

By Senator Posey

24-1339A-07

See HB 711

1   A bill to be entitled  
 2            An act relating to auctioneering; amending s.  
 3            468.385, F.S.; providing a fingerprint  
 4            requirement to qualify for auctioneer and  
 5            auctioneer business licensures; revising  
 6            application requirements for licensure as an  
 7            auction business; providing for ineligibility  
 8            of certain persons and auction businesses to  
 9            reapply for licensure; requiring the Florida  
 10           Board of Auctioneers to adopt rules relating to  
 11           auction business financial responsibility;  
 12           providing an effective date.

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

16            Section 1. Subsections (4), (7), and (8) of section  
 17 468.385, Florida Statutes, are amended to read:

18            468.385 Licenses required; qualifications;  
 19 examination.--

20            (4) Any person seeking a license as an auctioneer must  
 21 pass a written examination approved by the board which tests  
 22 his or her general knowledge of the laws of this state  
 23 relating to provisions of the Uniform Commercial Code that are  
 24 relevant to auctions, the laws of agency, and the provisions  
 25 of this act. Each applicant must file a complete set of  
 26 fingerprints that have been taken by an authorized law  
 27 enforcement officer, and that set of fingerprints shall be  
 28 submitted to the Department of Law Enforcement for state  
 29 processing and to the Federal Bureau of Investigation for  
 30 federal processing. The cost of processing shall be borne by  
 31 the applicant.

1           (7)(a) Any auction that is subject to the provisions  
2 of this part must be conducted by an auctioneer who has an  
3 active license or an apprentice who has an active apprentice  
4 auctioneer license and who has received prior written sponsor  
5 consent.

6           ~~(8)(b)~~ No business shall auction or offer to auction  
7 any property in this state unless it is licensed as an auction  
8 business by the board or is exempt from licensure under this  
9 act. ~~Each application for licensure shall include the names of~~  
10 ~~the owner and the business, the business mailing address and~~  
11 ~~location, and any other information which the board may~~  
12 ~~require. The owner of an auction business shall report to the~~  
13 ~~board within 30 days of any change in this required~~  
14 ~~information.~~

15           (a) If the applicant auction business is a sole  
16 proprietorship, the application shall state the name of the  
17 owner. If the owner uses a fictitious name, he or she shall  
18 furnish evidence of compliance with the fingerprint  
19 requirements under subsection (4). If there is a change in any  
20 information that is required to be stated on the application,  
21 the auction business shall, within 45 days after such change  
22 occurs, mail the correct information to the department.

23           (b) If the applicant auction business is a  
24 partnership, corporation, business trust, or other legal  
25 entity, other than a sole proprietorship, the application  
26 shall state the name of the partnership and its partners; the  
27 name of the corporation and its officers and directors and the  
28 name of each of its stockholders who is also an officer or  
29 director; the name of the business trust and its trustees; or  
30 the name of the legal entity and its members. If any  
31 fictitious names are stated in the application, the applicant

1 shall furnish evidence of compliance with the fingerprint  
2 requirements under subsection (4) for each fictitious name  
3 used. If there is a change in any information that is required  
4 to be stated on the application, the auction business shall,  
5 within 45 days after such change occurs, mail the correct  
6 information to the department.

7 (c) Any person licensed under this part who has had  
8 his or her license revoked shall not be eligible for a 5-year  
9 period, beginning from the date of revocation, to be an owner,  
10 partner, officer, director, or trustee of an auction business  
11 as defined in s. 468.382(1). Such person shall also be  
12 ineligible to reapply for licensure under this part for a  
13 period of 5 years, beginning from the date of revocation.

14 (d) The applicant auction business shall furnish  
15 evidence of financial responsibility, credit, and business  
16 reputation of the auction business. The board shall adopt  
17 rules defining financial responsibility based upon an auction  
18 business' credit history, ability to be bonded, and any  
19 history of bankruptcy or other insolvency proceeding or  
20 assignment of receivers. Such rules shall specify the  
21 financial responsibility grounds on which the board may  
22 determine that an auction business is not eligible for  
23 licensure.

24 (e) If an auction business or any of its owners,  
25 partners, officers, directors, trustees, or members commits  
26 any act or offense in this state or any other jurisdiction  
27 that would constitute a basis for disciplinary action under s.  
28 468.389, the board may, on that basis alone, deny issuance of  
29 a license to that auction business.

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, 2007.  
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