



SPONSOR: Rep. Q. Johnson
Rep. Mulrooney, Sen. Ennis

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 120

AN ACT TO AMEND TITLE 24 AND TITLE 29 OF THE DELAWARE CODE CREATING THE DELAWARE AUCTION AND AUCTIONEER LICENSING ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 24 of the Delaware Code by adding a new chapter by making insertions as shown by
2 underlining as follows:

3 CHAPTER 56. AUCTION AND AUCTIONEER LICENSING ACT.

4 Subchapter I. General Provisions.

5 § 5601. Title.

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

7 § 5602. Legislative Intent.

8 The legislative body of this State 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. This body further finds that it does not have the ability, without legislation, to enter into reciprocal agreements with
11 other states to allow its residents to practice as auctioneers in Delaware. Therefore, it is the purpose of this Act to license
12 auctioneers and auction firms and to regulate the business of auctioneering.

13 § 5603. Definitions.

14 Unless otherwise provided hereof, as used in this chapter:

15 (1) ‘Absolute auction’ means an auction where real or personal property is sold to the highest qualified bidder
16 with no limiting conditions or amount. The seller may not bid personally or through an agent on property to be sold at an
17 absolute auction. In an absolute auction, after the auctioneer calls for bids on real or personal property, it cannot be
18 withdrawn unless no bid is made within a reasonable time.

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

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

22 (4) “Auctioneer” means an individual who engages in, or who by advertising or otherwise holds himself out as
23 being available to engage in the calling for, the recognition of, and the acceptance of competitive bids for the purchase of
24 real or personal property at auction, or otherwise engaging in the business of auctioneering.

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

27 a. Contracting for an auction;

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

29 c. Advertising an auction;

30 d. Offering real or personal property for sale at auction and calling for bids;

31 e. Accepting payment or disbursing monies for items sold at auction; and

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

34 (6) “Auction firm” means a sole proprietorship, corporation, or limited liability company of which the owner is
35 not a licensed auctioneer, or any partnership, association, corporation, or any other legal entity that sells, either directly or
36 through agents, real or personal property at auction, or that arranges, sponsors, manages, conducts or advertises auctions, or
37 otherwise engages in the business of auctioneering. This definition applies whether or not an owner or officer of the
38 business acts as an auctioneer. The term “auction firm” does not apply to a charitable, religious, or civic organization that
39 has tax-exempt status and holds auctions solely as a fund-raiser for the benefit of the organization or its clients.

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

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

42 (9) “Consignment” means the act of delivering or transferring real or personal property, in fact or constructively,
43 to an auctioneer or the auctioneer’s agent in trust for the purpose of resale at auction whereby title does not pass to the
44 buyer until the auctioneer declares the real or personal property ‘sold’.

45 (10) “Designated agent” means a person approved by the Commission to have the authority to transact business for
46 an auction firm.

47 (11) “Fund” means the Recovery Fund established under this chapter.

48 (12) “Real or personal property” means any goods, wares, chattels, merchandise, real estate or other personal
49 property, including domestic animals and farm products.

50 (13) “Person” means an individual or any entity, including a partnership, corporation, limited liability company, or
51 association.

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

56 (15) “State” means the State of Delaware.

57 § 5604. Grandfather provision for auctioneers and auction firms.

58 (a) Upon the effective date of this chapter and for a period of 1 year thereafter, an auctioneer or auction firm,
59 including non-resident auctioneers and auction firms, who has engaged in the business of auctioneering in this State for at
60 least 2 years prior to the passage of this chapter and who has held a valid Delaware auctioneer’s business license for that
61 time may apply for an auctioneer license under this chapter without taking the examination set forth in § 5607 of this
62 Chapter. The requirements for an auctioneer’s license are as follows:

63 (1) Submit an application to the Commission on the forms provided by the Commission, pursuant to § 5607
64 of this chapter;

65 (2) Submit an affidavit with the application stating that the applicant has been a practicing auctioneer for at
66 least 2 years immediately prior to the passage of this chapter, and that the applicant has actually called for bids in 6 sales in
67 the past 12 months;

68 (3) Tender with the application the license fee of \$200; and

69 (4) Tender the applicant’s initial contribution to the Recovery Fund in the sum of \$200 if application is
70 accepted.

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

73 Subchapter II. Licensing Provisions.

74 § 5605. Auctioneer license.

75 It is unlawful for a person to conduct an auction, engage in the business of auctioneering, provide an auction
76 service, hold himself or herself out as an auctioneer, or advertise his or her services as an auctioneer in this State without an
77 auctioneer license, unless the sale is exempt under § 5606 of this chapter.

78 § 5606. Exemptions.

79 A license requirement contained in § 5604 and 5605 of this chapter does not apply to any of the following types of
80 auction sales or persons:

81 (a) A sale conducted by the owner or by a court appointed receiver or trustee of real or personal property being
82 offered by a sheriff, constable or by a court appointed receiver or trustee of real or personal property representing the
83 owner, unless the owner or the attorney representing the owner conducts the sale and either the owner's regular course of
84 business includes the business of auctioneering or, in lieu thereof, the owner originally acquired the real or personal
85 property for the purpose of resale at auction.

86 (b) A sale of livestock conducted by a person who specializes in the sale of livestock, provided that the sale is
87 regulated by the Federal Packers and Stockyards Act (currently 7 U.S.C. § 181 *et. seq.*) and the auctioneer is bonded by the
88 United States Department of Agriculture.

89 (c) A sale of real or personal property conducted by any charitable, religious, or civic organization, that has a tax-
90 exempt status. The exemption in this section does not apply if the person engaged in the business of organizing, arranging,
91 or conducting the auction receives compensation;

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

94 (e) A sale of real or personal property required by law or authorized to be sold at auction or ordered by a court of
95 competent jurisdiction; or

96 (1) A sale of real or personal property, securities, financial instruments, or commodities conducted by a
97 person or entity owning the real or personal property, or by an affiliate, attorney, court-appointed receiver, or trustee of the
98 person or entity owning the property, which sale arises in, under, or relates in any way to a bankruptcy proceeding filed by
99 or against the person, entity, or affiliate thereof under Title 11 of the United States Code.

100 (2) This chapter may not be construed to include in any way the services rendered by an attorney-at-law
101 admitted to the bar of the Supreme Court of the State of Delaware and in good standing.

102 § 5607. Requirements for auctioneer license.

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

104 (a) The applicant must have attained the age of 18 years by the date that the Commission receives the application.

105 (b) The applicant must have obtained at a minimum a high school diploma, a general equivalency diploma, or its
106 equivalent, or in the case of an Amish auctioneer conducting an auction on Amish property, at a minimum, an eighth grade
107 education.

108 (c) The applicant must prepare a written application on forms provided by the Commission.

109 (d) The applicant must have successfully completed at least 80 hours of a prescribed course of study approved by
110 the Commission at an accredited educational institution or auctioneering school and must also have called for bids at a
111 minimum of 15 auctions over a consecutive 2-year period under the supervision of a licensed auctioneer.

112 (e) The applicant for a license under this chapter must take and successfully complete a written examination as
113 prescribed by the Commission. The examination must include questions on ethics, reading comprehension, writing,
114 elementary arithmetic, elementary principals of land economics, general knowledge of bulk sales law, contracts of sale,
115 agency, leases and brokerage, knowledge of various goods commonly sold at auction, ability to call for bids, knowledge of
116 sale preparation, proper sale advertising, and sale summary, and knowledge of the provisions of this chapter and the
117 Commission's rules and regulations. The Commission shall ensure that the various forms of the test remain secure.

118 (f) In order to defray the cost of administration of the examination, an applicant taking the examination must pay
119 a reasonable examination fee to be set by the commission, in relation to but not in excess of the Commission's cost of the
120 administration of the examination.

121 (g) The applicant must pay a licensing fee in an amount to be established by the Commission; the fee may not
122 exceed \$100.

123 (h) The applicant must pay an assessment fee of no more than \$200 as set forth in § 5647(a) of this chapter, to be
124 determined by the Commission, to participate in the Recovery Fund.

125 (i) Within the last 5 years the applicant must not have a conviction for an act of forgery or theft that would
126 constitute grounds for disciplinary action under the law, or a felony that has a direct bearing on his or her ability to practice
127 competently.

128 (j) The applicant must not have had his or her auctioneer license or auction firm license previously revoked by
129 any jurisdiction.

130 (k) Any individual or business firm that conducts auctions online via the internet must be licensed as an
131 auctioneer or auction firm unless otherwise exempt under this chapter. This includes both in-state and out-of-state
132 auctioneers or auction firms that are auctioning real or personal property located in the state of Delaware.

133 § 5608. Issuance of auctioneers license.

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

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

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

140 (d) If a license has expired, it may be reactivated within the 12 months immediately following its expiration. A
141 license may be reactivated by filing an application for renewal showing that all requirements for licensing have been met,
142 including completion of continuing education, and paying all the other fees to be established by the Commission but not to
143 exceed \$200.

144 (e) If a license has not been reactivated within 12 months of its expiration date, the license holder must file an
145 application and comply with § 5607 of this chapter, except for the 80 hours of a prescribed course of study requirement in §
146 5607(d).

147 § 5609. Continuing education.

148 (a) An auctioneer who applies for a renewal of an auctioneer license under § 5610 of this chapter must complete
149 at least 12 hours of continuing education from course providers that are approved by the Commission for each 2-year
150 licensing period.

151 (b) The Commission may grant an auctioneer who applies for a renewal of an auctioneer license under § 5610 of
152 this chapter a waiver from all or part of the continuing education requirement for a year if the auctioneer was not able to
153 fulfill the requirements due to a hardship that resulted from any of the following conditions:

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

155 (2) an incapacitating illness or injury; or

156 (3) other circumstances determined to constitute a hardship by the Commission.

157 § 5610. Maintaining an auctioneer license.

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

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

160 (b) File with the Commission a certificate in the form prescribed by the Commission, stating under oath that the
161 auctioneer has completed all of the continuing education requirements set forth in § 5609; and

162 (c) Pay the license fee established by the Commission in § 5607(g).

163 § 5611. Real estate auctions.

164 As used in this section, an "auctioneer" is as defined in § 2301(a)(3) of Title 30 if he or she is employed only to
165 call for bids at an auction of real property. A licensed auctioneer must present to a seller of real property a signed contract
166 of sale within 60 days of conclusion of the advertised auction days from a bidder who was registered for and attended the
167 auction in person or electronically where bids were called for that property, or the auction is null and void. In calculating

168 the 60 days, Saturdays, Sundays, and legal holidays shall not be included. A licensed auctioneer may advertise real
169 property that is for sale at public auction when employed to do so pursuant to this exemption, and may advertise that he or
170 she is authorized to auction real property at a public auction. However, property not sold on the day of auction may no
171 longer be advertised by the auctioneer unless another auction day is scheduled. If a contract of sale is not signed until after
172 the day of auction but within the permitted 60-day period, an affidavit verifying that the bidder was registered and attended
173 the auction in person or electronically where bids were called for that property must be signed by the buyer and auctioneer,
174 with copies retained by the auctioneer, buyer, and settlement attorney for as long as the settlement statement is retained.

175 § 5612. Actions for compensation.

176 A person engaged in the business of auctioneering that requires an auctioneer license must not bring or maintain
177 an action in the courts of this State for the collection of compensation for services provided as an auctioneer without first
178 alleging and proving that he or she was a licensed auctioneer at the time the alleged cause of action arose.

179 § 5613. Nonresident auctioneer reciprocity.

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

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

187 (2) Applicant provides the Commission with sufficient proof of his or her license in another state and
188 proof of his or her residency in the state where he or she is licensed;

189 (3) Applicant provides the Commission a completed application containing the same information as that
190 required of resident applicants;

191 (4) Applicant must establish that he or she satisfies the provisions of § 5607, other than § 5607(e) and (f)
192 of this chapter.

193 (5) Applicant must pay all applicable fees required under this chapter.

194 (b) A nonresident applicant shall file an irrevocable consent with the Commission that actions may be
195 commenced against the applicant or nonresident applicant in a court of competent jurisdiction in this State by the service of
196 summons, process, or other pleadings authorized by the law upon the Vice Chairman of the Commission. The consent must
197 stipulate and agree that service of the process, summons, or pleading upon the Vice Chairman of the Commission shall be

198 taken and held in all courts to be valid and binding as if actual service had been made upon the applicant in State. If a
199 summons, process, or other pleading is served upon the Vice Chairman of the Commission, it shall be by duplicate copies,
200 one of which shall be retained by the Commission and the other immediately forwarded by certified or registered mail to
201 the last known business address of the applicant or nonresident applicant against whom the summons, process, or other
202 pleading may be directed.

203 § 5614. Auction Firm license.

204 It is unlawful for any person to engage in the business of auctioneering, provide an auction service, hold himself or
205 herself out as an auction firm, or advertise his or her services as an auction firm in this State without an auction firm
206 license, unless the sale is exempt under § 5614 of this chapter.

207 § 5615. Exemptions.

208 A license requirement contained in § 5606 of this chapter shall not apply to any of the following types of auction
209 sales or persons:

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

213 (b) A sale of livestock conducted by a person who specializes in the sale of livestock, provided that the sale is
214 regulated by the Federal Packers and Stockyards Act (currently 7 U.S.C. § 181 *et. seq.*) and the auctioneer is required to be
215 bonded by the United States Department of Agriculture;

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

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

222 (e) A sale of personal or real property required by law, or authorized, to be sold at the auction or ordered to be
223 held at auction, or sales ordered to be sold at auction by a court of competent jurisdiction; or

224 (1) A sale of real or personal property, securities, financial instruments, or commodities conducted by a
225 person or entity owning the real or personal property, or by an affiliate, attorney, court-appointed receiver, or trustee of the
226 person or entity owning the property, which sale arises in, under, or relates in any way to a bankruptcy proceeding filed by
227 or against the person, entity, or affiliate thereof under Title 11 of the United States Code.

228 (2) This chapter may not be construed to include in any way the services rendered by an attorney-at-law
229 admitted to the bar of the Supreme Court of the State of Delaware and in good standing.

230 § 5616. Requirements for auction firm license.

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

232 (a) The applicant or applicant's designated person must have attained the age of 18 years by the date the
233 Commission receives the application.

234 (b) The applicant or applicant's designated person must have obtained at a minimum a high school diploma, a
235 General Equivalency Diploma (G.E.D.), or its equivalent.

236 (c) The applicant must prepare a written application on forms provided by the Commission.

237 (d) The applicant must pay a licensing fee in an amount to be established by the Commission, the fee may not
238 exceed \$100.

239 (e) The applicant must pay an assessment fee of not more than \$200, as set forth in § 5647(a), to be determined
240 by the Commission, to participate in the Recovery Fund.

241 (f) Within the last 5 years the applicant or applicant's designated person must not have a conviction for an act
242 that would constitute grounds for disciplinary action under the law, or a felony that has a direct bearing on his or her ability
243 to practice competently.

244 (g) The applicant or applicant's designated person must not have had his or her auctioneer license or auction firm
245 license, or an equivalent license, previously revoked by any jurisdiction.

246 (h) The applicant must provide the Commission with documentation from the Secretary of State's Office
247 establishing that the licensee or designed person is authorized to transact business in this State, unless the person to be
248 licensed as an auction firm is a sole proprietorship.

249 (i) The applicant must identify at least one designated person to have authority to transact business for the
250 auction firm. The designated person must take and successfully complete a written examination as prescribed by the
251 Commission. The Commission shall ensure that the various forms of the test remain secure. The designated person of
252 applicant will not be required to take the written examination if he or she is licensed as an auctioneer under this chapter.

253 (j) In order to defray the cost of administration of the examination, an applicant or designated individual taking
254 the examination must pay a reasonable examination fee to be set by the Commission, in relation to but not in excess of the
255 cost of the administration of the examination.

256 § 5617. Issuance of license.

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

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

261 (c) An auction firm license is valid for a 2 years. A license must be renewed by the auction firm before midnight
262 on June 30th of the year in which the license expires.

263 (d) If a license has expired, it may be reactivated within 3 months immediately following its expiration. A license
264 may be reactivated by filing an application for renewal, showing that all requirements for licensing have been met and
265 paying the appropriate fees not to exceed \$50, to be established by the Commission.

266 (e) If a license has not been reactivated within 12 months of its expiration date, the license holder must file an
267 application and comply with § 5616 of this chapter.

268 § 5618. Maintaining an auction firm license.

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

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

272 (b) Provide the Commission with documentation from the Secretary of State's Office establishing that the entity
273 is authorized to transact business in this State, and

274 (c) Pay the license fee established by the Commission for auction firm licenses.

275 § 5619. Actions for Compensation.

276 A person engaged in the business of auctioneering that to requires an auction firm license may not bring or
277 maintain an action in the courts of this State for the collection of compensation for services provided as an auction firm
278 without first alleging and proving that the person or business was licensed as an auction firm at the time the alleged cause
279 of action arose.

280 Subchapter III. Business Practices Provisions.

281 § 5620. Written agreements.

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

287 (b) A licensed auction firm may not engage in the business of auctioneering without first having a written
288 agreement with the owner of any real or personal property to be sold. The agreement must contain the terms and conditions
289 of the transaction and work to be completed by the auction firm. The licensed auction firm shall provide the owner with a
290 signed copy of the agreement and shall keep at least one copy for his or her own records for 2 years from the date of the
291 agreement. Copies of all written agreements must be made available to the Commission or its designated agent upon
292 written request.

293 § 5621. Agency.

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

295 § 5622. Auctioneer's authority from the seller.

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

298 (a) To sell by public auction to the highest bidder;

299 (b) To bind the seller by preparing a written memorandum of the written agreement;

300 (c) To prescribe reasonable rules and terms of sale;

301 (d) To deliver the real and personal property sold, upon payment of the price;

302 (e) To collect the price; and

303 (f) To do whatever else is necessary, or is proper and usual in the ordinary course of business, for affecting these
304 purposes.

305 § 5623. Auctioneer's authority from the bidder.

306 An individual licensed auctioneer may bind a bidder at an auction by preparing a written memorandum of the
307 written agreement of sale.

308 § 5624. Performance by auctioneer.

309 In performing the duties of an auctioneer, the auctioneer shall follow the reasonable requests of the owner or
310 consignor of the real or personal property being sold at the auction, shall perform his or her duties so that the highest or
311 most favorable offer made by a bidder is accepted.

312 § 5625. License.

313 A licensed auctioneer and a person licensed as an auction firm shall have his or her license available at each
314 auction he or she conducts or advertises.

315 § 5626. Sales records.

316 A licensed auctioneer and a person licensed as an auction firm shall maintain sales records that shall contain an
317 adequate description of real and personal property sold and must be sufficient to positively identify the owner of the
318 property. Sales records must be maintained for a period of at least 2 years from the date of sale. Sales records must be open
319 for inspection by the Commission or its designated agents after reasonable notice.

320 § 5627. Consignment Records.

321 A licensed auctioneer and a person licensed as an auction firm shall maintain consignment records and, upon
322 receipt of real or personal property for auction and before the sale, enter in the records the name and address of the person
323 who employed the auctioneer to sell the goods at auction and the name and address of the owner of the goods to be sold.
324 The consignment record must contain an adequate description of the real or personal property to be sold. Consignment
325 records must be maintained for a period of at least 2 years from the date of the sale. Consignment records must be open for
326 inspection by the Commission or its designated agents after reasonable notice.

327 § 5628. Escrow and Trust Accounts for Real Property Auctions

328 (a) A licensed auctioneer and a person licensed as an auction firm who do not disburse all funds to the seller on
329 auction day shall maintain a trust or escrow account and shall deposit in the account all funds that are received for the
330 benefit of another person and are not disbursed to the seller on auction day. A licensed auctioneer and a person licensed as
331 an auction firm shall deposit funds that are not disbursed on auction day with an insured bank or savings and loan
332 association located within the State.

333 (b) A licensed auctioneer and a person licensed as an auction firm shall maintain for not less than 2 years of
334 complete records showing the deposit, maintenance, and withdrawal of trust or escrow funds and the disbursement of funds
335 on auction days. Records of the disbursement of funds on auction day must include a copy of each receipt or settlement
336 statement issued when the funds were disbursed. The Commission or its designated agent may inspect these records
337 periodically, without prior notice, and may also inspect those records whenever the Commission determines that they are
338 pertinent to an investigation of a specific complaint against a licensed auctioneer or a person licensed as an auction firm.

339 § 5629. Final settlements.

340 At or before the time of a final settlement, the licensed auctioneer or designated person of a licensed auction firm
341 shall provide the seller or consignor with a settlement statement, which includes a description of all real or personal
342 property sold, the selling price of the property sold, all expenses such as labor, advertising, the net proceeds due to the
343 seller or consignor, the name and address of the person receiving the disbursement, and the amount of the disbursement. A
344 settlement statement must be signed by the auctioneer or a designated person of the licensed auction firm and by the person
345 receiving the disbursement. The licensed auctioneer or designated person of a licensed auction firm shall provide the owner

346 with a signed copy of the settlement statement and shall keep at least one signed copy for his or her own records for 2 years
347 from the date of the sale.

348 Subchapter IV - Administrative Provisions.

349 § 5630. Creation of auctioneer licensing commission.

350 (a) The Auctioneer's Licensing Commission is hereby created. The Commission is composed of 5 members, with
351 no more than 3 members being members of the same political party. The members are appointed by the Governor to serve
352 for a term of 3 years. A vacancy arising on the Commission must be filled by an appointment made by the Governor. The
353 individual appointed to fill a vacancy serves for the unexpired term of the individual whose vacancy is being filled.

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

357 (c) The Commission has the authority to make or adopt such rules and regulations in accordance with the
358 Administrative Procedures Act, Chapter 101 of Title 29, as are reasonable and necessary for the orderly regulation of the
359 auctioneering occupation and the protection of the public. The Commission also has the authority to implement the
360 provisions of this chapter that confer duties upon it.

361 § 5631. Members of the Commission.

362 At least 3 Commission members appointed must be licensed auctioneers. At least 1 of the members must be an
363 individual who is not and has not been associated with auctioneering in any way other than as a consumer.

364 § 5632. Exclusive authority.

365 An agency or political subdivision of the State may not impose on an auctioneer, auction firm, or seller at auction
366 any registration or license requirement or any registration license, or employment fee or charge specifically on account of
367 auctioneering activities.

368 § 5633. Requirements Commission for members.

369 Each appointee to the Commission must possess the following requirements:

370 (a) Each appointee must be a citizen of the United States of America;

371 (b) Each appointee must be a citizen of the State and domiciled in the State;

372 (c) Each must have obtained at least 21 years of age;

373 (d) Each appointee for an auctioneer position on the Commission must have been licensed as an auctioneer for a
374 period of not less than 5 years immediately preceding the appointment.

375 (e) An appointee may not act as a member of the Commission while holding another elected or appointed office
376 in either the State or federal government; and

377 (f) An appointee may not be a member of the Commission while he or she maintains a controlling interest in a
378 school or other facility to train individuals to be auctioneers.

379 § 5634. Officers and meetings.

380 (a) The Commission shall elect 1 member to serve as Chair. The Commission shall also elect 1 member to serve
381 as Vice Chair. The Chair and Vice Chair must be elected annually by majority vote of the total membership of the
382 Commission.

383 (b) The Commission shall meet each January at a time and place established by the Chair, to conduct an election
384 of officers and to consider such other business as may be appropriate. The Commission shall also meet upon the call of the
385 Chair or upon the request of any 2 members of the Commission. The Chair shall provide reasonable notice of the time and
386 place of each meeting to all members, as currently promulgated by the Division of Professional Regulations.

387 (c) 3 members constitute a quorum for the purpose of transacting business. A majority vote of the quorum is
388 necessary to bind the Commission.

389 (d) The Commission will meet not less than 4 times a year and not less than once a quarter.

390 § 5635. Per diem and expenses.

391 Each member of the Commission receives reimbursement for necessary travel expenses incurred in the
392 performance of his or her official duties, in accordance with travel policies and procedures established by the Division of
393 Professional Regulations.

394 § 5636. Jurisdiction.

395 The Commission has jurisdiction over the actions of auctioneers and any person licensed as an auction firm. The
396 Commission also has jurisdiction over the business of auctioneering, including individuals and persons engaging in the
397 business of auctioneering without a proper license pursuant to this chapter.

398 § 5637. Powers.

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

400 (a) The power to set reasonable license fees, examination fees, and other fees created under this chapter subject to
401 the limitations of this chapter, to collect and hold those fees and to disburse such fees in any manner not inconsistent with
402 this chapter;

403 (b) The power to examine an applicant who applies to be licensed as an auctioneer or auction firm in the State.

404 (c) The power to make rules and regulations that will promote the orderly functioning of the auction profession
405 and ensure the protection of the public;

406 (d) The power to hire and retain staff and support necessary to conduct business and assure compliance with this
407 chapter;

408 (e) The power to conduct investigations, hold hearings, make findings of fact, and otherwise enforce the
409 disciplinary provisions contained in this chapter;

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

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

414 (h) The power to accredit educational institutions, auctioneering schools, and continuing education providers;

415 (i) The power to levy assessments on auctioneers and each person licensed as an auction firm, and to collect and
416 hold such assessments for the Recovery Fund; and

417 (j) The power to sue in its own name for damages and/or injunctive relief to enforce the provisions of this
418 chapter.

419 § 5638. Investigations.

420 The Commission may upon its own initiative and shall upon the written complaint of any person investigate
421 alleged violations of this chapter by any licensed or unlicensed auctioneer, auction firm, person, or any applicant.

422 § 5639. Cease and desist orders.

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

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

431 § 5640. Penalties for unlicensed conduct.

432 (a) A person violating the provisions of § 5605 auctioneer license or § 5614 auction firm license or § 5615
433 exemptions shall be guilty of a class B misdemeanor. The Attorney General has jurisdiction to prosecute violations of this
434 chapter, and Superior Court shall have jurisdiction over these offenses.

435 (b) The Commission may in its own name seek injunctive relief in the Count of Chancery to restrain any violation
436 or anticipated violation of any provisions of this chapter.

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

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

441 (e) Appeals to Superior Court.

442 An aggrieved party may file an appeal to Superior Court pursuant to Subchapter V of the
443 Administrative Procedures Act, Chapter 101 of Title 29.

444 § 5641. Current Laws.

445 The Commission shall maintain, and provide upon request, a copy of the current auctioneer and auction firm laws
446 and an accurate list of those states having reciprocity with this State.

447 Subchapter V. Disciplinary Provisions.

448 § 5642. Prohibited acts.

449 Committing any of the following actions is a violation of the law, and may subject an individual licensed as an
450 auctioneer or person licensed as an auction firm to the penalties and discipline as provided in this chapter:

451 (a) Knowingly filing or causing to be filed a false application.

452 (b) Failing to enter into a written agreement with the seller or consignor prior to the sale or prior to advertising the
453 sale. The appearance of an auctioneer's or auction firm's name in advertising creates a rebuttable presumption that the
454 advertising was placed with the auctioneer's or auction firm's knowledge.

455 (c) Failing to give the seller a signed receipt for real or personal property received for sale at auction, either by
456 item or by lot at the time the item or lots are received, unless the goods are to remain in the possession of the seller.

457 (d) Failing to give to the seller of real or personal property sold at auction a statement indicating the item or lot
458 description, selling price and the net proceeds due to the seller or consignor.

459 (e) Unless contemporaneous payment is made to the seller, failing to place funds received from a real property
460 auction sale in an escrow or trust account, and failure to make a timely settlement on escrowed funds. Absent a written

461 agreement to the contrary, 60 business days is considered timely for settlement on personal property. Real property must
462 settle as per terms of real property contract.

463 (f) Knowingly permitting an unlicensed auctioneer to call for bids in an auction sale, unless they are working as
464 an apprentice auctioneer.

465 (g) Engaging in the business of auctioneering for an unlicensed auction firm.

466 (h) Being convicted of one or more felonies. For the purposes of this section, "convicted" means a plea or verdict
467 of guilty or a conviction following a plea of nolo contendere.

468 (i) Engaging in any course of intentional or wanton conduct which misleads or creates a false impression among
469 the seller, buyer, or bidders in the advertising, conduct and closing of an auction.

470 (j) Violating any provision of this chapter or any regulations promulgated by the Commission.

471 (k) Aiding or abetting the activity of another person which violates this chapter or any regulations promulgated by
472 the Commission.

473 (l) Misrepresenting a fact material to a buyer's decision on whether to or not to purchase real or personal
474 property.

475 (m) Materially misrepresenting the qualities or characteristics of any real or personal property offered for sale at
476 auction.

477 (n) Failing to comply with or violating any order of the Commission requiring an individual licensed as an
478 auctioneer or person licensed as an auction firm to comply with any provision of this chapter or rules or with the
479 regulations of the Commission.

480 (o) Failing to provide information within 30 days in response to a written request made by Commission.

481 (p) Engaging in the business of auctioneering without a license or after the license has expired, or has been
482 revoked, suspended, or terminated.

483 (q) Failing to disclose to the bidders, immediately prior to offering real or personal property for sale, the existence
484 and amount of any known liens or other encumbrances on real or personal property.

485 (r) Failing to notify the Commission of any change in name, address, business or trade name, or corporate status
486 of the auctioneer or the auction firm within 30 days of the change.

487 (s) Failing to make the required contribution to the recovery fund.

488 (t) Selling or offering for sale at auction real or personal property known to be owned by a minor or other
489 incapacitated individual, without the express written consent of a parent or legal guardian.

490 (u) Engaging in conduct in connection with a sales transaction that the Commission finds to have been transacted
491 in bad faith or dishonesty.

492 (v) Engaging in conduct determined by the Commission to be unethical, unprofessional, and of a character likely
493 to deceive, defraud, or harm the public.

494 (w) Knowingly permitting or engaging in phantom bidding, or using skills or any type of bid rigging.

495 § 5643. Disciplinary action.

496 Nothing in this chapter limits the authority of the Commission to take disciplinary action against an individual
497 licensed as an auctioneer or person licensed as an auction firm under this chapter, nor shall the repayment in full of all
498 obligations to the Fund by an individual licensed as an auctioneer or person licensed as an auction firm nullify or modify
499 the effect of any disciplinary proceedings brought under this chapter.

500 § 5644. Penalties.

501 (a) Each individual sale or act in connection with the conduct of an auction that is in violation of any provisions
502 of this chapter or of any rules and regulations adopted by the Commission constitutes a separate offense. If the Commission
503 finds an auctioneer or auction firm has violated any of the prohibited acts set out in § 5661 prohibited acts of this chapter, it
504 may enter an order imposing one or more of the following penalties:

505 (1) A fine of not more than \$10,000, however no combination of violations of any rules or regulations
506 shall exceed \$50,000;

507 (2) Issuance of a letter of reprimand;

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

510 (4) Order payment of restitution from the Recovery Fund to each consumer affected by a violation. Proof
511 that restitution was paid must be a signed and notarized release executed by the victim or the victim's estate;

512 (5) Suspension of license for a period of time established by the Commission with, or without automatic
513 reinstatement; or

514 (6) Revocation of license.

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

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

518 (d) When the Commission finds that an auctioneer or auction firm has violated this chapter and enters an order
519 imposing a penalty, the investigative costs incurred by the Commission are recoverable. In its order the Commission may

520 order the auctioneer or auction firm to pay the investigative costs; the Commission's order is enforceable in a court of
521 competent jurisdiction.

522 § 5645. Disciplinary actions against out-of-state licenses.

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

527 (b) The Commission may refuse to issue or renew a license, may place a violator on probation, may suspend or
528 revoke a license, or may otherwise discipline any auctioneer or auction firm who fails to report to the Commission, within
529 30 days, any adverse final action taken against the auctioneer or auction firm by any other licensing jurisdiction,
530 government agency, law enforcement agency, or court, or any liability for conduct that would constitute grounds for action
531 as set forth in this chapter.

532 Subchapter VI. Recovery Fund.

533 § 5646. Establishment of the Recovery Fund

534 (a) The Recovery Fund is established for the purposes set forth in this chapter. The Fund is administered by the
535 Commission.

536 (b) If at any time the monies in the Fund are insufficient to satisfy a valid claim or portion thereof, the
537 Commission shall satisfy the unpaid claim or portion thereof as soon as a sufficient amount has been deposited in or
538 transferred to the fund. If there is more than one unsatisfied claim outstanding, the claims must be paid in the order in
539 which the claims were made.

540 (c) Upon the payment of any amount from the Fund in settlement of a claim or in satisfaction of a judgment
541 against an auctioneer or auction firm, the license of the auctioneer or auction firm is automatically suspended until the
542 auctioneer or auction firm has complied with § 5651 of this chapter. A discharge of bankruptcy does not relieve a person
543 from the penalties provided in this chapter.

544 (d) Monies in the Fund at the end of a fiscal year must be retained in the Fund and accrue for the benefit of
545 auctioneers and auction firms. When the Fund exceeds the amount set forth in § 5647 of this chapter, all surcharges or
546 assessments for the Fund are suspended until the Fund is reduced below the amount set forth in § 5647 of this chapter.

547 § 5647. Surcharge to license fee: assessments.

548 (a) Before an auctioneer or auction firm license is issued under this chapter, the licensee must pay, in addition to
549 an examination fee and a license fee, an assessment as required by § 5607(h) and § 5616(e). The assessment must be in an

550 amount to be determined by the Commission, a minimum of \$200 and not to exceed \$300 yearly, which shall be deposited
551 in the fund at the time of licensure.

552 (b) The Commission shall maintain at least \$5,000 in the Fund for use as provided in this chapter. If the total
553 amount in the Fund, including principal and interest, exceeds \$5,000 at the end of the State's fiscal year after the payment
554 of all claims and expenses, the amount in excess of \$5,000 must remain in the Fund for the benefit of auctioneers and
555 auction firms by holding the assessments until such time as the fund shall need replenishing.

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

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

562 (2) Subtract the amount determined under paragraph (1) from the amount desired by the Commission for
563 the Fund.

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

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

567 (d) The Commission shall assess the surcharge described in subsection (c) of this section above against each
568 individual and person who received an initial auctioneer or auction firm license during the fiscal year that follows the year
569 in which the amount remaining in the fund was less than \$5,000.

570 § 5648. Conditions of recovery.

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

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

576 (2) An aggrieved person who obtains a final judgment in any court against a licensed auctioneer or
577 licensed auction firm to recover damages for any actual loss that results from a violation of this chapter or of any rule or
578 regulation adopted by the Commission may, upon termination of all proceedings, including appeals and proceedings
579 supplemental to judgment for collection purposes, file a verified application to the Commission for an order directing

580 payment out of the Fund of the amount of actual loss in the transaction that remains unpaid upon the judgment. The amount
581 of actual loss may include court costs, but may not include attorney's fee or punitive damages awards.

582 (b) The amount paid from the fund may not exceed \$5,000 per claim or claims arising out of the same transaction
583 or auction or an aggregate lifetime limit of \$50,000 with respect to a violation or violations by any one auctioneer or
584 auction firm. Auctions conducted under a single contract, agreement, or consignment shall be considered a single
585 transaction or auction even though conducted at more than one time or place.

586 (c) A claim for recovery from the Fund must be made within 2 years from the time of the act giving rise to the
587 claim or within 2 years from the time the act is discovered or should have been discovered with the exercise of due
588 diligence; however, a claim for recovery may not be made more than 4 years from the date of the act giving rise to the
589 claim.

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

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

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

598 § 5649. Payment of Claim.

599 Upon a final order of the court directing that payment be made out of the Recovery Fund, the Commission shall,
600 subject to the provisions of this chapter, make the payment out of the Recovery Fund as provided in § 5648 of this chapter.

601 § 5650. Payment of multiple claims.

602 (a) If the payment in full of 2 or more pending valid claims that have been filed by aggrieved persons against a
603 single auctioneer or auction firm would exceed the \$50,000 limit as set forth in § 5648(b), the money must be distributed
604 among the aggrieved persons in the ratio of their respective claims to the aggregate of all valid claims, or in any other
605 manner that a court of record may determine to be equitable. The money must be distributed among the aggrieved persons
606 entitled to share in it in the order the claims are filed.

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

610 (c) On June 30 and December 31 of each year, the Commission shall identify each claim that the court orders to
611 be paid during the 6-month period that ended on that day. The Commission shall pay the part of each claim that is so
612 identified within 20 days after the end of the 6-month period in which the claim was ordered to be paid. However, if the
613 balance of the Fund is insufficient to pay the full payable amount of each claim that is ordered to be paid during a 6-month
614 period, the Commission shall pay a pro-rated portion of each claim that was ordered to be paid during the period. Any part
615 of the payable amount of a claim left unpaid due to the pro-rating of payments under this section must be paid, subject to
616 the applicable limits set forth in § 5648 of this chapter, before the payment of claims ordered to be paid during the second
617 6-month period.

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

620 § 5651. Suspension of license.

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

625 § 5652. Expenditure of excess funds.

626 Subject to the approval of the majority of its members the Commission, the Commission may expend excess
627 moneys from the Fund for the following purposes:

628 (1) To prepare publications which provide information concerning the Commission's activities and administrative
629 rulings.

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

632 (3) To promote education and research in the auctioneer profession, in order to benefit persons licensed under this
633 chapter and to improve the efficiency of the profession;or

634 (4) To underwrite educational seminars, training centers, and other forms of educational projects for the use and
635 benefit of auctioneers and auction firms.

636 Subchapter. VII Code of Ethics.

637 § 5653. Responsibilities to clients and customers.

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

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

643 (c) A licensee shall, to assure better service to the seller and to prevent misunderstandings, enter into written
644 agreements that set forth the specific terms and conditions of the transaction.

645 (d) A licensee shall not accept compensation from any party other than the client, even if permitted by law,
646 without the full knowledge of all the parties to the transaction and a written disclosure.

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

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

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

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

658 (i) A licensee shall keep monies such as escrows, trust funds, client's monies and other similar items coming into
659 his or her possession in a separate special account in an appropriate financial institution.

660 (j) A licensee shall not disclose any confidential client information without the client's written consent except as
661 required by law or appropriate legal authorities.

662 § 5654. Responsibilities to the public.

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

665 (b) A licensee shall be careful at all times to present true information in their advertising and other representations
666 to the public. A licensee shall ensure that all advertising includes the names and information necessary for the public to
667 contact the auctioneer or firm responsible for conducting the auction.

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

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

673 § 5655. Responsibilities to the profession.

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

676 (b) A licensee should willingly share with other licensees the lessons learned through experience and study to
677 better the profession, licensees' business practices, and how the profession is perceived by society.

678 (c) A licensee shall conduct his or her business affairs so as to avoid disputes with other licensees. If a
679 controversy between licensees arises, the licensees shall seek the assistance of the Commission to arbitrate the controversy.

680 (d) A licensee, having personal knowledge of an act by another licensee that, in his or her opinion, is a material
681 violation of the ethical principles of this Code, shall treat the matter in accordance with the procedures of filing a grievance.

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

684 Section 2. Amend § 10161(a)(1), Title 29 of the Delaware Code by making insertions as shown by underlying and
685 deleting as shown by strike through as follows:

686 § 10161. State agencies affected [Effective until Aug. 6, 2013]

687 (a) This chapter shall apply only to the following agencies:

688 (1) ~~Alcoholic Beverage Control Commission~~ Appeals Commission, as defined by 4 *Del. C.* § 301(b);

689 (2) State Banking Commissioner;

690 (3) Public Service Commission;

691 (4) Real Estate Commission;

692 (5) State Human Relations Commission;

693 (6) Tax Appeal Board;

694 (7) State Insurance Commissioner;

695 (8) Industrial Accident Board;

696 (9) Environmental Appeals Board;

697 (10) Coastal Zone Industrial Control Board;

- 698 (11) State Board of Education;
- 699 (12) Merit Employee Relations Board;
- 700 (13) Division of Boiler Safety;
- 701 (14) Board of Veterinary Medicine;
- 702 (15) Board of Landscape Architecture;
- 703 (16) Board of Clinical Social Work Examiners;
- 704 (17) Board of Architects;
- 705 (18) Board of Podiatry;
- 706 (19) Board of Pilot Commissioners;
- 707 (20) Board of Chiropractic;
- 708 (21) State Board of Electrical Examiners;
- 709 (22) Board of Medical Licensure and Discipline;
- 710 (23) Council of the Delaware Association of Professional Engineers;
- 711 (24) Board of Occupational Therapy Practice;
- 712 (25) Division of Child Support Enforcement;
- 713 (26) Board of Mental Health and Chemical Dependency Professionals;
- 714 (27) State Board of Dentistry and Dental Hygiene;
- 715 (28) Board of Nursing;
- 716 (29) Board of Examiners in Optometry;
- 717 (30) Board of Examiners of Psychologists;
- 718 (31) Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers;
- 719 (32) Board of Professional Land Surveyors;
- 720 (33) Board of Accountancy;
- 721 (34) Board of Pharmacy;
- 722 (35) Board of Geologists;
- 723 (36) Board of Cosmetology and Barbering;
- 724 (37) Commission on Adult Entertainment Establishments;
- 725 (38) Board of Physical Therapy and Athletic Trainers;
- 726 (39) Real Estate Commission;
- 727 (40) Board of Funeral Services;

- 728 (41) Board of Examiners of Nursing Home Administrators;
729 (42) Delaware Board of Charitable Gaming;
730 (43) Board of Massage and Bodywork;
731 (44) Committee of Dietetics/Nutrition;
732 (45) Council on Real Estate Appraisers.
733 (46) Child Placement Review Board;
734 (47) The Professional Standards Board;
735 (48) Election Commissioner;
736 (49) Board of Plumbing Examiners;
737 (50) Manufactured Home Installation Board; ~~and~~
738 (51) Division of Professional Regulation; and
739 (52) Auctioneer's Licensing Commission.

740 Section 3. Severability.

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

744 Section 4. This Act becomes effective 180 days after its enactment.

SYNOPSIS

Substitute Bill provides a 60-day window after an auction to present a signed contract of sale to the seller.