



*Synopsis of House Committee Amendments**

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Legislative Service Commission

Sub. S.B. 209

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(H. Agriculture & Natural Resources)

Procedures and deadlines for issuance of licenses

Eliminates rule-making authority established under current law and under the House-passed version of the bill concerning procedures and deadlines for the issuance of licenses under the Auctioneers Law, and instead establishes the procedures and deadlines in statute by making existing statutory law previously superseded by rules applicable and by making proposed statutory language in the bill that was to be superseded by rules applicable.

Establishes new procedures and deadlines for the issuance of auctioneer's licenses and special auctioneer's licenses by specifying that the licenses are biennial, becoming effective on July 1 of the first year of the biennium and expiring on June 30 of the second year of the biennium; staggers the expiration of such licenses so that roughly half of the licenses expire in any given year; specifies that such a license may be renewed before September 1 of the year of expiration if the licensee pays the renewal fee and an additional late fee; and establishes transitional requirements to facilitate implementation of the new biennial schedule.

Establishment of fees

Eliminates provisions requiring fee amounts to be established by rule, and instead establishes the fee amounts in statute by making existing statutory law establishing fees previously superseded by rules applicable and by establishing new fees as follows:

--Initial or renewed auctioneer's license or special auctioneer's license

\$200 biennial fee, except that if an initial license is issued during the second year of a biennium, the fee is \$100; adds an additional \$100 fee for late renewal.

* This synopsis does not address amendments that may have been adopted on the House floor.

--Initial or renewed apprentice auctioneer's license or auction firm license

\$100 annual fee; adds an additional \$100 fee for late renewal.

--One-auction license

\$500 fee.

--Third name under which a licensed auctioneer does business

\$10 fee.

--Auctioneer's designation of new agent

\$10 fee.

--New auction firm license

\$100 fee if the existing auction firm license is terminated because the auction firm incorporates, ceases to operate as a corporation, or changes ownership or, if the auction firm is a partnership, changes the number of partners in the partnership or changes the partners comprising the partnership; \$10 fee if the existing auction firm license is terminated because the auction firm changes its firm manager, the name under which it conducts business, or its permanent business location.

--License reactivation

\$100 fee for an apprentice auctioneer; \$200 fee in the case of an auctioneer whose license is reacquired during the first half of a biennium; \$100 fee in the case of an auctioneer whose license is reacquired during the second half of a biennium.

--Examination

\$15 fee for an apprentice auctioneer or firm manager examination; \$25 fee for an auctioneer examination.

Portion of license fees credited to Auction Education Fund

Eliminates language in the House-passed version of the bill authorizing the Director of Agriculture to adopt rules that would supersede provisions in current law and in the bill that specify the portion (i.e. \$7.50) of each collected fee for an auctioneer's, auction firm's, apprentice auctioneer's, or special auctioneer's license that must be credited to the Auction Education Fund, thus establishing that amount in statute.



Adds language clarifying that \$7.50 out of each \$100 that is collected as a fee for an initial or renewed auctioneer's license or for a renewed special auctioneer's license must be credited to the Fund.

Continuing education requirements

Eliminates all continuing education requirements in the bill as passed by the House by doing both of the following:

- Eliminating language in the bill that authorizes the Director, with the advice and consent of the State Auctioneers Commission, to adopt rules establishing requirements and standards governing continuing education for persons licensed under the Auctioneers Law;
- Eliminating language in the bill that authorizes an auctioneer or apprentice auctioneer to reacquire a license on deposit from the Department of Agriculture only if, among other requirements, the person provides proof of compliance with the continuing education requirements.

High school diploma requirement

Eliminates all provisions in the House-passed version of the bill that require a license applicant to have a high school diploma as follows:

- Eliminates the bill's requirement that an applicant for an auctioneer's license furnish proof that he has at least a high school diploma or its equivalent or holds a valid license issued under the Auctioneers Law prior to June 30, 2004 and seeks to timely renew the license, if applicable;
- Eliminates the bill's requirement that an applicant for a one-auction license or an apprentice auctioneer's license furnish proof that he has at least a high school diploma or its equivalent.

New requirement for applicants for one-time auction licenses

Adds a requirement that an applicant for a one-auction license furnish proof to the Department that the applicant has not applied for or previously obtained a one-auction license.

Requirement for applicants for auction firm licenses

Adds a requirement that an applicant for an auction firm license must provide proof that he has knowledge of the general principles regarding auction management.

Exclusive sponsorship of apprentice auctioneer

Adds a provision prohibiting an apprentice auctioneer from being under the sponsorship of more than one auctioneer at a time.

Licensure of motor vehicle auction owners

Eliminates current law prohibiting a person from engaging in the business of motor vehicle auctioning or assuming to engage in that business unless the person is licensed under the Auctioneers Law, but retains the requirement in current law that such a person be licensed as a motor vehicle auction owner under the Motor Vehicle Dealers, Auction Owners, and Salespersons Law and adds that such a person must use an auctioneer who is licensed under the Auctioneers Law to conduct the motor vehicle auctions.

Adds specific exemptions from licensure requirements in the Auctioneers Law for a person who is licensed as a motor vehicle auction owner under the Motor Vehicle Dealers, Auction Owners, and Salespersons Law and who uses a licensed auctioneer to conduct motor vehicle auctions.

Preemption of local regulation

Eliminates a provision in the bill as passed by the House specifying that an ordinance, resolution, or other enactment by a municipal corporation or other political subdivision that directly or indirectly regulates auctioneers, auction firms, or auction sales is preempted by the state, but retains current law that establishes such preemption.

Notice of auction provided to local law enforcement personnel

With respect to the existing requirement that 24-hour prior notice of an auction be given to the applicable chief of police or county sheriff, eliminates language in the House-passed bill specifying that the notice only must be given if the auction is to be held at a location that is not the permanent business location of the auctioneer; adds that the notice must be given via telephone, mail, or personal delivery; and adds language specifying that a licensee who conducts regular auction sales on a fixed day at the same location must provide the notice only once and requiring that such a licensee notify the chief of police or the county sheriff if the auctions subsequently are discontinued or are conducted on a different day or at a different location.

Conditions under which property may be sold at absolute auction

With respect to the conditions established by the bill under which property may be sold at absolute auction, retains the condition that the seller must have a bona fide intention to transfer ownership of the property to the highest bidder, but replaces the language specifying that this intention must apply regardless of the amount of the last bid

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Number of registered names under which licensed auctioneer may do business

Adds a provision prohibiting a licensed auctioneer from doing business under more than three registered names.

Proceeds from auction deposited in trust or escrow account

Replaces the House bill's requirement that a licensee disburse money deposited into a trust or escrow account not later than 15 days after the initial deposit with a requirement that the licensee disburse the money not later than 15 days after the auction, thus potentially enabling the recipient of the money (i.e. the person who sold personal property at an auction) to receive the money 72 hours earlier.

Signing contract for sale of real property at auction

With respect to a condition in current law under which a person who is licensed as a real estate broker, but who is not licensed as an auctioneer may contract for the sale of real property at auction, adds a clarification that the auctioneer who signs the auction contract must be a salesperson who is licensed under the Real Estate Brokers Law and who is associated with the real estate broker.

Terms of office of members of State Auctioneers Commission

Reinserts current law clarifying that the three-year terms of office of members of the State Auctioneers Commission expire on October 9 of the applicable year.

Retains the bill's prohibition against a Commission member serving for more than three consecutive terms, but applies the prohibition to members appointed to the Commission for a term commencing on or after October 10, 2005, rather than October 10, 2004.