

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 83rd General Assembly
3 Regular Session, 2001
4

A Bill

HOUSE BILL 2608

5 By: Representatives Parks, Cleveland, Hathorn, Ormond
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For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
10 CODE CONCERNING AUCTIONEERS; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13 AN ACT TO AMEND VARIOUS SECTIONS OF THE
14 ARKANSAS CODE CONCERNING AUCTIONEERS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code 17-17-401 is amended to read as follows:

21 17-17-401. Auctioneer ~~Education and~~ Recovery Fund.

22 (a) The Auctioneer's Licensing Board shall establish a separate high
23 interest bearing account in a bank located in this state. The account shall
24 be referred to as the "Auctioneer ~~Education and~~ Recovery Fund" and shall only
25 be used for ~~education and~~ recovery purposes as detailed in this chapter.

26 (b) The fees collected under § 17-17-404 shall be deposited into the
27 Auctioneer ~~Education and~~ Recovery Fund.
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29 SECTION 2. Arkansas Code 17-17-405 is amended to read as follows:

30 17-17-405. Disciplinary hearing - Recovery procedure.

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

35 (2) If so, the board shall then determine the amount of damages,
36 if any, suffered by the aggrieved party or parties. However, damages shall be

1 limited to actual damages in accordance with § 17-17-407.

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

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

9 (B) However, the board shall not:

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

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

15 (b) The question of whether certain violations constitute a continuing
16 series of violations shall be a matter solely within the discretion and
17 judgment of the board.

18 (c) Nothing within this subchapter shall obligate the fund for any
19 amount in excess of a total of five thousand dollars (\$5,000) with respect
20 to:

21 (1) The acts of any one (1) licensee; or

22 (2) Any group of related claims.

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

25 (e) When unsatisfied or pending claims are such that they exceed the
26 limits payable under subsection (c) of this section, the board shall be the
27 sole determinant of how the available funds shall be allocated among such
28 claims.

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30 SECTION 3. Arkansas Code 17-17-406 is repealed.

31 ~~17-17-406.—Education~~

32 ~~The Auctioneer's Licensing Board, in its discretion, may use any funds~~
33 ~~in the Auctioneer Education and Recovery Fund in excess of the one hundred-~~
34 ~~eighty thousand dollar level, regardless of whether it is from the fund fees~~
35 ~~or accrued interest thereon for any or all of the following purposes:-~~

36 ~~(1) To carry out the advancement of education in the auction field for~~

1 ~~the benefit of those licensed under the provisions of this chapter;~~

2 ~~(2) To assist in the improvement and efficiency of the auctioneering~~
3 ~~profession; and~~

4 ~~(3) To underwrite educational seminars and other forms of educational~~
5 ~~projects for the use and benefit of auctioneer licensees.~~

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7 SECTION 4. Arkansas Code 17-17-408 is amended to read as follows:
8 17-17-408. Appeal.

9 (a) An appeal may be taken to the circuit court from a final order of
10 the Auctioneer's Licensing Board, de novo or in accordance with the Arkansas
11 Administrative Procedure Act, § 25-15-201 et seq. at the option of the
12 appealing party.

13 (b) An appeal shall automatically stay that portion of the board's
14 order which directs the payment of damages, and neither the licensee nor the
15 board shall be obligated to pay the damages to the aggrieved party or parties
16 until such time as the appeal is finally decided, whether in the circuit
17 court or in the Arkansas Supreme Court.

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