

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 325** Session of
2013

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JANUARY 24, 2013

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LIENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 13, 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,

1 for issuance of new license or registration after revocation,
2 for penalties and for actions by unlicensed persons
3 prohibited.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

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

10 AN ACT

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

16 Section 2. Definitions.

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

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

22 "Auction" or "sale at auction."

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

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

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

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

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

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

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

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

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

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

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

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

14 "Board." The State Board of Auctioneer Examiners [in the
15 Department of State].

16 "Commissioner." The Commissioner of Professional and
17 Occupational Affairs in the Department of State.

18 "Department." The Department of State.

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

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

30 "Legally recognized entity." A partnership, association,

1 corporation, limited liability company or other entity
2 recognized under the laws of this Commonwealth or any other
3 state.

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

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

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

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

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

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

29 "Property." Real and personal property, including both
30 tangible and intangible personal property. The term includes,

1 but is not limited to, domestic animals and farm products.

2 "Qualified [auctioneer] sponsor." A currently licensed
3 auctioneer residing in this Commonwealth.

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

6 "Registrant." A person registered under this act as a
7 trading assistant or a trading assistant company.

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

12 "Special licensee." The holder of a special license issued
13 pursuant to section 3.

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

18 "Trading assistant." An individual who, for a commission or
19 fee, conducts or intends to conduct a business within this
20 Commonwealth of accepting personal property [to sell] on
21 consignment from the owner or seller of the personal property to
22 be sold on behalf of [another] the owner or seller through an
23 [online] Internet [bidding] competitive consignment sale
24 platform, or who performs, or offers to perform, any of the
25 functions or activities requiring registration under section
26 5.1(a).

27 "Trading assistant company." A legally recognized entity
28 that for a commission or fee, conducts or intends to conduct a
29 business within this Commonwealth of accepting personal property
30 on consignment from the owner or seller of such personal

1 property, to be sold on behalf of the owner or seller through an
2 Internet competitive consignment sale platform, or who performs,
3 or offers to perform, any of the functions or activities
4 requiring registration under section 5.1(a).

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

7 (a) Requirement for license.--[Notwithstanding section 10.1,
8 it]

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

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

30 (A) the seller or owner is situate in this

1 Commonwealth at the time the offer is made, the
2 agreement is made or the online auction is held;

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

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

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

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

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

28 [(b) Issuance and supervision of licenses.--It is the duty
29 of the board, upon payment of the license fees required and upon
30 compliance with the requirements of this act, to issue a license

1 as an auctioneer or apprentice auctioneer to individuals or as
2 an auctioneer to partnerships, associations and corporations who
3 qualify under and comply with this act. The board shall
4 supervise and control all licenses issued under this act.]

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

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

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

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

26 (2) successfully completed a prescribed course of study
27 in auctioneering of at least 20 credit hours at a school
28 approved by the board[.]; <--

29 (3) BEEN LICENSED IN GOOD STANDING BY ANOTHER STATE TO
30 ENGAGE IN AUCTIONEERING FOR AT LEAST TWO YEARS; OR

1 (4) BEEN ESTABLISHED IN THE BUSINESS OF AUCTIONEERING
2 FOR AT LEAST TWO YEARS IN A STATE THAT DOES NOT REQUIRE A
3 LICENSE. THE BOARD SHALL REVIEW APPLICATIONS UNDER THIS
4 PARAGRAPH TO DETERMINE THE QUALIFICATIONS OF THE APPLICANT.

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

6 (1) Every legally recognized entity shall, before
7 operating as an auction company, obtain an auction company
8 license issued by the board.

9 (2) Every auction company shall designate an auctioneer-
10 of-record. Each auction company licensed under this act shall
11 designate an individual licensed as an auctioneer under this
12 act to serve as the auction company's auctioneer-of-record.
13 The designation of the auctioneer-of-record shall be made in
14 the initial application for licensure as an auction company
15 and in each application for renewal of an auction company
16 license. The auctioneer-of-record may be an employee,
17 independent contractor or other agent of the auction company,
18 and there shall be no requirement that the auctioneer-of-
19 record have an ownership interest in, or be an officer of,
20 the auction company. The auctioneer-of-record is principally
21 responsible for the conduct of the auctions of the auction
22 company in accordance with this act. However, nothing in this
23 act shall limit or restrict the ability of an auction company
24 to utilize the services of one or more auctioneers in
25 addition to the auctioneer identified as auctioneer of
26 record, and it shall not be necessary for the auctioneer-of-
27 record to be present at every auction conducted by the
28 auction company, provided that a licensed auctioneer is
29 present to conduct the activities required to be conducted by
30 a licensed auctioneer under this act and to supervise any

1 apprentice auctioneer. An auction company license becomes
2 invalid if the license of the auctioneer-of-record is not
3 renewed or is suspended or revoked or if the auctioneer-of-
4 record becomes deceased or otherwise ceases to be the auction
5 company's auctioneer-of-record without substitution by a
6 successor auctioneer-of-record.

7 (3) Within 15 calendar days after an auction company's
8 auctioneer-of-record ceases to serve as auctioneer-of-record,
9 both the auction company and the auctioneer-of-record shall
10 have the obligation to notify the board in writing of the
11 termination of such status.

12 (f) [Qualifications for license reissued] Reissuance of
13 license after long inactivity.--Any [person] individual to whom
14 an auctioneer or apprentice auctioneer license has been issued
15 and who has been inactive as an auctioneer or apprentice
16 auctioneer for a period of seven years without renewing the
17 license issued to him shall be required to submit to and pass an
18 examination approved by the board prior to having a license
19 reissued to him.

20 [(g) Designation of auctioneer-of-record.--If the applicant
21 for a license is a partnership, association or corporation, then
22 a member of the partnership or association or an officer of the
23 corporation, who is licensed in this Commonwealth as an
24 auctioneer, must be designated as the auctioneer-of-record. The
25 auctioneer-of-record is principally responsible for the conduct
26 of the auctions of the partnership, association or corporation
27 in accordance with this act. A partnership, association or
28 corporation auctioneer license becomes invalid if the license of
29 the auctioneer-of-record is not renewed or is suspended or
30 revoked.]

1 (g.1) Special license to conduct auction.--An auctioneer or
2 auction company authorized to engage in auctioneering in another
3 state shall, on application and payment of the license fee, be
4 issued a special license for each specifically identified
5 auction conducted in this Commonwealth. Applications must be
6 made 20 days in advance of the auction or sale at auction and
7 must include the name and address of the consignor or owner of
8 all items to be sold. All applications are subject to approval
9 by the board and shall include proof of authority to engage in
10 auctioneering in the other state.

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

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

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

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

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

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

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

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

28 (i) Special license to conduct auction.--An auctioneer
29 authorized to engage in auctioneering in another state shall,
30 upon application and payment of the license fee, be issued a

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

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

8 Section 3.1. Sales exempt from license requirements.

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

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

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

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

20 (4) To a sale conducted in the settlement of any
21 decendent's estate conducted by the executor or administrator
22 of the estate.

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

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

27 Section 4. Status of existing licensees.

28 * * *

29 (c) Licensed auction houses.--An auction house license
30 issued under and pursuant to this act and existing on the

1 effective date of this paragraph shall remain in full force and
2 effect through February 28, 2014 2015, at which time the license <--
3 shall expire and shall not be subject to renewal. Thereafter,
4 auction house licenses will no longer be issued or renewed in
5 this Commonwealth, and any holder of an auction house license as
6 of February 28, 2014 2015, who is not also the holder of an <--
7 auction company license shall be required to obtain either an
8 auction company license or an auctioneer's license in order to
9 continue in the business and profession of auctioneering in this
10 Commonwealth.

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

13 Section 5. Applications for initial and renewal licenses.

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

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

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

9 Applications for license as an apprentice auctioneer shall be
10 made to the board in writing [upon] on forms provided by the
11 board which shall contain such information as to the applicant
12 as the board requires. For license renewals, the licensee shall
13 set forth the period of time, if any, during which [he] the
14 apprentice auctioneer was engaged in the auction profession,
15 stating the name of [his present] the apprentice auctioneer's
16 current QUALIFIED sponsor and any former QUALIFIED sponsor for <--
17 the period of five years immediately preceding the date of the
18 renewal. If it becomes necessary to change QUALIFIED sponsors, <--
19 the apprentice auctioneer must notify the board by letter upon
20 the termination of the sponsorship and submit a transfer form,
21 provided by the board, when a new QUALIFIED sponsor is obtained. <--

22 An apprentice auctioneer license is invalid when there is no
23 sponsoring auctioneer and credit does not accrue during that
24 time. A license will be reissued when the apprentice auctioneer
25 submits a transfer form which informs the board that [he] the
26 apprentice auctioneer has secured a new QUALIFIED sponsor. <--

27 (b.1) Application for auction company license.--Every
28 legally recognized entity seeking an auction company license
29 shall file with the board an application in writing on forms
30 provided by the board which shall contain such information as to

1 the applicant and as to the members or officers of the
2 applicant, as the board shall require. Each application shall
3 identify an auctioneer-of-record. On the filing of an
4 application, the board shall investigate the allegations
5 contained in the application and if, on investigation, it finds
6 the allegations untrue, it may refuse to license the applicant
7 to operate an auction company.

8 (c) [Examinations] Auctioneer examinations.--The board shall
9 contract with a professional testing organization for the
10 preparation and administration of the auctioneer examination, in
11 accordance with section 812.1(a) of the act of April 9, 1929
12 (P.L.177, No.175), known as The Administrative Code of 1929. [No
13 person] Except as otherwise provided under this act or by
14 regulation, no individual may be issued an auctioneer license
15 unless the [person] individual passes an examination approved by
16 the board. The board shall hold examinations at locations, times
17 and dates prescribed by regulation of the board.

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

23 (e) Expiration and renewal of license.--All licenses issued
24 by the board shall be for a maximum term of two years and shall
25 expire on the last day of February of each odd year. It is the
26 duty of all persons licensed to practice as an auctioneer [or],
27 apprentice auctioneer [or to operate as an auction house] or
28 auction company to renew the license biennially with the board
29 and to pay the license fee for each biennial license renewal.
30 Applications for renewals of licenses issued under this act

1 shall be made within 60 days prior to the expiration of the
2 license [upon] on forms and in the manner provided by the board.

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

7 Section 5. The act is amended by adding a section to read:
8 Section 5.1. Registration of trading assistants and trading
9 assistant companies.

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

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

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

25 (2) The date the applicant will begin accepting goods
26 for sale through an Internet competitive consignment sale
27 platform.

28 (3) The applicant's Pennsylvania tax identification
29 number.

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

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

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

7 Section 6. Sections 7 and 8 of the act are amended to read:
8 Section 7. [Special licensees] Licensees and registrants to
9 furnish bond.

10 (a) General rule.--[A] No license, including a special
11 license, or registration shall be granted or issued to any
12 person under this act until the applicant has filed with the
13 board an approved bond payable to the Commonwealth in the [penal
14 sum] amount of \$5,000 [shall accompany every application for a
15 special license]. The bond shall be executed by a surety company
16 authorized by the laws of this Commonwealth to transact business
17 in this Commonwealth, AND NO LICENSEE OR REGISTRANT SHALL ENGAGE <--
18 IN THE BUSINESSES REGULATED UNDER THIS ACT WITHOUT AN ACTIVE
19 BOND IN FORCE. 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] or registrant under this act.

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

29 (c) Action on bond.--If any person is aggrieved by the
30 misconduct of any licensee, including a special licensee or

1 registrant and recovers judgment against the licensee or
2 registrant therefor, the person may on any execution issued
3 under the judgment maintain an action upon the bond of the
4 licensee or registrant in any court having jurisdiction of the
5 amount claimed.

6 Section 8. Authority to transact business not transferable.

7 The authority to transact business as an auctioneer,
8 apprentice auctioneer[, auction house] or auction company
9 licensed under [a license issued by the board] this act, or as a
10 trading assistant or trading assistant company registered under
11 this act, is restricted to the person named in the license or
12 registration and may not be transferred to the benefit of any
13 other person. [A partnership, association or corporation
14 licensed under this act is only permitted to transact auction
15 business through a member, officer or employee who is licensed
16 under this act.]

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

18 [Section 9. Auction house license.

19 (a) Requirement for license.--Every person, except an
20 individual who is licensed as an auctioneer, shall, before
21 operating an auction house, obtain a license from the board to
22 operate the auction house. Every partnership, association or
23 corporation must obtain a license even though a member or
24 officer is licensed as an auctioneer.

25 (b) Application for license.--Every person seeking a license
26 to operate an auction house shall file with the board an
27 application in writing upon forms provided by the board which
28 shall contain such information as to the individual or, if the
29 applicant is a partnership, association or corporation, as to
30 the members or officers, as the board requires. A person must

1 file a separate application for each auction house to be
2 operated. The application shall be accompanied by the license
3 fee and surety bond required by this act.

4 (c) Investigation and refusal of license.--Upon the filing
5 of an application, the board shall investigate the allegations
6 contained in the application and, if, upon investigation, it
7 finds the allegations untrue, it may refuse to license the
8 applicant to operate an auction house.

9 (d) Information from auctioneer.--A licensed auctioneer who
10 also operates an auction house shall notify the board in writing
11 of the address of each auction house operated by him and of the
12 trade or business name by which each auction house is known. The
13 auctioneer shall notify the board in writing if the operation of
14 the auction house is sold or discontinued or if the name or
15 location of the auction house is changed.

16 Section 10. Auction company license.

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

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

1 by this act.

2 (c) Investigation and refusal of license.--Upon the filing
3 of an application, the board shall investigate the allegations
4 contained in the application and, if, upon investigation, it
5 finds the allegations untrue, it may refuse to license the
6 applicant to operate an auction company.

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

18 Section 8. Section 10.1 of the act, added October 8, 2008
19 (P.L.1080, No.89), is repealed:

20 [Section 10.1. Trading assistant registration.

21 (a) Requirement for registration.--It shall be unlawful for
22 any individual to act as a trading assistant for a sale
23 conducted by competitive bidding without either first
24 registering with or obtaining licensure from the board.
25 Registration is required on a biennial basis.

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

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

30 (2) Date the applicant will begin accepting goods for

1 sale through an online Internet bidding platform.

2 (3) Pennsylvania tax identification number.

3 (4) E-mail address.

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

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

7 [Section 11. Nonresident licensees.

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

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

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

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

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

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

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

30 Section 12. Reciprocity with other states.

1 (a) †General rule.--[A nonresident of this Commonwealth who <--
2 applies for a license as an auctioneer or apprentice auctioneer
3 may be granted a license for which he applies if he is licensed
4 as an auctioneer or apprentice auctioneer by the proper
5 authority of the state of his domicile,] Licensure by <--
6 reciprocity. In accordance with regulations promulgated by the
7 board, a A person who is licensed in good standing as an <--
8 auctioneer, apprentice auctioneer or auction company in another
9 state may on application to the board be granted licensure as an
10 auctioneer, apprentice auctioneer or auction company in this
11 Commonwealth upon the payment by the applicant of the proper
12 [license] application fee and the filing with the board of a
13 properly certified copy of the license issued to the applicant
14 by the [state of his domicile, subject to the following
15 limitations:

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

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

30 (b) Bond.--The bond required by this act shall accompany the

1 application.

2 (c) Change of nonresident status.--The movement from another
3 state or jurisdiction to domicile in this Commonwealth
4 eliminates the possibility of reciprocal licensing set forth in
5 this section and the individual must qualify for a license under
6 terms of this act which are applicable to residents of this
7 Commonwealth.] applicant's current licensing state, provided
8 that:

9 (1) the requirements for licensure in the applicant's
10 current licensing state are, in the determination of the
11 board, commensurate with the requirements for licensure in
12 this Commonwealth;

13 (2) the licensing laws of the applicant's current
14 licensing state extend to licensees of this Commonwealth the
15 same reciprocal rights and privileges in that state without
16 the necessity of the licensees in this Commonwealth to obtain
17 additional or further licenses or authority from any
18 political subdivision of that state; and

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

22 ~~(b) Regulations governing reciprocity. The board shall~~ <--
23 ~~adopt regulations setting forth the requirements for licensure~~
24 ~~by reciprocity under this act.~~

25 (B) REVIEW BY BOARD.--EACH APPLICATION FOR LICENSURE BY <--
26 RECIPROCITY SHALL BE REVIEWED BY THE BOARD AND SHALL BE
27 DETERMINED BY A VOTE OF THE BOARD.

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

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

1 (a) General rule.--An auctioneer, apprentice auctioneer,
2 auction company or auction house license or trading assistant
3 registration shall not be granted or issued to any person until
4 the applicant has filed with the board an approved bond payable
5 to the Commonwealth in the amount of \$5,000. The bond shall be
6 executed by a surety company authorized by the laws of this
7 Commonwealth to transact business in this Commonwealth. The bond
8 shall be for the use of the Commonwealth and for any person or
9 persons who may have a cause of action against a licensee or
10 registrant under this act.

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

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

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

25 Section 14. No other license or registration required.

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

1 nor to require any [auctioneer or apprentice auctioneer]
2 licensee or registrant to be licensed by the political
3 subdivision in order to carry on the business of auctioneer
4 [or], apprentice auctioneer, auction company, trading assistant
5 or trading assistant company, or for an auctioneer or auction
6 company to conduct a sale at auction.

7 Section 15. List of licensees and registrants.

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

13 Section 16. Records of sales.

14 (a) General rule.--Every [auctioneer or trading assistant,
15 whether acting in his own behalf or as the officer, agent or
16 representative of another, after the receipt or acceptance by
17 him of] licensee and registrant under this act who receives or
18 accepts any property for sale at auction or sale through an
19 [online] Internet [bidding] competitive consignment sale
20 platform[,] shall maintain a written record which shall contain
21 the following information, provided that if the transaction is
22 being conducted by an auction company or a trading assistant
23 company, the records shall be maintained by the auction company
24 or trading assistant company:

25 (1) The name and address of the [person who employed him
26 to conduct the transaction and of the] owner[, the owner's
27 authorized agent or consignor] of the property to be sold or
28 the owner's authorized agent or representative.

29 (2) A copy of the written contract authorizing the
30 transaction containing the terms and conditions of the

1 transaction or a copy of the receiving invoice.

2 (3) A written record of the transaction.

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

9 (c) Retention of records.--The written records shall be kept
10 on file in the office of the [auctioneer or trading assistant]
11 licensee or registrant for a period of [at least] not less than
12 two years and, if the [auctioneer or trading assistant] licensee
13 or registrant is notified of a complaint against [him] the
14 licensee or registrant, the records shall be maintained [by the
15 auctioneer or trading assistant] until the complaint is finally
16 resolved.

17 (d) Receipts.--Every [auctioneer or trading assistant]
18 licensee or registrant must provide a written receipt for all
19 transactions[. A] conducted by the licensee or registrant, which
20 receipt may be provided electronically. [Receipts] Copies of
21 receipts must be retained for [at least] not less than two
22 years.

23 Section 17. Contracts for conduct of transaction.

24 [(a) General rule.--]Prior to conducting a transaction, [an
25 auctioneer or trading assistant] a licensee or registrant shall
26 enter into a written contract, in duplicate, with the owner or
27 consignor of the property to be sold, containing the terms and
28 conditions upon which the licensee or registrant agrees to
29 conduct the sale. Each contract shall include the license or
30 registration number of the licensee or registrant conducting the

1 transaction. The contract may be entered into electronically.
2 The contracts shall be kept on file in the office of the
3 [auctioneer or trading assistant and shall be open to inspection
4 as provided in this act. It is unlawful for a person to
5 advertise an auction or sale at auction or a sale through an
6 online Internet bidding platform without including in the
7 advertisement or notice of sale the name and license number of
8 the auctioneer, auction house or auction company or the
9 registration number of the trading assistant conducting the
10 transaction] licensee or registrant and shall be open to
11 inspection as provided in this act.

12 [(b) Penalty.--A person who violates subsection (a) commits
13 a summary offense and shall, upon conviction, be sentenced to
14 pay a fine not less than \$50.]

15 Section 13. Sections 18 and 20 of the act are amended to
16 read:

17 Section 18. Display of licenses and registration certificates.

18 (a) General rule.--Every [individual, partnership,
19 association or corporation licensed as an auctioneer] licensee
20 and registrant under this act shall prominently display the
21 [license] certificate [in their] of licensure or registration at
22 the licensee's or registrant's office, and the current [renewal]
23 wallet card or any facsimile thereof issued to the licensee or
24 registrant shall be shown on demand of any person at all
25 auctions or sales at auction conducted by any licensee or in
26 connection with any transaction conducted by any registrant.

27 (b) Apprentice auctioneers.--All auctioneers shall
28 prominently display in their office the license certificate of
29 any apprentice auctioneer employed by them and the current
30 renewal card or any facsimile thereof of any apprentice

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

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

24 Section 20. Investigations and enforcement actions.

25 (a) General rule.--The board may, upon its own motion, and
26 shall, promptly upon the verified complaint in writing of any
27 person setting forth specifically the wrongful act or acts
28 complained of, investigate any action or business transaction of
29 any person licensed or registered by the board and may
30 temporarily suspend or permanently revoke licenses or

1 registrations issued by the board or impose a civil penalty not
2 exceeding ~~[\$1,000]~~ \$10,000 at any time when, after due
3 proceedings provided in this act, it finds the licensee or
4 registrant to have been guilty in the performance or attempt to
5 perform any of the acts prohibited to others than licensees or
6 registrants under this act, as follows:

7 (1) Knowingly making any substantial misrepresentation.

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

10 (3) A continued or flagrant course of misrepresentation
11 or making false promises through agents or apprentice
12 auctioneers.

13 (4) Within five years prior to the issuance of the
14 license then in force, conviction in a court of competent
15 jurisdiction in this or any other state or in Federal court
16 of forgery, embezzlement, obtaining money under false
17 pretenses, extortion, conspiracy to defraud or other like
18 offense or offenses.

19 (5) Any failure to account for or to pay over moneys
20 belonging to others which have come into his or its
21 possession arising out of a sales transaction within a
22 reasonable time.

23 (6) Any misleading or untruthful advertising.

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

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

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

29 (10) Violating any regulation of the board.

30 (11) Having his license to engage in the auction

1 profession revoked or suspended or having other disciplinary
2 action taken or his application for licensure refused,
3 revoked or suspended by the proper licensing authority of
4 another state.

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

8 (13) For any licensed auctioneer or apprentice
9 auctioneer to bid and buy for himself at any auction he is
10 conducting.

11 (14) For any [licensed auctioneer or apprentice
12 auctioneer] licensee or registrant to pay any compensation in
13 money or other valuable thing to any person other than a
14 [licensed auctioneer or apprentice auctioneer] licensee or
15 registrant for the rendering of any service or the doing of
16 any of the acts by this act forbidden to be rendered or
17 performed by other than licensees OR REGISTRANTS. <--

18 (15) For a licensee or registrant to advertise an
19 auction or sale at auction or a sale through an Internet
20 competitive consignment sale platform without including in
21 the advertisement or notice of sale the name and the license
22 or registration number of the licensee or registrant
23 conducting the transaction.

24 (b) Notice of charges.--Before refusing, suspending or
25 revoking any license or registration, the board shall, in
26 writing, notify the applicant [or], licensee or registrant of
27 the charges or allegations against him[, accompanying the notice
28 with a copy of the complaint filed, if any], and the board shall
29 accord the applicant [or], licensee or registrant ample
30 opportunity to be heard in person or by counsel.

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

3 Section 21. Escrow account.

4 Every [auctioneer] licensee and registrant shall
5 [immediately] promptly deposit ~~moneys[,]~~ MONEYS, received from <--
6 the sale of ~~property[,]~~ PROPERTY, belonging to [others] the <--
7 seller or consignor in a separate custodial or trust fund
8 account maintained by the [auctioneer or trading assistant]
9 licensee or registrant until the transaction involved is
10 terminated, at which time the [auctioneer or trading assistant]
11 licensee or registrant shall account for the full amount
12 received. Such moneys received by an auctioneer, apprentice
13 auctioneer or trading assistant working for an auction company
14 or trading assistant company shall be promptly turned over to
15 such company for deposit and accounting.

16 Section 15. Sections 22 and 23 of the act are amended to
17 read:

18 Section 22. Hearing on charges.

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

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

27 (c) Action on report of hearing officer.--The board may
28 adopt the findings in the report or may, with or without
29 additional testimony, either return the report for any further
30 consideration the board deems necessary or make additional or

1 other findings of fact on the basis of all the legally probative
2 evidence in the record and enter its findings of fact and
3 conclusions of law and order in accordance with the requirements
4 for the issuance of an adjudication under [Title 2 of the
5 Pennsylvania Consolidated Statutes] 2 Pa.C.S. (relating to
6 administrative law and procedure).

7 Section 23. Administration and enforcement.

8 (a) Administration and enforcement.--The board shall
9 administer and enforce this act.

10 (b) Issuance and supervision of licenses.--It is the duty of
11 the board, on payment of the required fee and on compliance with
12 the requirements of this act, to issue a license as an
13 auctioneer, apprentice auctioneer or auction company and to
14 issue registrations to trading assistants and to trading
15 assistant companies. The board shall supervise and control all
16 licenses and registrations issued under this act.

17 Section 16. Sections 26(c), 27, 28 and 29 of the act,
18 amended October 8, 2008 (P.L.1080, No.89), are amended to read:

19 Section 26. Revocation or suspension of license or
20 registration.

21 * * *

22 (c) Revocation of license or registration of legally
23 recognized entity for violation by member or officer.--In the
24 event of the revocation or suspension of the license or
25 registration issued to any member of a partnership or to any
26 officer of an association [or], corporation, limited liability
27 company or other entity, the license or registration issued to
28 the [partnership, association or corporation] legally recognized
29 entity shall be revoked by the board unless, within a time fixed
30 by the board, the connection of the member of the partnership is

1 severed and his interest in the partnership and his share in its
2 activities brought to an end or the officer of the association
3 [or], corporation, limited liability company or other entity is
4 discharged and has no further participation in its activities.

5 Section 27. Issuance of new license or registration pending
6 investigation and decision.

7 Pending an investigation or proceeding before the board
8 affecting any licensee or registrant and pending final decision
9 upon any appeal taken by a licensee or registrant from the
10 ruling of the board, no new registration may be issued or
11 license may be issued to a licensee or to a partnership of which
12 he is a member or employee or to an association [or],
13 corporation, limited liability company or other entity of which
14 he is an officer or employee except for the period of the
15 investigation or proceeding and subject to the action of the
16 board.

17 Section 28. Issuance of new license or registration after
18 revocation.

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

25 (b) Criminal conduct.--No license or registration shall be
26 issued by the board to any person known by it to have been,
27 within five years, convicted of forgery, embezzlement, obtaining
28 money under false pretenses, extortion, criminal conspiracy to
29 defraud or other like offense, or to any copartnership of which
30 any person is a member or to any association [or], corporation,

1 limited liability company or other entity of which any person is
2 an officer or employee or in which as a stockholder any person
3 has or exercises a controlling interest either directly or
4 indirectly.

5 Section 29. Penalties.

6 (a) Criminal penalties.--Any person who engages in or
7 carries on the profession or acts in the capacity of an
8 auctioneer, apprentice auctioneer, [auction house,] auction
9 company, trading assistant or trading assistant company in this
10 Commonwealth without a current license or registration or who
11 employs any [person] individual without a current license or
12 registration as an auctioneer, apprentice auctioneer or trading
13 assistant:

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

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

23 (b) Civil penalty.--In addition to any other civil remedy or
24 criminal penalty provided for in this act, the board, by a vote
25 of the majority of the maximum number of the authorized
26 membership of the board as provided by law or by a vote of the
27 majority of the duly qualified and confirmed membership or a
28 minimum of four members, whichever is greater, may levy a civil
29 penalty of up to [\$1,000] \$10,000 on any person who engages in
30 the business or practice of auctioneering, or acts as a trading

1 assistant or trading assistant company, without being properly
2 licensed or registered to do so under this act. The board shall
3 levy this penalty only after affording the accused party the
4 opportunity for a hearing, as provided in [Title 2 of the
5 Pennsylvania Consolidated Statutes] 2 Pa.C.S. (relating to
6 administrative law and procedure).

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

12 Section 17. Section 30 of the act is amended to read:
13 Section 30. Actions by unlicensed or unregistered persons
14 prohibited.

15 No action or proceeding may be instituted and no recovery may
16 be had in any court of this Commonwealth by any [individual,
17 partnership, association or corporation] person for compensation
18 for any act done or services rendered the doing or rendering of
19 which is prohibited under this act to other than persons
20 licensed or registered by the board, unless the [individual,
21 partnership, association or corporation] person was licensed or
22 registered at the time of doing the act or rendering of service.

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