

1 HB486
2 165063-1
3 By Representatives Butler and Nordgren
4 RFD: Boards, Agencies and Commissions
5 First Read: 14-APR-15

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8 SYNOPSIS: Under existing law, the State Board of
9 Auctioneers is responsible for licensing
10 auctioneers in the state.

11 This bill would increase the administrative
12 fines the board may impose for a violation of the
13 licensing laws.

14 This bill would require the board to meet
15 four times a year but without specifying the months
16 during which they must meet.

17 This bill would also provide that a majority
18 of board members currently serving constitutes a
19 quorum at a board meeting.

20
21 A BILL

22 TO BE ENTITLED

23 AN ACT

24
25 Relating to the Board of Auctioneers; to amend
26 Sections 34-4-29 and 34-4-52, Code of Alabama 1975; to
27 increase the administrative fines the State Board of

1 Auctioneers may impose for a violation of the licensing laws;
2 to require the board to meet four times a year but without
3 specifying the months during which they must meet; and to
4 provide that a majority of board members currently serving
5 constitutes a quorum at a board meeting.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 34-4-29 and 34-4-52, Code of
8 Alabama 1975, are amended to read as follows:

9 "§34-4-29.

10 "(a) The board may revoke or suspend licenses as
11 provided in this section.

12 "(b) The board may, upon its own motion, and shall,
13 upon the verified complaint in writing of any person
14 containing evidence, documentary or otherwise, that makes out
15 a prima facie case, investigate the actions of any auctioneer,
16 apprentice auctioneer, or any person who assumes to act in
17 either capacity, and hold a hearing on the complaint.

18 "(c) The board may suspend or revoke any license
19 which has been issued based on false or fraudulent
20 representations. The board may also suspend or revoke the
21 license of any licensee for any of the following acts:

22 "(1) Making any substantial misrepresentation.

23 "(2) Pursuing a continued and flagrant course of
24 misrepresentation or making false promises through agents,
25 advertising, or otherwise.

26 "(3) Accepting valuable consideration as an
27 apprentice auctioneer for the performance of any of the acts

1 specified in this chapter from any person other than his or
2 her employer auctioneer.

3 "(4) Failing to account for or remit, within a
4 reasonable time, any money belonging to others that comes into
5 his or her possession, commingling funds of others with his or
6 her own, or failing to keep funds of others in an escrow or
7 trustee account.

8 "(5) Paying valuable consideration to any person for
9 services performed in violation of this chapter.

10 "(6) Being convicted in a court of competent
11 jurisdiction of this or any other state of a criminal offense
12 involving moral turpitude or a felony.

13 "(7) Violation of any rule or regulation promulgated
14 by the board.

15 "(8) Failure to furnish voluntarily at the time of
16 execution copies of all written instruments prepared by the
17 auctioneer or apprentice auctioneer.

18 "(9) Any conduct of any auctioneer which
19 demonstrates bad faith, dishonesty, incompetency, or
20 untruthfulness.

21 "(10) Any conduct of any auctioneer which
22 demonstrates improper, fraudulent, or dishonest dealings.

23 "(11) Failing prior to the sale at public auction to
24 enter into a written contract with the owner or cosignee of
25 any property to be sold containing the terms and conditions
26 upon which the licensee received the property for sale.

1 "(12) Failure by the auctioneer conducting an
2 auction to show his or her name and state license number in
3 the advertising of the auction.

4 "(13) Presenting a worthless check to the board.

5 "(d) Before denying an application for license or
6 suspending or revoking any license, the board shall hold a
7 hearing and shall, at least 21 days prior to the date set for
8 the hearing, notify in writing the accused licensee of the
9 charges made or the question to be determined, including
10 notice of the time and place of the hearing, and afford the
11 licensee an opportunity to be present, be heard in person or
12 by counsel, and to offer evidence orally, or by affidavit or
13 deposition. Written notice may be served by delivery of the
14 notice personally to the applicant or licensee or by mailing
15 the notice by registered or certified mail to the last known
16 mailing address of the applicant or licensee. If the applicant
17 or licensee is an apprentice auctioneer, the board shall also
18 notify the auctioneer employing him or her, or whose employ he
19 or she is about to enter, by mailing notice by registered or
20 certified mail to the auctioneer's last known address. The
21 hearing shall be held at a time and place prescribed by the
22 board.

23 "(e) In addition to the disciplinary powers granted
24 in this section, the board may levy and collect administrative
25 fines for serious violations of this chapter or the rules and
26 regulations of the board of not less than ~~\$200~~ five hundred

1 dollars (\$500) or more than \$500 two thousand five hundred
2 dollars (\$2,500) for each violation.

3 "§34-4-52.

4 "The board shall meet at least four times each year,
5 ~~in January, April, July, and October,~~ for the purpose of
6 transacting business as may properly come before the board.
7 Special meetings of the board shall be held at such times as
8 the board may provide in the bylaws the board may adopt. ~~Four~~
9 A majority of the currently appointed members shall constitute
10 a quorum at a board meeting. Due notice of each meeting and
11 the time and place thereof shall be given each member in such
12 manner as the bylaws may provide."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.