

MAINE STATE LEGISLATURE

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(Filing No. H-389)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 905, L.D. 1118, Bill, "AN ACT
Relating to the Licensing of Auctioneers."

Amend the Bill by striking out everything after the enact-
ing clause and inserting the following:

'Sec. 1. 10 MRSA §8003, sub-§2, as enacted by
P.L. 1975, c.767, §9, is amended to read:

2. Function of division. It shall be the responsibility of
the licensing division to process and issue certificates of reg-
istration/^{or reregistration} for those individuals and bureaus, boards and commis-
sions within the department which the commissioner shall direct.
Such certificates of registration or reregistration shall be
processed and issued by the licensing division only upon authori-
zation of the appropriate bureau, board or commission, or commis-
sioner in the case of individuals. The licensing division shall
maintain for the Department of Business Regulation a central
register containing the name and address of each firm or person
licensed by profession, occupation or industry and other such in-
formation as the commissioner shall direct for administrative,
information or planning purposes and shall be open for public in-
spection during regular office hours. The commissioner, with the
advice of the respective bureaus, boards and commissions, or as

provided by statute in the case of individuals shall have the authority to determine the type and form of the information collected for licensing purposes in order to facilitate processing by the licensing division. The licensing division shall perform such other administrative services for the bureaus, boards and commissions within the department as the commissioner shall direct.

Sec. 2. 10 MRSA §8003, sub-§4, 2nd sentence, as enacted by PL 1975, c.767, §9, is amended to read:

If an expiration or renewal date established by the commissioner has the effect of shortening the term of duly authorized license currently in effect, the commissioner, the bureau, board or commission shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license.

Sec. 3. 32 MRSA §251, as last amended by PL 1975, c.27, §1 is amended to read:

§251. Resident license

Every resident person in the State desiring to do business as an auctioneer in the State who is over 18 years of age, submits evidence of good moral character and satisfies the ~~Secretary-of-State~~ Commissioner of Business regulation hereinafter referred to as the commissioner, or an agent designated by him, that he has knowledge of the laws of this State pertaining to auctions and sales, the ethics and practices of auctioneers, the

laws relating to the record of sales of used merchandise and such other related subjects as the Secretary-of-State commissioner may select, upon application in form designated by the Secretary-of State commissioner and by payment of \$15, shall receive a one-year license to conduct auctions. Said license shall be renewed annually upon payment of a fee of \$10. The original license shall be effective from the date of issuance until April 1st following, or at any date which the commissioner designates. All renewal licenses shall be issued for a term of one year from April 1st of each year, or at any date which the commissioner designates. No further examination shall be required of renewal applicants providing renewal application is made within one year of the expiration of the last valid license. In addition, any municipality may require a local license to hold auctions therein upon payment of a local license fee not to exceed \$10, but no local license may be required for an auction of less than 4 days duration conducted by a resident auctioneer. The term "resident," as applied to this section, shall mean a bona fide resident of the State.

Sec. 4. 32 MRSa §252, 1st ¶ is amended to read:

Every nonresident person desiring to do business as an auctioneer in this State must obtain an auctioneer's license. The Secretary-of-State commissioner may issue a license to any nonresident auctioneer duly licensed as an auctioneer in the state in which he resides without an examination; provided such other state permits an auctioneer's license to be issued to a licensed resident auctioneer of this State without examination, upon compliance with the following requirements.

Sec. 5. 32 MRSA §252, sub-§§1 and 2 are amended to read:

1. Proof. The applicant shall furnish proof to the ~~Secretary-of-State~~ commissioner that he is licensed to conduct auctions in the state in which he resides.

2. Bond. The applicant shall file with the ~~Secretary-of-State~~ commissioner an approved surety company bond conditioned upon satisfying any judgment for damages sustained by any person arising out of any auction to be conducted by him. The penal sum of such bond shall be at least \$2,000. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the penal sum of such bond. The surety on any such bond may cancel such bond upon giving 30 days' notice to the ~~Secretary-of-State~~ commissioner and thereafter shall be relieved of liability for any breach of conditions occurring after the effective date of said cancellation. This bond provision may be waived if the applicant deposits with the ~~Secretary-of-State~~ commissioner cash security in a like amount.

Sec. 6. 32 MRSA §253 is amended to read:

§253. State license; application

All applications for state licenses shall be sworn to and shall disclose the name, age and residence of the applicant, if an individual; if a firm, the names, ages and residences of each firm member and the address at which such firm conducts its business; and if a corporation, its name, residence, state of incorporation and the name and residences of the officers and their official capacities; which shall be kept on file by the ~~Secretary~~

~~of-State~~ commissioner, together with a record of all licenses issued upon such applications. All files and records, both of the ~~Secretary-of-State~~ commissioner and of the several cities and towns relative to the issuance of local licenses as provided, shall be in convenient form and open for public inspection.

Sec. 7. 32 MRSA §254, 2nd ¶, as last amended by PL 1973, c.303, §3, is further amended to read:

Any person who is aggrieved by any act of the ~~Secretary-of-State~~ commissioner or the Administrative Court Judge under this chapter shall have the right to appeal as set forth in Title 5, chapters 301 to 307.

Sec. 8. 32 MRSA §255, 2nd ¶ is amended to read:

If such auction sale is to be conducted in an unorganized township or in a plantation, the application to conduct such sale shall be directed to the ~~Secretary-of-State~~ commissioner, and the same information required to be furnished to the clerk of a city or town for a local license shall be furnished the ~~Secretary-~~

~~of-State~~ commissioner, together with the same fee of \$5, who thereupon may issue such license for such auction sale. Any municipality requiring a local license of resident auctioneers under section 251 may require the same local license of non-resident auctioneers.

Sec. 9. 32 MRSA §257 is amended to read:

§257. Action against nonresident licensee; revocation of license

If action is brought against any nonresident licensee by any resident of the State aggrieved by such licensee, service of any legal process may be made upon the ~~Secretary-of-State~~ commissioner as agent for such licensee, and the courts of the State shall have original jurisdiction over any civil action, and the parties, to the same effect as if said licensee were a resident of the State. If action is brought in the District Court, such licensee shall be considered to be a resident of the county in which the plaintiff resides. Upon service of any process upon the ~~Secretary-of-State~~ commissioner, he shall forthwith forward a certified copy thereof to such licensee, by registered mail, to the last known address of such licensee, which shall constitute service on such licensee, and the ~~Secretary-of-State~~ commissioner shall deduct from the deposit on file with him the sum of \$10 to the use of the State. The licensee shall, within 30 days thereafter, deposit with the ~~Secretary-of-State~~ commissioner \$10, otherwise his license shall be revoked and the balance of said deposit shall be forfeited to the use of the State.

Sec. 10. 32 MRSA §258 is amended to read:

§258. Return of bond or cash security; limitation of action

If any licensee shall desire to surrender his license or shall desire not to renew the same, he may so notify the ~~Secretary of State~~ commissioner, who, at the end of one year from the date thereof, shall return to such licensee his surety company bond or cash security, and the right to make service of any legal process upon the ~~Secretary of State~~ commissioner, as provided, shall then terminate.'

Statement of Fact

This Amendment transfers from the Secretary of State to the Commissioner of Business Regulation the responsibility for licensing auctioneers.

Reported by the Committee on Business Legislation.

Reproduced and distributed under the direction of the Clerk of the House.
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