

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1073
Finance Committee Substitute Adopted 7/10/97
Third Edition Engrossed 7/15/97

Short Title: Auctioneer Amendments.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT RELATING TO AUCTIONEERS.

3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 114 of the General Statutes is amended by adding a new
5 section to read:

6 "**§ 114-19.7. Criminal record checks of auctioneer applicant.**

7 The Department of Justice may provide to the North Carolina Auctioneers
8 Commission the criminal history from the State and National Repositories of Criminal
9 Histories. The Commission shall provide to the Department of Justice, along with the
10 request, the fingerprints of the applicant to be checked, any additional information
11 required by the Department of Justice, and a form consenting to the check of the criminal
12 record and to the use of fingerprints and other identifying information required by the
13 State or National Repositories signed by the applicant to be checked. The fingerprints of
14 the applicant shall be forwarded to the State Bureau of Investigation for a search of the
15 State's criminal history record file, and the State Bureau of Investigation shall forward a
16 set of fingerprints to the Federal Bureau of Investigation for a national criminal history
17 record check. The Commission shall keep all information pursuant to this section

1 privileged. The Department of Justice shall charge a reasonable fee for conducting the
2 checks of criminal history records authorized by this section."

3 Section 2. G.S. 85B-4(b) reads as rewritten:

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

6 (1) Is under 18 years of age;

7 (2) Repealed by Session Laws 1983, c. 751, s. 6.

8 (3) Has within the preceding five years pleaded guilty to, entered a plea of
9 **nolo contendere** or been convicted of any felony, or committed or been
10 convicted of any act involving fraud or moral turpitude;

11 (4) Has had an auctioneer or apprentice auctioneer or auction firm license
12 revoked; ~~or~~

13 (5) Has, within the preceding five years, committed any act which
14 constitutes grounds for license suspension or revocation under this
15 Chapter or a Commission ~~rule~~-rule; or

16 (6) Is not a high school graduate or passed the General Educational
17 Development Test indicating high school equivalency."

18 Section 3. G.S. 85B-4(d) reads as rewritten:

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

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

41 Each applicant for an auctioneer license shall submit a written application in a form
42 approved by the Commission. If the applicant has been previously licensed as an
43 apprentice auctioneer, the application shall contain an evaluation by the applicant's

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

12 Section 4. G.S. 85B-4 is amended by adding a new subsection to read:

13 "(f1) The Commission may require licensees seeking renewal of a license under this
14 Chapter to complete Commission approved continuing education of not more than six
15 hours per year per licensee as a condition precedent to renewal. The Commission may
16 impose different continuing education requirements, or none, upon the different
17 classifications of licensees under this Chapter. The Commission shall be authorized to
18 waive the continuing education requirement in cases of hardship, disability, or illness or
19 under such other circumstances as the Commission deems appropriate. This subsection
20 shall apply to each renewal cycle which begins after the 1998-99 renewal."

21 Section 5. G.S. 85B-4.1 reads as rewritten:

22 **"§ 85B-4.1. Auctioneer Recovery Fund.**

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

26 (b) The Commission shall maintain at least ~~one~~ two hundred thousand dollars
27 ~~(\$100,000)~~ (\$200,000) in the Fund for use as provided in this Chapter. The Fund may be
28 invested by the State Treasurer in interest bearing accounts, and any interest accrued shall
29 be added to the Fund. Sufficient liquidity shall be maintained to insure that funds will be
30 available to satisfy claims processed through the Board. The Fund may be disbursed by a
31 warrant drawn against the State Treasurer or by other method at the discretion of the
32 State Treasurer.

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

- 35 (1) To promote education and research in the auctioneer profession, in order
36 to benefit persons licensed under this Chapter and to improve the
37 efficiency of the profession;
- 38 (2) To underwrite educational seminars, training centers, and other forms of
39 educational projects for the use and benefit of licensees;
- 40 (3) To sponsor, contract for, or underwrite education and research projects
41 in order to advance the auctioneer profession in North Carolina; and

(4) To cooperate with associations of auctioneers, or other groups, in order to promote the enlightenment and advancement of the auctioneer profession in North Carolina."

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

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

<u>Item</u>	<u>Maximum Fee</u>
Apprentice Auctioneers:	
Application for license	\$50.00 <u>\$125.00</u>
Issuance or renewal of license	50.00 <u>125.00</u>
Auctioneers:	
Application for license	50.00 <u>125.00</u>
Examination	25.00 <u>75.00</u>
Issuance or renewal of license	100.00 <u>250.00</u>
Auction Firms:	
Application for license	50.00 <u>125.00</u>
Examination	25.00 <u>75.00</u>
Issuance or renewal of license	100.00 <u>250.00</u>
Reinstatement of License	25.00 <u>75.00</u>

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

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

Section 7. G.S. 85B-9(a) reads as rewritten:

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

Section 8. This act is effective when it becomes law, except that G.S. 85B-4(b)(6) as enacted by this act does not apply to any person holding a license under Chapter 85B of the General Statutes on that date.