

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 678

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S.P. 219

In Senate, February 4, 1997

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### An Act to Amend the Laws Relating to Auctioneers.

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.

**Be it enacted by the People of the State of Maine as follows:**

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4       **Sec. 1. 32 MRSA §270, sub-§5**, as enacted by PL 1995, c. 402,  
Pt. A, §10, is repealed.

6       **Sec. 2. 32 MRSA §272-A**, as enacted by PL 1995, c. 402, Pt. A,  
8       §13, is repealed.

10       **Sec. 3. 32 MRSA §273, first ¶**, as amended by PL 1995, c. 402,  
Pt. A, §14, is further amended to read:

12       Every resident person in this State desiring to do business  
14       as an auctioneer ~~or--small--auctioneer~~, who satisfies the board  
that that person has knowledge of the laws of this State  
16       pertaining to auctions and sales, the ethics and practices of  
18       auctioneers, the laws relating to the record of sales of used  
20       merchandise and such other related subjects as the board may  
select, upon application in form designated by the board, must  
22       receive a license to conduct auctions. The original application  
must be accompanied by 2 letters of recommendation as evidence of  
ethical business practice.

24       **Sec. 4. 32 MRSA §275, sub-§2**, as amended by PL 1995, c. 402,  
Pt. A, §16, is further amended to read:

26       **2. Advertising.** No auction may be advertised in this State  
28       without including the name and license number of the auctioneer  
~~or--small--auctioneer~~.

30       **Sec. 5. 32 MRSA §276, first ¶**, as amended by PL 1995, c. 402,  
Pt. A, §17, is further amended to read:

32       Every nonresident person desiring to do business as an  
34       auctioneer ~~or--small--auctioneer~~ in this State shall obtain a  
license. The board may issue a license to any nonresident upon  
36       fulfillment of the same application requirements as those set  
forth for resident auctioneers ~~or--small--auctioneers~~.

38       **Sec. 6. 32 MRSA §279**, as amended by PL 1995, c. 402, Pt. A,  
40       §20, is further amended to read:

42       **§279. Inspection of license**

44       Every auctioneer ~~or--small--auctioneer~~ licensed by the State  
46       must show that auctioneer's ~~or--small--auctioneer's~~ state license  
at any time upon the request of a municipal law enforcement  
48       agency or municipal clerk or officer in whose municipality the  
50       auctioneer ~~or--small--auctioneer~~ is conducting an auction. The  
provisions for obtaining a state auctioneer's ~~or--small--~~  
auctioneer's license do not prohibit any municipality from

2 establishing its own permit requirements for an auction sale,  
provided no municipal permit is required for an auction that  
4 lasts less than 2 full consecutive days.

6 **Sec. 7. 32 MRSA §280, sub-§1**, as amended by PL 1995, c. 402,  
Pt. A, §21, is further amended to read:

8 **1. Statement of ownership of property.** Any law enforcement  
officer may require the auctioneer ~~or small-auctioneer~~ to state  
10 whether the merchandise being sold is owned in part or in its  
entirety by the auctioneer ~~or small-auctioneer~~. If the  
12 merchandise is owned by another party, the name and address of  
that party must be stated to law enforcement officials.

14 **Sec. 8. 32 MRSA §280, sub-§3**, as amended by PL 1995, c. 402,  
16 Pt. A, §22, is further amended to read:

18 **3. Real estate brokerage.** If an auctioneer ~~or small~~  
~~auctioneer~~ engages in real estate brokerage, the auctioneer ~~or~~  
20 ~~small-auctioneer~~ must be licensed under chapter 114, except that  
a license is not required if the auctioneer ~~or small-auctioneer~~  
22 is hired to call bids on real estate being sold at an auction and  
the auctioneer ~~or small-auctioneer~~ does not prepare contracts or  
24 otherwise control the actual sale or take custody of any part of  
the purchase price.

26 **Sec. 9. 32 MRSA §282, last ¶**, as amended by PL 1995, c. 402,  
28 Pt. A, §25, is further amended to read:

30 The Board of Licensing of Auctioneers may take any action  
pursuant to Title 10, section 8003, subsection 5. Any person who  
32 purports to be or operates as a licensed auctioneer ~~or small~~  
~~auctioneer~~ without obtaining a license commits a Class E crime.

34 **Sec. 10. 32 MRSA §283, first ¶**, as amended by PL 1995, c. 402,  
36 Pt. A, §26, is further amended to read:

38 Each auctioneer ~~or small-auctioneer~~ shall post for display  
and describe at the beginning of each auction the conditions of  
40 the auction sale. The conditions must include:

42 **Sec. 11. 32 MRSA §283, sub-§§2, 3 and 6**, as amended by PL 1995,  
c. 402, Pt. A, §26, are further amended to read:

44 **2. Highest bidder acknowledged.** That the highest bidder  
46 will be acknowledged by the auctioneer ~~or small-auctioneer~~;

48 **3. Bid not commensurate.** Whether a bid not commensurate  
with value, in the opinion of the auctioneer ~~or small-auctioneer~~,  
50 may be made;

2           **6. Auctioneer or owner bidding.** Whether or not the owner,  
3 or auctioneer ~~or-small-auctioneer~~ reserves the right to bid;

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**SUMMARY**

8           This bill repeals the "small auctioneer" free license  
9 category.