

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
4

As Engrossed: H3/26/03 H4/1/03

A Bill

HOUSE BILL 2205

5 By: Representative Oglesby
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7

For An Act To Be Entitled

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

Subtitle

12 AN ACT TO REVISE THE AUCTIONEER'S
13 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 § 17-17-114 is amended to read as follows:
20 17-17-114. ~~Penalty in lieu of suspension or revocation~~ Civil penalty.

21 (a)(1) Whenever the Auctioneer's Licensing Board finds that the holder
22 of a license issued by the board is guilty of a violation of the rules of the
23 board or the laws of the State of Arkansas pertaining to any occupation,
24 profession, or business licensed or regulated by the board, it shall have the
25 power and authority to impose a ~~penalty on the licensee in lieu of~~ civil
26 penalty and suspension or revocation of the license.

27 (2) Upon imposition of a ~~penalty in lieu of suspension or~~
28 ~~revocation of license~~ civil penalty, the board shall have the power and
29 authority to require that the licensee pay a penalty to the board with regard
30 to the violation with the sanction that the license may be suspended until
31 the penalty is paid.

32 (3) Prior to the imposition of any penalty, the board shall hold
33 an investigation and hearing after notice to a licensee or his or her
34 attorney. The penalty may be imposed ~~in lieu of revocation or suspension of a~~
35 ~~license~~ only if the board formally finds that the public health, safety,
36 welfare, and morals would not be impaired thereby and that the payment of the



1 penalty will achieve the desired disciplinary result.

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

7 (c) If any person upon whom the board has levied a civil penalty fails
8 to pay the civil penalty within sixty (60) days of the board's decision to
9 impose the penalty, the amount of the fine shall be considered to be a debt
10 owed to the board and may be collected by civil action by the board.

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

13 (e) In addition to any other sanctions authorized by this chapter, the
14 board may impose a civil penalty as provided in this section against any
15 unlicensed person, firm, or corporation practicing or offering to practice
16 any actions requiring licensure pursuant to the provisions of this chapter.

17 (f) The board is authorized to promulgate regulations to implement the
18 provisions of this chapter.

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

22 (c)(1) In addition to proof of honesty, truthfulness, and good
23 reputation, an examination conducted by the board or its authorized
24 representatives shall be held four (4) times each year, and an examination
25 fee of ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100) shall be collected
26 from each applicant to defray the expenses of the examination.

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

30 (b)(1)(A) The issuance fee for each auctioneer's license shall be
31 ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100).

32 (B) The annual renewal fee for each license shall be ~~fifty~~
33 ~~dollars (\$50.00)~~ one hundred dollars (\$100).

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

35 (2) In the absence of any reason or condition which might
36 warrant the refusal of the renewing of the license, and upon receipt of the

1 written request of the applicant and the annual fee thereof, the board shall
2 issue a new license for each ensuing year.

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

5 17-17-308. Suspension or revocation.

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

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

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

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

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

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

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

22 (7) Willful violation of a rule or regulation promulgated by the
23 board;

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

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

29 (10) Any other conduct that constitutes improper, fraudulent, or
30 dishonest dealings, to include falsely accusing any auctioneer or auction
31 house;

32 (11) Failing to complete or submit the continuing education
33 requirements as specified by this chapter and the rules and regulations
34 adopted by the board; or

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

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/s/ Oglesby