

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

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8 SYNOPSIS: This bill would allow the State Board of
9 Auctioneers to impose fees on certain licensees
10 receiving licensure by reciprocal agreement and
11 would clarify certain definitional terms.

12 This bill would also rename the Board of
13 Auctioneers Account to the Alabama State Board of
14 Auctioneers Fund and would place certain
15 restrictions on the use of money in the fund.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
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21 To amend Sections 34-4-21, 34-4-25, and 34-4-54,
22 Code of Alabama 1975, relating to the licensing of auctioneers
23 and apprentice auctioneers by the State Board of Auctioneers;
24 to clarify definitional terms; to allow the board to impose
25 fees and licensing requirements on reciprocal licenses; to
26 rename the Board of Auctioneers Account; and to place

1 restrictions on the use of money deposited into the renamed
2 account.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§34-4-21.

7 "(a) Any person desiring to enter into the auction
8 business and obtain a license as an auctioneer or apprentice
9 auctioneer shall make written application for a license to the
10 board. Each application shall be accompanied by an examination
11 fee of an amount not to exceed one hundred dollars (\$100)
12 which shall be collected from each applicant to defray the
13 expenses of the examination. ~~A fee of an amount not to exceed~~
14 ~~one hundred fifty dollars (\$150) shall also be collected from~~
15 ~~each nonresident applicant, or resident licensee of another~~
16 ~~state, who seeks licensing by reciprocity.~~ The application
17 shall be submitted on forms prepared and furnished by the
18 board.

19 "(b) Each applicant for a license as an auctioneer
20 shall be 19 years of age or over, and each applicant for a
21 license as an apprentice auctioneer shall be 18 years of age
22 or over and shall be a citizen of the United States or legally
23 present in this state. Each applicant for an auctioneer's
24 license shall: (1) have completed a prescribed course of study
25 at an accredited auctioneering school approved by the board;
26 (2) have served one year as an apprentice auctioneer under a
27 licensed auctioneer in this state; (3) have been the principal

1 auctioneer in at least five auctions of either real or
2 personal property during this period of time; and (4) furnish
3 satisfactory proof of these requirements to the board. An
4 application shall also be accompanied by a recommendation of
5 an employing auctioneer. If an applicant has not completed a
6 course of study at an accredited auctioneering school, then he
7 or she shall be required to serve two years as an apprentice
8 under a licensed auctioneer, and shall have been the principal
9 auctioneer in at least 10 auctions of real or personal
10 property.

11 "(c) Any person who files an application with the
12 board in the proper manner shall be entitled to take an oral
13 and written examination to determine his or her
14 qualifications. The board shall require applicants to take and
15 pass a written and oral examination establishing in a manner
16 satisfactory to the board that the applicant has a general
17 knowledge of ethics, reading, writing, spelling, elementary
18 arithmetic, elementary principles of land economics, and a
19 general knowledge of the statutes of this state relating to
20 the bulk sales, auctions, brokerage, and this chapter. The
21 examination for an auctioneer's license shall be of a more
22 exacting nature and scope than the examination for an
23 apprentice auctioneer. The board shall, through application
24 and examination, determine whether the applicant is of good
25 repute, trustworthy, honest, and competent to transact the
26 business of an auctioneer, or of an apprentice auctioneer, in
27 a manner that safeguards the interest of the public. The board

1 shall require, and it shall be the responsibility of any
2 applicant for an initial, renewal, or reciprocal license to
3 disclose any prior felony conviction, any prior misdemeanor
4 conviction involving moral turpitude, any pending criminal
5 arrest of any nature except misdemeanor traffic violations,
6 and any prior or pending disciplinary proceedings against the
7 applicant before a board of auctioneers or real estate
8 commission in this or any other state. All auctioneers,
9 apprentice auctioneers, and auction firms are under a
10 continuing duty to report to the board any and all such
11 criminal arrests, charges, convictions, or disciplinary
12 proceedings which they may incur, as well as any civil suits
13 involving them. The board must receive notice of any such
14 arrest, charge, criminal conviction, or commencement of
15 disciplinary proceedings within 30 days of its occurrence.
16 Notice of the commencement of any civil suit must be received
17 by the board within 30 days after service of the complaint
18 upon the defendant in the action.

19 "(d) The license fee for each auctioneer shall be an
20 amount to be determined by the board, not to exceed two
21 hundred fifty dollars (\$250), and the license fee for each
22 apprentice auctioneer shall be an amount to be determined by
23 the board, not to exceed one hundred dollars (\$100). The
24 license fees for an auctioneer shall not be increased more
25 than twenty-five dollars (\$25) in any given year.

26 "(e) All licenses shall expire on September 30 of
27 each year following issuance thereof and may be renewed upon

1 payment of the appropriate license fee as required by this
2 chapter. Renewal of a license may be effected at any time
3 during the months preceding the date of expiration. No
4 examination shall be required for the renewal of any license,
5 unless the license has been revoked or suspended. If a
6 licensee fails to renew his or her license by the deadline of
7 each year, he or she may have his or her license renewed
8 within 60 days after the expiration date, upon payment of the
9 required fee and a late fee of twenty-five dollars (\$25) for
10 apprentices and fifty dollars (\$50) for auctioneers. If a
11 licensee elects not to pay the penalty and renew his or her
12 license, he or she shall submit an application, pay the
13 examination fee, and take the examination required for new
14 licensees.

15 "(f) The board shall adopt a program of continuing
16 education for its licensees. No licensee shall have his or her
17 license renewed unless, in addition to any other requirements
18 of this chapter, the minimum annual continuing education
19 requirements are met. The continuing education program shall
20 not include testing or examination of the licensees in any
21 manner. Any licensee 65 years of age or older shall be exempt
22 from the continuing education requirement.

23 "(g) The board shall prepare and deliver to each
24 licensee a license certificate and pocket card. The
25 certificate shall be displayed openly at all times in the
26 office of the licensee. The certificate and the pocket card of
27 the apprentice auctioneer shall contain his or her name as

1 well as that of the auctioneer under whose supervision he or
2 she is employed.

3 "(h) When any auctioneer discharges an apprentice,
4 or terminates his or her employment with the auctioneer for
5 any reason, the auctioneer shall deliver or mail by registered
6 or certified mail to the board the license of the discharged
7 apprentice auctioneer. It shall be unlawful for any apprentice
8 auctioneer to perform any of the acts contemplated by this
9 chapter, either directly or indirectly under authority of his
10 or her license, until the apprentice auctioneer receives a new
11 license bearing the name and address of his or her new
12 employer. No more than one license shall be issued to any
13 apprentice auctioneer for the same period of time.

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

26 "(j) Pursuant to Sections 41-22-1 to 41-22-27,
27 inclusive (the Alabama Administrative Procedure Act), the

1 board may make and enforce any necessary and reasonable rules
2 and regulations pursuant to the application for any license.

3 "§34-4-25.

4 "A nonresident of this state, or a resident of this
5 state who is licensed by another state, may become an
6 auctioneer or apprentice auctioneer in this state by
7 conforming to this chapter, or in the case of a nonresident
8 from a nonlicensing state, such person may be licensed
9 provided an examination is given and passed and the person has
10 at least five years' experience in the auction business.

11 Provided further, that if a nonresident auctioneer or
12 apprentice auctioneer, or a resident who is licensed as an
13 auctioneer or apprentice auctioneer in another state, has a
14 lawsuit or other legal action filed and pending against him or
15 her in this or any other state, the board shall not issue a
16 license to him or her until final disposition of the action,
17 and then only at the discretion of the board. The terms
18 "auctioneer" and "apprentice auctioneer" shall include any
19 individual, firm, company, partnership, association, or
20 corporation by whom the "auctioneer" or "apprentice
21 auctioneer" is employed. The board may recognize a license
22 issued by any other state to a resident of this state or a
23 nonresident auctioneer or apprentice auctioneer if the other
24 state reciprocates with Alabama in like manner and if the
25 licensing requirements of the state include the passing of an
26 examination of equal or higher standards than those required
27 by this state. The nonresident licensee, or resident licensee

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

1 proceedings or action shall be taken unless it shall be made
2 to appear by affidavit of a member of the board, or a deputy
3 designated by the board, that a copy of the process or
4 pleadings was mailed to the defendant as herein required.
5 Judgment by default shall be taken in any action or
6 proceedings within 20 days after the date of the mailing of
7 process or pleadings to the defendant.

8 "§34-4-54.

9 "The ~~secretary~~ executive director of the board shall
10 keep a record of the proceedings of the board. ~~Within 60 days~~
11 ~~after September 5, 1973, it shall be the duty of the board to~~
12 ~~select a depository in the same manner and form as now~~
13 ~~provided by law and deposit all funds received by the board,~~
14 ~~and all funds thereafter collected shall be so deposited and~~
15 ~~maintained, and disbursements shall be so made on checks~~
16 ~~signed by the secretary and countersigned by the chairman.~~
17 ~~Within 60 days following April 4, 1988, and thereafter, the~~
18 The board shall deposit all the funds of received and credited
19 by the board into the General Fund of the State Treasury into
20 an account hereby established to be known as the "Alabama
21 State Board of Auctioneers Account Fund." All money derived
22 under this chapter shall be deposited into the fund and used
23 only to carry out the requirements of this chapter. No money
24 shall be paid out of the fund except by warrant of the
25 Comptroller upon the State Treasury after approval of itemized
26 vouchers by the executive director of the board or an
27 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.