

By Senator Posey

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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.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
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 pass  
18 a written examination approved by the board which tests his or  
19 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 which 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 them to the Federal Bureau of Investigation for national  
28 processing. The board shall review the background results to  
29 determine if an applicant meets licensure requirements. The cost

24-02973-08

20082332\_\_

30 for fingerprint processing shall be borne by the person subject  
31 to the background screening. These fees shall be collected by the  
32 authorized agencies and vendors. The authorized agencies and  
33 vendors are responsible for paying the costs of processing to the  
34 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 act.  
42 ~~Each application for licensure shall include the names of the~~  
43 ~~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 within~~  
46 ~~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 the  
54 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 its

24-02973-08

20082332\_\_

59 officers and directors and the name of each of its stockholders  
60 who is also an officer or director; the name of the business  
61 trust and its trustees; or the name of the legal entity and its  
62 members. If any fictitious names are stated in the application,  
63 the applicant shall furnish evidence of compliance with the  
64 fingerprint requirements under subsection (4) for each fictitious  
65 name used. If there is a change in any information that is  
66 required to be stated on the application, the auction business  
67 shall, within 45 days after such change occurs, mail the correct  
68 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. Such person shall also be ineligible to reapply  
74 for licensure under this part for a period of 5 years, beginning  
75 from the date of revocation.

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

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 which would

24-02973-08

20082332\_\_

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 auctioneer,  
92 apprentice, or auction business is not transferable.

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