



SPONSOR: Rep. Lee & Sen. Bunting ;
Reps. Lavelle, Hocker, Hudson, Manolacos, Peterman,
Ramone, D. Short, Bolden, Carson, Mitchell, Mulrooney

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 212

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE CREATING THE DELAWARE AUCTION AND AUCTIONEER LICENSING ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Amend Title 24, Delaware Code by making insertions as shown by underlining to add a new chapter to
2 read as follows:

3 CHAPTER 56. AUCTIONEER AND AUCTION FIRM LICENSING ACT.

4 Subchapter I. General Provisions.

5 § 5601. Title.

6 This Act shall be known and may be cited as the “Delaware Auctioneer and Auction Firm Licensing Act”.

7 § 5602. Legislative intent.

8 The General Assembly finds that, without legislation, this State does not have the ability to evaluate the
9 competency of persons engaged in the business of auctioneering or to regulate the auction industry for the protection of the
10 public. The General Assembly further finds that this State does not have the ability, without legislation, to enter into
11 reciprocal agreements with other states to allow Delaware residents to practice as auctioneers in other states. Therefore, the
12 purpose of this chapter is to license auctioneers and auction firms and to regulate the business of auctioneering.

13 § 5603. Preemption.

14 A political subdivision of this State may not levy on or collect from an auctioneer or auction firm a license tax or
15 fee as a regulatory or revenue measure or require additional licensing, if the auctioneer or auction firm holds a license under
16 this chapter and is in compliance with this chapter.

17 § 5604. Definitions.

18 As used in this chapter:

19 (1) “Absolute auction” means an auction where real or personal property is sold to the highest qualified
20 bidder with no limiting conditions or amount. The seller may not bid personally or through an agent on real or personal

21 property to be sold at an absolute auction. In an absolute auction, after the auctioneer calls for bids on real or personal
22 property, the property offered cannot be withdrawn unless no bid is made within a reasonable time.

23 (2) “Applicant” means a person applying for an auctioneer or auction firm license under this chapter.

24 (3) “Auction” means the public sale of real or personal property, or both, in which the sale price of the
25 property offered is increase by competitive bids until the highest accepted bidder becomes the purchaser.

26 (4) “Auctioneer” means an individual licensed under this chapter who engages in, or who, by advertising or
27 otherwise, holds himself or herself out as being available to engage in the calling for, the recognition of, and the acceptance
28 of competitive bids for the purchase of real or personal property at an auction, or who otherwise engages in the business of
29 auctioneering.

30 (5) “Auctioneering” or “business of auctioneering” means, in addition to the actual calling, recognition, and
31 acceptance of competitive bids, the following:

32 a. Contracting for an auction;

33 b. Accepting consignments of real or personal property for sale at auction;

34 c. Advertising an auction, but not beyond the day of the auction;

35 d. Offering real or personal property for sale at auction;

36 e. Accepting payment or disbursing monies for real or personal property sold at auction; and

37 f. Otherwise soliciting, arranging, sponsoring, or managing an auction, or holding oneself out as an
38 auctioneer or auction firm;

39 (6) “Auction firm” means a sole proprietorship, corporation, or LLC of which the owner is not a licensed
40 auctioneer, or a partnership, association, corporation, or other legal entity that sells, either directly or through agents, real or
41 personal property at auction, or that arranges, sponsors, manages, conducts, or advertises auctions, or otherwise engages in
42 the business of auctioneering. This definition applies whether or not an owner or officer of the business acts as an
43 auctioneer.

44 (7) “Calling for bids” means crying the auction, the chant, and asking the audience at an auction for bids.

45 (8) “Commission” means the Auctioneer Licensing Commission created by this chapter.

46 (9) “Consignment” means the act of delivering or transferring real or personal property, in fact or
47 constructively, to an auctioneer or the auctioneer’s agent in trust for the purpose of resale at auction, whereby title does not
48 pass to the buyer until the auctioneer declares the real or personal property sold. For the purpose of this chapter,
49 consignment may also mean a bailment for sale.

50 (10) “Conviction” means a verdict of guilty by the trier of fact, whether judge or jury, or a plea of guilty or a
51 plea of nolo contendere accepted by the Court.

52 (11) “Designated person” means a person approved by the Commission to have the authority to transact
53 business for an auction firm.

54 (12) “Division” means the Division of Professional Regulation.

55 (13) “Fund” means the Recovery Fund established under this chapter.

56 (14) “Person” means an individual or a legal entity, including a partnership, corporation, limited liability
57 company, or association.

58 (15) “Personal property” includes goods, wares, chattels, merchandise, domestic animals, and farm products.

59 (16) “Real property” means land, improvements upon the land, and all the rights that accompany owning the
60 land and its improvements.

61 (17) “Reserve auction” means an auction in which the seller retains the right to establish a minimum price, to
62 accept or decline any and all bids, or to withdraw the property at any time prior to the announcement of the completion of
63 the sale by the auctioneer. An auction is a reserve auction unless the property is, in explicit terms, put up without reserve
64 for an absolute auction.

65 (18) “State” means the State of Delaware.

66 § 5605. “Grandfather” licensing provision.

67 (a) Upon the effective date of this chapter and for a period of one (1) year thereafter, a person, including non-
68 residents, who has engaged in the business of auctioneering in this State for at least three (3) years immediately prior to the
69 enactment of this chapter and who has held a valid Delaware auctioneer business license for that time may apply for an
70 auctioneer license under this chapter without taking and successfully completing the examination set forth in § 5608(e) of
71 this chapter. The requirements for an application for an auctioneer’s license under this subsection are as follows:

72 (1) Submit an application to the Commission on the form provided by the Division;

73 (2) Submit an affidavit with the application stating that the applicant has been a practicing
74 auctioneer for at least three (3) years immediately prior to the enactment of this chapter and that the applicant has
75 actually called for bids in six (6) sales in the past twelve (12) months. The applicant must identify the places
76 involved and any other information necessary to confirm the affidavit information, as required by the Commission;

77 (3) Submit with the application the license fee of \$200;

78 (4) Submit the applicant’s initial contribution to the Recovery Fund in the sum of \$200, if the
79 application is accepted.

80 (b) Upon verification of the information contained in the application, if the individual is found to be
81 otherwise qualified, the Commission shall issue the applicant an auctioneer license without examination.

82 Subchapter II. Licensing Provisions.

83 § 5606. Auctioneer license.

84 It is unlawful for a person to conduct an auction, to engage in the business of auctioneering, to provide an auction
85 service, to hold himself or herself out as an auctioneer, or to advertise his or her services as an auctioneer in this State
86 without an auctioneer license issued pursuant to the provisions of this chapter, unless the auction sale is exempt under
87 § 5607 of this chapter.

88 § 5607. Exemptions.

89 The license requirements contained in §§ 5605 and 5606 of this chapter do not apply to any of the following types
90 of auction sales:

91 (1) A sale conducted by the owner of all of the real or personal property being offered by a sheriff or
92 constable, or by an attorney representing the owner, unless the owner's regular course of business includes the business of
93 auctioneering, or unless the owner originally acquired the real or personal property for the purpose of resale at auction;

94 (2) A sale of livestock conducted by a person who specializes in the sale of livestock, provided that the sale
95 is regulated by the federal Packers and Stockyards Act (7 U.S.C. 181 et. seq.) and the auctioneer is bonded by the United
96 States Department of Agriculture;

97 (3) A sale of real or personal property conducted by any charitable, religious, or civic organization that has a
98 tax-exempt status. The exemption to the license requirement in this subsection does not apply if the person engaged in the
99 business of organizing, arranging, or conducting the auction receives compensation or if consignments are sold at auction
100 and the consignor receives any proceeds from the sale;

101 (4) A sale of real or personal property conducted by an agent, officer, or employee of the State, any political
102 subdivision, or a federal agency in the conduct of his or her official duties;

103 (5) A sale of real or personal property required by law or ordered by a court of competent jurisdiction to be
104 sold at auction.

105 § 5608. Requirements for auctioneer license.

106 An applicant for an auctioneer license under this chapter must possess the following minimum qualifications:

107 (1) The applicant must have attained the age of eighteen (18) years by the date that the Commission receives
108 the application;

109 (2) The applicant must have obtained, at a minimum, a high school diploma, a General Equivalency Diploma
110 (G.E.D.), or its equivalent;

111 (3) The applicant must prepare a written application on forms provided by the Division;

112 (4) The applicant must have successfully completed at least 80 hours, as set forth in the Commission's rules
113 and regulations, of a prescribed course of study at an educational institution or auctioneering school approved by the

114 Commission, and must also have called for bids at a minimum of 15 auctions over a consecutive 2-year period under the
115 supervision of a licensed auctioneer;

116 (5) The applicant must take and successfully complete a written examination, as prescribed by the
117 Commission. The examination must include questions on ethics, reading comprehension, writing, elementary arithmetic,
118 elementary principles of land economics, general knowledge of bulk sales law, contracts of sale, agency, leases, and
119 brokerage, knowledge of real or personal property commonly sold at auction, ability to call for bids, knowledge of sale
120 preparation, proper sale advertising, and sale summary, as well as knowledge of the provisions of this chapter and the
121 Commission's rules and regulations. The Commission shall ensure that the various forms of the test remain secure;

122 (6) To defray the cost of administration of the examination, the applicant taking the examination must pay a
123 reasonable examination fee to be set by the Division, but not to exceed the Commission's cost of administering the
124 examination, or of having a third party administer it;

125 (7) The applicant must pay a licensing fee, not to exceed \$200, in an amount established by the Division;

126 (8) The applicant must pay an assessment fee of not less than \$200 nor more than \$300, as set forth in
127 § 5672(a) of this chapter, in an amount established by the Division for the Recovery Fund;

128 (9) Within the last five (5) years the applicant must not have had a conviction for an act of forgery or theft
129 that would constitute grounds for disciplinary action under the law, or for a felony that has a direct bearing on his or her
130 ability to practice competently;

131 (10) The applicant must not have been disciplined concerning his or her auctioneering activities, auctioneer
132 license, or auction firm license in any jurisdiction;

133 (11) A Delaware individual or business firm that conducts auctions online via the internet of real or personal
134 property located in Delaware must be licensed as an auctioneer or auction firm.

135 § 5609. Issuance of auctioneer license.

136 (a) Upon the receipt of a completed application for an initial or a renewal auctioneer license, the Commission
137 shall examine the application and verify the information and attachments contained therein.

138 (b) The Commission shall issue an auctioneer license, in such form as it may prescribe, to an applicant who
139 meets all of the requirements for licensing.

140 (c) An auctioneer license is valid for 2 years. A license must be renewed by an auctioneer biennially before
141 midnight on June 30 of the year in which the license expires.

142 (d) If a license has expired, it may be reactivated within three (3) months immediately following its
143 expiration. A license may be reactivated by filing an application for renewal, showing that all requirements for licensing
144 have been met, including completion of continuing education, and by paying a late filing fee to be established by the
145 Division, but not to exceed \$50, along with other required fees.

146 (e) If a license has not been reactivated within three (3) months of its expiration date, the license holder must
147 file an application and comply with § 5608 of this chapter, except for the 80 hours of a prescribed course of study
148 requirement in § 5608(d).

149 § 5610. Continuing education.

150 (a) An auctioneer who applies for a renewal of an auctioneer license under § 5611 of this chapter must have
151 completed the continuing education requirements, as set forth in the Commission's rules, from course providers that are
152 approved by the Commission for each 2-year licensing period.

153 (b) The Commission may grant to an auctioneer who applies for a renewal of an auctioneer license under
154 § 5611 of this chapter a one-year waiver from all or part of the continuing education requirement, if the auctioneer was not
155 able to fulfill the requirements due to a hardship that resulted from any of the following conditions:

156 (1) active service in the armed forces of the United States;

157 (2) an incapacitating illness or injury; or

158 (3) other circumstances acceptable to the Commission.

159 § 5611. Maintaining an auctioneer license.

160 When filing an application for the renewal of an auctioneer license, the individual licensed as an auctioneer must:

161 (1) File with the Commission a completed application on the form prescribed by the Commission. Online
162 renewal may also be used;

163 (2) File with the Commission a certificate in the form prescribed by the Commission, stating under oath that
164 the auctioneer has completed all of the continuing education requirements set forth in § 5610; and

165 (3) Pay the license fee and other fees established by the Division pursuant to § 5608 of this chapter.

166 § 5612. Real property auctions.

167 A licensed auctioneer is not required to possess a real estate or broker's license if he or she is employed only to
168 call for bids at an auction of real property. A licensed auctioneer must present to a seller of real property a signed contract
169 of sale within 15 days from a bidder who was registered for and attended the auction in person or electronically, or the
170 auction is null and void. A licensed auctioneer may not advertise that he or she is authorized to sell real property. A
171 licensed auctioneer may advertise real property that is for sale at public auction when employed to do so pursuant to this
172 chapter, and may advertise that he or she is authorized to auction real property at a public auction. However, property not
173 sold on the day of auction may no longer be advertised by the auctioneer unless another auction day is scheduled. If a
174 contract of sale is not signed until after the day of auction and within the permitted 15-day period, an affidavit verifying that

175 the bidder was registered and attended the auction in person or electronically must be signed by the buyer and auctioneer,
176 with copies retained by the auctioneer, buyer, and settlement attorney for as long as the settlement statement is retained.

177 § 5613. Nonresident auctioneer reciprocity.

178 (a) An individual holding a license to engage in auctioneering issued to him or her under the authority of a
179 state, territory, or possession of the United States of America or the District of Columbia that has licensing requirements
180 equal to or substantially equivalent to the requirements of this State, and who otherwise meets the requirements of this
181 chapter, may obtain a license under this chapter without examination, provided that:

182 (1) The Commission has entered into a valid reciprocal agreement with the authority of the state,
183 territory, or possession of the United States of America or the District of Columbia from which the nonresident
184 applicant has a valid license;

185 (2) The applicant provides the Commission with sufficient proof of his or her license in another
186 state or in a territory or possession of the United States of America, or in the District of Columbia, and proof of his
187 or her residency in the place where he or she is licensed;

188 (3) The applicant provides the Commission with sufficient proof of his or her residency in the
189 location where he or she is licensed;

190 (4) The applicant provides the Commission with a completed application containing the same
191 information as that required of resident applicants;

192 (5) The applicant establishes that he or she satisfies the provisions of § 5608, other than § 5608(e)
193 and (f) of this chapter.

194 (6) The applicant pays all applicable fees required under this chapter.

195 (b) A nonresident applicant shall file an irrevocable consent with the Commission stating that action may be
196 commenced against the applicant or nonresident auctioneer in a court of competent jurisdiction in this State by service upon
197 the Vice Chairman of the Commission, of summons, process, or other pleadings authorized by the law. The consent must
198 stipulate that service of the summons, process, or pleading upon the Vice Chairman of the Commission is taken and held by
199 all courts to be valid and binding as if actual service had been made upon the applicant in this State. A summons, process,
200 or other pleading served upon the Vice Chairman of the Commission must be by duplicate copies, one of which must be
201 retained by the Commission and the other, which must be forwarded immediately by certified or registered mail to the last

202 known business address of the applicant or nonresident auctioneer against whom the summons, process, or other pleading is
203 directed.

204 § 5614. Auction firm license.

205 It is unlawful for a person to engage in the business of auctioneering, to provide an auction service, to hold itself
206 out as an auction firm, or to advertise services as an auction firm in this State without an auction firm license, unless the
207 sale is exempt under § 5615 of this chapter.

208 § 5615. Exemptions.

209 The license requirement contained in § 5614 of this chapter does not apply to any of the following types of auction
210 sales:

211 (1) A sale conducted by the owner of all of the real or personal property being offered, or an by attorney
212 representing the owner, unless the owner's regular course of business includes engaging in the business of auctioneering or
213 unless the owner originally acquired the real or personal property for the purpose of resale at auction.;

214 (2) A sale of livestock conducted by a person who specializes in the sale of livestock, provided that the sale
215 is regulated by the federal Packers and Stockyards Act (7 U.S.C. 181 et. seq.) and the auctioneer is bonded by the United
216 States Department of Agriculture;

217 (3) A sale of real or personal property conducted by a charitable, religious, or civic organization that has a
218 tax-exempt status. The exemption to the license requirement in this subsection does not apply if the person engaged in the
219 business of organizing, arranging, or conducting the auction receives compensation or if consignments are sold at auction
220 and the consignor receives any proceeds from the sale;

221 (4) A sale of real or personal property conducted by an agent, officer, or employee of the State, any political
222 subdivision of the State, or a federal agency in the conduct of his or her official duties;

223 (5) A sale of real or personal property required by law or ordered by a court of competent jurisdiction to be
224 sold at auction.

225 § 5616. Requirements for auction firm license.

226 An applicant for an auction firm license under this chapter must possess the following minimum qualifications:

227 (1) The applicant must have attained the age of eighteen (18) years by the issuance date of the license;

228 (2) The applicant must have obtained at a minimum a high school diploma, a General Equivalency Diploma
229 (G.E.D.), or its equivalent;

230 (3) The applicant must prepare a written application on forms provided by the Commission;

231 (4) The applicant must pay a licensing fee in an amount established by the Division. The fee may not exceed

232 \$200;

233 (5) The applicant must pay an assessment, as set forth in § 5672(a) of this chapter, to be determined by the
234 Division, to participate in the Recovery Fund;

235 (6) Within the last five (5) years the applicant must not have a conviction for an act that would constitute
236 grounds for disciplinary action under the law, or a felony that has a direct bearing on his or her ability to practice
237 competently as an auctioneer or auction firm;

238 (7) The applicant must not have been disciplined relating to his or her auctioneering activities, auctioneer
239 license, or auction firm license, or an equivalent license, and must not have had such licenses revoked by any jurisdiction;

240 (8) The applicant must provide the Commission with documentation from the Secretary of State's Office
241 establishing that the auction firm is authorized to transact business in this State, unless the auction firm is a sole
242 proprietorship;

243 (9) The applicant must identify at least one potential designated person to have authority to transact business
244 for the auction firm. The potential designated person must take and successfully complete a written examination as
245 prescribed by the Commission. The Commission shall ensure that the various forms of the test remain secure. The potential
246 designated person of the applicant is not required to take the written examination if he or she is licensed as an auctioneer
247 under this chapter;

248 (10) In order to defray the cost of administering the examination, an applicant or potential designated person
249 taking the examination must pay a reasonable examination fee to be set by the Division, but not to exceed the
250 Commission's cost of administering the examination, or of having a third party administer it.

251 § 5617. Issuance and renewal of auction firm license.

252 (a) Upon the receipt of a completed application for the initial or a renewal auction firm license, the
253 Commission shall examine the application and verify the information and attachments contained therein.

254 (b) The Commission shall issue an auction firm license, in such form as it may prescribe, to an applicant or to
255 the applicant's designated person who meets all of the requirements for licensing.

256 (c) An auction firm license is valid for two (2) years. A license must be renewed by an auction firm
257 biennially before midnight on June 30 of the year in which the license expires.

258 (d) If a license has expired, it may be reactivated within three (3) months immediately following its
259 expiration. A license may be reactivated by filing an application for renewal, showing that all requirements for licensing

260 have been met and by paying a late filing fee to be established by the Division, but not to exceed \$50, along with other
261 required fees.

262 (e) If a license has not been reactivated within three (3) months of its expiration date, the license holder must
263 file an application and comply with § 5616 of this chapter.

264 § 5618. Maintaining an auction firm license.

265 When filing an application for the renewal of an auction firm license, each person licensed as an auction firm
266 must:

267 (1) File with the Commission a completed application on the form prescribed by the Commission;

268 (2) Provide the Commission with documentation from the Secretary of State's Office establishing that the
269 auction firm is authorized to transact business in this State, unless the auction firm is a sole proprietorship; and

270 (3) Pay the license renewal fee, not to exceed \$200, established by the Division for an auction firm license.

271 Subchapter III. Business Practices Provisions.

272 § 5625. Written agreements.

273 (a) A licensed auctioneer may not conduct an auction in this State without first having a written agreement
274 with the owner of the real or personal property to be sold. The agreement must contain the terms and conditions upon which
275 the auctioneer received the real or personal property for sale. The auctioneer shall provide the owner with a signed copy of
276 the agreement and shall keep at least one copy for his or her own records for two (2) years from the date of the agreement.
277 Copies of all written agreements must be made available to the Commission or to its designated agent upon request and
278 with reasonable notice.

279 (b) A licensed auction firm may not engage in the business of auctioneering without first having a written
280 agreement with the owner of the real or personal property to be sold. The agreement must contain the terms and conditions
281 of the transaction, sale (either directly or through agents), and/or work to be completed by the auction firm. The licensed
282 auction firm shall provide the owner with a signed copy of the agreement and shall keep at least one copy for his or her own
283 records for two (2) years from the date of the agreement. Copies of all written agreements must be made available to the
284 Commission or to its designated agent upon written request and with reasonable notice.

285 § 5626. Agency.

286 A licensed auctioneer is the agent for the seller in the performance of the auctioneer's duties.

287 § 5627. Auctioneer's authority from the seller.

288 A licensed auctioneer, in the absence of special authorization provided in a written agreement to the contrary, has
289 authority from the seller, only as follows:

290 (1) to sell by public auction to the highest bidder;

291 (2) to bind the seller pursuant to the written agreement;

292 (3) to sell for cash only;
293 (4) to prescribe reasonable rules and terms of sale;
294 (5) to deliver the real or personal property sold, upon payment of the price;
295 (6) to collect the price; and
296 (7) to do whatever else is necessary, or is proper and usual in the ordinary course of business, for effecting
297 these purposes.

298 § 5628. Auctioneer's authority from the bidder.

299 A licensed auctioneer may bind a successful bidder at an auction by preparing a written memorandum in lieu of a
300 contract of sale. The memorandum must include a statement that the auctioneer is an agent of the seller.

301 § 5629. Performance by auctioneer.

302 In performing the duties of an auctioneer, the auctioneer shall follow the reasonable requests of the owner or
303 consignor of the real or personal property being sold at the auction, and shall perform his or her duties so that the highest or
304 most favorable offer made by a bidder is accepted, and shall otherwise perform his or her duties in accordance with the
305 highest standards of the auctioneering profession, as described in Subchapter VII (Code of Ethics) of this chapter.

306 § 5630. Availability of license.

307 Licensed auctioneers or persons licensed as auction firms shall have their auctioneer licenses available at each
308 auction they advertise and conduct.

309 § 5631. Sales records.

310 A licensed auctioneer or a person licensed as an auction firm shall maintain sales records which identify by name,
311 address, and, when possible, telephone number, all bidders registered on the day of auction and the purchasers of all real or
312 personal property sold. The sales records must contain an adequate description of the real or personal property sold and
313 must be sufficient to positively identify the owner of the property. Sales records must be maintained for a period of at least
314 two (2) years from the date of sale. Sales records must be open for inspection by the Commission or its designated agent
315 upon written request and with reasonable notice.

316 § 5632. Consignment records.

317 A licensed auctioneer or a person licensed as an auction firm shall maintain consignment records and, upon receipt
318 of real or personal property for auction and before the sale, shall enter in their records the name and address of the person
319 who employed the auctioneer to sell the real or personal property at auction and the name and address of the owner of the

320 goods to be sold. The consignment record must contain an adequate description of the real or personal property to be sold.
321 Consignment records must be maintained for a period of at least two years from the date of the sale. Consignment records
322 must be open for inspection by the Commission or its designated agent upon written request and with reasonable notice.

323 § 5633. Escrow and trust accounts for real property auctions

324 (a) A licensed auctioneer or a person licensed as an auction firm who does not disburse all funds to the seller
325 on auction day shall maintain a trust or escrow account with a federally insured bank or credit union located in this State
326 and shall deposit in the account all funds that are received for the benefit of another person and are not disbursed to the
327 seller on auction day.

328 (b) A licensed auctioneer or a person licensed as an auction firm shall maintain for not less than three (3)
329 years complete records showing the deposit, maintenance, and withdrawal of trust or escrow funds and the disbursement of
330 those funds on auction days. Records of the disbursement of funds on auction days must include a copy of each receipt or
331 settlement statement issued when funds were disbursed. The Commission or its designated agent may inspect these records
332 periodically, without prior notice, and may also inspect the records whenever the Commission determines that they are
333 pertinent to an investigation of a specific complaint against a licensed auctioneer or a person licensed as an auction firm
334 within five (5) working days of receipt of the complaint.

335 § 5634. Final settlements.

336 At or before the time of a final settlement, the licensed auctioneer or the designated person of a licensed auction
337 firm shall provide the seller or consignor with a settlement statement, which includes a description of all real or personal
338 property sold, the selling price of the property sold, all expenses such as labor or advertising, the net proceeds due to the
339 seller or consignor, the name and address of the person receiving the disbursement, and the amount of the disbursement. A
340 settlement statement must be signed by the auctioneer or by a designated person of the licensed auction firm and by the
341 person receiving the disbursement. The licensed auctioneer or the designated person of a licensed auction firm shall provide
342 the buyer with a signed copy of the settlement statement and shall keep at least one (1) signed copy for his or her own
343 records for two (2) years from the date of the sale.

344 § 5635. Fees, costs, and assessments.

345 All fees, costs, and assessments created under the provisions of this chapter must reflect the actual cost of goods
346 and services provided, unless a specific amount is designated in statute.

347 Subchapter IV. Administrative Provisions.

348 § 5641. Creation of the Auctioneer Licensing Commission.

349 (a) The Auctioneer Licensing Commission is hereby created. The Commission is composed of five (5)
350 members. At least three members must be licensed auctioneers. The other two (2) members must be public individuals
351 who are not and never have been associated with auctioneering in any way other than as a consumer. The members are

352 appointed by the Governor to serve for a term of three (3) years, and may successively serve one (1) additional term. A
353 vacancy arising on the Commission due to circumstances, such as retirement, relocation, death, or suspension or removal
354 by the Governor for misfeasance, nonfeasance, or malfeasance, must be filled by an appointment made by the Governor.
355 An individual appointed to fill a vacancy serves for the unexpired term of the member whose vacancy is being filled.

356 (b) A member of the Commission shall be suspended or removed by the Governor for misfeasance,
357 nonfeasance, or malfeasance. A member subject to disciplinary proceedings is disqualified from Commission business
358 until the charge is adjudicated or the matter is otherwise concluded. A member may appeal a suspension or removal to the
359 Superior Court.

360 (c) The Commission receives and acts upon applications for auctioneer and auction firm licenses and has the
361 power to issue, reinstate, suspend, and revoke those licenses and to take such other action as is necessary to carry out the
362 provisions of this chapter.

363 (d) The Commission has the authority to make or adopt such rules and regulations, pursuant to the
364 Administrative Procedures Act (Title 29, Chapter 101), as are reasonable and necessary for the orderly regulation of the
365 auctioneering profession. The Commission also has the authority to implement the provisions of this chapter that confer
366 duties upon it.

367 § 5642. Exclusive authority.

368 An agency or political subdivision of the State may not impose on an auctioneer, auction firm, or seller at auction
369 any registration or license requirement or any registration, license, or employment fee or charge for auctioneering activities.

370 § 5643. Requirements for Commission members.

371 Each appointee to the Commission must meet the following requirements:

372 (a) Each appointee must be a citizen of the United States of America.

373 (b) Each appointee must be a citizen of the State and be domiciled in the State.

374 (c) Each appointee must be at least 21 years of age.

375 (d) Each auctioneer appointee must have been an auctioneer for a period of not less than five (5) years
376 immediately preceding the appointment.

377 (e) An appointee may not be a member of the Commission while holding another elected or appointed office
378 in either State or federal government.

379 (f) An appointee may not be a member of the Commission while maintaining a controlling interest in a
380 school or other facility which trains individuals to be auctioneers.

381 § 5644. Officers and meetings.

382 (a) The members of the Commission shall elect one member to serve as chair. The members shall also elect
383 one (1) member to serve as vice chair. The chair and vice chair must be elected annually by majority vote of the total
384 membership of the Commission.

385 (b) The Commission meets each January at a time and place established by the chair to conduct an election of
386 officers and to consider such other business that is appropriate. The Commission also meets upon the call of the chair or
387 upon the request of any two (2) members of the Commission. The chair shall provide reasonable notice of the time and
388 place of each meeting to all members.

389 (c) Three (3) members of the Commission constitute a quorum for the purpose of transacting business. A
390 majority vote of the Commission is necessary to bind the Commission. The Commission may not impose discipline upon
391 an auctioneer or auction firm without at least 3 affirmative votes.

392 (d) The Commission shall meet at least four (4) times a year, one time each quarter.

393 § 5645. Per diem and expenses.

394 Each member of the Commission is entitled to reimbursement for necessary travel expenses incurred in the
395 performance of his or her official duties, in accordance with the travel policies and procedures established by the Division
396 of Professional Regulations.

397 § 5646. Jurisdiction.

398 The Commission has jurisdiction over the actions of auctioneers and auction firms. The Commission also has
399 jurisdiction over the business of auctioneering, including individuals and persons engaging in the business of auctioneering
400 without a proper license, pursuant to this chapter.

401 § 5647. Powers.

402 In addition to the powers specified in other sections of this chapter, the Commission has the following powers:

403 (1) The power to establish qualifications for licensure; to grant and renew licenses;

404 (2) The power to examine or to provide for the examination of an applicant who applies to be licensed as an
405 auctioneer, an auction firm, or as a designated person in the State;

406 (3) The power to make rules and regulations pursuant to the Administrative Procedures Act (Title 29,
407 Chapter 101) that will promote the orderly functioning of the auction profession;

408 (4) The power to order restitution;

409 (5) The power hold hearings, subpoena witnesses, make findings of fact, and otherwise enforce the
410 disciplinary provisions contained in this chapter;

411 (6) The power to regulate the business of auctioneering, and to fine or prosecute individuals or persons
412 engaging in auctioneering without an auctioneer or auction firm license;

413 (7) The power to fine or otherwise discipline auctioneers and auction firms for violations of § 5661 of this
414 chapter;

415 (8) The power to approve of educational institutions, auctioneering schools, and continuing education
416 providers, in relation to the provisions of this chapter;

417 (9) The power to levy assessments on auctioneers and each person licensed as an auction firm;

418 (10) The power to sue in its own name for damages or injunctive relief, or both, to enforce the provisions of
419 this chapter.

420 § 5648. Investigations.

421 With the approval of or at the request of the Division, the Commission shall investigate alleged violations of this
422 chapter by any licensed or unlicensed auctioneer, auction firm, designated person, or applicant.

423 § 5649. Cease and desist orders.

424 (a) When the Commission determines that a person not licensed under this chapter is engaging in, or is
425 reasonably believed to be engaging in, an activity for which a license is required under this chapter, the Commission may
426 issue an order requiring that person to show cause why he, she, or it should not be ordered to cease and desist from the
427 activity. The show-cause order must set forth a time and place for a hearing at which the person must appear to show cause
428 as to why he, she, or it should not be subject to the licensing laws under this chapter.

429 (b) If, after a hearing, the Commission determines that the activity in which the person has engaged is subject
430 to licensing under this chapter, the Commission may issue a cease and desist order that describes the person and the activity
431 that are the subject of the order.

432 (c) A cease-and-desist order under this section is enforceable in the Superior Court.

433 § 5650. Penalties for unlicensed conduct.

434 (a) A person or an association of persons violating the provisions of § 5606 (auctioneer license) or § 5614
435 (auction firm license) of this chapter is guilty of a class B misdemeanor. The Attorney General has jurisdiction to prosecute
436 violations of this chapter.

437 (b) The Commission may, in its own name, seek injunctive relief in the Court of Chancery to restrain any
438 violation or anticipated violation of any provision of this chapter.

439 (c) The Commission is entitled to the services of the Attorney General in enforcing the provisions of this
440 chapter.

441 (d) When the Commission determines that a person has engaged in the business of auctioneering without
442 being licensed under this chapter, and the person's conduct injured an individual or business within this State, it may
443 impose a fine of not more than ten thousand (\$10,000) dollars.

444 § 5651. Appeal procedure.

445 (a) The findings of fact made by the Commission acting within its powers shall, in the absence of fraud, be
446 conclusive, but the Superior Court may review questions of law involved in any final decision or determination of the
447 Commission.

448 (b) Application must be made by the aggrieved party within 30 days after the determination by certiorari,
449 mandamus, or by any other method permissible under the rules and practices of the Superior Court or the laws of this State.

450 (c) The Court may make such further orders in respect thereto as justice may require.

451 § 5652. Current laws.

452 The Commission shall maintain, and provide upon request, a copy of the current auctioneer and auction firm laws,
453 and an accurate list of the states having reciprocity with this State. Laws and regulations pertaining to this chapter are
454 available online.

455 Subchapter V. Disciplinary Provisions.

456 § 5661. Prohibited acts.

457 Committing any of the following acts subjects the violator to the penalties and discipline provided in this chapter:

458 (1) Knowingly filing, or causing to be filed, a false application.

459 (2) Failure to enter into a written agreement with the seller or consignor prior to the sale or prior to
460 advertising the sale. The appearance of an auctioneer's or auction firm's name in advertising creates a rebuttable
461 presumption that the advertising was placed with the auctioneer's or auction firm's knowledge.

462 (3) Failure to give to the seller or consignor a signed receipt for real or personal property received for sale at
463 auction, either by item or by lot, at the time the item or lot is received, unless the item or lot is to remain in the possession
464 of the seller or the consignor.

465 (4) Failure to give to the seller or consignor and the buyer of real or personal property sold at auction a
466 statement indicating the item or lot description, selling price, buyer's identity, and the net proceeds due to the seller or
467 consignor.

468 (5) Unless contemporaneous payment is made to the seller or consignor, failure to place funds received from
469 a real or personal property auction sale in an escrow or trust account, and failure to make a timely settlement on escrowed
470 funds. Absent a written agreement to the contrary, thirty (30) business days is considered timely for settlement on real or
471 personal property.

- 472 (6) Knowingly permitting an unlicensed auctioneer to call for bids in an auction sale, unless he or she is
473 working as an apprentice auctioneer.
- 474 (7) Engaging in the business of auctioneering for an unlicensed auction firm.
- 475 (8) Being convicted of one or more felonies. For the purposes of this section, “convicted” means a plea or
476 verdict of guilty or a conviction following a plea of nolo contendere.
- 477 (9) Any course of intentional or wanton conduct which misleads or creates a false impression among the
478 seller, buyer, or bidders in the advertising, conduct, and/or closing of an auction.
- 479 (10) Any violation of this chapter or of any regulations promulgated by the Commission.
- 480 (11) Aiding or abetting the activity of another person which violates this chapter or any regulations
481 promulgated by the Commission.
- 482 (12) Misrepresenting a fact material to a buyer’s decision on whether or not to purchase real or personal
483 property.
- 484 (13) Materially misrepresenting the qualities or characteristics of any real or personal property offered for sale
485 at auction.
- 486 (14) Failing to comply with or violating an order of the Commission requiring an individual licensed as an
487 auctioneer or person licensed as an auction firm to comply with any provision of this chapter or with the rules or
488 regulations of the Commission.
- 489 (15) Failure to provide information within thirty (30) days in response to a written request made by the
490 Commission.
- 491 (16) Using a misleading or untruthful advertisement, or using a trade name or insignia of membership in an
492 auctioneer association or organization of which the auctioneer or auction firm is not a member.
- 493 (17) Engaging in the business of auctioneering without a license or after a license has expired or has been
494 revoked, suspended, or terminated.
- 495 (18) Failure to disclose to the bidders, immediately prior to offering real or personal property for sale, the
496 existence and amount of any known liens or other encumbrances on the real or personal property.
- 497 (19) Failure to notify the Commission of any change in name, address, business or trade name, or corporate
498 status of an auctioneer or auction firm within thirty (30) days of the change.
- 499 (20) Failure to make the required contribution to the Recovery Fund.
- 500 (21) Selling or offering for sale at auction real or personal property known to be owned by a minor or other
501 incapacitated individual, without the express written consent of a parent or legal guardian.
- 502 (22) Engaging in any conduct in connection with a sales transaction that the Commission finds to have been
503 transacted in bad faith or dishonestly.

504 (23) Engaging in conduct determined by the Commission to be in violation of the Code of Ethics (Subchapter
505 VII of this chapter), unprofessional, or of a character likely to deceive, defraud, or harm the public.

506 (24) Knowingly permitting or engaging in phantom bidding, or using skills or any type of bid rigging.
507 § 5662. Disciplinary action.

508 Nothing in this chapter limits the authority of the Commission to take disciplinary action against an individual
509 licensed as an auctioneer or person licensed as an auction firm under this chapter, nor does the repayment in full of all
510 obligations to the Fund by an individual licensed as an auctioneer or person licensed as an auction firm nullify or modify
511 the effect of any disciplinary proceedings brought under this chapter.

512 § 5663. Penalties.

513 (a) Each individual sale or act in connection with the conduct of an auction that is in violation of any
514 provision of this chapter, or of any rules and regulations adopted by the Commission, constitutes a separate offense. If the
515 Commission finds that an individual or person has violated any of the prohibited acts under § 5661 of this chapter, it may
516 enter an order imposing one or more of the following penalties:

517 (1) A fine of not more than ten thousand (\$10,000) dollars; however, no combination of violations
518 may exceed \$50,000;

519 (2) Issuance of a letter of reprimand;

520 (3) Placement of the auctioneer on probation for a period of time and subject to conditions as the
521 Commission may specify. However, the probation period may not exceed 6 (six) months from the date of the
522 imposition of the penalty;

523 (4) Payment of restitution by the violator and/or from the Recovery Fund to each consumer affected
524 by a violation. Proof that restitution was paid is a signed and notarized release executed by the victim or the
525 victim's estate;

526 (5) License suspension for a period of time established by the Commission, with or without
527 automatic reinstatement;

528 (6) License revocation.

529 (b) The Commission may, in its own name, seek injunctive relief in the Court of Chancery to prevent any
530 violation or anticipated violation of any provision of this chapter.

531 (c) The Commission is entitled to the services of the Attorney General in enforcing the provisions of this
532 chapter.

533 (d) When the Commission finds that an individual or person has violated this chapter and enters an order
534 imposing a penalty, the investigative costs incurred by the Commission, if any, are recoverable. In its order, the

535 Commission may order the individual or person to pay the investigative costs as part of a restitution order. The
536 Commission's order is enforceable in the Court of Chancery or in the Superior Court, depending upon the relief sought.

537 § 5664. Disciplinary actions against out-of-state licensees.

538 (a) The Commission may refuse to issue or renew a license, may place a violator on probation, may suspend
539 or revoke a license, or may otherwise discipline an auctioneer or auction firm for being disciplined by another state, the
540 District of Columbia, a territory of the United States, or the United States, if at least one of the grounds for that discipline is
541 the same as or equivalent to one of the grounds for discipline in this chapter.

542 (b) The Commission may refuse to issue or renew a license, may place a violator on probation, may suspend
543 or revoke a license, or may otherwise discipline an auctioneer or auction firm who fails to report to the Commission within
544 thirty (30) days any adverse final action taken against the auctioneer or auction firm by any other licensing jurisdiction,
545 government agency, law enforcement agency, or court, or any liability for conduct that would constitute grounds for
546 disciplinary action set forth in this chapter.

547 Subchapter VI. Recovery Fund.

548 § 5671. Establishment of the Recovery Fund.

549 (a) The Recovery Fund is established for the purposes set forth in this chapter. The Fund is administered by
550 the Division.

551 (b) If at any time the moneys in the Fund are insufficient to satisfy a valid claim or portion thereof, the
552 Division shall satisfy the unpaid claim or portion thereof as soon as a sufficient amount has been deposited in or transferred
553 to the fund. If there is more than one (1) unsatisfied claim outstanding, the claims must be paid in the order in which the
554 claims were made.

555 (c) Upon the payment of any amount from the Fund in settlement of a claim or in satisfaction of a judgment
556 against an auctioneer or auction firm, the license of the auctioneer or auction firm is automatically suspended until the
557 auctioneer or auction firm has complied with § 5676 of this chapter. A discharge of bankruptcy does not relieve an
558 individual or person from the penalties provided in this chapter.

559 (d) Moneys in the Fund at the end of a fiscal year must be retained in the Fund and accrue for the benefit of
560 auctioneers and auction firms. When the Fund exceeds the amount set forth in § 5672 of this chapter, all surcharges or
561 assessments for the Fund are suspended until the Fund is reduced below the amount set forth in § 5672 of this chapter.

562 § 5672. Surcharge to license fee; assessment for Recovery Fund.

563 (a) Before an auctioneer or auction firm license is issued under this chapter, the licensee must pay, in
564 addition to an examination fee and a license fee, an assessment as required by § 5608(8) and § 5616(5) of this chapter. The
565 assessment must be in an amount to be determined by the Division, a minimum of \$200 and not to exceed \$300, to be
566 deposited in the Fund at the time of licensure.

567 (b) The Division shall maintain at least \$5,000 in the Fund for use as provided in this chapter. If the total
568 amount in the Fund, including principal and interest, exceeds \$5,000 at the end of the State's fiscal year after the payment
569 of all claims and expenses, the amount in excess of \$5,000 must remain in the Fund for the benefit of auctioneers and
570 auction firms by tolling the assessments until such time as the Fund needs replenishing.

571 (c) If the total amount of the Fund, including principal and interest, is less than \$5,000 at the end of the
572 State's fiscal year after the payment of all claims and expenses, the Division shall assess, in addition to any other fees
573 required by this chapter, a surcharge against auctioneers and auction firms at the time of initial licensure or at the time of
574 renewal, according to the following formula in order to maintain the fund at \$5,000:

575 (1) Determine the amount remaining in the Fund at the end of the State's fiscal year after all
576 expenses and claims have been paid.

577 (2) Subtract the amount determined under paragraph (1) from the amount desired by the Division for
578 the Fund.

579 (3) Determine the number of initial licenses and license renewals in the fiscal year that precedes the
580 current fiscal year.

581 (4) Divide the amount determined under paragraph (2) by the number determined under paragraph
582 (3).

583 (d) The Division shall assess the surcharge described in subsection (c) of this section against each individual
584 and person who receives an initial or renewed auctioneer or auction firm license during the fiscal year that follows the year
585 in which the amount remaining in the Fund was less than \$5,000.

586 § 5673. Conditions of recovery from the Recovery Fund.

587 (a) Recovery from the Fund may be obtained as follows:

588 (1) An aggrieved person is eligible to receive recovery from the Fund if the Commission has issued
589 a final order directing an offending licensed auctioneer or licensed auction firm to pay restitution to the claimant as
590 the result of violating any provision of this chapter or any rule or regulation adopted by the Commission, and the
591 Commission has determined that the order of restitution cannot be enforced; or

592 (2) An aggrieved person who obtains a final judgment in any court against a licensed auctioneer or
593 licensed auction firm to recover damages for any actual loss that resulted from a violation of this chapter or any
594 rule or regulation adopted by the Commission may, upon termination of all proceedings, including appeals and
595 proceedings supplemental to judgment for collection purposes, file a verified application to the Division for an
596 order directing payment out of the Fund of the amount of actual loss in the transaction that remains unpaid upon
597 the judgment. The amount of actual loss may include court costs, but may not include attorney fees or punitive
598 damages awards.

599 (b) The amount paid from the Fund may not exceed \$5,000 per claim for claims arising out of the same
600 transaction or auction, or an aggregate lifetime limit of \$50,000 with respect to a violation or violations by any one (1)
601 auctioneer or auction firm. For the purposes of this subsection, auctions conducted under a single contract, agreement, or
602 consignment are considered a single transaction or auction, even though conducted at more than one time or place.

603 (c) A claim for recovery from the Fund must be made within two (2) years from the time of the act giving
604 rise to the claim or within two (2) years from the time the act is discovered, or should have been discovered, with the
605 exercise of due diligence. However, a claim for recovery may not be made more than four (4) years from the date of the act
606 giving rise to the claim.

607 (d) The Division may not issue an order for payment of a claim from the Fund unless the claimant has
608 reasonably established to the Division that he or she has taken proper and reasonable action to collect the amount of his or
609 her claim from the auctioneer or auction firm responsible for the loss and that any recovery made has been applied to
610 reduce the amount of the claim on the Fund.

611 (e) Notwithstanding any other provision of this chapter, a claim based on any act or omission that occurred
612 outside of this state is not payable from the Fund.

613 (f) In cases of payment of loss from the Fund, the Fund is subrogated, to the extent of the amount of the
614 payment, to all the rights of the claimant against any auctioneer or auction firm with respect to the loss.

615 § 5674. Payment of claim upon final court order.

616 Upon a final order of the court directing that payment be made out of the Recovery Fund, the Division shall,
617 subject to the provisions of this chapter, make the payment out of the Fund as provided in § 5673 of this chapter.

618 § 5675. Payment of multiple claims upon final court order.

619 (a) If the payment in full of two (2) or more pending valid claims that have been filed by aggrieved persons
620 against a single auctioneer or auction firm exceeds the \$50,000 limit as set forth in § 5673(b) of this chapter, the money
621 must be distributed among the aggrieved persons in the ratio of their respective claims to the aggregate of all valid claims,
622 or in any other manner that a court of record may determine to be equitable. The money must be distributed among the
623 aggrieved persons entitled to share in it, without regard to the order of priority in which their respective judgments have
624 been obtained or their claims have been filed.

625 (b) Upon petition by the Division, the court may require all claimants and prospective claimants against one
626 auctioneer or auction firm to be joined in one action, to the end that the respective rights of all the claimants to the Division
627 may be equitably adjudicated and settled.

628 (c) On June 30 and December 31 of each year, the Division shall identify each claim that the court ordered to
629 be paid during the 6-month period that ends on December 31 and the 6-month period that ends on June 30. The Division
630 shall pay the part of each claim that has been identified within twenty (20) days after the end of the 6- month period in

631 which the claim was ordered to be paid. However, if the balance of the Fund is insufficient to pay the full payable amount
632 of each claim that is ordered to be paid during a 6-month period, the Division shall pay a pro rated portion of each claim.
633 Any part of the payable amount of a claim left unpaid due to the pro rating of payments under this subsection must be paid,
634 subject to the applicable limits set forth in § 5673 of this chapter, before the payment of claims ordered to be paid during
635 the second 6-month period.

636 (d) Claims for the second 6-month period may not be paid until all previous claims have been paid in full.
637 Each claim must be processed in the order in which it was issued by the Division.

638 § 5676. Suspension of license.

639 If the Division is required to make a payment from the Fund in settlement of a claim or toward the satisfaction of a
640 judgment under this chapter, the Commission shall suspend the auctioneer's or auction firm's license. The auctioneer or
641 auction firm is not eligible to be licensed again as an auctioneer or auction firm until the auctioneer or auction firm has
642 repaid in full the amount paid from the Fund, with interest at the current applicable rate.

643 § 5677. Expenditure of excess funds.

644 The Division may expend excess moneys from the Fund for the following purposes:

645 (1) To prepare publications which provide information concerning the Commission's activities and
646 administrative rulings;

647 (2) To prepare publications which provide for the distribution of laws, rules, and educational information
648 concerning the practice of auctioneering;

649 (3) To promote education and research in the auctioneer profession that benefits persons licensed under this
650 chapter, and to improve the efficiency of the profession;

651 (4) To underwrite educational seminars, training centers, and other forms of educational projects to benefit
652 auctioneers and auction firms.

653 Subchapter VII. Code Of Ethics.

654 § 5680. Licensees' responsibilities to clients and customers.

655 (a) A licensee shall protect and promote the interests of the client. This obligation of absolute fidelity to a
656 client's interests is primary, but does not relieve a licensee of his or her obligation to treat fairly all parties to the
657 transaction.

658 (b) A licensee shall, in conducting an auction, deal with customers in a manner exhibiting the highest
659 standards of professionalism and respect. A licensee owes the customer the duties of honesty, integrity, and fair dealing at
660 all times.

661 (c) A licensee shall, to assure better service to the seller and to prevent misunderstandings, enter into written
662 agreements or, at a minimum, clear oral agreements that set forth the specific terms and conditions of the transaction.

663 (d) A licensee may not accept compensation from any party other than the client, even if permitted by law,
664 without the full knowledge of all parties to the transaction.

665 (e) A licensee shall provide the highest level of service in those fields in which the licensee is customarily
666 engaged. This level of service is attained by education, training, study, practice, and experience. Level of service also
667 includes the wisdom to recognize the limitations of his or her knowledge and the wisdom to seek counsel, assistance, or
668 client referral when appropriate for the circumstances.

669 (f) A licensee may not undertake to provide professional services if either the licensee or his or her
670 immediate family, licensees of his or her firm, or any entity in which they have an ownership interest has presently or
671 contemplates an interest, without first specifically disclosing such interest or contemplated interest.

672 (g) A licensee may not make a profit on expenditures made for his or her client without the client's prior
673 knowledge and consent.

674 (h) A licensee may not engage in activities that constitute the unauthorized practice of law, and shall
675 recommend that legal counsel be obtained when the interest of any party to the transaction would be appropriately served.

676 (i) A licensee shall keep monies, such as escrows, trust funds, client monies, and other similar items coming
677 into his or her possession, in trust for other persons in a separate special account in a federally insured financial institution.

678 (j) A licensee may not disclose any confidential client information without the client's written consent
679 except as required by legal authorities.

680 § 5681. Licensees' responsibilities to the public.

681 (a) A licensee shall avoid misrepresentation or concealment of pertinent facts. A licensee has an affirmative
682 obligation to disclose adverse factors of a material nature of which he or she has personal knowledge.

683 (b) A licensee shall at all times present true information in their advertising and other representations to the
684 public. A licensee shall ensure that all advertising includes the names and information necessary for the public to contact
685 the auctioneer or auction firm responsible for conducting an auction.

686 (c) A licensee shall participate in Commission-approved continuing education programs, and shall keep
687 informed on matters affecting the auction industry and his or her area of specialization.

688 (d) A licensee shall at all times abide by the laws, rules, and regulations which govern the profession, as well
689 as those which, if violated, would negatively affect his or her ability to present to the public an image of behavior that
690 appropriately represents the professionalism of the auction industry.

691 § 5682. Licensees' responsibilities to the profession .

692 (a) A licensee may never publicly criticize a competitor using false or deceptive information. If an opinion of
693 a competitor's transaction is requested, it should be rendered in conformity with strict professional courtesy and dignity.

694 (b) A licensee shall willingly share with other licensees the lessons learned through experience and study to
695 better the profession, licensees' business practices, and how the profession is perceived by society. A licensee shall be loyal
696 to the National Auctioneers' Association (NAA), which includes active participation in educational, civic, and charitable
697 endeavors.

698 (c) A licensee shall conduct his or her business affairs in a manner that avoids disputes with other licensees.
699 If a controversy between licensees arises, the licensees should seek the assistance of the Commission to arbitrate the
700 controversy.

701 (d) A licensee having personal knowledge of an act by another licensee that, in the licensee's opinion, is a
702 material violation of the ethical principles of this Code, shall treat the matter in accordance with the procedures of filing a
703 grievance.

704 (e) A licensee charged with unethical practice, or who is asked to present evidence in a disciplinary
705 proceeding or investigation, shall promptly and voluntarily place all pertinent facts and information before the appropriate
706 body.

707 Section 2. Amend § 8735(a) [Effective until Aug. 6, 2013], Title 29 of the Delaware Code by making an insertion
708 as shown by underlining as follows:

709 (35) Auctioneer Licensing Commission as set forth in Chapter 56 of Title 24.

710 Section 3. Amend § 8735(a) [Effective Aug. 6, 2013], Title 29 of the Delaware Code by making an insertion as
711 shown by underlining as follows:

712 (36) Auctioneer Licensing Commission as set forth in Chapter 56 of Title 24.

713 Section 4. Amend § 10161(a) [Effective until Aug. 6, 2010], Title 29 of the Delaware Code by making an
714 insertion to the Administrative Procedures Act as shown by underlining as follows:

715 (53) Auctioneer Licensing Commission.

716 Section 5. Amend § 10161(a) [Effective Aug. 6, 2013], Title 29 of the Delaware Code by making an insertion to
717 the Administrative Procedures Act as shown by underlining as follows:

718 (54) Auctioneer Licensing Commission.

719 Section 6. Severability. If a provision of this Act or the application of a provision to a person or circumstance is
720 held to be invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect
721 without the invalid provision or application; and, to this end, the provisions of this Act are declared severable.

722 Section 7. This Act becomes effective 180 days after its enactment into law.

SYNOPSIS

This Act covers the licensing of auctioneers and auction firms, and creates a commission to license auctioneers and auction firms and to oversee their activities.