

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2205

4
5 By: Representative Oglesby
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For An Act To Be Entitled

8
9 AN ACT TO REVISE THE AUCTIONEER'S LICENSING ACT;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT TO REVISE THE AUCTIONEER'S
14 LICENSING ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 17-17-104 is amended to read as follows:
20 17-17-104. Applicability - Exception.

21 (a) This chapter shall not apply to:

22 (1) Sales at auction conducted by or under the direction of any
23 public authority or pursuant to any judicial order or decree, or to any sale
24 by law required to be at auction;

25 (2) Any auction conducted by or for a nonprofit organization;

26 (3) Any individual who offers his or her own goods for auction;

27 or

28 (4) A livestock auction barn auctioneer ~~or any auction held on~~
29 ~~the premises of a livestock auction barn.~~

30 (b)(1) An auctioneer may work for an auction ~~company~~ house who is
31 licensed in the State of Arkansas in an emergency situation for a period of
32 no more than ninety (90) days ~~but shall, after that time, meet if the~~
33 emergency auctioneer has met all of the provisions of this chapter and ~~shall~~
34 make has made application and ~~pay~~ paid fees for the next testing ~~date during~~
35 ~~the ninety day period~~ date.

36 (2) If the emergency auctioneer fails to comply with subdivision



1 (b)(1) of this section, he or she shall forfeit the fees paid for the testing
2 and must wait for at least two (2) years before:

3 (A) Reapplying to sit for the examination; and

4 (B) Working for an auction house in another emergency
5 situation.

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7 SECTION 2. Arkansas Code § 17-17-301(c)(1), concerning the
8 qualifications for an auctioneer license, is amended to read as follows:

9 (c)(1) In addition to proof of honesty, truthfulness, and good
10 reputation, an examination conducted by the board or its authorized
11 representatives shall be held ~~four (4) times each year, and an examination~~
12 ~~fee of fifty dollars (\$50.00) shall be collected from each applicant to~~
13 ~~defray the expenses of the examination~~ at least two (2) times per calendar
14 year.

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16 SECTION 3. Arkansas Code § 17-17-302(b), concerning the issuance of an
17 auctioneer license, is amended to read as follows:

18 (b)(1)~~(A) The issuance fee for each auctioneer's license shall be~~
19 ~~fifty dollars (\$50.00).~~ All licenses shall expire on June 30 of each year.

20 ~~(B) The annual renewal fee for each license shall be fifty~~
21 ~~dollars (\$50.00).~~

22 ~~(C) All licenses shall expire on June 30 of each year.~~

23 (2) In the absence of any reason or condition which might
24 warrant the refusal of the renewing of the license, and upon receipt of the
25 written request of the applicant and the annual fee thereof, the board shall
26 issue a new license for each ensuing year.

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28 SECTION 4. Arkansas Code § 17-17-308 is amended to read as follows:

29 17-17-308. Suspension or revocation.

30 The Auctioneer's Licensing Board may impose a civil penalty or suspend
31 or revoke the license of an auctioneer for any of the following causes:

32 (1) Obtaining a license through false or fraudulent
33 representation;

34 (2) Pursuing a continued and flagrant course of
35 misrepresentation or making false promises through agents or advertising or
36 otherwise;

1 (3) Failing to account for or remit, within a reasonable time,
2 any money belonging to others that comes into his or her possession;

3 (4) Commingling funds of others with his or her own, or failing
4 to keep the funds of others in an escrow or trustee account;

5 (5) Paying valuable consideration to any person for services
6 performed in violation of this chapter;

7 (6) Being convicted in a court of competent jurisdiction of this
8 or any other ~~state~~ jurisdiction of a criminal offense involving moral
9 turpitude or a felony;

10 (7) Willful violation of a rule or regulation promulgated by the
11 board;

12 (8) Failing to enter into a written contract with the seller and
13 to furnish voluntarily to the seller at the time of execution copies of all
14 written instruments prepared by the auctioneer, including the contract;

15 (9) Any conduct of an auctioneer which demonstrates bad faith,
16 dishonesty, incompetency, ~~or untruthfulness,~~ or deceptive practices;

17 (10) Any other conduct that constitutes improper, fraudulent, or
18 dishonest dealings, to include falsely accusing any auctioneer or auction
19 house;

20 (11) Failing to complete or submit the continuing education
21 requirements as specified by this chapter and the rules and regulations
22 adopted by the board; or

23 (12) Failing to disclose the buyer's premium in all advertising
24 associated with an auction.

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26 SECTION 5. Arkansas Code Title 17, Chapter 17, Subchapter 3 is amended
27 to add an additional section to read as follows:

28 17-17-312. Fees.

29 (a) The board may access fees for the following purposes:

30 (1) Application for examination;

31 (2) Initial licensing;

32 (3) Renewal of license; and

33 (4) Late penalties.

34 (b) Before a person is issued a license under this chapter, he or she
35 shall pay an initial license fee in addition to any application, examination,
36 or other fee.

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SECTION 6. Arkansas Code § 17-17-403 is amended to read as follows:
17-17-403. Construction.

(a) Nothing in this subchapter shall be construed to limit or restrict in any manner other civil or criminal remedies which may be available to any person.

(b) No fee collected under this subchapter and deposited into the Auctioneer Education and Recovery Fund may be awarded to an aggrieved party, according to the provisions in this subchapter, for uncollectible checks, unless the aggrieved party has exhausted all civil and criminal remedies to collect on the check.

SECTION 7. Arkansas Code § 17-17-405 is amended to read as follows:
17-17-405. Disciplinary hearing - Recovery procedure.

(a)(1) In any disciplinary hearing before the Auctioneer’s Licensing Board which involves any licensee who has allegedly violated any provision of this chapter, the board shall first determine whether a violation has occurred.

(2) If so, the board shall then determine the amount of damages, if any, suffered by the aggrieved party or parties. However, damages shall be limited to actual damages in accordance with § 17-17-407.

(3) The board shall then direct the licensee to pay that amount to the aggrieved party or parties.

(4)(A) If that amount has not been paid within thirty (30) calendar days following entry of the board’s final order in the matter and the order has not been appealed to the circuit court, then upon request the board shall pay from the Auctioneer Education and Recovery Fund to the aggrieved party or parties the amount specified.

(B) However, the board shall not:

(i) Pay in excess of five thousand dollars (\$5,000) for any one (1) violation or continuing series of violations regardless of the number of licensees who participated in the violation or continuing series of violations; or

(ii) Pay an amount in excess of the fund balance.

(b) The question of whether certain violations constitute a continuing series of violations shall be a matter solely within the discretion and

1 judgment of the board.

2 ~~(e) Nothing within this subchapter shall obligate the fund for any~~
3 ~~amount in excess of a total of five thousand dollars (\$5,000) with respect~~
4 ~~to:~~

5 ~~(1) The acts of any one (1) licensee; or~~

6 ~~(2) Any group of related claims.~~

7 ~~(d) Whether a claim is one (1) of a group of related claims shall be a~~
8 ~~matter solely within the discretion and judgment of the board.~~

9 ~~(e)(d)~~ When ~~unsatisfied or pending~~ claims are such that they exceed
10 the limits payable under ~~subsection (e)~~ subdivision (a)(4)(B) of this
11 section, the board shall be the sole determinant of how the available funds
12 shall be allocated among such claims.

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