

1 HB185
2 156194-2
3 By Representatives Butler and Nordgren
4 RFD: Boards, Agencies and Commissions
5 First Read: 14-JAN-14

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ENROLLED, An Act,

To amend Sections 34-4-21, 34-4-25, and 34-4-54, Code of Alabama 1975, relating to the licensing of auctioneers and apprentice auctioneers by the State Board of Auctioneers; to clarify definitional terms; to allow the board to impose fees and licensing requirements on reciprocal licenses; to rename the Board of Auctioneers Account; and to place restrictions on the use of money deposited into the renamed account.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-4-21, 34-4-25, and 34-4-54, Code of Alabama 1975, are amended to read as follows:

"§34-4-21.

"(a) Any person desiring to enter into the auction business and obtain a license as an auctioneer or apprentice auctioneer shall make written application for a license to the board. Each application shall be accompanied by an examination fee of an amount not to exceed one hundred dollars (\$100) which shall be collected from each applicant to defray the expenses of the examination. ~~A fee of an amount not to exceed one hundred fifty dollars (\$150) shall also be collected from each nonresident applicant, or resident licensee of another state, who seeks licensing by reciprocity.~~ The application

1 shall be submitted on forms prepared and furnished by the board.

2 "(b) Each applicant for a license as an auctioneer
3 shall be 19 years of age or over, and each applicant for a
4 license as an apprentice auctioneer shall be 18 years of age
5 or over and shall be a citizen of the United States or legally
6 present in this state. Each applicant for an auctioneer's
7 license shall: (1) have completed a prescribed course of study
8 at an accredited auctioneering school approved by the board;
9 (2) have served one year as an apprentice auctioneer under a
10 licensed auctioneer in this state; (3) have been the principal
11 auctioneer in at least five auctions of either real or
12 personal property during this period of time; and (4) furnish
13 satisfactory proof of these requirements to the board. An
14 application shall also be accompanied by a recommendation of
15 an employing auctioneer. If an applicant has not completed a
16 course of study at an accredited auctioneering school, then he
17 or she shall be required to serve two years as an apprentice
18 under a licensed auctioneer, and shall have been the principal
19 auctioneer in at least 10 auctions of real or personal
20 property.

21 "(c) Any person who files an application with the
22 board in the proper manner shall be entitled to take an oral
23 and written examination to determine his or her
24 qualifications. The board shall require applicants to take and
25 pass a written and oral examination establishing in a manner

1 satisfactory to the board that the applicant has a general
2 knowledge of ethics, reading, writing, spelling, elementary
3 arithmetic, elementary principles of land economics, and a
4 general knowledge of the statutes of this state relating to
5 the bulk sales, auctions, brokerage, and this chapter. The
6 examination for an auctioneer's license shall be of a more
7 exacting nature and scope than the examination for an
8 apprentice auctioneer. The board shall, through application
9 and examination, determine whether the applicant is of good
10 repute, trustworthy, honest, and competent to transact the
11 business of an auctioneer, or of an apprentice auctioneer, in
12 a manner that safeguards the interest of the public. The board
13 shall require, and it shall be the responsibility of any
14 applicant for an initial, renewal, or reciprocal license to
15 disclose any prior felony conviction, any prior misdemeanor
16 conviction involving moral turpitude, any pending criminal
17 arrest of any nature except misdemeanor traffic violations,
18 and any prior or pending disciplinary proceedings against the
19 applicant before a board of auctioneers or real estate
20 commission in this or any other state. All auctioneers,
21 apprentice auctioneers, and auction firms are under a
22 continuing duty to report to the board any and all such
23 criminal arrests, charges, convictions, or disciplinary
24 proceedings which they may incur, as well as any civil suits
25 involving them. The board must receive notice of any such

1 arrest, charge, criminal conviction, or commencement of
2 disciplinary proceedings within 30 days of its occurrence.
3 Notice of the commencement of any civil suit must be received
4 by the board within 30 days after service of the complaint
5 upon the defendant in the action.

6 "(d) The license fee for each auctioneer shall be an
7 amount to be determined by the board, not to exceed two
8 hundred fifty dollars (\$250), and the license fee for each
9 apprentice auctioneer shall be an amount to be determined by
10 the board, not to exceed one hundred dollars (\$100). The
11 license fees for an auctioneer shall not be increased more
12 than twenty-five dollars (\$25) in any given year.

13 "(e) All licenses shall expire on September 30 of
14 each year following issuance thereof and may be renewed upon
15 payment of the appropriate license fee as required by this
16 chapter. Renewal of a license may be effected at any time
17 during the months preceding the date of expiration. No
18 examination shall be required for the renewal of any license,
19 unless the license has been revoked or suspended. If a
20 licensee fails to renew his or her license by the deadline of
21 each year, he or she may have his or her license renewed
22 within 60 days after the expiration date, upon payment of the
23 required fee and a late fee of twenty-five dollars (\$25) for
24 apprentices and fifty dollars (\$50) for auctioneers. If a
25 licensee elects not to pay the penalty and renew his or her

1 license, he or she shall submit an application, pay the
2 examination fee, and take the examination required for new
3 licensees.

4 "(f) The board shall adopt a program of continuing
5 education for its licensees. No licensee shall have his or her
6 license renewed unless, in addition to any other requirements
7 of this chapter, the minimum annual continuing education
8 requirements are met. The continuing education program shall
9 not include testing or examination of the licensees in any
10 manner. Any licensee 65 years of age or older shall be exempt
11 from the continuing education requirement.

12 "(g) The board shall prepare and deliver to each
13 licensee a license certificate and pocket card. The
14 certificate shall be displayed openly at all times in the
15 office of the licensee. The certificate and the pocket card of
16 the apprentice auctioneer shall contain his or her name as
17 well as that of the auctioneer under whose supervision he or
18 she is employed.

19 "(h) When any auctioneer discharges an apprentice,
20 or terminates his or her employment with the auctioneer for
21 any reason, the auctioneer shall deliver or mail by registered
22 or certified mail to the board the license of the discharged
23 apprentice auctioneer. It shall be unlawful for any apprentice
24 auctioneer to perform any of the acts contemplated by this
25 chapter, either directly or indirectly under authority of his

1 or her license, until the apprentice auctioneer receives a new
2 license bearing the name and address of his or her new
3 employer. No more than one license shall be issued to any
4 apprentice auctioneer for the same period of time.

5 "(i) Written notice shall be given immediately to
6 the board by each licensee of any change in his or her mailing
7 address and the board shall issue a new license for the
8 unexpired period. A change of mailing address without
9 notification to the board shall automatically cancel the
10 license previously issued. For changing a mailing address and
11 issuance of a new license, the board shall collect a fee of
12 five dollars (\$5). Each prior license shall be returned or
13 accounted for to the board and be canceled before the issuance
14 of the new license. The board may require other proof
15 considered desirable with due regard to the paramount interest
16 of the public in the issuance of the license.

17 "(j) Pursuant to Sections 41-22-1 to 41-22-27,
18 inclusive (the Alabama Administrative Procedure Act), the
19 board may make and enforce any necessary and reasonable rules
20 and regulations pursuant to the application for any license.

21 "§34-4-25.

22 "A nonresident of this state, or a resident of this
23 state who is licensed by another state, may become an
24 auctioneer or apprentice auctioneer in this state by
25 conforming to this chapter, or in the case of a nonresident

1 from a nonlicensing state, such person may be licensed
2 provided an examination is given and passed and the person has
3 at least five years' experience in the auction business.
4 Provided further, that if a nonresident auctioneer or
5 apprentice auctioneer, or a resident who is licensed as an
6 auctioneer or apprentice auctioneer in another state, has a
7 lawsuit or other legal action filed and pending against him or
8 her in this or any other state, the board shall not issue a
9 license to him or her until final disposition of the action,
10 and then only at the discretion of the board. The terms
11 "auctioneer" and "apprentice auctioneer" shall include any
12 individual, firm, company, partnership, association, or
13 corporation by whom the "auctioneer" or "apprentice
14 auctioneer" is employed. The board may recognize a license
15 issued by any other state to a resident of this state or a
16 nonresident auctioneer or apprentice auctioneer if the other
17 state reciprocates with Alabama in like manner and if the
18 licensing requirements of the state include the passing of an
19 examination of equal or higher standards than those required
20 by this state. The nonresident licensee, or resident licensee
21 of another state, shall, however, be required to secure a
22 license from the board which shall be issued upon application
23 therefor, accompanied by payment of the license fee required
24 by this chapter and the filing of a certified copy of the
25 license of the applicant issued by the other state. The board

1 shall have the authority to impose any fee or licensing
2 requirements on applicants for licenses from a reciprocal
3 state that the reciprocal state imposes on Alabama licensees
4 by rule, regulation, policy, or law. Every applicant shall
5 file an irrevocable consent that actions may be commenced
6 against the applicant in the proper court in the county in
7 this state in which a cause of action may arise, in which the
8 plaintiff may reside, by service of any process or pleadings
9 authorized by laws of this state on the board, or a deputy to
10 be designated by the board, the consent stipulating and
11 agreeing that service of process or pleading shall be begun
12 and held in all courts to be as valid and binding as if due
13 service had been made upon the applicant in this state. The
14 consent shall be duly acknowledged and, if made by a
15 corporation, shall be authenticated by the seal of the
16 corporation. In case of any process or pleadings mentioned in
17 this chapter being served upon the board or upon a deputy to
18 be designated by the board, duplicated copies shall be made,
19 one of which shall be filed in the office of the secretary of
20 the board, and the other immediately forwarded by registered
21 or certified mail to the main office of the applicant against
22 which process or pleadings are directed. No default in the
23 proceedings or action shall be taken unless it shall be made
24 to appear by affidavit of a member of the board, or a deputy
25 designated by the board, that a copy of the process or

1 pleadings was mailed to the defendant as herein required.
2 Judgment by default shall be taken in any action or
3 proceedings within 20 days after the date of the mailing of
4 process or pleadings to the defendant.

5 "§34-4-54.

6 "The ~~secretary~~ executive director of the board shall
7 keep a record of the proceedings of the board. ~~Within 60 days~~
8 ~~after September 5, 1973, it shall be the duty of the board to~~
9 ~~select a depository in the same manner and form as now~~
10 ~~provided by law and deposit all funds received by the board,~~
11 ~~and all funds thereafter collected shall be so deposited and~~
12 ~~maintained, and disbursements shall be so made on checks~~
13 ~~signed by the secretary and countersigned by the chairman.~~
14 ~~Within 60 days following April 4, 1988, and thereafter, the~~
15 The board shall deposit all the funds of received and credited
16 by the board into the General Fund of the State Treasury into
17 an account hereby established to be known as the "Alabama
18 State Board of Auctioneers Account Fund." All money derived
19 under this chapter shall be deposited into the fund and used
20 only to carry out the requirements of this chapter. No money
21 shall be paid out of the fund except by warrant of the
22 Comptroller upon the State Treasury after approval of itemized
23 vouchers by the executive director of the board or an
24 authorized designee."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 06-FEB-14.

Jeff Woodard
Clerk

Senate

01-APR-14

Passed