

HB 17

2008

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

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

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14 Section 1. Subsections (4), (7), and (8) of section
15 468.385, Florida Statutes, are amended to read:

16 468.385 Licenses required; qualifications; examination.--

17 (4) Any person seeking a license as an auctioneer must
18 pass a written examination approved by the board which tests his
19 or her general knowledge of the laws of this state relating to
20 provisions of the Uniform Commercial Code that are relevant to
21 auctions, the laws of agency, and the provisions of this act.
22 Each applicant must file a complete set of fingerprints in
23 electronic format that have been taken by an authorized agency
24 or vendor pursuant to department rule. The fingerprints shall be
25 submitted to the Department of Law Enforcement for state
26 processing, and the Department of Law Enforcement shall forward
27 the fingerprints to the Federal Bureau of Investigation for
28 national processing. The board shall review the background

29 results to determine whether an applicant meets licensure
30 requirements. The cost for fingerprint processing shall be borne
31 by the person subject to the background screening. Such fees
32 shall be collected by the authorized agencies and vendors. The
33 authorized agencies and vendors are responsible for paying the
34 costs of processing to the Department of Law Enforcement.

35 (7)(a) Any auction that is subject to the provisions of
36 this part must be conducted by an auctioneer who has an active
37 license or an apprentice who has an active apprentice auctioneer
38 license and who has received prior written sponsor consent.

39 ~~(8)(b) No business shall auction or offer to auction any~~
40 ~~property in this state unless it is licensed as an auction~~
41 ~~business by the board or is exempt from licensure under this~~
42 ~~act. Each application for licensure shall include the names of~~
43 ~~the owner and the business, the business mailing address and~~
44 ~~location, and any other information which the board may require.~~
45 ~~The owner of an auction business shall report to the board~~
46 ~~within 30 days of any change in this required information.~~

47 (a) If the applicant auction business is a sole
48 proprietorship, the application shall state the name of the
49 owner. If the owner uses a fictitious name, he or she shall
50 furnish evidence of compliance with the fingerprint requirements
51 under subsection (4). If there is a change in any information
52 that is required to be stated on the application, the auction
53 business shall, within 45 days after such change occurs, mail
54 the correct information to the department.

55 (b) If the applicant auction business is a partnership,
56 corporation, business trust, or other legal entity, other than a

57 sole proprietorship, the application shall state the name of the
58 partnership and its partners; the name of the corporation and
59 its officers and directors and the name of each of its
60 stockholders who is also an officer or director; the name of the
61 business trust and its trustees; or the name of the legal entity
62 and its members. If any fictitious names are stated in the
63 application, the applicant shall furnish evidence of compliance
64 with the fingerprint requirements under subsection (4) for each
65 fictitious name used. If there is a change in any information
66 that is required to be stated on the application, the auction
67 business shall, within 45 days after such change occurs, mail
68 the correct information to the department.

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

76 (d) The applicant auction business shall furnish evidence
77 of financial responsibility, credit, and business reputation of
78 the auction business. The board shall adopt rules defining
79 financial responsibility based upon an auction business' credit
80 history, ability to be bonded, and any history of bankruptcy or
81 other insolvency proceeding or assignment of receivers. Such
82 rules shall specify the financial responsibility grounds on
83 which the board may determine that an auction business is not
84 eligible for licensure.

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85 (e) If an auction business or any of its owners, partners,
86 officers, directors, trustees, or members commits any act or
87 offense in this state or any other jurisdiction that would
88 constitute a basis for disciplinary action under s. 468.389, the
89 board may, on that basis alone, deny issuance of a license to
90 that auction business.

91 (9)~~(8)~~ A license issued by the department to an
92 auctioneer, apprentice, or auction business is not transferable.

93 Section 2. This act shall take effect July 1, 2008.