## Florida Senate - 2007

By the Committee on Regulated Industries; and Senator Posey

580-2114-07

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
б	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.
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14	Be It Enacted by the Legislature of the State of Florida:
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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. <u>Each applicant must file a complete set of</u>
26	fingerprints in electronic format which have been taken by an
27	authorized agency or vendor pursuant to department rule. The
28	fingerprints shall be submitted to the Department of Law
29	Enforcement for state processing, and the Department of Law
30	Enforcement shall forward them to the Federal Bureau of
31	Investigation for national processing. The board shall review

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1 the background results to determine if an applicant meets 2 licensure requirements. The cost for fingerprint processing shall be borne by the person subject to the background 3 4 screening. These fees shall be collected by the authorized agencies and vendors. The authorized agencies and vendors are 5 6 responsible for paying the costs of processing to the 7 Department of Law Enforcement. (7) (a) Any auction that is subject to the provisions 8 9 of this part must be conducted by an auctioneer who has an active license or an apprentice who has an active apprentice 10 auctioneer license and who has received prior written sponsor 11 12 consent. 13 (8) (b) No business shall auction or offer to auction any property in this state unless it is licensed as an auction 14 business by the board or is exempt from licensure under this 15 16 act. Each application for licensure shall include the names of 17 the owner and the business, the business mailing address and 18 location, and any other information which the board may require. The owner of an auction business shall report to the 19 board within 30 days of any change in this required 2.0 21 information. 22 (a) If the applicant auction business is a sole 23 proprietorship, the application shall state the name of the owner. If the owner uses a fictitious name, he or she shall 2.4 furnish evidence of compliance with the fingerprint 25 requirements under subsection (4). If there is a change in any 26 27 information that is required to be stated on the application, 2.8 the auction business shall, within 45 days after such change occurs, mail the correct information to the department. 29 30 (b) If the applicant auction business is a partnership, corporation, business trust, or other legal 31

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1	entity, other than a sole proprietorship, the application
2	shall state the name of the partnership and its partners; the
3	name of the corporation and its officers and directors and the
4	name of each of its stockholders who is also an officer or
5	director; the name of the business trust and its trustees; or
6	the name of the legal entity and its members. If any
7	fictitious names are stated in the application, the applicant
8	shall furnish evidence of compliance with the fingerprint
9	requirements under subsection (4) for each fictitious name
10	used. If there is a change in any information that is required
11	to be stated on the application, the auction business shall,
12	within 45 days after such change occurs, mail the correct
13	information to the department.
14	(c) Any person licensed under this part who has had
15	his or her license revoked shall not be eligible for a 5-year
16	period, beginning from the date of revocation, to be an owner,
17	partner, officer, director, or trustee of an auction business
18	as defined in s. 468.382(1). Such person shall also be
19	ineligible to reapply for licensure under this part for a
20	period of 5 years, beginning from the date of revocation.
21	(d) The applicant auction business shall furnish
22	evidence of financial responsibility, credit history, and
23	business reputation of the auction business. The board shall
24	adopt rules defining financial responsibility based upon an
25	auction business' credit history, ability to be bonded, and
26	any history of bankruptcy or other insolvency proceeding or
27	assignment of receivers. Such rules shall specify the
28	financial responsibility grounds on which the board may
29	determine that an auction business is not eligible for
30	licensure.
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1	(e) If an auction business or any of its owners,
2	partners, officers, directors, trustees, or members commits
3	any act or offense in this state or any other jurisdiction
4	that would constitute a basis for disciplinary action under s.
5	468.389, the board may, on that basis alone, deny issuance of
6	<u>a license to that auction business.</u>
7	(9)(8) A license issued by the department to an
8	auctioneer, apprentice, or auction business is not
9	transferable.
10	Section 2. This act shall take effect July 1, 2007.
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12	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
13	<u>SB 1786</u>
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15	The committee substitute (CS) amends s. 468.385(4), F.S., to require fingerprinting by an agency or yendor authorized by
16	require fingerprinting by an agency or vendor authorized by rule of the Department of Business and Professional Regulation (department) instead of by a law enforcement officer. It also
17	requires that the complete set of fingerprints must be in an electronic format. It provides that the Department of Law
18	Enforcement will conduct the state processing of the fingerprints and will forward the fingerprints to the Federal
19	Bureau of Investigations for national processing. The CS also requires that the Board of Auctioneers review the background
20	results to determine if an applicant meets licensure requirements. The vendors and agencies that are authorized by
21	rule of the department to perform the fingerprints must collect the fee and pay the Department of Law Enforcement for
22	the cost of processing.
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