
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. **325** Session of
2015

INTRODUCED BY M. K. KELLER, BENNINGHOFF, COHEN, D. COSTA,
EVERETT, GILLESPIE, GINGRICH, GODSHALL, GROVE, A. HARRIS,
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MILLARD, MOUL, MURT, MUSTIO, PEIFER, PETRARCA, PICKETT, PYLE,
QUIGLEY, QUINN, ROZZI, SAYLOR, STURLA, TOEPEL, TOOHIL,
ZIMMERMAN, DAVIS, MICCARELLI AND BARBIN, APRIL 24, 2015

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, IN SENATE, AS AMENDED, APRIL 5, 2016

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, AND for auctioneer <--
8 and apprentice auctioneer licenses; providing for sales
9 exempt from license requirements; further providing for
10 status of existing licensees and for applications for initial
11 and renewal licenses; providing for registration of trading
12 assistants and trading assistant companies; further providing
13 for special licensees to furnish bond and for authority to
14 transact business not transferable; repealing provisions
15 relating to auction house license, auction company license,
16 trading assistant registration and nonresident licensees;
17 further providing for reciprocity with other states;
18 repealing provisions relating to licensee and registrant to
19 furnish bond; further providing for no other license or
20 registration required and for list of licensees and
21 registrants; providing for contracts; further providing for
22 records of sales; repealing provisions relating to contracts
23 for conduct of transaction; and further providing for display
24 of licenses, for investigations and enforcement actions, for
25 escrow account, for hearing on charges, for administration
26 and enforcement, for revocation or suspension of license or
27 registration, for issuance of new license or registration
28 pending investigation and decision, for issuance of new

1 license or registration after revocation, for penalties, for
2 actions by unlicensed persons prohibited and for the State
3 Board of Auctioneer Examiners.

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 method of conducting the sale.] A <--
31 METHOD FOR THE SALE OR LEASE OF PROPERTY, OR ANY INTEREST IN

1 PROPERTY, BY MEANS OF A VERBAL EXCHANGE, REGULAR MAIL,
2 TELECOMMUNICATIONS, THE INTERNET, AN ELECTRONIC TRANSMISSION
3 OR A PHYSICAL GESTURE BETWEEN AN AUCTIONEER, APPRENTICE
4 AUCTIONEER OR AUCTION COMPANY AND ONE OR MORE POTENTIAL
5 PURCHASERS OR LESSEES THROUGH THE SOLICITATION OF OFFERS, IN
6 THE FORM OF BIDS, IN AN EFFORT TO ADVANCE THE AMOUNT OF THE
7 BIDS TO OBTAIN THE HIGHEST OR MOST FAVORABLE OFFER.

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

9 (i) live auctions;

10 (ii) online auctions;

11 (iii) real-time auctions;

12 (iv) extended auctions; and <--

13 (v) any similar such events as may be devised with
14 the development of technology, or otherwise involving the <--
15 sale of property and the advancement of the price through
16 a bidding process.; AND <--

17 (VI) ANY COMBINATION OF THE FOREGOING.

18 (3) The term "auction" or "sale at auction" [excludes <--
19 any sale conducted through an online {Internet bidding <--
20 platform} ~~trading assistant consignment sale transaction.~~ <--

21 DOES NOT INCLUDE A NEGOTIATED TRANSACTION. NOTHING IN THIS
22 ACT IS INTENDED TO DENY AN AUCTIONEER, APPRENTICE AUCTIONEER
23 OR AUCTION COMPANY A COMMISSION OR OTHER COMPENSATION EARNED
24 FOR AUCTION-RELATED ACTIVITIES THAT RESULT IN OR FACILITATE A
25 NEGOTIATED TRANSACTION BY THE SELLER OR OTHER AGENT OF THE
26 SELLER, AND A BUYER.

27 ~~(4) The term "auction" or "sale at auction" shall not be~~ <--
28 ~~limited by technology existing on the effective date of this~~
29 ~~paragraph.~~

30 "Auction company." [A company which, as part of its

1 business, arranges, manages, sponsors, advertises or carries out
2 auctions.] A legally recognized entity that sells or attempts to
3 sell property at auction or performs, or offers to perform, any
4 of the functions or activities requiring licensure as an auction
5 company under section 3(a)(1). The term includes any legally
6 recognized entity that holds itself out as engaged in the
7 business of selling property at auction.

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

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

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

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

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

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

28 "Auctioneer-of-record." The licensed auctioneer designated
29 by an auction company as its auctioneer-of-record. The
30 auctioneer-of-record is principally responsible for the conduct

1 of the auctions of the auction company in accordance with this
2 act.

3 "Board." The State Board of Auctioneer Examiners [in the
4 Department of State].

5 "Commissioner." The Commissioner of Professional and
6 Occupational Affairs in the Department of State.

7 "Department." The Department of State.

8 "Extended auction." An auction conducted in whole or in part
9 online at which bids are received over an extended period of
10 time identified by a starting time and ending time that may
11 encompass multiple minutes, hours, days or other periods.

12 "Group A auction school." A provider, approved by the board,
13 offering a course of study in auctioneering and the auction
14 industry, as approved by the board, the completion of which
15 requires not less than 20 credit hours, including two credit
16 hours of practicum or cooperative practical experience.

17 "Group B auction school." A provider, approved by the board,
18 offering a course of study in auctioneering and the auction
19 industry, as approved by the board, the completion of which
20 requires fewer than 20 credit hours.

21 "Legally recognized entity." A partnership, association,
22 corporation, limited liability company or other entity
23 recognized under the laws of this Commonwealth or any other
24 state.

25 "Licensee." [A person licensed under this act including an
26 auctioneer, apprentice auctioneer, holder of a special license
27 and, in the case of an auction house or company, the person
28 required to obtain the license.] An individual licensed under
29 this act as an auctioneer, apprentice auctioneer or holder of a
30 special license and a legally recognized entity licensed under

1 this act as an auction company.

2 "Live auction." An auction or sale at auction at which one
3 or more members of an audience are present in person, are
4 communicating telephonically or by other digital or electronic
5 means or are participating by absentee bid.

6 "NEGOTIATED TRANSACTION." A TRANSACTION FOR THE SALE OF <--
7 PROPERTY, INVOLVING OFFERS AND COUNTEROFFERS, CONDUCTED THROUGH
8 A PROCESS OF NEGOTIATION BETWEEN THE PROSPECTIVE BUYER AND ANY
9 OF THE FOLLOWING:

- 10 (1) THE SELLER;
11 (2) THE SELLER'S AGENT; OR
12 (3) OTHER INTERESTED PARTY.

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 "Online trading assistant consignment transaction." A
22 transaction pursuant to which a registrant or licensee describes
23 and lists personal property of another for sale through the use
24 of hardware or software that enables computer access by multiple
25 users to an interactive computer server:

- 26 (1) allowing individual sellers, and those acting on
27 behalf of sellers, to list and offer the property for sale at
28 a set price, or best offer, or through competitive and
29 progressive offers that may include a buy-it-now feature; and
30 (2) allowing prospective buyers access to the hardware

1 or software.

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

5 "Person." An individual[, partnership, association,
6 corporation, limited liability company or other] or a legally
7 recognized entity.

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

11 "Qualified [auctioneer] sponsor." A currently licensed
12 auctioneer residing in this Commonwealth.

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

15 "Registrant." A person registered under this act as a
16 trading assistant or a trading assistant company.

17 "Seller." The owner of property, or the legal representative
18 or agent of the owner of property, who consigns or otherwise
19 agrees to have the property sold at auction or by way of an
20 online trading assistant consignment sale transaction.

21 "Special licensee." The holder of a special license issued
22 pursuant to section 3.

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

27 "Trading assistant." An individual who, for a commission or
28 fee, conducts or intends to conduct a business within this
29 Commonwealth of [accepting personal property to sell on behalf
30 of another through an online Internet bidding platform.]

1 selling, or offering to sell, the personal property of another
2 through an online trading assistant consignment sale
3 transaction, or who performs, or offers to perform, any of the
4 functions or activities requiring registration under section
5 5.1(a).

6 "Trading assistant company." A legally recognized entity
7 that, for a commission or fee, conducts or intends to conduct a <--
8 business within this Commonwealth of selling, or offering to
9 sell, the personal property of another through an online trading
10 assistant consignment sale, or that performs, or offers to
11 perform, any of the functions or activities requiring
12 registration under section 5.1(a).

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

15 (a) Requirement for license.--[Notwithstanding section 10.1,
16 it]

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

30 (2) (i) Regardless of whether the computer system or

1 server utilized in connection with an online auction is
2 physically located within this Commonwealth, a license
3 shall be required for any person offering to conduct or
4 agreeing to conduct an online auction, or conducting an
5 online auction, if:

6 (A) the seller is situate in this Commonwealth
7 at the time the offer is made, the agreement is made
8 or the online auction is held;

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

11 (C) the online auction involves the sale of
12 personal property situate in this Commonwealth at the
13 time the offer is made, the agreement is made or the
14 online auction is held.

15 (ii) Under this section, licensure is not required
16 under circumstances in which the seller initiates contact
17 with an auctioneer, auction company or other provider of
18 auction services located outside of this Commonwealth to
19 sell personal property at an online auction outside of
20 this Commonwealth.

21 (3) Any owner, member, officer, employee or independent
22 contractor retained by an auction company who calls bids or
23 engages in other activities requiring licensure under this
24 act must be licensed as an auctioneer or apprentice
25 auctioneer. Notwithstanding the foregoing, a license is not
26 required for an individual, acting as an agent or
27 representative of a licensee under this act, to negotiate or
28 execute contracts on behalf of the licensee.

29 (4) Licensees under this act shall be authorized to
30 conduct auctions at any venue within this Commonwealth,

1 including on-site auctions and auctions held at auction
2 houses and temporary venues, and by any method of conducting
3 the sale, including live auctions and online auctions and
4 auctions that are conducted live and online
5 contemporaneously, whether real-time auctions or extended
6 auctions.

7 [(b) Issuance and supervision of licenses.--It is the duty
8 of the board, upon payment of the license fees required and upon
9 compliance with the requirements of this act, to issue a license
10 as an auctioneer or apprentice auctioneer to individuals or as
11 an auctioneer to partnerships, associations and corporations who
12 qualify under and comply with this act. The board shall
13 supervise and control all licenses issued under this act.]

14 (c) Qualifications in general for license.--[Licenses]
15 Auctioneer, apprentice auctioneer and special auctioneer
16 licenses shall be granted only to [persons] individuals who have
17 a good reputation for honesty, truthfulness, integrity and
18 competence to transact the business of an auctioneer or
19 apprentice auctioneer in a manner as to safeguard the interest
20 of the public and only after satisfactory proof of these
21 qualifications has been presented to the board as required by
22 this act and regulation.

23 (d) [Qualifications for apprentice] Apprentice auctioneer
24 license.--To qualify for an apprentice auctioneer license, [a
25 person] an individual must be sponsored and employed for
26 compensation by a qualified [auctioneer] sponsor who employs no
27 more than one other apprentice auctioneer. As approved by the
28 board, an apprentice auctioneer may transfer his apprenticeship
29 to another qualified sponsor without forfeiting any qualifying
30 auctions previously completed in accordance with subsection (e)

1 (1).

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

5 (1) [served] serving an apprenticeship as a licensed
6 apprentice auctioneer for a period of not less than two years
7 in the employ of a qualified [auctioneer] sponsor and
8 [participated] participating for compensation in no less than
9 30 auctions[;], including auctions under the supervision of a
10 substitute qualified sponsor, without limitation as to the
11 method of conducting the auctions, which may include online
12 auctions; [or]

13 (2) successfully [completed] completing a prescribed
14 course of study in auctioneering [of at least 20 credit hours
15 at a school approved by the board.] at a Group A auction
16 school;

17 (3) successfully completing a prescribed course of study
18 in auctioneering at a Group B auction school and ~~served~~ <--
19 SERVING an apprenticeship as a licensed apprentice auctioneer <--
20 for a period of not less than one year in the employ of a
21 qualified sponsor, and participating for compensation in no <--
22 less than 15 auctions, which may include auctions under the
23 supervision of a substitute qualified sponsor, without
24 limitation as to the format of the auctions, which may
25 include online auctions;

26 (4) being licensed in good standing by another state to
27 engage in auctioneering for at least two years. The board
28 shall review applications under this paragraph to determine
29 the qualifications of the applicant; or

30 (5) demonstrating that the individual has conducted

1 auctioneering for at least two years in a state that does not
2 require a license. The board shall review applications under
3 this paragraph to determine the qualifications of the
4 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 owner,
17 shareholder, member, partner, employee, independent
18 contractor or other agent of the auction company. The
19 auctioneer-of-record is principally responsible for the
20 conduct of the auctions of the auction company in accordance
21 with this act. However, nothing in this act shall limit or
22 restrict the ability of an auction company to utilize the
23 services of one or more auctioneers in addition to the
24 auctioneer identified as auctioneer-of-record, and it shall
25 not be necessary for the auctioneer-of-record to be present
26 at every auction conducted by the auction company, provided
27 that a licensed auctioneer is present to conduct the
28 activities required to be conducted by a licensed auctioneer
29 under this act. An auction company license becomes invalid if
30 the license of the auctioneer-of-record is not renewed or is

1 suspended or revoked or if the auctioneer-of-record becomes
2 deceased or otherwise ceases to be the auction company's
3 auctioneer-of-record without substitution by a successor
4 auctioneer-of-record.

5 (3) Within 30 calendar days after an auction company's
6 auctioneer-of-record ceases to serve as auctioneer-of-record
7 for the auction company, both the auction company and the
8 auctioneer-of-record or the auctioneer-of-record's legal
9 representative shall notify the board in writing of the
10 termination of such status.

11 (f) [Qualifications for license reissued after long
12 inactivity] Reissuance of inactive license.--Any [person]
13 individual to whom an auctioneer [or apprentice auctioneer]
14 license has been issued and [who has been inactive as an
15 auctioneer or apprentice auctioneer for a period of seven years
16 without renewing the license issued to him shall be required to
17 submit to and pass an examination approved by the board prior to
18 having a license reissued to him.] whose license has been in an
19 inactive or nonrenewed status for a period of seven or more
20 years shall be required to submit to and pass an examination
21 approved by the board prior to having a license reissued. Any
22 individual to whom an apprentice auctioneer license has been
23 issued and whose license has been in an inactive or nonrenewed
24 status for a period of seven or more years shall be required to
25 make a new application to the board.

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

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

7 (g.1) Special license to conduct auction.--An auctioneer or
8 auction company authorized to engage in auctioneering in another
9 state shall, on application and payment of the license fee, be
10 issued a special license for each specifically identified
11 auction to be conducted in this Commonwealth. Applications must
12 be made not less than 20 days in advance of the auction or sale
13 at auction and must include the name and address of the seller
14 or owner of all items to be sold. All applications are subject
15 to approval by the board and shall include proof of authority to
16 engage in auctioneering in the other state. This subsection does
17 not prohibit an auctioneer or auction company licensed in
18 another state from working or sharing compensation with a
19 licensed Pennsylvania auctioneer or auction company in this
20 Commonwealth with respect to an auction conducted pursuant to a
21 contract between the seller or owner of the property and an
22 auctioneer or auction company licensed in this Commonwealth and,
23 under such circumstances, a special license shall not be
24 required unless the out-of-State auctioneer will call bids or
25 engage in any other conduct that requires a license under this
26 act.

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

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

30 (1) To a specified single sale per year conducted by the

1 owner of property if the owner is not engaged in the business
2 of selling the property and if the property is owned by the
3 person in an individual capacity.

4 (2) To a sale conducted by or on behalf of a charitable
5 organization if the person conducting the sale receives no
6 compensation therefor.

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

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

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

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

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

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

24 Section 3.1. Sales exempt from license requirements.

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

27 (1) To a specified single sale per year conducted by the
28 owner of property if the owner is not engaged in the business
29 of selling the property and if the property is owned by the
30 person in an individual capacity.

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

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

6 (4) To a sale conducted in the settlement of any
7 decendent's estate conducted by the executor or administrator
8 of the estate.

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

11 (6) To a sale required by law to be at auction.

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

14 Section 4. Status of existing licensees.

15 * * *

16 (c) Licensed auction houses.--An auction house license
17 issued under and pursuant to this act and existing on the
18 effective date of this paragraph shall remain in full force and
19 effect until the license shall expire and shall not be subject
20 to renewal. Thereafter, auction house licenses will no longer be
21 issued or renewed in this Commonwealth, and any holder of an
22 expired auction house license who is not also the holder of an
23 auction company license shall be required to obtain either an
24 auction company license or an auctioneer license in order to
25 continue in the business and profession of auctioneering in this
26 Commonwealth.

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

29 Section 5. Applications for initial and renewal licenses and
30 examination.

1 (a) Application for auctioneer license.--Applications for
2 license as an auctioneer shall be made to the board in writing
3 [upon] on forms provided by the board which shall contain such
4 information as [to the individual or, if the applicant is a
5 partnership, association or corporation, as to its members or
6 officers, as] the board requires. If the applicant is an
7 individual, the application shall be signed by that individual.
8 If the applicant is a partnership or an association, the
9 application shall be signed by a member. If the applicant is a
10 corporation, the application shall be signed by an officer.

11 (a.1) Apprenticeship.--An application by a licensed
12 apprentice auctioneer seeking to qualify on the basis of an
13 apprenticeship shall contain or be accompanied by satisfactory
14 evidence that the applicant [was] meets one of the following:

15 (1) Was in the employ of [a sponsor] one or more
16 qualified sponsors for at least two years total and
17 participated for compensation in not less than 30 auctions on
18 the dates and at the locations provided by the applicant.

19 [Upon the filing of an application, the board shall
20 investigate the allegations contained in the application and
21 if, upon investigation, it finds the allegations untrue, it]

22 (2) Was in the employ of one or more qualified sponsors
23 for at least one year total and participated for compensation
24 in not less than 15 auctions on the dates and at the
25 locations provided by the applicant and successfully
26 completed a course of study in auctioneering at a Group B
27 auction school.

28 (a.2) Group A auction school attendance.--An application by
29 an applicant seeking to qualify on the basis of having completed
30 a course of study in auctioneering at a Group A auction school

1 shall contain or be accompanied by satisfactory evidence that
2 the applicant has completed such course of study.

3 (a.3) Affidavit.--Each application for licensure as an
4 auctioneer shall include a self-affirming affidavit, in a form
5 as prescribed by the board, attesting to the truth and accuracy
6 of the statements contained in the application. If an applicant
7 makes false or misleading statements in an application, the
8 board may refuse to examine or license the applicant or may
9 revoke any license issued to the applicant on the basis of
10 materially untrue allegations contained in the application for a
11 license. The board shall set forth in writing its findings and
12 reasons for its refusal or revocation and furnish a copy to the
13 applicant.

14 (b) Application for apprentice auctioneer license.--
15 Applications for license as an apprentice auctioneer shall be
16 made to the board in writing [upon] on forms provided by the
17 board which shall contain such information as to the applicant
18 as the board requires. For license renewals, the licensee shall
19 set forth the period of time, if any, during which [he] the
20 apprentice auctioneer was engaged in the auction profession,
21 stating the name of [his present] the apprentice auctioneer's
22 current qualified sponsor and any former qualified sponsor for
23 the period of five years immediately preceding the date of the
24 renewal. If it becomes necessary to change qualified sponsors,
25 the apprentice auctioneer must notify the board by letter upon
26 the termination of the sponsorship and submit a transfer form,
27 provided by the board, when a new qualified sponsor is obtained.
28 An apprentice auctioneer license is invalid when there is no
29 sponsoring auctioneer and credit does not accrue during that
30 time. A license will be [reissued] reactivated when the

1 apprentice auctioneer submits a transfer form which informs the
2 board that [he] the apprentice auctioneer has secured a new
3 qualified sponsor.

4 (b.1) Application for auction company license.--Every
5 legally recognized entity seeking an auction company license
6 shall file with the board an application in writing on forms
7 provided by the board which shall contain such information as to
8 the applicant and as to the members or officers of the
9 applicant, as the board shall require. Each application shall
10 identify an auctioneer-of-record. On the filing of an
11 application, the board may refuse to license the applicant to
12 operate an auction company on the basis of materially untrue
13 allegations in the application.

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

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

29 (e) Expiration and renewal of license.--All licenses issued
30 by the board shall be for a maximum term of two years and shall

1 expire on the last day of February of each odd year. It is the
2 duty of all persons licensed to practice as an auctioneer [or],
3 apprentice auctioneer [or to operate as an auction house] or
4 auction company to renew the license biennially with the board
5 and to pay the license fee for each biennial license renewal.
6 Applications for renewals of licenses issued under this act
7 shall be made within 60 days prior to the expiration of the
8 license [upon] on forms and in the manner provided by the board.

9 (f) [Internet sales.--An applicant or licensee renewing a
10 license under this section must indicate to the board whether or
11 not sales will be conducted via an online Internet bidding
12 platform.] Online trading assistant consignment sale
13 transactions by licensees.--Auctioneers, apprentice auctioneers
14 and auction companies licensed under this act may conduct online
15 trading assistant consignment sale transactions. Initial and
16 renewal applications for auctioneers, apprentice auctioneers and
17 auction companies shall request that the applicant or licensee
18 renewing a license indicate in the space provided on the form
19 whether the applicant or licensee will also engage in online
20 trading assistant consignment sale transactions.

21 (g) Self-affirming affidavit.--An application for an initial
22 or renewal license shall include a preprinted self-affirming
23 affidavit, to be signed by the applicant under the penalty of
24 perjury, attesting to the truth and accuracy of the allegations
25 set forth in the application.

26 Section 5. The act is amended by adding a section to read:
27 Section 5.1. Registration of trading assistants and trading
28 assistant companies.

29 (a) Requirement for registration.--It shall be unlawful for
30 an individual to act as a trading assistant, or for any legally

1 recognized entity to act as a trading assistant company, without
2 either first registering with or obtaining licensure from the
3 board. A legally recognized entity conducting business as a
4 trading assistant must register as a trading assistant company
5 even though a member or officer is registered as a trading
6 assistant. Registration is required on a biennial basis and
7 renewal shall be due on the last day of February of each odd
8 year.

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

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

13 (2) The date the applicant will begin accepting goods
14 for sale through an online trading assistant consignment sale
15 transaction.

16 (3) The applicant's Pennsylvania tax identification
17 number.

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

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

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

25 (e) Self-affirming affidavit.--An application for an initial
26 or renewal registration shall include a preprinted self-
27 affirming affidavit, to be signed by the applicant under the
28 penalty of perjury, attesting to the truth and accuracy of the
29 allegations set forth in the application.

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

1 Section 7. [Special licensees] Licenses and registrants to
2 furnish bond.

3 (a) General rule.--[A] No license, including a special
4 license, or registration shall be granted or issued to any
5 person under this act until the applicant has filed with the
6 board an approved bond payable to the Commonwealth in the [penal
7 sum] amount of \$5,000 [shall accompany every application for a
8 special license]. The bond shall be executed by a surety company
9 authorized by the laws of this Commonwealth to transact business
10 in this Commonwealth, and no licensee or registrant shall engage
11 in the businesses regulated under this act without an active
12 bond. The bond shall be for the use of the Commonwealth and for
13 any person or persons who may have a cause of action against a
14 licensee [arising] or registrant under this act.

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

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

29 Section 8. Authority to transact business not transferable.

30 The authority to transact business as an auctioneer,

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

10 Section 7. Sections 9, 10, 10.1 and 11 of the act are
11 repealed:

12 [Section 9. Auction house license.

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

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

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

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

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

10 Section 10. Auction company license.

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

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

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

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

12 Section 10.1. Trading assistant registration.

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

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

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

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

24 (3) Pennsylvania tax identification number.

25 (4) E-mail address.

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

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 8. 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,] A person who is
27 licensed in good standing as an auctioneer, apprentice
28 auctioneer or auction company in another state may, on
29 application to the board, be granted licensure as an auctioneer,
30 apprentice auctioneer or auction company in this Commonwealth

1 upon the payment by the applicant of the proper [license]
2 application fee and the filing with the board of a properly
3 certified copy of the license issued to the applicant by the
4 [state of his domicile, subject to the following limitations:

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

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

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

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

28 (1) the requirements for licensure in the applicant's
29 current licensing state are, in the determination of the
30 board, commensurate with the requirements for licensure in

1 this Commonwealth;

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

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

11 (a.1) Review by board.--Each application for licensure by
12 reciprocity shall be reviewed by the board and shall be
13 determined by a vote of the board.

14 Section 9. Section 13 of the act is repealed:

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

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

26 (b) Conditions of bond.--The condition of the bond shall be
27 that the licensee or registrant will comply with and abide by
28 the provisions of this act and will pay to the Commonwealth, the
29 board or any person or persons any and all money that may come
30 due the Commonwealth, the board or the person or persons from a

1 licensee or registrant under and by virtue of this act.

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

8 Section 10. Sections 14 and 15 of the act, amended October
9 8, 2008 (P.L.1080, No.89), are amended to read:

10 Section 14. No other license or registration required.

11 No political subdivision of this Commonwealth shall have the
12 power or authority to levy or collect any license tax or fee
13 which is either a regulatory or a revenue measure upon or from
14 any [auctioneer or apprentice auctioneer or trading assistant
15 licensed or registered] licensee or registrant under this act
16 nor to require [any auctioneer or apprentice auctioneer] the
17 following:

18 (1) A licensee or registrant to be licensed by the
19 political subdivision in order to carry on the business of
20 [auctioneer or to conduct a sale at auction] the licensee or
21 registrant.

22 (2) A licensee to be licensed by the political
23 subdivision in order to conduct a sale at auction.

24 (3) A licensee or registrant to be licensed by the
25 political subdivision in order to engage in online trading
26 assistant consignment sale transactions.

27 Section 15. List of licensees and registrants.

28 The board shall maintain a current list of [any person
29 licensed by or registered with the board] licensees and
30 registrants under this act. The list shall be posted on the

1 department's Internet website and shall be subject to the act of
2 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

3 Section 11. The act is amended by adding a section to read:
4 Section 15.1. Contracts.

5 Prior to conducting a transaction, a licensee or registrant
6 shall enter into a written contract, in duplicate, with the
7 owner or consignor of the property to be sold, containing the
8 terms and conditions upon which the licensee or registrant
9 agrees to conduct the sale. Each contract shall include the
10 license or registration number of the licensee or registrant
11 conducting the transaction. The contract may be entered into
12 electronically. The contracts shall be kept on file in the
13 office of the licensee or registrant and shall be open to
14 inspection as provided in this act.

15 Section 12. Section 16 of the act, amended October 8, 2008
16 (P.L.1080, No.89), is amended to read:

17 Section 16. Records of sales.

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

29 (1) The name and address of the [person who employed him
30 to conduct the transaction and of the owner, the owner's

1 authorized agent or consignor] seller of the property to be
2 sold.

3 (2) A copy of the written or electronic contract
4 authorizing the transaction containing the terms and
5 conditions of the transaction or a copy of the receiving
6 invoice.

7 (3) A written record of the transaction.

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

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

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

28 Section 13. Section 17 of the act is repealed:
29 [Section 17. Contracts for conduct of transaction.

30 (a) General rule.--Prior to conducting a transaction, an

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

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

17 Section 14. Sections 18 and 20 of the act are amended to
18 read:

19 Section 18. Display of licenses and registration certificates.

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

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

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

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

26 Section 20. [Investigations and enforcement] Enforcement
27 actions.

28 (a) General rule.--The board may[, upon its own motion, and
29 shall, promptly upon the verified complaint in writing of any
30 person setting forth specifically the wrongful act or acts

1 complained of, investigate any action or business transaction of
2 any person licensed by the board and may temporarily suspend or
3 permanently revoke licenses issued by the board or impose a
4 civil penalty not exceeding \$1,000 at any time when, after due
5 proceedings provided in this act, it finds the licensee to have
6 been guilty in the performance or attempt to perform any of the
7 acts prohibited to others than licensees under this act, as
8 follows:] refuse, suspend or revoke licenses or registrations
9 issued by the board or impose a civil penalty not exceeding
10 \$10,000 when it finds the applicant, licensee or registrant to
11 have been guilty in the performance or attempt to perform any of
12 the following:

13 (1) Knowingly making any substantial misrepresentation.

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

16 (3) A continued or flagrant course of misrepresentation
17 or making false promises through agents or apprentice
18 auctioneers.

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

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

29 (6) Any misleading or untruthful advertising.

30 (7) Any act or conduct in connection with a sales

1 transaction which demonstrates incompetency, bad faith or
2 dishonesty.

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

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

5 (10) Violating any regulation of the board.

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

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

14 (13) For any licensed auctioneer or apprentice
15 auctioneer to bid and buy for himself at any auction he is
16 conducting.

17 (14) For any [licensed auctioneer or apprentice
18 auctioneer] licensee or registrant to pay any compensation in
19 money or other valuable thing to any person other than a
20 [licensed auctioneer or apprentice auctioneer] licensee or
21 registrant for the rendering of any service or the doing of
22 any of the acts by this act forbidden to be rendered or
23 performed by other than licensees or registrants.

24 (15) For a licensee or registrant to advertise an
25 auction or a sale through an online trading assistant
26 consignment sale without including in the advertisement or
27 notice of sale the name and the license or registration
28 number of the licensee or registrant conducting the
29 transaction.

30 (b) [Notice of charges.--Before refusing, suspending or

1 revoking any license, the board shall, in writing, notify the
2 applicant or licensee of the charges against him, accompanying
3 the notice with a copy of the complaint filed, if any, and the
4 board shall accord the applicant or licensee ample opportunity
5 to be heard in person or by counsel.] Procedure.--A disciplinary
6 action of the board shall be taken subject to the right of
7 notice, hearing and adjudication and the right of appeal, in
8 accordance with 2 Pa.C.S. (relating to administrative law and
9 procedure).

10 Section 15. Section 21 of the act, amended October 8, 2008
11 (P.L.1080, No.89), is amended to read:

12 Section 21. Escrow account.

13 Every [auctioneer] licensee and registrant shall
14 [immediately] promptly deposit moneys, received from the sale of
15 property, belonging to others in a separate custodial or trust
16 fund account maintained by the [auctioneer or trading assistant]
17 licensee or registrant until the transaction involved is
18 terminated, at which time the [auctioneer or trading assistant]
19 licensee or registrant shall account for the full amount
20 received. Such moneys received by a licensee or registrant
21 working for an auction company or trading assistant company
22 shall be promptly turned over to such company for deposit and
23 accounting.

24 Section 16. Sections 22 and 23 of the act are amended to
25 read:

26 Section 22. Hearing on charges.

27 (a) General rule.--If the applicant [or], licensee or
28 registrant desires, the board shall grant a hearing upon the
29 charges. The [said hearings] hearing may be held by the board or
30 any member thereof or by any other person duly authorized by the

1 board for such purpose in any particular case.

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

5 (c) Action on report of hearing officer.--The board may
6 adopt the findings in the report or may, with or without
7 additional testimony, either return the report for any further
8 consideration the board deems necessary or make additional or
9 other findings of fact on the basis of all the legally probative
10 evidence in the record and enter its findings of fact and
11 conclusions of law and order in accordance with the requirements
12 for the issuance of an adjudication under [Title 2 of the
13 Pennsylvania Consolidated Statutes] 2 Pa.C.S. (relating to
14 administrative law and procedure).
15 Section 23. Administration and enforcement.

16 (a) Administration and enforcement.--The board shall
17 administer and enforce this act.

18 (b) Issuance and supervision of licenses.--It is the duty of
19 the board, on payment of the required fee and on compliance with
20 the requirements of this act, to issue a license as an
21 auctioneer, apprentice auctioneer or auction company and to
22 issue registrations to trading assistants and to trading
23 assistant companies. The board shall supervise and control all
24 licenses and registrations issued under this act.

25 Section 17. Sections 26(c), 27, 28 and 29 of the act,
26 amended October 8, 2008 (P.L.1080, No.89), are amended to read:
27 Section 26. Revocation or suspension of license or
28 registration.

29 * * *

30 (c) Revocation of license or registration of legally

1 recognized entity for violation by member or officer.--In the
2 event of the revocation or suspension of the license or
3 registration issued to any member of a partnership or to any
4 officer of an association [or], corporation, limited liability
5 company or other entity, the license or registration issued to
6 the [partnership, association or corporation] legally recognized
7 entity shall be revoked by the board unless, within a time fixed
8 by the board, the connection of the member of the partnership is
9 severed and his interest in the partnership and his share in its
10 activities brought to an end or the officer of the association
11 [or], corporation, limited liability company or other entity is
12 discharged and has no further participation in its activities.

13 Section 27. Issuance of new license or registration pending
14 investigation and decision.

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

25 Section 28. Issuance of new license or registration after
26 revocation.

27 (a) General rule.--After the revocation of any license or
28 registration, no new license or registration may be requested by
29 or issued to the same licensee or registrant within a period of
30 at least [one year] five years from the date of the revocation

1 nor, except in the sole discretion of the board and subject to
2 the conditions of this act, at any time thereafter.

3 (b) Criminal conduct.--No license or registration shall be
4 issued by the board to any person known by it to have been,
5 within five years, convicted of forgery, embezzlement, obtaining
6 money under false pretenses, extortion, criminal conspiracy to
7 defraud or other like offense, or to any copartnership of which
8 any person is a member or to any association [or], corporation,
9 limited liability company or other entity of which any person is
10 an officer or employee or in which as a stockholder any person
11 has or exercises a controlling interest either directly or
12 indirectly.

13 Section 29. Penalties.

14 (a) Criminal penalties.--Any person who engages in or
15 carries on the profession or acts in the capacity of [an
16 auctioneer, apprentice auctioneer, auction house, auction
17 company or trading assistant] a licensee or registrant in this
18 Commonwealth without a current license or registration or who
19 employs any [person] individual without a current license [as an
20 apprentice auctioneer] or registration:

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

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

30 (b) Civil penalty.--

1 which is prohibited under this act to other than persons
2 licensed or registered by the board, unless the [individual,
3 partnership, association or corporation] person was licensed or
4 registered at the time of doing the act or rendering of service.

5 Section 19. Section 31(a) of the act, amended October 8,
6 2008 (P.L.1080, No.89), is amended to read:

7 Section 31. State Board of Auctioneer Examiners.

8 (a) Representation.--The State Board of Auctioneer Examiners
9 shall consist of the Commissioner of Professional and
10 Occupational Affairs, the Director of the Bureau of Consumer
11 Protection in the Office of Attorney General, or his designee,
12 two members appointed by the Governor with the advice and
13 consent of the Senate, who shall be persons representing the
14 public at large, one member appointed by the Governor with the
15 advice and consent of the Senate, who shall be a registered
16 trading assistant, and four members appointed by the Governor
17 with the advice and consent of the Senate, [who shall be
18 licensed auctioneers, have served as licensed auctioneers for
19 ten years or more and have conducted at least 50 auctions each
20 year] each of whom is a licensed auctioneer meaningfully engaged
21 in the auction industry such that the person is aware of current
22 and developing issues and practices, and each of whom shall have
23 been licensed as an auctioneer for ten years or more.

24 * * *

25 Section 20. This act shall take effect in 60 days.