform without either first registering with,  
7 or obtaining licensure from, the board. A legally recognized  
8 entity conducting business as a trading assistant must register  
9 as a trading assistant company even though a member or officer  
10 is registered as a trading assistant. Registration is required  
11 on a biennial basis, and renewal shall be due on the last day of  
12 February of each odd year.

13       (b) Application.--Application for registration under this  
14 section shall include the following:

15           (1) The name of the applicant, the business and the  
16 physical location where the business will be conducted.

17           (2) The date the applicant will begin accepting goods  
18 for sale through an Internet competitive consignment sale  
19 platform.

20           (3) The applicant's Pennsylvania tax identification  
21 number.

22           (4) The applicant's e-mail address.

23       (c) Fee.--A registration fee of \$100 shall be included with  
24 each application for registration or renewal. The fee may be  
25 established by the board by regulation.

26       (d) Renewal.--It is the duty of all registrants to renew the  
27 registration biennially with the board and to pay the fee for  
28 each biennial registration.

29       Section 6. Sections 7 and 8 of the act are amended to read:

30       Section 7. [Special licensees] Licensees and registrants to

1           furnish bond.

2           (a) General rule.--[A] No license, including a special  
3 license, or registration shall be granted or issued to any  
4 person under this act until the applicant has filed with the  
5 board an approved bond payable to the Commonwealth in the [penal  
6 sum] amount of \$5,000 [shall accompany every application for a  
7 special license]. The bond shall be executed by a surety company  
8 authorized by the laws of this Commonwealth to transact business  
9 in this Commonwealth. The bond shall be for the use of the  
10 Commonwealth and for any person or persons who may have a cause  
11 of action against a licensee [arising] or registrant under this  
12 act.

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

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

27 Section 8. Authority to transact business not transferable.

28           The authority to transact business as an auctioneer,  
29 apprentice auctioneer[, auction house] or auction company  
30 licensed under [a license issued by the board] this act, or as a

1 trading assistant or trading assistant company registered under  
2 this act, is restricted to the person named in the license or  
3 registration and may not be transferred to the benefit of any  
4 other person. [A partnership, association or corporation  
5 licensed under this act is only permitted to transact auction  
6 business through a member, officer or employee who is licensed  
7 under this act.]

8 Section 7. Sections 9 and 10 of the act are repealed:

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  
28 finds the allegations untrue, it may refuse to license the  
29 applicant 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 writing  
2 of the address of each auction house operated by him and of the  
3 trade or business name by which each auction house is known. The  
4 auctioneer shall notify the board in writing if the operation of  
5 the auction house is sold or discontinued or if the name or  
6 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  
26 finds the allegations untrue, it may refuse to license the  
27 applicant 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 8. Section 10.1 of the act, added October 8, 2008  
10 (P.L.1080, No.89), is repealed:

11 [Section 10.1. Trading assistant registration.

12 (a) Requirement for registration.--It shall be unlawful for  
13 any individual to act as a trading assistant for a sale  
14 conducted by competitive bidding without either first  
15 registering with or obtaining licensure from the board.

16 Registration is required on a biennial basis.

17 (b) Application.--Application for registration under this  
18 section shall include the following:

19 (1) Name of the applicant, the business and the physical  
20 location where the business will be conducted.

21 (2) Date the applicant will begin accepting goods for  
22 sale through an online Internet bidding platform.

23 (3) Pennsylvania tax identification number.

24 (4) E-mail address.

25 (c) Fee.--A registration fee of \$100 shall be included with  
26 each application for registration.]

27 Section 9. Section 11 of the act is repealed:

28 [Section 11. Nonresident licensees.

29 (a) General rule.--A nonresident of this Commonwealth may be  
30 licensed as an auctioneer or apprentice auctioneer or to operate

1 an auction house or auction company upon complying with all the  
2 provisions and conditions of this act required of residents of  
3 this Commonwealth.

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

7 (1) licensed by another state for at least two years; or

8 (2) established in the business of auctioneering for at  
9 least two years and, in the case of states that do not  
10 require a license, the board reviews the application to  
11 determine the qualifications of the applicant.

12 (c) Limitation on type of property sold.--The nonresident  
13 auctioneer or apprentice auctioneer is only permitted to sell at  
14 auction in this Commonwealth whatever property the laws of his  
15 state permit nonresident auctioneers and apprentice auctioneers  
16 to sell at auction.

17 (d) Ineligibility to sponsor apprentices.--A nonresident  
18 auctioneer is not a qualified auctioneer for the purpose of  
19 sponsoring or employing an apprentice auctioneer.]

20 Section 10. Section 12 of the act is amended to read:

21 Section 12. Reciprocity with other states.

22 (a) [General rule.--A nonresident of this Commonwealth who  
23 applies for a license as an auctioneer or apprentice auctioneer  
24 may be granted a license for which he applies if he is licensed  
25 as an auctioneer or apprentice auctioneer by the proper  
26 authority of the state of his domicile,] Licensure by  
27 reciprocity.--In accordance with regulations promulgated by the  
28 board, a person who is licensed in good standing as an  
29 auctioneer, apprentice auctioneer or auction company in another  
30 state may on application to the board be granted licensure as an

1 auctioneer, apprentice auctioneer or auction company in this  
2 Commonwealth upon the payment by the applicant of the proper  
3 [license] application fee and the filing with the board of a  
4 properly certified copy of the license issued to the applicant  
5 by the [state of his domicile, subject to the following  
6 limitations:

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

17 (2) The nonresident auctioneer or apprentice auctioneer  
18 is only permitted to sell at auction in this Commonwealth  
19 whatever property the laws of his state permit nonresident  
20 auctioneers and apprentice auctioneers to sell at auction.

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

23 (c) Change of nonresident status.--The movement from another  
24 state or jurisdiction to domicile in this Commonwealth  
25 eliminates the possibility of reciprocal licensing set forth in  
26 this section and the individual must qualify for a license under  
27 terms of this act which are applicable to residents of this  
28 Commonwealth.] applicant's current licensing state, provided  
29 that:

30 (1) the requirements for licensure in the applicant's

1 current licensing state are, in the determination of the  
2 board, commensurate with the requirements for licensure in  
3 this Commonwealth;

4 (2) the licensing laws of the applicant's current  
5 licensing state extend to licensees of this Commonwealth the  
6 same reciprocal rights and privileges in that state without  
7 the necessity of the licensees in this Commonwealth to obtain  
8 additional or further licenses or authority from any  
9 political subdivision of that state; and

10 (3) the applicant satisfies all other requirements of  
11 licensees and applicants for licensure in this Commonwealth,  
12 including the requirement to furnish a bond.

13 (b) Regulations governing reciprocity.--The board shall  
14 adopt regulations setting forth the requirements for licensure  
15 by reciprocity under this act.

16 Section 11. Section 13 of the act, amended October 8, 2008  
17 (P.L.1080, No.89), is repealed:

18 [Section 13. Licensee and registrant to furnish bond.

19 (a) General rule.--An auctioneer, apprentice auctioneer,  
20 auction company or auction house license or trading assistant  
21 registration shall not be granted or issued to any person until  
22 the applicant has filed with the board an approved bond payable  
23 to the Commonwealth in the amount of \$5,000. The bond shall be  
24 executed by a surety company authorized by the laws of this  
25 Commonwealth to transact business in this Commonwealth. The bond  
26 shall be for the use of the Commonwealth and for any person or  
27 persons who may have a cause of action against a licensee or  
28 registrant under this act.

29 (b) Conditions of bond.--The condition of the bond shall be  
30 that the licensee or registrant will comply with and abide by



1 the provisions of this act and will pay to the Commonwealth, the  
2 board or any person or persons any and all money that may come  
3 due the Commonwealth, the board or the person or persons from a  
4 licensee or registrant under and by virtue of this act.

5 (c) Action on bond.--If any person is aggrieved by the  
6 misconduct of any licensee or registrant and recovers judgment  
7 against the licensee or registrant therefor, the person may, on  
8 any execution issued under the judgment, maintain an action upon  
9 the bond of the licensee or registrant in any court having  
10 jurisdiction of the amount claimed.]

11 Section 12. Sections 14, 15, 16 and 17 of the act, amended  
12 October 8, 2008 (P.L.1080, No.89), are amended to read:

13 Section 14. No other license or registration required.

14 No political subdivision of this Commonwealth shall have the  
15 power or authority to levy or collect any license tax or fee  
16 which is either a regulatory or a revenue measure upon or from  
17 any [auctioneer or apprentice auctioneer or trading assistant  
18 licensed or registered] licensee or registrant under this act  
19 nor to require any [auctioneer or apprentice auctioneer]  
20 licensee or registrant to be licensed by the political  
21 subdivision in order to carry on the business of auctioneer  
22 [or], apprentice auctioneer, auction company, trading assistant  
23 or trading assistant company, or for an auctioneer or auction  
24 company to conduct a sale at auction.

25 Section 15. List of licensees and registrants.

26 The board shall maintain a current list of [any person  
27 licensed by or registered with the board] licensees and  
28 registrants under this act. The list shall be posted on the  
29 department's Internet website and shall be subject to the act of  
30 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

1 Section 16. Records of sales.

2 (a) General rule.--Every [auctioneer or trading assistant,  
3 whether acting in his own behalf or as the officer, agent or  
4 representative of another, after the receipt or acceptance by  
5 him of] licensee and registrant under this act who receives or  
6 accepts any property for sale at auction or sale through an  
7 [online] Internet [bidding] competitive consignment sale  
8 platform[,] shall maintain a written record which shall contain  
9 the following information, provided that if the transaction is  
10 being conducted by an auction company or a trading assistant  
11 company, the records shall be maintained by the auction company  
12 or trading assistant company:

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

17 (2) A copy of the written contract authorizing the  
18 transaction containing the terms and conditions of the  
19 transaction or a copy of the receiving invoice.

20 (3) A written record of the transaction.

21 (b) Inspection of records.--The records referred to in  
22 subsection (a) shall be open at all reasonable times for  
23 inspection by the board or any person who is authorized in  
24 writing for that purpose by the board and who exhibits the  
25 written authorization to the [auctioneer or trading assistant]  
26 licensee or registrant before making an inspection.

27 (c) Retention of records.--The written records shall be kept  
28 on file in the office of the [auctioneer or trading assistant]  
29 licensee or registrant for a period of [at least] not less than  
30 two years and, if the [auctioneer or trading assistant] licensee

1 or registrant is notified of a complaint against [him] the  
2 licensee or registrant, the records shall be maintained [by the  
3 auctioneer or trading assistant] until the complaint is finally  
4 resolved.

5 (d) Receipts.--Every [auctioneer or trading assistant]  
6 licensee or registrant must provide a written receipt for all  
7 transactions[. A] conducted by the licensee or registrant, which  
8 receipt may be provided electronically. [Receipts] Copies of  
9 receipts must be retained for [at least] not less than two  
10 years.

11 Section 17. Contracts for conduct of transaction.

12 [(a) General rule.--]Prior to conducting a transaction, [an  
13 auctioneer or trading assistant] a licensee or registrant shall  
14 enter into a written contract, in duplicate, with the owner or  
15 consignor of the property to be sold, containing the terms and  
16 conditions upon which the licensee or registrant agrees to  
17 conduct the sale. Each contract shall include the license or  
18 registration number of the licensee or registrant conducting the  
19 transaction. The contract may be entered into electronically.  
20 The contracts shall be kept on file in the office of the  
21 [auctioneer or trading assistant and shall be open to inspection  
22 as provided in this act. It is unlawful for a person to  
23 advertise an auction or sale at auction or a sale through an  
24 online Internet bidding platform without including in the  
25 advertisement or notice of sale the name and license number of  
26 the auctioneer, auction house or auction company or the  
27 registration number of the trading assistant conducting the  
28 transaction] licensee or registrant and shall be open to  
29 inspection as provided in this act.

30 [(b) Penalty.--A person who violates subsection (a) commits

1 a summary offense and shall, upon conviction, be sentenced to  
2 pay a fine not less than \$50.]

3 Section 13. Sections 18 and 20 of the act are amended to  
4 read:

5 Section 18. Display of licenses and registration certificates.

6 (a) General rule.--Every [individual, partnership,  
7 association or corporation licensed as an auctioneer] licensee  
8 and registrant under this act shall prominently display the  
9 [license] certificate [in their] of licensure or registration at  
10 the licensee's or registrant's office, and the current [renewal]  
11 wallet card or any facsimile thereof issued to the licensee or  
12 registrant shall be shown on demand of any person at all  
13 auctions or sales at auction conducted by any licensee or in  
14 connection with any transaction conducted by any registrant.

15 (b) Apprentice auctioneers.--All auctioneers shall  
16 prominently display in their office the license certificate of  
17 any apprentice auctioneer employed by them and the current  
18 renewal card or any facsimile thereof of any apprentice  
19 auctioneer employed by them shall be available on demand at any  
20 sale in which an apprentice is employed. A license issued to an  
21 apprentice auctioneer shall designate his sponsor by name.  
22 Prompt notice in writing within ten days shall be given to the  
23 board by the apprentice auctioneer of any change of sponsor and  
24 of the name of the new sponsor into whose service the apprentice  
25 auctioneer is about to enter or has entered. A new license shall  
26 be issued without charge by the board to the apprentice  
27 auctioneer for the unexpired term of the original license. The  
28 new sponsor shall be a qualified [auctioneer] sponsor. The  
29 change of sponsor or employment by any licensed apprentice  
30 auctioneer without notice to the board shall automatically

1 cancel the license issued to him. It is the duty of the sponsor  
2 named in the license to notify the board within ten days of any  
3 change in status of an apprentice licensed under him. It is  
4 unlawful for an apprentice auctioneer to pay compensation to an  
5 auctioneer for the sole purpose of listing the apprentice as an  
6 employee.

7 [(c) Suspension or revocation of license for violation.--The  
8 violation of this section by any licensee is sufficient cause  
9 for the suspension or revocation of his license at the  
10 discretion of the board after a hearing in accordance with this  
11 act.]

12 Section 20. Investigations and enforcement actions.

13 (a) General rule.--The board may, upon its own motion, and  
14 shall, promptly upon the verified complaint in writing of any  
15 person setting forth specifically the wrongful act or acts  
16 complained of, investigate any action or business transaction of  
17 any person licensed or registered by the board and may  
18 temporarily suspend or permanently revoke licenses or  
19 registrations issued by the board or impose a civil penalty not  
20 exceeding \$1,000 at any time when, after due proceedings  
21 provided in this act, it finds the licensee or registrant to  
22 have been guilty in the performance or attempt to perform any of  
23 the acts prohibited to others than licensees or registrants  
24 under this act, as follows:

25 (1) Knowingly making any substantial misrepresentation.

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

28 (3) A continued or flagrant course of misrepresentation  
29 or making false promises through agents or apprentice  
30 auctioneers.

1           (4) Within five years prior to the issuance of the  
2 license then in force, conviction in a court of competent  
3 jurisdiction in this or any other state or in Federal court  
4 of forgery, embezzlement, obtaining money under false  
5 pretenses, extortion, conspiracy to defraud or other like  
6 offense or offenses.

7           (5) Any failure to account for or to pay over moneys  
8 belonging to others which have come into his or its  
9 possession arising out of a sales transaction within a  
10 reasonable time.

11           (6) Any misleading or untruthful advertising.

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

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

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

17           (10) Violating any regulation of the board.

18           (11) Having his license to engage in the auction  
19 profession revoked or suspended or having other disciplinary  
20 action taken or his application for licensure refused,  
21 revoked or suspended by the proper licensing authority of  
22 another state.

23           (12) [Failing] The failure of a licensee or registrant  
24 who receives moneys on account of others to establish or  
25 maintain an escrow account as required in section 21.

26           (13) For any licensed auctioneer or apprentice  
27 auctioneer to bid and buy for himself at any auction he is  
28 conducting.

29           (14) For any [licensed auctioneer or apprentice  
30 auctioneer] licensee or registrant to pay any compensation in

1 money or other valuable thing to any person other than a  
2 [licensed auctioneer or apprentice auctioneer] licensee or  
3 registrant for the rendering of any service or the doing of  
4 any of the acts by this act forbidden to be rendered or  
5 performed by other than licensees.

6 (15) For a licensee or registrant to advertise an  
7 auction or sale at auction or a sale through an Internet  
8 competitive consignment sale platform without including in  
9 the advertisement or notice of sale the name and the license  
10 or registration number of the licensee or registrant  
11 conducting the transaction.

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

19 Section 14. Section 21 of the act, amended October 8, 2008  
20 (P.L.1080, No.89), is amended to read:

21 Section 21. Escrow account.

22 Every [auctioneer] licensee and registrant shall  
23 [immediately] promptly deposit moneys[, ] received from the sale  
24 of property[, ] belonging to [others] the seller or consignor in  
25 a separate custodial or trust fund account maintained by the  
26 [auctioneer or trading assistant] licensee or registrant until  
27 the transaction involved is terminated, at which time the  
28 [auctioneer or trading assistant] licensee or registrant shall  
29 account for the full amount received. Such moneys received by an  
30 auctioneer, apprentice auctioneer or trading assistant working

1 for an auction company or trading assistant company shall be  
2 promptly turned over to such company for deposit and accounting.

3 Section 15. Sections 22 and 23 of the act are amended to  
4 read:

5 Section 22. Hearing on charges.

6 (a) General rule.--If the applicant [or], licensee or  
7 registrant desires, the board shall grant a hearing upon the  
8 charges. The said hearings may be held by the board or any  
9 member thereof or by any other person duly authorized by the  
10 board for such purpose in any particular case.

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

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

24 Section 23. Administration and enforcement.

25 (a) Administration and enforcement.--The board shall  
26 administer and enforce this act.

27 (b) Issuance and supervision of licenses.--It is the duty of  
28 the board, on payment of the required fee and on compliance with  
29 the requirements of this act, to issue a license as an  
30 auctioneer, apprentice auctioneer or auction company and to



1 issue registrations to trading assistants and to trading  
2 assistant companies. The board shall supervise and control all  
3 licenses and registrations issued under this act.

4 Section 16. Sections 26(c), 27, 28 and 29 of the act,  
5 amended October 8, 2008 (P.L.1080, No.89), are amended to read:  
6 Section 26. Revocation or suspension of license or  
7 registration.

8 \* \* \*

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

22 Section 27. Issuance of new license or registration pending  
23 investigation and decision.

24 Pending an investigation or proceeding before the board  
25 affecting any licensee or registrant and pending final decision  
26 upon any appeal taken by a licensee or registrant from the  
27 ruling of the board, no new registration may be issued or  
28 license may be issued to a licensee or to a partnership of which  
29 he is a member or employee or to an association [or],  
30 corporation, limited liability company or other entity of which

1 he is an officer or employee except for the period of the  
2 investigation or proceeding and subject to the action of the  
3 board.

4 Section 28. Issuance of new license or registration after  
5 revocation.

6 (a) General rule.--After the revocation of any license or  
7 registration, no new license or registration may be issued to  
8 the same licensee or registrant within a period of at least [one  
9 year] five years from the date of the revocation nor, except in  
10 the sole discretion of the board and subject to the conditions  
11 of this act, at any time thereafter.

12 (b) Criminal conduct.--No license or registration shall be  
13 issued by the board to any person known by it to have been,  
14 within five years, convicted of forgery, embezzlement, obtaining  
15 money under false pretenses, extortion, criminal conspiracy to  
16 defraud or other like offense, or to any copartnership of which  
17 any person is a member or to any association [or], corporation,  
18 limited liability company or other entity of which any person is  
19 an officer or employee or in which as a stockholder any person  
20 has or exercises a controlling interest either directly or  
21 indirectly.

22 Section 29. Penalties.

23 (a) Criminal penalties.--Any person who engages in or  
24 carries on the profession or acts in the capacity of an  
25 auctioneer, apprentice auctioneer, [auction house,] auction  
26 company, trading assistant or trading assistant company in this  
27 Commonwealth without a current license or registration or who  
28 employs any [person] individual without a current license or  
29 registration as an auctioneer, apprentice auctioneer or trading  
30 assistant:

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

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

10 (b) Civil penalty.--In addition to any other civil remedy or  
11 criminal penalty provided for in this act, the board, by a vote  
12 of the majority of the maximum number of the authorized  
13 membership of the board as provided by law or by a vote of the  
14 majority of the duly qualified and confirmed membership or a  
15 minimum of four members, whichever is greater, may levy a civil  
16 penalty of up to [\$1,000] \$10,000 on any person who engages in  
17 the business or practice of auctioneering, or acts as a trading  
18 assistant or trading assistant company, without being properly  
19 licensed or registered to do so under this act. The board shall  
20 levy this penalty only after affording the accused party the  
21 opportunity for a hearing, as provided in [Title 2 of the  
22 Pennsylvania Consolidated Statutes] 2 Pa.C.S. (relating to  
23 administrative law and procedure).

24 (c) Failure to register.--Any individual who fails to  
25 register under section [10.1] 5.1 may be subject to a penalty of  
26 up to \$500 levied by the commissioner. The individual may  
27 request a hearing before the board, which shall be conducted in  
28 accordance with 2 Pa.C.S.

29 Section 17. Section 30 of the act is amended to read:

30 Section 30. Actions by unlicensed or unregistered persons

1                   prohibited.

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

10           Section 18. This act shall take effect in 60 days.