

By Senator Posey

24-668-06

A bill to be entitled

An act relating to auctioneering; amending s. 468.385, F.S.; requiring an applicant for an auctioneer license to submit fingerprints with the application; revising license-application forms to require additional information from applicants that are legal entities; prohibiting a person whose license has been revoked from being an owner, partner, officer, director, or trustee of an auction business for a specified period; requiring that an applicant for licensure furnish evidence of financial responsibility; requiring the Florida Board of Auctioneers to adopt rules governing financial responsibility; authorizing the board to deny licensure to an applicant if an owner, partner, officer, director, trustee, or member of the applicant's business has committed an offense that would constitute a basis for disciplinary action; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (4) and (7) of section 468.385, Florida Statutes, are amended and present subsection (8) of that section is redesignated as subsection (9), and a new subsection (8) is added to that section, to read:

468.385 Licenses required; qualifications; examination.--

(4) Any person seeking a license as an auctioneer must pass a written examination approved by the board which tests

1 his or her general knowledge of the laws of this state  
2 relating to provisions of the Uniform Commercial Code which  
3 ~~that~~ are relevant to auctions, the laws of agency, and the  
4 provisions of this act. Each applicant must also file a  
5 complete set of fingerprints taken by an authorized law  
6 enforcement officer. The department must submit the  
7 fingerprints to the Department of Law Enforcement for state  
8 processing and to the Federal Bureau of Investigation for  
9 federal processing. The cost of processing shall be borne by  
10 the applicant.

11 (7)(a) Any auction that is subject to the provisions  
12 of this part must be conducted by an auctioneer who has an  
13 active license or an apprentice who has an active apprentice  
14 auctioneer license and who has received prior written sponsor  
15 consent.

16 (b) ~~A No~~ business may not shall auction or offer to  
17 auction any property in this state unless it is licensed as an  
18 auction business by the board or is exempt from licensure  
19 under this act. ~~Each application for licensure shall include~~  
20 ~~the names of the owner and the business, the business mailing~~  
21 ~~address and location, and any other information which the~~  
22 ~~board may require. The owner of an auction business shall~~  
23 ~~report to the board within 30 days of any change in this~~  
24 ~~required information.~~

25 (8)(a) If an applicant for licensure is a sole  
26 proprietorship, the application must identify the owner. If a  
27 fictitious name is used, the applicant must furnish evidence  
28 of compliance with fictitious-name provisions.

29 (b) If an applicant is a partnership, corporation,  
30 business trust, or other legal entity other than a sole  
31 proprietorship, the application must provide the name of the

1 partnership and its partners; the name of the corporation and  
2 its officers, directors, and stockholders who are also  
3 officers or directors; the name of the business trust and its  
4 trustees; or the name of any other form of legal entity and  
5 its members. If a fictitious name is used, the applicant must  
6 furnish evidence of compliance with fictitious-name  
7 provisions. If any information that is required to be stated  
8 on the application changes, the applicant must, within 45 days  
9 after any change, mail the correct information to the  
10 department.

11 (c) Any person licensed pursuant to this part whose  
12 license has been revoked may not be an owner, partner,  
13 officer, director, or trustee of an auction business for 5  
14 years following such revocation. The person is also ineligible  
15 to reapply for licensure for 5 years following such  
16 revocation.

17 (d) An applicant must furnish evidence of financial  
18 responsibility, credit history, and business reputation in the  
19 auction business. The board shall adopt rules that specify the  
20 financial-responsibility grounds upon which the board may deny  
21 licensure and that define financial responsibility based upon  
22 the applicant's credit history, ability to be bonded, and any  
23 history of bankruptcy, insolvency proceedings, or assignment  
24 of receivers.

25 (e) The board may deny licensure to an applicant if  
26 any owner, partner, officer, director, trustee, or member of  
27 the applicant has committed an act or offense in any  
28 jurisdiction which would constitute a basis for disciplinary  
29 action under s. 468.389.

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1           (9)(8) A license issued by the department to an  
2 auctioneer, apprentice, or auction business is not  
3 transferable.

4           Section 2. This act shall take effect July 1, 2006.  
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7           SENATE SUMMARY

8           Revises provisions related to auctioneering. Requires  
9 applicants for licensure to submit fingerprints. Revises  
10 license-application forms to require additional  
11 information from applicants that are legal entities.  
12 Prohibits certain persons from becoming licensed.  
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