

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1166
Committee Substitute Favorable 6/23/97

Short Title: Auctioneer Education Requirements.

(Public)

Sponsors:

Referred to:

April 28, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE EDUCATIONAL REQUIREMENTS FOR
3 AUCTIONEERS, APPRENTICE AUCTIONEERS, AND PRINCIPALS IN AN
4 AUCTION FIRM.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 85B-4 reads as rewritten:

7 "**§ 85B-4. Licenses required.**

8 (a) No person who is not exempt under G.S. 85B-2, shall sell, or offer to sell,
9 goods or real estate at auction in this State or perform any act for which an auction firm
10 license is required unless the person holds a currently valid license issued under this
11 Chapter.

12 (b) No person shall be licensed as an apprentice auctioneer, auctioneer, or receive
13 an auction firm license if the person:

14 (1) Is under 18 years of ~~age~~; age.

15 (1a) Is not a high school graduate or the equivalent. However, a person
16 licensed under this Chapter prior to July 1, 1997, does not need to meet
17 this requirement.

18 (2) Repealed by Session Laws 1983, c. 751, s. 6.

- 1 (3) Has within the preceding five years pleaded guilty to, entered a plea of
2 nolo contendere or been convicted of any felony, or committed or been
3 convicted of any act involving fraud or moral ~~turpitude~~; turpitude.
4 (4) Has had an auctioneer or apprentice auctioneer or auction firm license
5 ~~revoked; or~~ revoked.
6 (5) Has, within the preceding five years, committed any act ~~which~~ that
7 constitutes grounds for license suspension or revocation under this
8 Chapter or a Commission rule.

9 (c) Each applicant for an apprentice auctioneer license shall submit a written
10 application in a form approved by the Commission and containing at least two statements
11 by residents of the community in which the applicant resides attesting to the applicant's
12 good moral character.

13 (c1) Each apprentice auctioneer application and license shall name a licensed
14 auctioneer to serve as the supervisor of the apprentice. No apprentice auctioneer may
15 enter into an agreement to conduct an auction, or conduct an auction, without the express
16 approval of his supervisor. The supervisor shall review all contracts before approving
17 them and shall regularly review the records his apprentice is required to maintain under
18 G.S. 85B-7 to see that they are accurate and current, and shall perform such other
19 supervisory duties as may be required by the Commission.

20 (d) No person shall be licensed as an auctioneer unless the person has held an
21 apprentice auctioneer license and served as an apprentice auctioneer for the two
22 preceding years, accumulated sufficient knowledge and experience in such areas of the
23 auctioneer profession as the Commission may deem appropriate, and has taken an
24 examination approved by the Commission and performed on it to the satisfaction of the
25 Commission. The examination shall test the applicant's understanding of the law relating
26 to auctioneers and auctions, ethical practices for auctioneers, the mathematics applicable
27 to the auctioneer business, and such other matters relating to auctions as the Commission
28 considers appropriate. The examination shall be given at least twice each year in Raleigh,
29 and at other times and places the Commission designates, but no person shall be allowed
30 to take the examination within six months after having failed it a second time.

31 ~~Any person who has been in the auctioneer business in this State for at least two years~~
32 ~~prior to the effective date of this act [July 1, 1973], and who makes proper application to~~
33 ~~the Commission within one year after July 1, 1973, may be licensed as an auctioneer~~
34 ~~without holding an apprentice license and serving as an apprentice of two years, and~~
35 ~~without taking the examination required by this subsection.~~—Any person who has
36 successfully completed the equivalent of at least 80 hours of classroom instruction in a
37 course in auctioneering at an institution approved by the Commission whose curriculum
38 and instructors meet the qualifications approved or established by the Commission may
39 be licensed as an auctioneer without holding an apprentice license and serving as an
40 apprentice for two years, but must take the examination required by this subsection and
41 perform on it to the satisfaction of the Commission.

42 Each applicant for an auctioneer license shall submit a written application in a form
43 approved by the Commission. If the applicant has been previously licensed as an

1 apprentice auctioneer, the application shall contain an evaluation by the applicant's
2 supervisor of the applicant's performance as an apprentice auctioneer and the applicant's
3 performance in specific areas as required by the Commission. If the applicant is
4 exempted from apprenticeship after completion of the equivalent of at least 80 hours of
5 classroom instruction in auctioneering, the application shall contain a transcript of the
6 applicant's course work in auctioneering. Each application shall be accompanied by
7 statements of at least two residents of the community in which the applicant resides
8 attesting to the applicant's good moral character. The Commission may require
9 verification of any information included in an application for an auctioneer license and
10 may request other information or verification of information provided to determine
11 whether the applicant possesses the good moral character or other qualifications for
12 licensure.

13 (e) Each license issued under this Chapter shall be valid from July 1 of the year
14 issued, or from the date issued, whichever is later, to the following June 30 unless sooner
15 revoked or suspended pursuant to this Chapter or a rule of the Commission. A license
16 may be renewed for one year at a time, except an apprentice auctioneer license may not
17 be renewed for more than three times. No examination shall be required for renewal of an
18 auctioneer license if the application for renewal is made within 24 months of the
19 expiration of the previous license.

20 (e1) The Commission may require licensees to complete annually not more than six
21 hours of Commission approved continuing education courses prior to license renewal.
22 The Commission may impose different continuing education requirements, including no
23 such requirements, upon the classes of licensees under this Chapter. The Commission
24 may waive any or all continuing education requirements in cases of hardship, disability,
25 or illness or under other circumstances as the Commission deems appropriate.

26 (f) No person shall be issued an auctioneer or apprentice auctioneer license until
27 the person has made the contribution to the Fund as required by G.S. 85B-4.1.

28 (g) An auction firm must be licensed by the Board even though no owner or
29 officer of the firm acts as an auctioneer. To be licensed an auction firm must make the
30 contribution to the Fund as required by G.S. 85B-4.1 and must pay the proper fees as set
31 out in G.S. 85B-6. Auction firms are covered by the provisions of G.S. 85B-8.

32 An auction firm license issued by the Commission is restricted to the persons named
33 in the license and does not inure to the benefit of any other person. Where a license is
34 issued to an auction firm, authority to transact business under the license is limited to the
35 person or persons designated in the application and named in the license.

36 The designated person or persons, prior to being licensed, shall be required to take a
37 written examination, approved by the Commission, and demonstrate to the satisfaction of
38 the Commission a thorough understanding of the law relating to the conduct of the
39 auction business and other matters the Commission deems appropriate. An individual
40 who is licensed as an auctioneer and who is the designated person applying for an auction
41 firm license is not required to take the auction firm examination. Licensed real estate
42 brokers and real estate firms may be exempt from the auction firm examination provided
43 they employ or associate themselves with a licensed auctioneer to handle those aspects of

1 the transactions peculiar to the auctioneer profession. Any person or entity, on the
 2 effective date of this Chapter, duly licensed as an auction firm in good standing is not
 3 required to take any examination in order to maintain or to renew an auction firm license
 4 provided that the license does not otherwise expire or lapse and is not suspended or
 5 revoked by the Commission.

6 (h) The Commission shall publish at least once a year a list of names and
 7 addresses of all persons, sole proprietorships, partnerships and corporations holding valid
 8 apprentice auctioneer, auctioneer, or auction firm licenses.

9 (i) The Commission may investigate as it deems necessary the ethical background
 10 of any applicant for licensure under this Chapter."

11 Section 2. G.S. 85B-4.1 reads as rewritten:

12 **"§ 85B-4.1. Auctioneer Recovery Fund.**

13 (a) In addition to license fees, upon application for a license or renewal of a
 14 license, the Commission may charge the applicant or licensee up to fifty dollars (\$50.00)
 15 per year to be included in the Fund.

16 (b) The Commission shall maintain at least ~~one~~two hundred thousand dollars
 17 ~~(\$100,000)~~(\$200,000) in the Fund for use as provided in this Chapter. The Fund may be
 18 invested by the State Treasurer in interest bearing accounts, and any interest accrued shall
 19 be added to the Fund. Sufficient liquidity shall be maintained to insure that funds will be
 20 available to satisfy claims processed through the Board. The Fund may be disbursed by a
 21 warrant drawn against the State Treasurer or by other method at the discretion of the
 22 State Treasurer.

23 (c) The Commission, in its discretion, may use contents of the Fund in excess of
 24 ~~one~~two hundred thousand dollars ~~(\$100,000)~~(\$200,000) for the following purposes:

- 25 (1) To promote education and research in the auctioneer profession, in order
 26 to benefit persons licensed under this Chapter and to improve the
 27 efficiency of the ~~profession;~~profession.
- 28 (2) To underwrite educational seminars, training centers, and other forms of
 29 educational projects for the use and benefit of ~~licensees;~~licensees.
- 30 (3) To sponsor, contract for, or underwrite education and research projects
 31 in order to advance the auctioneer profession in ~~North Carolina;~~and
 32 North Carolina.
- 33 (4) To cooperate with associations of auctioneers, or other groups, in order
 34 to promote the enlightenment and advancement of the auctioneer
 35 profession in North Carolina."

36 Section 3. G.S. 85B-6(a) reads as rewritten:

37 **"§ 85B-6. Fees; local governments not to charge fees or require licenses.**

38 (a) The Commission shall collect and remit to the State Treasurer fees in an
 39 amount not to exceed the following:

<u>Item</u>	<u>Maximum Fee</u>
40 Apprentice Auctioneers:	
41 Application for license	\$50.00 <u>\$125.00</u>
42 Issuance or renewal of license	50.00 <u>125.00</u>

1	Auctioneers:		
2	Application for license	50.00	<u>125.00</u>
3	Examination	25.00	<u>75.00</u>
4	Issuance or renewal of license	100.00	<u>250.00</u>
5	Auction Firms:		
6	Application for license	50.00	<u>125.00</u>
7	Examination	25.00	<u>75.00</u>
8	Issuance or renewal of license	100.00	<u>250.00</u>
9	Reinstatement of License	25.00	<u>75.00</u>

10 An application fee for a license and an examination fee are nonrefundable. The
 11 amount payable by a nonresident under G.S. 85B-5 to obtain a nonresident reciprocal
 12 auctioneer license is the greater of the amount set in the above table for an examination
 13 for and the issuance of an auctioneer's license and the amount the nonresident's state
 14 would charge a resident auctioneer of this State to obtain a comparable license from that
 15 state.

16 A reinstatement fee is payable when a person applies for renewal of a license after the
 17 license has lapsed for failure to renew it before it expired. The reinstatement of a lapsed
 18 license is not retroactive in effect and does not limit the authority of the courts or of the
 19 Commission to take disciplinary action against a person who engages in the auctioneer
 20 profession with a lapsed license."

21 Section 4. G.S. 85B-9 reads as rewritten:

22 **"§ 85B-9. Penalties and enforcement.**

23 (a) Any person, corporation or association of persons violating the provisions of
 24 G.S. 85B-4(a) shall be guilty of a Class 1 misdemeanor. The Attorney General of North
 25 Carolina, or the Attorney General's designee, shall have concurrent jurisdiction with the
 26 district attorneys of this State to prosecute violations of this Chapter.

27 (b) The Commission may in its own name seek injunctive relief in the General
 28 Court of Justice to restrain any violation or anticipated violation of the provisions of G.S.
 29 85B-4(a) or any violation of this Chapter.

30 (c) The Commission shall be entitled to the services of the Attorney General of
 31 North Carolina in enforcing the provisions of this Chapter or may employ an attorney to
 32 assist and represent it in enforcement of specific matters."

33 Section 5. This act is effective when it becomes law.