

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

A Bill

HOUSE BILL 2609

4
5 By: Representatives Parks, Cleveland, Hathorn, Ormond

For An Act To Be Entitled

9 AN ACT AMENDING AND REPEALING VARIOUS SECTIONS OF
10 THE ARKANSAS CODE CONCERNING AUCTIONEERS; AND FOR
11 OTHER PURPOSES.

Subtitle

14 AN ACT AMENDING AND REPEALING VARIOUS
15 SECTIONS OF THE ARKANSAS CODE CONCERNING
16 AUCTIONEERS.

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code 17-17-112 is repealed.

22 ~~17-17-112. Written contract.~~

23 ~~(a) An auctioneer may not sell the property of another at auction~~
24 ~~without a prior written contract with the seller which sets forth the terms~~
25 ~~and conditions upon which the auctioneer will sell the property. The~~
26 ~~licensee must retain a copy of each contract for at least three (3) years~~
27 ~~after the auction.~~

28 ~~(b) The Auctioneer's Licensing Board is authorized to prescribe by~~
29 ~~regulations the minimum requirements which must be included in a written~~
30 ~~contract.~~

31
32 SECTION 2. Arkansas Code 17-17-113 is repealed.

33 ~~17-17-113. Injunction.~~

34 ~~(a) Whenever there is reason to believe that any person, licensed or~~
35 ~~unlicensed, has violated any provision of this chapter, or any order,~~
36 ~~license, decision, demand, or requirement issued or made pursuant to this~~

1 chapter, the Auctioneer's Licensing Board or its authorized representative
2 may bring an action in the chancery court of any county in which the person
3 resides or does business to enjoin such person from continuing such violation
4 or engaging therein or doing any act or acts in furtherance thereof.

5 (b) Whenever there is any action brought pursuant to this section, the
6 chancery court shall have jurisdiction and authority to enter such
7 preliminary or final injunction or such other relief as may be appropriate.

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9 SECTION 3. Arkansas Code 17-17-114 is repealed.

10 ~~17-17-114. Penalty in lieu of suspension or revocation.~~

11 (a)(1) Whenever the Auctioneer's Licensing Board finds that the holder
12 of a license issued by the board is guilty of a violation of the rules of the
13 board or the laws of the State of Arkansas pertaining to any occupation,
14 profession, or business licensed or regulated by the board, it shall have the
15 power and authority to impose a penalty on the licensee in lieu of suspension
16 or revocation of the license.

17 (2) Upon imposition of a penalty in lieu of suspension or
18 revocation of license, the board shall have the power and authority to
19 require that the licensee pay a penalty to the board with regard to the
20 violation with the sanction that the license may be suspended until the
21 penalty is paid.

22 (3) Prior to the imposition of any penalty, the board shall hold
23 an investigation and hearing after notice to a licensee or his attorney. The
24 penalty may be imposed in lieu of revocation or suspension of a license only
25 if the board formally finds that the public health, safety, welfare, and
26 morals would not be impaired thereby, and that the payment of the penalty
27 will achieve the desired disciplinary result.

28 (b) No penalty imposed by the board in lieu of revocation or
29 suspension of a license may exceed a total of one thousand dollars (\$1,000).
30 The power and authority of the board to impose these penalties shall not be
31 affected by any other civil or criminal proceeding concerning the same
32 violation.

33 (c) If any person upon whom the board has levied a civil penalty fails
34 to pay the civil penalty within sixty (60) days of the board's decision to
35 impose the penalty, the amount of the fine shall be considered to be a debt
36 owed the Auctioneer's Licensing Board and may be collected by civil action by

1 the board.

2 (d) ~~Any person penalized by the board under this chapter may appeal~~
3 ~~any order of the board in the manner now provided by law.~~

4 (e) ~~In addition to any other sanctions authorized by this chapter, the~~
5 ~~board may impose a civil penalty as provided above against any unlicensed~~
6 ~~person, firm, or corporation practicing or offering to practice any actions~~
7 ~~requiring licensure pursuant to the provisions of this chapter.~~

8 (f) ~~The board is authorized to promulgate regulations to implement the~~
9 ~~provisions of this chapter.~~

10

11 SECTION 4. Arkansas Code 17-17-115 is repealed.

12 ~~17-17-115. Inspection cease and desist.~~

13 (a) ~~Subsequent to five (5) days after proof of receipt of certified~~
14 ~~mail by the alleged offending auctioneer or auction house of any alleged~~
15 ~~violation or violations, the Auctioneer's Licensing Board or its authorized~~
16 ~~representative may enter the premises of any auction or auction house for the~~
17 ~~purpose of examining the license of an auctioneer or auction house, or both.~~

18 (b) ~~Should the board or its authorized representative find that an~~
19 ~~unlicensed auctioneer and/or auction house is practicing or offering to~~
20 ~~practice any actions requiring a license pursuant to the provisions of this~~
21 ~~chapter, the board or its authorized representative has the authority to~~
22 ~~demand that such unlicensed activity cease and desist immediately.~~

23 (c) ~~Any auctioneer and/or auction house refusing to allow the board or~~
24 ~~its authorized representative to inspect the premises of an auction or~~
25 ~~auction house for the purpose of examining the license of the auctioneer~~
26 ~~and/or auction house may be subject to a civil penalty.~~

27 (d) ~~Any unlicensed auctioneer and/or auction house found to be~~
28 ~~practicing or offering to practice any actions requiring a license pursuant~~
29 ~~to the provisions of this chapter who refuses to cease and desist such~~
30 ~~unlicensed activity upon the request of the board or its authorized~~
31 ~~representative will be subject to criminal and/or civil penalties, or both.~~

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33 SECTION 5. Arkansas Code 17-17-204(a) is amended to read as follows:

34 (a) All fees, and charges ~~and penalties~~ collected by the Auctioneer's
35 Licensing Board under the provisions of this chapter shall be paid to the
36 secretary-treasurer who shall be the custodian of all funds and shall deposit

1 them in a bank or banks to be designated by the board.

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3 SECTION 6. Arkansas Code 17-17-204(c) is amended to read as follows:

4 (c)(1) The secretary-treasurer shall pay funds of the board only on
5 vouchers signed by himself and countersigned by the chairman.

6 (2) The total expenses for all purposes and obligations of the
7 board shall not exceed the total fees, charges, ~~penalties~~ and other funds
8 paid to the board under the provisions of this chapter.

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10 SECTION 7. Arkansas Code 17-17-308 is amended to read as follows:

11 17-17-308. Suspension or revocation.

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

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

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

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

19 (4) Commingling funds of others with his own, or failing to keep such
20 funds of others in an escrow or trustee account;

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

23 (6) Being convicted in a court of competent jurisdiction of this or
24 any other state of a criminal offense involving moral turpitude or a felony;

25 (7) Willful violation of a rule or regulation promulgated by the
26 board;

27 (8) ~~Failing~~ Failure to ~~enter into a written contract with the seller~~
28 ~~and~~ furnish voluntarily to the ~~seller~~ signing party at the time of execution
29 copies of all written instruments prepared by the auctioneer, ~~including the~~
30 ~~contract~~ and signed by the other party;

31 (9) Any conduct of an auctioneer which demonstrates bad faith,
32 dishonesty, incompetency, or untruthfulness;

33 (10) Any other conduct that constitutes improper, fraudulent, or
34 dishonest dealings ~~to include falsely accusing any auctioneer or auction~~
35 ~~house~~; or

36 (11) Failing to complete or submit the continuing education

1 requirements as specified by this chapter and the rules and regulations
2 adopted by the board.

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