

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 325 Session of 2015

INTRODUCED BY M. K. KELLER, BENNINGHOFF, COHEN, D. COSTA, EVERETT, GILLESPIE, GINGRICH, GODSHALL, GROVE, A. HARRIS, PHILLIPS-HILL, KILLION, KORTZ, MALONEY, MARSHALL, MARSICO, MILLARD, MOUL, MURT, MUSTIO, PEIFER, PETRARCA, PICKETT, PYLE, QUIGLEY, QUINN, ROZZI, SAYLOR, STURLA, TOEPEL, TOOHL AND ZIMMERMAN, APRIL 24, 2015

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 24, 2015

AN ACT

1 Amending the act of December 22, 1983 (P.L.327, No.85),  
 2 entitled, as amended, "An act imposing regulations and  
 3 licensing requirements on auctioneers, apprentice  
 4 auctioneers, auction houses, auction companies and trading  
 5 assistants; imposing powers and duties on the State Board of  
 6 Auctioneer Examiners; and making repeals," further providing  
 7 for the title of the act, for definitions, for auctioneer and  
 8 apprentice auctioneer licenses; providing for sales exempt  
 9 from license requirements; further providing for status of  
 10 existing licensees and for applications for initial and  
 11 renewal licenses; providing for registration of trading  
 12 assistants and trading assistant companies; further providing  
 13 for special licensees to furnish bond and for authority to  
 14 transact business not transferable; repealing provisions  
 15 relating to auction house license, auction company license,  
 16 trading assistant registration and nonresident licensees;  
 17 further providing for reciprocity with other states;  
 18 repealing provisions relating to licensee and registrant to  
 19 furnish bond; further providing for no other license or  
 20 registration required and for list of licensees and  
 21 registrants; providing for contracts; further providing for  
 22 records of sales; repealing provisions relating to contracts  
 23 for conduct of transaction; and further providing for display  
 24 of licenses, for investigations and enforcement actions, for  
 25 escrow account, for hearing on charges, for administration  
 26 and enforcement, for revocation or suspension of license or  
 27 registration, for issuance of new license or registration  
 28 pending investigation and decision, for issuance of new  
 29 license or registration after revocation, for penalties, for  
 30 actions by unlicensed persons prohibited and for the State

1 Board of Auctioneer Examiners.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. The title and sections 2 and 3 of the act of  
5 December 22, 1983 (P.L.327, No.85), known as the Auctioneer  
6 Licensing and Trading Assistant Registration Act, amended  
7 October 8, 2008 (P.L.1080, No.89), are amended to read:

8 AN ACT

9 Imposing regulations and licensing requirements on auctioneers,  
10 apprentice auctioneers, auction [houses, auction] companies, and  
11 trading assistants and trading [assistants] assistant  
12 companies; imposing powers and duties on the State Board of  
13 Auctioneer Examiners; and making repeals.

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall  
16 have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 "Apprentice auctioneer." [A person] An individual who is  
19 licensed under this act as an apprentice auctioneer.

20 "Auction" or "sale at auction."

21 (1) The offer [to sell] for sale of property [by an  
22 auctioneer or apprentice auctioneer to the members of an  
23 audience congregated for the purpose of making bids for the  
24 purchase of the property] through the solicitation of bids  
25 from one or more potential buyers in an effort [by the  
26 auctioneer or apprentice auctioneer] to advance the amount of  
27 the bids to obtain the highest or most favorable offer, and  
28 regardless of the venue or method of conducting the sale.

29 (2) The term "auction" or "sale at auction" includes:

30 (i) live auctions;

1           (ii) online auctions;  
2           (iii) real-time auctions;  
3           (iv) extended auctions; and  
4           (v) any similar such events as may be devised with  
5           the development of technology, or otherwise involving the  
6           sale of property and the advancement of the price through  
7           a bidding process.

8           (3) The term "auction" or "sale at auction" excludes any  
9           sale conducted through an online [Internet bidding platform]  
10           trading assistant consignment sale transaction.

11           (4) The term "auction" or "sale at auction" shall not be  
12           limited by technology existing on the effective date of this  
13           paragraph.

14           "Auction company." [A company which, as part of its  
15           business, arranges, manages, sponsors, advertises or carries out  
16           auctions.] A legally recognized entity that sells or attempts to  
17           sell property at auction or performs, or offers to perform, any  
18           of the functions or activities requiring licensure as an auction  
19           company under section 3(a)(1). The term includes any legally  
20           recognized entity that holds itself out as engaged in the  
21           business of selling property at auction.

22           "Auction house." An established place of business,  
23           including, but not limited to, an auction barn, a sale barn and  
24           a sale pavilion, used primarily for conducting auctions, where  
25           two or more auctions are held within any 12-month period and  
26           where representations are regularly made that property is sold  
27           at auction. The term does not include premises where isolated or  
28           periodic sales are conducted by an auctioneer or auctioneer  
29           apprentice and [which] that are used primarily for purposes  
30           other than auctions or sales at auction.

1 "Auctioneer." [A person] An individual who sells or offers  
2 or attempts to sell property at auction. The term includes [any  
3 person who holds] an individual who:

4 (1) Engages in or offers the calling for and recognition  
5 of bids at auction.

6 (2) Engages in or offers any of the activities of an  
7 auction company.

8 (3) Performs, or offers to perform, any of the functions  
9 or activities requiring licensure under section 3(a)(1).

10 (4) Holds himself out as engaged in the business of  
11 selling property at auction.

12 "Auctioneer-of-record." The licensed auctioneer designated  
13 by an auction company as its auctioneer-of-record. The  
14 auctioneer-of-record is principally responsible for the conduct  
15 of the auctions of the auction company in accordance with this  
16 act.

17 "Board." The State Board of Auctioneer Examiners [in the  
18 Department of State].

19 "Commissioner." The Commissioner of Professional and  
20 Occupational Affairs in the Department of State.

21 "Department." The Department of State.

22 "Extended auction." An auction conducted in whole or in part  
23 online at which bids are received over an extended period of  
24 time identified by a starting time and ending time that may  
25 encompass multiple minutes, hours, days or other periods.

26 "Group A auction school." A provider, approved by the board,  
27 offering a course of study in auctioneering and the auction  
28 industry, as approved by the board, the completion of which  
29 requires not less than 20 credit hours, including two credit  
30 hours of practicum or cooperative practical experience.

1 "Group B auction school." A provider, approved by the board,  
2 offering a course of study in auctioneering and the auction  
3 industry, as approved by the board, the completion of which  
4 requires fewer than 20 credit hours.

5 "Legally recognized entity." A partnership, association,  
6 corporation, limited liability company or other entity  
7 recognized under the laws of this Commonwealth or any other  
8 state.

9 "Licensee." [A person licensed under this act including an  
10 auctioneer, apprentice auctioneer, holder of a special license  
11 and, in the case of an auction house or company, the person  
12 required to obtain the license.] An individual licensed under  
13 this act as an auctioneer, apprentice auctioneer or holder of a  
14 special license and a legally recognized entity licensed under  
15 this act as an auction company.

16 "Live auction." An auction or sale at auction at which one  
17 or more members of an audience are present in person, are  
18 communicating telephonically or by other digital or electronic  
19 means or are participating by absentee bid.

20 "Online auction." An auction or sale at auction conducted  
21 over the Internet or similar interactive communication media.

22 ["Online Internet bidding platform." Hardware or software  
23 architecture that provides or enables computer access by  
24 multiple users to an interactive computer server for the purpose  
25 of allowing users to offer property for sale and that does not  
26 examine, set the price or prepare the description of the  
27 property to be offered.]

28 "Online trading assistant consignment transaction." A  
29 transaction pursuant to which a registrant or licensee describes  
30 and lists personal property of another for sale through the use

1 of hardware or software that enables computer access by multiple  
2 users to an interactive computer server:

3 (1) allowing individual sellers, and those acting on  
4 behalf of sellers, to list and offer the property for sale at  
5 a set price, or best offer, or through competitive and  
6 progressive offers that may include a buy-it-now feature; and

7 (2) allowing prospective buyers access to the hardware  
8 or software.

9 "On-site auction." An auction or sale at auction conducted  
10 at the seller's residential or business location where the  
11 property to be sold is located.

12 "Person." An individual[, partnership, association,  
13 corporation, limited liability company or other] or a legally  
14 recognized entity.

15 "Property." Real and personal property, including both  
16 tangible and intangible personal property. The term includes,  
17 but is not limited to, domestic animals and farm products.

18 "Qualified [auctioneer] sponsor." A currently licensed  
19 auctioneer residing in this Commonwealth.

20 "Real-time auction." An auction or sale at auction at which  
21 bids are solicited and received contemporaneously, in real time.

22 "Registrant." A person registered under this act as a  
23 trading assistant or a trading assistant company.

24 "Seller." The owner of property, or the legal representative  
25 or agent of the owner of property, who consigns or otherwise  
26 agrees to have the property sold at auction or by way of an  
27 online trading assistant consignment sale transaction.

28 "Special licensee." The holder of a special license issued  
29 pursuant to section 3.

30 "Temporary venue." A venue, including a rented hall, used

1 primarily for other purposes, at which an auction or sale at  
2 auction is held by an auction company or an auctioneer,  
3 regardless of the frequency of the auctions or sales at auction.

4 "Trading assistant." An individual who, for a commission or  
5 fee, conducts or intends to conduct a business within this  
6 Commonwealth of [accepting personal property to sell on behalf  
7 of another through an online Internet bidding platform.]  
8 selling, or offering to sell, the personal property of another  
9 through an online trading assistant consignment sale  
10 transaction, or who performs, or offers to perform, any of the  
11 functions or activities requiring registration under section  
12 5.1(a).

13 "Trading assistant company." A legally recognized entity  
14 that for a commission or fee, conducts or intends to conduct a  
15 business within this Commonwealth of selling, or offering to  
16 sell, the personal property of another through an online trading  
17 assistant consignment sale, or that performs, or offers to  
18 perform, any of the functions or activities requiring  
19 registration under section 5.1(a).

20 Section 3. Auctioneer [and], apprentice auctioneer, auctioneer  
21 company and special licenses.

22 (a) Requirement for license.--[Notwithstanding section 10.1,  
23 it]

24 (1) It is unlawful for any person to engage in [or carry  
25 on] the business or profession of an auctioneer, apprentice  
26 auctioneer or an auction company to conduct [a sale at] an  
27 auction, to hold himself out as an auctioneer or as an  
28 apprentice auctioneer, to hold itself out as an auction  
29 company or to offer to conduct [sales at auction] auctions in  
30 this Commonwealth without first obtaining [from the board] a

1 license from the board as an auctioneer [or apprentice  
2 auctioneer. Any member, officer or employee of a partnership,  
3 association or corporation who attempts to sell at auction or  
4 who is actively engaged in the auction profession must have a  
5 license as an auctioneer or apprentice auctioneer.],  
6 apprentice auctioneer, auction company or special licensee.

7 (2) (i) Regardless of whether the computer system or  
8 server utilized in connection with an online auction is  
9 physically located within this Commonwealth, a license  
10 shall be required for any person offering to conduct or  
11 agreeing to conduct an online auction, or conducting an  
12 online auction, if:

13 (A) the seller is situate in this Commonwealth  
14 at the time the offer is made, the agreement is made  
15 or the online auction is held;

16 (B) the online auction involves the sale of real  
17 property situate in this Commonwealth; or

18 (C) the online auction involves the sale of  
19 personal property situate in this Commonwealth at the  
20 time the offer is made, the agreement is made or the  
21 online auction is held.

22 (ii) Under this section, licensure is not required  
23 under circumstances in which the seller initiates contact  
24 with an auctioneer, auction company or other provider of  
25 auction services located outside of this Commonwealth to  
26 sell personal property at an online auction outside of  
27 this Commonwealth.

28 (3) Any owner, member, officer, employee or independent  
29 contractor retained by an auction company who calls bids or  
30 engages in other activities requiring licensure under this

1 act must be licensed as an auctioneer or apprentice  
2 auctioneer. Notwithstanding the foregoing, a license is not  
3 required for an individual, acting as an agent or  
4 representative of a licensee under this act, to negotiate or  
5 execute contracts on behalf of the licensee.

6 (4) Licensees under this act shall be authorized to  
7 conduct auctions at any venue within this Commonwealth,  
8 including on-site auctions and auctions held at auction  
9 houses and temporary venues, and by any method of conducting  
10 the sale, including live auctions and online auctions and  
11 auctions that are conducted live and online  
12 contemporaneously, whether real-time auctions or extended  
13 auctions.

14 [(b) Issuance and supervision of licenses.--It is the duty  
15 of the board, upon payment of the license fees required and upon  
16 compliance with the requirements of this act, to issue a license  
17 as an auctioneer or apprentice auctioneer to individuals or as  
18 an auctioneer to partnerships, associations and corporations who  
19 qualify under and comply with this act. The board shall  
20 supervise and control all licenses issued under this act.]

21 (c) Qualifications in general for license.--[Licenses]  
22 Auctioneer, apprentice auctioneer and special auctioneer  
23 licenses shall be granted only to [persons] individuals who have  
24 a good reputation for honesty, truthfulness, integrity and  
25 competence to transact the business of an auctioneer or  
26 apprentice auctioneer in a manner as to safeguard the interest  
27 of the public and only after satisfactory proof of these  
28 qualifications has been presented to the board as required by  
29 this act and regulation.

30 (d) [Qualifications for apprentice] Apprentice auctioneer

1 license.--To qualify for an apprentice auctioneer license, [a  
2 person] an individual must be sponsored and employed for  
3 compensation by a qualified [auctioneer] sponsor who employs no  
4 more than one other apprentice auctioneer. As approved by the  
5 board, an apprentice auctioneer may transfer his apprenticeship  
6 to another qualified sponsor without forfeiting any qualifying  
7 auctions previously completed in accordance with subsection (e)  
8 (1).

9 (e) [Qualifications for auctioneer] Auctioneer license.--To  
10 qualify for an auctioneer license, [a person] an individual must  
11 have passed the prescribed examination after [having]:

12 (1) [served] serving an apprenticeship as a licensed  
13 apprentice auctioneer for a period of not less than two years  
14 in the employ of a qualified [auctioneer] sponsor and  
15 [participated] participating for compensation in no less than  
16 30 auctions[;], including auctions under the supervision of a  
17 substitute qualified sponsor, without limitation as to the  
18 method of conducting the auctions, which may include online  
19 auctions; [or]

20 (2) successfully [completed] completing a prescribed  
21 course of study in auctioneering [of at least 20 credit hours  
22 at a school approved by the board.] at a Group A auction  
23 school;

24 (3) successfully completing a prescribed course of study  
25 in auctioneering at a Group B auction school and served an  
26 apprenticeship as a licensed apprentice auctioneer for a  
27 period of not less than one year in the employ of a qualified  
28 sponsor, and participating for compensation in no less than  
29 15 auctions, which may include auctions under the supervision  
30 of a substitute qualified sponsor, without limitation as to

1 the format of the auctions, which may include online  
2 auctions;

3 (4) being licensed in good standing by another state to  
4 engage in auctioneering for at least two years. The board  
5 shall review applications under this paragraph to determine  
6 the qualifications of the applicant; or

7 (5) demonstrating that the individual has conducted  
8 auctioneering for at least two years in a state that does not  
9 require a license. The board shall review applications under  
10 this paragraph to determine the qualifications of the  
11 applicant.

12 (e.1) Auction company license.--

13 (1) Every legally recognized entity shall, before  
14 operating as an auction company, obtain an auction company  
15 license issued by the board.

16 (2) Every auction company shall designate an auctioneer-  
17 of-record. Each auction company licensed under this act shall  
18 designate an individual licensed as an auctioneer under this  
19 act to serve as the auction company's auctioneer-of-record.  
20 The designation of the auctioneer-of-record shall be made in  
21 the initial application for licensure as an auction company  
22 and in each application for renewal of an auction company  
23 license. The auctioneer-of-record may be an owner,  
24 shareholder, member, partner, employee, independent  
25 contractor or other agent of the auction company. The  
26 auctioneer-of-record is principally responsible for the  
27 conduct of the auctions of the auction company in accordance  
28 with this act. However, nothing in this act shall limit or  
29 restrict the ability of an auction company to utilize the  
30 services of one or more auctioneers in addition to the

1 auctioneer identified as auctioneer-of-record, and it shall  
2 not be necessary for the auctioneer-of-record to be present  
3 at every auction conducted by the auction company, provided  
4 that a licensed auctioneer is present to conduct the  
5 activities required to be conducted by a licensed auctioneer  
6 under this act. An auction company license becomes invalid if  
7 the license of the auctioneer-of-record is not renewed or is  
8 suspended or revoked or if the auctioneer-of-record becomes  
9 deceased or otherwise ceases to be the auction company's  
10 auctioneer-of-record without substitution by a successor  
11 auctioneer-of-record.

12 (3) Within 30 calendar days after an auction company's  
13 auctioneer-of-record ceases to serve as auctioneer-of-record  
14 for the auction company, both the auction company and the  
15 auctioneer-of-record or the auctioneer-of-record's legal  
16 representative shall notify the board in writing of the  
17 termination of such status.

18 (f) [Qualifications for license reissued after long  
19 inactivity] Reissuance of inactive license.--Any [person]  
20 individual to whom an auctioneer [or apprentice auctioneer]  
21 license has been issued and [who has been inactive as an  
22 auctioneer or apprentice auctioneer for a period of seven years  
23 without renewing the license issued to him shall be required to  
24 submit to and pass an examination approved by the board prior to  
25 having a license reissued to him.] whose license has been in an  
26 inactive or nonrenewed status for a period of seven or more  
27 years shall be required to submit to and pass an examination  
28 approved by the board prior to having a license reissued. Any  
29 individual to whom an apprentice auctioneer license has been  
30 issued and whose license has been in an inactive or nonrenewed

1 status for a period of seven or more years shall be required to  
2 make a new application to the board.

3 [(g) Designation of auctioneer-of-record.--If the applicant  
4 for a license is a partnership, association or corporation, then  
5 a member of the partnership or association or an officer of the  
6 corporation, who is licensed in this Commonwealth as an  
7 auctioneer, must be designated as the auctioneer-of-record. The  
8 auctioneer-of-record is principally responsible for the conduct  
9 of the auctions of the partnership, association or corporation  
10 in accordance with this act. A partnership, association or  
11 corporation auctioneer license becomes invalid if the license of  
12 the auctioneer-of-record is not renewed or is suspended or  
13 revoked.]

14 (g.1) Special license to conduct auction.--An auctioneer or  
15 auction company authorized to engage in auctioneering in another  
16 state shall, on application and payment of the license fee, be  
17 issued a special license for each specifically identified  
18 auction to be conducted in this Commonwealth. Applications must  
19 be made not less than 20 days in advance of the auction or sale  
20 at auction and must include the name and address of the seller  
21 or owner of all items to be sold. All applications are subject  
22 to approval by the board and shall include proof of authority to  
23 engage in auctioneering in the other state. This subsection does  
24 not prohibit an auctioneer or auction company licensed in  
25 another state from working or sharing compensation with a  
26 licensed Pennsylvania auctioneer or auction company in this  
27 Commonwealth with respect to an auction conducted pursuant to a  
28 contract between the seller or owner of the property and an  
29 auctioneer or auction company licensed in this Commonwealth and,  
30 under such circumstances, a special license shall not be

1 required unless the out-of-State auctioneer will call bids or  
2 engage in any other conduct that requires a license under this  
3 act.

4 [(h) Sales exempt from license requirements.--

5 The requirement to obtain a license under this act does not  
6 apply to sales at auction in the following circumstances:

7 (1) To a specified single sale per year conducted by the  
8 owner of property if the owner is not engaged in the business  
9 of selling the property and if the property is owned by the  
10 person in an individual capacity.

11 (2) To a sale conducted by or on behalf of a charitable  
12 organization if the person conducting the sale receives no  
13 compensation therefor.

14 (3) To a sale conducted by or on behalf of a person  
15 appointed by judicial order or decree.

16 (4) To a sale conducted in the settlement of any  
17 decedent's estate.

18 (5) To a sale conducted by or under the direction of any  
19 public authority.

20 (6) To any sale required by law to be at auction.

21 (i) Special license to conduct auction.--An auctioneer  
22 authorized to engage in auctioneering in another state shall,  
23 upon application and payment of the license fee, be issued a  
24 special license for each auction conducted by him. Applications  
25 must be made 20 days in advance of the sale and must include the  
26 name and address of the consignor or owner of all items to be  
27 sold. All applications are subject to approval by the board and  
28 shall include proof of authority to engage in auctioneering in  
29 the other state.]

30 Section 2. The act is amended by adding a section to read:

1 Section 3.1. Sales exempt from license requirements.

2 The requirement to obtain a license under this act does not  
3 apply to sales at auction in the following circumstances:

4 (1) To a specified single sale per year conducted by the  
5 owner of property if the owner is not engaged in the business  
6 of selling the property and if the property is owned by the  
7 person in an individual capacity.

8 (2) To a sale conducted by or on behalf of a charitable  
9 organization if the person conducting the sale receives no  
10 compensation therefor.

11 (3) To a sale conducted by or on behalf of a person  
12 appointed by judicial order or decree.

13 (4) To a sale conducted in the settlement of any  
14 decedent's estate conducted by the executor or administrator  
15 of the estate.

16 (5) To a sale conducted by or under the direction of any  
17 public authority.

18 (6) To a sale required by law to be at auction.

19 Section 3. Section 4 of the act is amended by adding a  
20 subsection to read:

21 Section 4. Status of existing licensees.

22 \* \* \*

23 (c) Licensed auction houses.--An auction house license  
24 issued under and pursuant to this act and existing on the  
25 effective date of this paragraph shall remain in full force and  
26 effect until the license shall expire and shall not be subject  
27 to renewal. Thereafter, auction house licenses will no longer be  
28 issued or renewed in this Commonwealth, and any holder of an  
29 expired auction house license who is not also the holder of an  
30 auction company license shall be required to obtain either an

1 auction company license or an auctioneer license in order to  
2 continue in the business and profession of auctioneering in this  
3 Commonwealth.

4 Section 4. Section 5 of the act, amended October 8, 2008  
5 (P.L.1080, No.89), is amended to read:

6 Section 5. Applications for initial and renewal licenses and  
7 examination.

8 (a) Application for auctioneer license.--Applications for  
9 license as an auctioneer shall be made to the board in writing  
10 [upon] on forms provided by the board which shall contain such  
11 information as [to the individual or, if the applicant is a  
12 partnership, association or corporation, as to its members or  
13 officers, as] the board requires. If the applicant is an  
14 individual, the application shall be signed by that individual.  
15 If the applicant is a partnership or an association, the  
16 application shall be signed by a member. If the applicant is a  
17 corporation, the application shall be signed by an officer.

18 (a.1) Apprenticeship.--An application by a licensed  
19 apprentice auctioneer seeking to qualify on the basis of an  
20 apprenticeship shall contain or be accompanied by satisfactory  
21 evidence that the applicant [was] meets one of the following:

22 (1) Was in the employ of [a sponsor] one or more  
23 qualified sponsors for at least two years total and  
24 participated for compensation in not less than 30 auctions on  
25 the dates and at the locations provided by the applicant.

26 [Upon the filing of an application, the board shall  
27 investigate the allegations contained in the application and  
28 if, upon investigation, it finds the allegations untrue, it]

29 (2) Was in the employ of one or more qualified sponsors  
30 for at least one year total and participated for compensation

1 in not less than 15 auctions on the dates and at the  
2 locations provided by the applicant and successfully  
3 completed a course of study in auctioneering at a Group B  
4 auction school.

5 (a.2) Group A auction school attendance.--An application by  
6 an applicant seeking to qualify on the basis of having completed  
7 a course of study in auctioneering at a Group A auction school  
8 shall contain or be accompanied by satisfactory evidence that  
9 the applicant has completed such course of study.

10 (a.3) Affidavit.--Each application for licensure as an  
11 auctioneer shall include a self-affirming affidavit, in a form  
12 as prescribed by the board, attesting to the truth and accuracy  
13 of the statements contained in the application. If an applicant  
14 makes false or misleading statements in an application, the  
15 board may refuse to examine or license the applicant or may  
16 revoke any license issued to the applicant on the basis of  
17 materially untrue allegations contained in the application for a  
18 license. The board shall set forth in writing its findings and  
19 reasons for its refusal or revocation and furnish a copy to the  
20 applicant.

21 (b) Application for apprentice auctioneer license.--  
22 Applications for license as an apprentice auctioneer shall be  
23 made to the board in writing [upon] on forms provided by the  
24 board which shall contain such information as to the applicant  
25 as the board requires. For license renewals, the licensee shall  
26 set forth the period of time, if any, during which [he] the  
27 apprentice auctioneer was engaged in the auction profession,  
28 stating the name of [his present] the apprentice auctioneer's  
29 current qualified sponsor and any former qualified sponsor for  
30 the period of five years immediately preceding the date of the

1 renewal. If it becomes necessary to change qualified sponsors,  
2 the apprentice auctioneer must notify the board by letter upon  
3 the termination of the sponsorship and submit a transfer form,  
4 provided by the board, when a new qualified sponsor is obtained.  
5 An apprentice auctioneer license is invalid when there is no  
6 sponsoring auctioneer and credit does not accrue during that  
7 time. A license will be [reissued] reactivated when the  
8 apprentice auctioneer submits a transfer form which informs the  
9 board that [he] the apprentice auctioneer has secured a new  
10 qualified sponsor.

11 (b.1) Application for auction company license.--Every  
12 legally recognized entity seeking an auction company license  
13 shall file with the board an application in writing on forms  
14 provided by the board which shall contain such information as to  
15 the applicant and as to the members or officers of the  
16 applicant, as the board shall require. Each application shall  
17 identify an auctioneer-of-record. On the filing of an  
18 application, the board may refuse to license the applicant to  
19 operate an auction company on the basis of materially untrue  
20 allegations in the application.

21 (c) [Examinations] Auctioneer examinations.--The board shall  
22 contract with a professional testing organization for the  
23 preparation and administration of the auctioneer examination, in  
24 accordance with section 812.1(a) of the act of April 9, 1929  
25 (P.L.177, No.175), known as The Administrative Code of 1929. [No  
26 person] Except as otherwise provided under this act, no  
27 individual may be issued an auctioneer license unless the  
28 [person] individual passes an examination approved by the board.  
29 The board shall hold examinations at locations, times and dates  
30 prescribed by regulation of the board.

1 (d) Issuance of new license after revocation.--In the event  
2 the license of an auctioneer or an apprentice auctioneer is  
3 revoked by the board subsequent to the effective date of this  
4 act, no new license may be issued to that person until he  
5 complies with all the provisions of this act.

6 (e) Expiration and renewal of license.--All licenses issued  
7 by the board shall be for a maximum term of two years and shall  
8 expire on the last day of February of each odd year. It is the  
9 duty of all persons licensed to practice as an auctioneer [or],  
10 apprentice auctioneer [or to operate as an auction house] or  
11 auction company to renew the license biennially with the board  
12 and to pay the license fee for each biennial license renewal.  
13 Applications for renewals of licenses issued under this act  
14 shall be made within 60 days prior to the expiration of the  
15 license [upon] on forms and in the manner provided by the board.

16 (f) [Internet sales.--An applicant or licensee renewing a  
17 license under this section must indicate to the board whether or  
18 not sales will be conducted via an online Internet bidding  
19 platform.] Online trading assistant consignment sale  
20 transactions by licensees.--Auctioneers, apprentice auctioneers  
21 and auction companies licensed under this act may conduct online  
22 trading assistant consignment sale transactions. Initial and  
23 renewal applications for auctioneers, apprentice auctioneers and  
24 auction companies shall request that the applicant or licensee  
25 renewing a license indicate in the space provided on the form  
26 whether the applicant or licensee will also engage in online  
27 trading assistant consignment sale transactions.

28 (g) Self-affirming affidavit.--An application for an initial  
29 or renewal license shall include a preprinted self-affirming  
30 affidavit, to be signed by the applicant under the penalty of

1 perjury, attesting to the truth and accuracy of the allegations  
2 set forth in the application.

3 Section 5. The act is amended by adding a section to read:  
4 Section 5.1. Registration of trading assistants and trading  
5 assistant companies.

6 (a) Requirement for registration.--It shall be unlawful for  
7 an individual to act as a trading assistant, or for any legally  
8 recognized entity to act as a trading assistant company, without  
9 either first registering with or obtaining licensure from the  
10 board. A legally recognized entity conducting business as a  
11 trading assistant must register as a trading assistant company  
12 even though a member or officer is registered as a trading  
13 assistant. Registration is required on a biennial basis and  
14 renewal shall be due on the last day of February of each odd  
15 year.

16 (b) Application.--Application for registration under this  
17 section shall include the following:

18 (1) The name of the applicant, the business and the  
19 physical location where the business will be conducted.

20 (2) The date the applicant will begin accepting goods  
21 for sale through an online trading assistant consignment sale  
22 transaction.

23 (3) The applicant's Pennsylvania tax identification  
24 number.

25 (4) The applicant's e-mail address.

26 (c) Fee.--A registration fee of \$100 shall be included with  
27 each application for registration or renewal. The fee may be  
28 established by the board by regulation.

29 (d) Renewal.--It is the duty of all registrants to renew the  
30 registration biennially with the board and to pay the fee for

1 each biennial registration.

2 (e) Self-affirming affidavit.--An application for an initial  
3 or renewal registration shall include a preprinted self-  
4 affirming affidavit, to be signed by the applicant under the  
5 penalty of perjury, attesting to the truth and accuracy of the  
6 allegations set forth in the application.

7 Section 6. Sections 7 and 8 of the act are amended to read:

8 Section 7. [Special licensees] Licensees and registrants to  
9 furnish bond.

10 (a) General rule.--[A] No license, including a special  
11 license, or registration shall be granted or issued to any  
12 person under this act until the applicant has filed with the  
13 board an approved bond payable to the Commonwealth in the [penal  
14 sum] amount of \$5,000 [shall accompany every application for a  
15 special license]. The bond shall be executed by a surety company  
16 authorized by the laws of this Commonwealth to transact business  
17 in this Commonwealth, and no licensee or registrant shall engage  
18 in the businesses regulated under this act without an active  
19 bond. The bond shall be for the use of the Commonwealth and for  
20 any person or persons who may have a cause of action against a  
21 licensee [arising] or registrant under this act.

22 (b) Conditions of bond.--The [conditions] condition of the  
23 bond shall be that the licensee, including a special licensee or  
24 registrant, will comply with and abide by the provisions of this  
25 act and will pay to the Commonwealth, the board or any person or  
26 persons any and all money that may come due to the Commonwealth,  
27 the board or the person or persons from a licensee or registrant  
28 under and by virtue of this act.

29 (c) Action on bond.--If any person is aggrieved by the  
30 misconduct of any licensee, including a special licensee or

1 registrant and recovers judgment against the licensee or  
2 registrant therefor, the person may on any execution issued  
3 under the judgment maintain an action upon the bond of the  
4 licensee or registrant in any court having jurisdiction of the  
5 amount claimed.

6 Section 8. Authority to transact business not transferable.

7 The authority to transact business as an auctioneer,  
8 apprentice auctioneer[, auction house] or auction company  
9 licensed under [a license issued by the board] this act, or as a  
10 trading assistant or trading assistant company registered under  
11 this act, is restricted to the person named in the license or  
12 registration and may not be transferred to the benefit of any  
13 other person. [A partnership, association or corporation  
14 licensed under this act is only permitted to transact auction  
15 business through a member, officer or employee who is licensed  
16 under this act.]

17 Section 7. Sections 9, 10, 10.1 and 11 of the act are  
18 repealed:

19 [Section 9. Auction house license.

20 (a) Requirement for license.--Every person, except an  
21 individual who is licensed as an auctioneer, shall, before  
22 operating an auction house, obtain a license from the board to  
23 operate the auction house. Every partnership, association or  
24 corporation must obtain a license even though a member or  
25 officer is licensed as an auctioneer.

26 (b) Application for license.--Every person seeking a license  
27 to operate an auction house shall file with the board an  
28 application in writing upon forms provided by the board which  
29 shall contain such information as to the individual or, if the  
30 applicant is a partnership, association or corporation, as to

1 the members or officers, as the board requires. A person must  
2 file a separate application for each auction house to be  
3 operated. The application shall be accompanied by the license  
4 fee and surety bond required by this act.

5 (c) Investigation and refusal of license.--Upon the filing  
6 of an application, the board shall investigate the allegations  
7 contained in the application and, if, upon investigation, it  
8 finds the allegations untrue, it may refuse to license the  
9 applicant to operate an auction house.

10 (d) Information from auctioneer.--A licensed auctioneer who  
11 also operates an auction house shall notify the board in writing  
12 of the address of each auction house operated by him and of the  
13 trade or business name by which each auction house is known. The  
14 auctioneer shall notify the board in writing if the operation of  
15 the auction house is sold or discontinued or if the name or  
16 location of the auction house is changed.

17 Section 10. Auction company license.

18 (a) Requirement for license.--Every person, except an  
19 individual who is licensed as an auctioneer or an individual who  
20 is licensed to operate an auction house, shall, before operating  
21 an auction company, obtain a license from the board to operate  
22 the auction company. Every partnership, association or  
23 corporation must obtain a license even though a member or  
24 officer is licensed as an auctioneer.

25 (b) Application for license.--Every person seeking a license  
26 to operate an auction company shall file with the board an  
27 application in writing upon forms provided by the board which  
28 shall contain such information as to the individual or, if the  
29 applicant is a partnership, association or corporation, as to  
30 the members or officers, as the board requires. Each application

1 shall be accompanied by the license fee and surety bond required  
2 by this act.

3 (c) Investigation and refusal of license.--Upon the filing  
4 of an application, the board shall investigate the allegations  
5 contained in the application and, if, upon investigation, it  
6 finds the allegations untrue, it may refuse to license the  
7 applicant to operate an auction company.

8 (d) Information from auctioneer or auction house.--A  
9 licensed auctioneer or an individual licensed to operate an  
10 auction house, who also operates an auction company, shall  
11 notify the board in writing that he is operating an auction  
12 company and shall specify the trade or business name and the  
13 address of the principal place of business of each auction  
14 company which he operates. The individual who is licensed as an  
15 auctioneer or to operate as an auction house shall notify the  
16 board in writing if the operation of the auction company is sold  
17 or discontinued or if the name or location of the auction  
18 company is changed.

19 Section 10.1. Trading assistant registration.

20 (a) Requirement for registration.--It shall be unlawful for  
21 any individual to act as a trading assistant for a sale  
22 conducted by competitive bidding without either first  
23 registering with or obtaining licensure from the board.  
24 Registration is required on a biennial basis.

25 (b) Application.--Application for registration under this  
26 section shall include the following:

27 (1) Name of the applicant, the business and the physical  
28 location where the business will be conducted.

29 (2) Date the applicant will begin accepting goods for  
30 sale through an online Internet bidding platform.

1 (3) Pennsylvania tax identification number.

2 (4) E-mail address.

3 (c) Fee.--A registration fee of \$100 shall be included with  
4 each application for registration.

5 Section 11. Nonresident licensees.

6 (a) General rule.--A nonresident of this Commonwealth may be  
7 licensed as an auctioneer or apprentice auctioneer or to operate  
8 an auction house or auction company upon complying with all the  
9 provisions and conditions of this act required of residents of  
10 this Commonwealth.

11 (b) Waiver of certain requirements.--The board may waive the  
12 requirement for serving an apprenticeship or completing a course  
13 of study in auctioneering if the nonresident was:

14 (1) licensed by another state for at least two years; or

15 (2) established in the business of auctioneering for at  
16 least two years and, in the case of states that do not  
17 require a license, the board reviews the application to  
18 determine the qualifications of the applicant.

19 (c) Limitation on type of property sold.--The nonresident  
20 auctioneer or apprentice auctioneer is only permitted to sell at  
21 auction in this Commonwealth whatever property the laws of his  
22 state permit nonresident auctioneers and apprentice auctioneers  
23 to sell at auction.

24 (d) Ineligibility to sponsor apprentices.--A nonresident  
25 auctioneer is not a qualified auctioneer for the purpose of  
26 sponsoring or employing an apprentice auctioneer.]

27 Section 8. Section 12 of the act is amended to read:

28 Section 12. Reciprocity with other states.

29 (a) General rule.--[A nonresident of this Commonwealth who  
30 applies for a license as an auctioneer or apprentice auctioneer

1 may be granted a license for which he applies if he is licensed  
2 as an auctioneer or apprentice auctioneer by the proper  
3 authority of the state of his domicile,] A person who is  
4 licensed in good standing as an auctioneer, apprentice  
5 auctioneer or auction company in another state may, on  
6 application to the board, be granted licensure as an auctioneer,  
7 apprentice auctioneer or auction company in this Commonwealth  
8 upon the payment by the applicant of the proper [license]  
9 application fee and the filing with the board of a properly  
10 certified copy of the license issued to the applicant by the  
11 [state of his domicile, subject to the following limitations:

12 (1) The auctioneer licensing laws of the nonresident  
13 state must extend to licensed auctioneers and apprentice  
14 auctioneers of this Commonwealth the same rights and  
15 privileges and the same authority to conduct auction sales in  
16 that state as this act extends to nonresidents of this  
17 Commonwealth without the necessity of the licensed  
18 auctioneers and apprentice auctioneers of this Commonwealth  
19 to obtain additional or further licenses or authority from  
20 any political subdivision of that state to conduct an auction  
21 sale.

22 (2) The nonresident auctioneer or apprentice auctioneer  
23 is only permitted to sell at auction in this Commonwealth  
24 whatever property the laws of his state permit nonresident  
25 auctioneers and apprentice auctioneers to sell at auction.

26 (b) Bond.--The bond required by this act shall accompany the  
27 application.

28 (c) Change of nonresident status.--The movement from another  
29 state or jurisdiction to domicile in this Commonwealth  
30 eliminates the possibility of reciprocal licensing set forth in

1 this section and the individual must qualify for a license under  
2 terms of this act which are applicable to residents of this  
3 Commonwealth.] applicant's current licensing state, provided  
4 that:

5 (1) the requirements for licensure in the applicant's  
6 current licensing state are, in the determination of the  
7 board, commensurate with the requirements for licensure in  
8 this Commonwealth;

9 (2) the licensing laws of the applicant's current  
10 licensing state extend to licensees of this Commonwealth the  
11 same reciprocal rights and privileges in that state without  
12 the necessity of the licensees in this Commonwealth to obtain  
13 additional or further licenses or authority from any  
14 political subdivision of that state; and

15 (3) the applicant satisfies all other requirements of  
16 licensees and applicants for licensure in this Commonwealth,  
17 including the requirement to furnish a bond.

18 (a.1) Review by board.--Each application for licensure by  
19 reciprocity shall be reviewed by the board and shall be  
20 determined by a vote of the board.

21 Section 9. Section 13 of the act is repealed:

22 [Section 13. Licensee and registrant to furnish bond.

23 (a) General rule.--An auctioneer, apprentice auctioneer,  
24 auction company or auction house license or trading assistant  
25 registration shall not be granted or issued to any person until  
26 the applicant has filed with the board an approved bond payable  
27 to the Commonwealth in the amount of \$5,000. The bond shall be  
28 executed by a surety company authorized by the laws of this  
29 Commonwealth to transact business in this Commonwealth. The bond  
30 shall be for the use of the Commonwealth and for any person or

1 persons who may have a cause of action against a licensee or  
2 registrant under this act.

3 (b) Conditions of bond.--The condition of the bond shall be  
4 that the licensee or registrant will comply with and abide by  
5 the provisions of this act and will pay to the Commonwealth, the  
6 board or any person or persons any and all money that may come  
7 due the Commonwealth, the board or the person or persons from a  
8 licensee or registrant under and by virtue of this act.

9 (c) Action on bond.--If any person is aggrieved by the  
10 misconduct of any licensee or registrant and recovers judgment  
11 against the licensee or registrant therefor, the person may, on  
12 any execution issued under the judgment, maintain an action upon  
13 the bond of the licensee or registrant in any court having  
14 jurisdiction of the amount claimed.]

15 Section 10. Sections 14 and 15 of the act, amended October  
16 8, 2008 (P.L.1080, No.89), are amended to read:

17 Section 14. No other license or registration required.

18 No political subdivision of this Commonwealth shall have the  
19 power or authority to levy or collect any license tax or fee  
20 which is either a regulatory or a revenue measure upon or from  
21 any [auctioneer or apprentice auctioneer or trading assistant  
22 licensed or registered] licensee or registrant under this act  
23 nor to require [any auctioneer or apprentice auctioneer] the  
24 following:

25 (1) A licensee or registrant to be licensed by the  
26 political subdivision in order to carry on the business of  
27 [auctioneer or to conduct a sale at auction] the licensee or  
28 registrant.

29 (2) A licensee to be licensed by the political  
30 subdivision in order to conduct a sale at auction.

1           (3) A licensee or registrant to be licensed by the  
2           political subdivision in order to engage in online trading  
3           assistant consignment sale transactions.

4 Section 15. List of licensees and registrants.

5           The board shall maintain a current list of [any person  
6 licensed by or registered with the board] licensees and  
7 registrants under this act. The list shall be posted on the  
8 department's Internet website and shall be subject to the act of  
9 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

10          Section 11. The act is amended by adding a section to read:

11 Section 15.1. Contracts.

12          Prior to conducting a transaction, a licensee or registrant  
13 shall enter into a written contract, in duplicate, with the  
14 owner or consignor of the property to be sold, containing the  
15 terms and conditions upon which the licensee or registrant  
16 agrees to conduct the sale. Each contract shall include the  
17 license or registration number of the licensee or registrant  
18 conducting the transaction. The contract may be entered into  
19 electronically. The contracts shall be kept on file in the  
20 office of the licensee or registrant and shall be open to  
21 inspection as provided in this act.

22          Section 12. Section 16 of the act, amended October 8, 2008  
23 (P.L.1080, No.89), is amended to read:

24 Section 16. Records of sales.

25          (a) General rule.--Every [auctioneer or trading assistant,  
26 whether acting in his own behalf or as the officer, agent or  
27 representative of another, after the receipt or acceptance by  
28 him of] licensee and registrant under this act who receives or  
29 accepts any property for sale at auction or sale through an  
30 online [Internet bidding platform,] trading assistant

1 consignment sale transaction shall maintain a written record  
2 which shall contain the following information, provided that if  
3 the transaction is being conducted by an auction company or a  
4 trading assistant company, the records shall be maintained by  
5 the auction company or trading assistant company:

6 (1) The name and address of the [person who employed him  
7 to conduct the transaction and of the owner, the owner's  
8 authorized agent or consignor] seller of the property to be  
9 sold.

10 (2) A copy of the written or electronic contract  
11 authorizing the transaction containing the terms and  
12 conditions of the transaction or a copy of the receiving  
13 invoice.

14 (3) A written record of the transaction.

15 (b) Inspection of records.--The records referred to in  
16 subsection (a) shall be open at all reasonable times for  
17 inspection by the board or any person who is authorized in  
18 writing for that purpose by the board and who exhibits the  
19 written authorization to the [auctioneer or trading assistant]  
20 licensee or registrant before making an inspection.

21 (c) Retention of records.--The written records shall be kept  
22 on file in the office of the [auctioneer or trading assistant]  
23 licensee or registrant for a period of [at least] not less than  
24 two years and, if the [auctioneer or trading assistant] licensee  
25 or registrant is notified of a complaint against [him] the  
26 licensee or registrant, the records shall be maintained [by the  
27 auctioneer or trading assistant] until the complaint is finally  
28 resolved.

29 (d) Receipts.--Every [auctioneer or trading assistant]  
30 licensee or registrant must provide a written receipt for all

1 transactions[. A] conducted by the licensee or registrant, which  
2 receipt may be provided electronically. [Receipts] Copies of  
3 receipts must be retained for [at least] not less than two  
4 years.

5 Section 13. Section 17 of the act is repealed:

6 [Section 17. Contracts for conduct of transaction.

7 (a) General rule.--Prior to conducting a transaction, an  
8 auctioneer or trading assistant shall enter into a written  
9 contract, in duplicate, with the owner or consignor of the  
10 property to be sold, containing the terms and conditions upon  
11 which the licensee or registrant agrees to conduct the sale.  
12 The contract may be entered into electronically. The contracts  
13 shall be kept on file in the office of the [auctioneer or  
14 trading assistant and shall be open to inspection as provided in  
15 this act. It is unlawful for a person to advertise an auction or  
16 sale at auction or a sale through an online Internet bidding  
17 platform without including in the advertisement or notice of  
18 sale the name and license number of the auctioneer, auction  
19 house or auction company or the registration number of the  
20 trading assistant conducting the transaction.

21 (b) Penalty.--A person who violates subsection (a) commits a  
22 summary offense and shall, upon conviction, be sentenced to pay  
23 a fine not less than \$50.]

24 Section 14. Sections 18 and 20 of the act are amended to  
25 read:

26 Section 18. Display of licenses and registration certificates.

27 (a) General rule.--Every [individual, partnership,  
28 association or corporation licensed as an auctioneer] licensee  
29 and registrant under this act shall prominently display the  
30 [license] certificate [in their] of licensure or registration at

1 the licensee's or registrant's office, and the current [renewal]  
2 wallet card or any facsimile thereof issued to the licensee or  
3 registrant shall be shown on demand of any person at all  
4 auctions or sales at auction conducted by any licensee or in  
5 connection with any transaction conducted by any registrant.

6 (b) Apprentice auctioneers.--All auctioneers shall  
7 prominently display in their office the license certificate of  
8 any apprentice auctioneer employed by them and the current  
9 renewal card or any facsimile thereof of any apprentice  
10 auctioneer employed by them shall be available on demand at any  
11 sale in which an apprentice is employed. A license issued to an  
12 apprentice auctioneer shall designate his qualified sponsor by  
13 name. Prompt notice in writing within ten days shall be given to  
14 the board by the apprentice auctioneer of any change of  
15 qualified sponsor and of the name of the new qualified sponsor  
16 into whose service the apprentice auctioneer is about to enter  
17 or has entered. A new license shall be issued without charge by  
18 the board to the apprentice auctioneer for the unexpired term of  
19 the original license. The new sponsor shall be a qualified  
20 [auctioneer] sponsor. The change of qualified sponsor or  
21 employment by any licensed apprentice auctioneer without notice  
22 to the board shall automatically cancel the license issued to  
23 him. It is the duty of the qualified sponsor named in the  
24 license to notify the board within ten days of any change in  
25 status of an apprentice licensed under him. It is unlawful for  
26 an apprentice auctioneer to pay compensation to an auctioneer  
27 for the sole purpose of listing the apprentice as an employee.

28 [(c) Suspension or revocation of license for violation.--The  
29 violation of this section by any licensee is sufficient cause  
30 for the suspension or revocation of his license at the

1 discretion of the board after a hearing in accordance with this  
2 act.]

3 Section 20. [Investigations and enforcement] Enforcement  
4 actions.

5 (a) General rule.--The board may[, upon its own motion, and  
6 shall, promptly upon the verified complaint in writing of any  
7 person setting forth specifically the wrongful act or acts  
8 complained of, investigate any action or business transaction of  
9 any person licensed by the board and may temporarily suspend or  
10 permanently revoke licenses issued by the board or impose a  
11 civil penalty not exceeding \$1,000 at any time when, after due  
12 proceedings provided in this act, it finds the licensee to have  
13 been guilty in the performance or attempt to perform any of the  
14 acts prohibited to others than licensees under this act, as  
15 follows:] refuse, suspend or revoke licenses or registrations  
16 issued by the board or impose a civil penalty not exceeding  
17 \$10,000 when it finds the applicant, licensee or registrant to  
18 have been guilty in the performance or attempt to perform any of  
19 the following:

20 (1) Knowingly making any substantial misrepresentation.

21 (2) Knowingly making any false promise of a character  
22 likely to influence, persuade or induce.

23 (3) A continued or flagrant course of misrepresentation  
24 or making false promises through agents or apprentice  
25 auctioneers.

26 (4) Within five years prior to the issuance of the  
27 license then in force, conviction in a court of competent  
28 jurisdiction in this or any other state or in Federal court  
29 of forgery, embezzlement, obtaining money under false  
30 pretenses, extortion, conspiracy to defraud or other like

1 offense or offenses.

2 (5) Any failure to account for or to pay over moneys  
3 belonging to others which have come into his or its  
4 possession arising out of a sales transaction within a  
5 reasonable time.

6 (6) Any misleading or untruthful advertising.

7 (7) Any act or conduct in connection with a sales  
8 transaction which demonstrates incompetency, bad faith or  
9 dishonesty.

10 (8) Knowingly using false bidders, cappers or puffers.

11 (9) Violating any of the provisions of this act.

12 (10) Violating any regulation of the board.

13 (11) Having his license to engage in the auction  
14 profession revoked or suspended or having other disciplinary  
15 action taken or his application for licensure refused,  
16 revoked or suspended by the proper licensing authority of  
17 another state.

18 (12) [Failing] The failure of a licensee or registrant  
19 who receives moneys on account of others to establish or  
20 maintain an escrow account as required in section 21.

21 (13) For any licensed auctioneer or apprentice  
22 auctioneer to bid and buy for himself at any auction he is  
23 conducting.

24 (14) For any [licensed auctioneer or apprentice  
25 auctioneer] licensee or registrant to pay any compensation in  
26 money or other valuable thing to any person other than a  
27 [licensed auctioneer or apprentice auctioneer] licensee or  
28 registrant for the rendering of any service or the doing of  
29 any of the acts by this act forbidden to be rendered or  
30 performed by other than licensees or registrants.

1           (15) For a licensee or registrant to advertise an  
2           auction or a sale through an online trading assistant  
3           consignment sale without including in the advertisement or  
4           notice of sale the name and the license or registration  
5           number of the licensee or registrant conducting the  
6           transaction.

7           (b) [Notice of charges.--Before refusing, suspending or  
8           revoking any license, the board shall, in writing, notify the  
9           applicant or licensee of the charges against him, accompanying  
10          the notice with a copy of the complaint filed, if any, and the  
11          board shall accord the applicant or licensee ample opportunity  
12          to be heard in person or by counsel.] Procedure.--A disciplinary  
13          action of the board shall be taken subject to the right of  
14          notice, hearing and adjudication and the right of appeal, in  
15          accordance with 2 Pa.C.S. (relating to administrative law and  
16          procedure).

17          Section 15. Section 21 of the act, amended October 8, 2008  
18          (P.L.1080, No.89), is amended to read:

19          Section 21. Escrow account.

20          Every [auctioneer] licensee and registrant shall  
21          [immediately] promptly deposit moneys, received from the sale of  
22          property, belonging to others in a separate custodial or trust  
23          fund account maintained by the [auctioneer or trading assistant]  
24          licensee or registrant until the transaction involved is  
25          terminated, at which time the [auctioneer or trading assistant]  
26          licensee or registrant shall account for the full amount  
27          received. Such moneys received by a licensee or registrant  
28          working for an auction company or trading assistant company  
29          shall be promptly turned over to such company for deposit and  
30          accounting.

1 Section 16. Sections 22 and 23 of the act are amended to  
2 read:

3 Section 22. Hearing on charges.

4 (a) General rule.--If the applicant [or], licensee or  
5 registrant desires, the board shall grant a hearing upon the  
6 charges. The [said hearings] hearing may be held by the board or  
7 any member thereof or by any other person duly authorized by the  
8 board for such purpose in any particular case.

9 (b) Report of hearing officer.--If the hearing is held by a  
10 member of the board or by a person authorized by the board, a  
11 written report of the hearing shall be made to the board.

12 (c) Action on report of hearing officer.--The board may  
13 adopt the findings in the report or may, with or without  
14 additional testimony, either return the report for any further  
15 consideration the board deems necessary or make additional or  
16 other findings of fact on the basis of all the legally probative  
17 evidence in the record and enter its findings of fact and  
18 conclusions of law and order in accordance with the requirements  
19 for the issuance of an adjudication under [Title 2 of the  
20 Pennsylvania Consolidated Statutes] 2 Pa.C.S. (relating to  
21 administrative law and procedure).

22 Section 23. Administration and enforcement.

23 (a) Administration and enforcement.--The board shall  
24 administer and enforce this act.

25 (b) Issuance and supervision of licenses.--It is the duty of  
26 the board, on payment of the required fee and on compliance with  
27 the requirements of this act, to issue a license as an  
28 auctioneer, apprentice auctioneer or auction company and to  
29 issue registrations to trading assistants and to trading  
30 assistant companies. The board shall supervise and control all

1 licenses and registrations issued under this act.

2 Section 17. Sections 26(c), 27, 28 and 29 of the act,  
3 amended October 8, 2008 (P.L.1080, No.89), are amended to read:

4 Section 26. Revocation or suspension of license or  
5 registration.

6 \* \* \*

7 (c) Revocation of license or registration of legally  
8 recognized entity for violation by member or officer.--In the  
9 event of the revocation or suspension of the license or  
10 registration issued to any member of a partnership or to any  
11 officer of an association [or], corporation, limited liability  
12 company or other entity, the license or registration issued to  
13 the [partnership, association or corporation] legally recognized  
14 entity shall be revoked by the board unless, within a time fixed  
15 by the board, the connection of the member of the partnership is  
16 severed and his interest in the partnership and his share in its  
17 activities brought to an end or the officer of the association  
18 [or], corporation, limited liability company or other entity is  
19 discharged and has no further participation in its activities.

20 Section 27. Issuance of new license or registration pending  
21 investigation and decision.

22 Pending an investigation or proceeding before the board  
23 affecting any licensee or registrant and pending final decision  
24 upon any appeal taken by a licensee or registrant from the  
25 ruling of the board, no new registration may be issued or  
26 license may be issued to a licensee or to a partnership of which  
27 he is a member or employee or to an association [or],  
28 corporation, limited liability company or other entity of which  
29 he is an officer or employee except for the period of the  
30 investigation or proceeding and subject to the action of the

1 board.

2 Section 28. Issuance of new license or registration after  
3 revocation.

4 (a) General rule.--After the revocation of any license or  
5 registration, no new license or registration may be requested by  
6 or issued to the same licensee or registrant within a period of  
7 at least [one year] five years from the date of the revocation  
8 nor, except in the sole discretion of the board and subject to  
9 the conditions of this act, at any time thereafter.

10 (b) Criminal conduct.--No license or registration shall be  
11 issued by the board to any person known by it to have been,  
12 within five years, convicted of forgery, embezzlement, obtaining  
13 money under false pretenses, extortion, criminal conspiracy to  
14 defraud or other like offense, or to any copartnership of which  
15 any person is a member or to any association [or], corporation,  
16 limited liability company or other entity of which any person is  
17 an officer or employee or in which as a stockholder any person  
18 has or exercises a controlling interest either directly or  
19 indirectly.

20 Section 29. Penalties.

21 (a) Criminal penalties.--Any person who engages in or  
22 carries on the profession or acts in the capacity of [an  
23 auctioneer, apprentice auctioneer, auction house, auction  
24 company or trading assistant] a licensee or registrant in this  
25 Commonwealth without a current license or registration or who  
26 employs any [person] individual without a current license [as an  
27 apprentice auctioneer] or registration:

28 (1) For a first offense, commits a summary offense and  
29 shall, upon conviction, be sentenced to pay a fine not  
30 exceeding \$500 or to imprisonment not exceeding three months,

1 or both.

2 (2) For a second or subsequent offense, commits a  
3 misdemeanor of the third degree and shall, upon conviction,  
4 be sentenced to pay a fine of not less than \$2,000 but not  
5 more than \$5,000 or to imprisonment for not less than one  
6 year but not more than two years, or both.

7 (b) Civil penalty.--

8 (1) In addition to any other civil remedy or criminal  
9 penalty provided for in this act, the board, by a vote of the  
10 majority of the maximum number of the authorized membership  
11 of the board as provided by law or by a vote of the majority  
12 of the duly qualified and confirmed membership or a minimum  
13 of four members, whichever is greater, may levy a civil  
14 penalty of up to [\$1,000] \$10,000 on any person:

15 (i) who engages in the business or practice of  
16 auctioneering without being properly licensed to do so  
17 under this act[.]; or

18 (ii) who engages in business as a trading assistant  
19 or trading assistant company without being properly  
20 registered to do so under this act.

21 (2) The board shall levy this penalty only after  
22 affording the accused party the opportunity for a hearing, as  
23 provided in [Title 2 of the Pennsylvania Consolidated  
24 Statutes] 2 Pa.C.S. (relating to administrative law and  
25 procedure).

26 (c) Failure to register.--Any [individual] person who fails  
27 to register under section [10.1] 5.1 may be subject to a penalty  
28 of up to \$500 levied by the commissioner. The [individual]  
29 person may request a hearing before the board, which shall be  
30 conducted in accordance with 2 Pa.C.S.

1 Section 18. Section 30 of the act is amended to read:

2 Section 30. Actions by unlicensed or unregistered persons  
3 prohibited.

4 No action or proceeding may be instituted and no recovery may  
5 be had in any court of this Commonwealth by any [individual,  
6 partnership, association or corporation] person for compensation  
7 for any act done or services rendered the doing or rendering of  
8 which is prohibited under this act to other than persons  
9 licensed or registered by the board, unless the [individual,  
10 partnership, association or corporation] person was licensed or  
11 registered at the time of doing the act or rendering of service.

12 Section 19. Section 31(a) of the act, amended October 8,  
13 2008 (P.L.1080, No.89), is amended to read:

14 Section 31. State Board of Auctioneer Examiners.

15 (a) Representation.--The State Board of Auctioneer Examiners  
16 shall consist of the Commissioner of Professional and  
17 Occupational Affairs, the Director of the Bureau of Consumer  
18 Protection in the Office of Attorney General, or his designee,  
19 two members appointed by the Governor with the advice and  
20 consent of the Senate, who shall be persons representing the  
21 public at large, one member appointed by the Governor with the  
22 advice and consent of the Senate, who shall be a registered  
23 trading assistant, and four members appointed by the Governor  
24 with the advice and consent of the Senate, [who shall be  
25 licensed auctioneers, have served as licensed auctioneers for  
26 ten years or more and have conducted at least 50 auctions each  
27 year] each of whom is a licensed auctioneer meaningfully engaged  
28 in the auction industry such that the person is aware of current  
29 and developing issues and practices, and each of whom shall have  
30 been licensed as an auctioneer for ten years or more.

1           \* \* \*

2       Section 20. This act shall take effect in 60 days.