

MAINE STATE LEGISLATURE

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N I N E T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1374

S. P. 499

In Senate, March 19, 1953

Reported by Senator Dennett of York from the Committee on Business Legislation and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary

Presented by Senator Carter of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Relating to Licensing Auctions and Auctioneers.

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

R. S., c. 88, § § 73 - 82-H, repealed and replaced. Sections 73 to 82, inclusive, and sections 82-A to 82-H, inclusive, as enacted by chapter 261 of the public laws of 1947, of chapter 88 of the revised statutes, are hereby repealed and the following enacted in place thereof:

'Sec. 73. Resident licenses. Every resident person, firm or corporation, desiring to do business in this state as an auctioneer, upon application in proper form and the payment of a sum of \$10 as a state license fee, shall receive and the secretary of state shall issue to such applicant a license to conduct auctions in any city, town, plantation or unorganized territory in the state.

Sec. 74. Non-resident auctioneers; deposit; fees. Every non-resident person, firm or corporation, licensed to conduct public auctions by any other state, desiring to do business in this state as an auctioneer, shall deposit with the secretary of state the sum of \$100 as a special deposit, and shall name the secretary of state, agent upon whom service may be made in any action at law or in equity which may be brought against said applicant, to the same effect and in the same manner as upon a resident defendant, and after

compliance with the foregoing, upon application in proper form and the payment of a further sum of \$50 as a state license fee, the secretary of state shall issue to such applicant a license to conduct auctions in any city, town, unincorporated township or plantation, in the state, in the same manner and to the same legal effect as a legal voter of a city or town, licensed as an auctioneer of such city or town, might do.

Such license shall be for a term of 1 year from the date of its issuance and may be renewed from year to year by the payment of a state license fee of \$10 for each renewal. Every license shall set forth a copy of the application upon which it is granted, including renewals thereof. Such license shall not be transferable nor give authority to more than 1 person, firm or corporation, to conduct an auction sale, but each licensee may have the assistance of one or more persons in conducting any auction sale, who may aid that principal, but shall not act for, or without, that principal.

If such licensee is a firm, or corporation, only 1 person of any firm, or 1 agent of any corporation, may conduct any auction sale, and all acts of any such person acting in behalf of such firm, or corporation, shall be the acts of the principal, so that in the event of suit against the principal for any acts of omission or commission, proof of such agency shall not be required as a requisite to the maintenance of such action.

Sec. 75. Application for state license. 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 members, 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, together with a record of all licenses issued upon such applications. All files and records, both of the secretary of state and of the several cities and towns, relative to the issuance of local licenses, as hereinafter provided, shall be in convenient form and open for public inspection.

Sec. 76. Application for local license; fee. Every non-resident auctioneer licensed by the state intending to conduct an auction sale in any city or town, shall offer his state license for examination by, and shall make an application for a local license with, the clerk of the city or town where such auctioneer shall desire to conduct an auction sale, before entering upon any such sale. Such application for a local license shall set forth the name and residence of the owner of the property, a general description of the property to be sold, the location of the same, and the time and place of

sale, and if the licensee is a firm, or a corporation, it shall give the name and residence of the member of the firm, or the name and residence of the agent of the corporation, who is to conduct said sale. Thereupon, and upon the payment of a license fee of \$5 to the use of the city or town, the clerk of such city or town may forthwith issue to such licensee a license to conduct any such sale.

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, 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, together with the same fee of \$5, who thereupon may issue such license for such auction sale.

Sec. 77. Limitation on sale of property. Any auction sale conducted under the provisions of the preceding section shall not include any property brought in for such purpose from any other city or town within the state, or from without the state, whether or not owned by the same person for whom the auction is to be conducted.

Sec. 78. Suit against and service on non-resident licensee; revocations. If suit is brought against any non-resident licensee by any resident of the state aggrieved by such licensee, service of any legal process may be made upon the secretary of state, as agent for such licensee, and the courts of the state shall have original jurisdiction over any action at law or in equity, as also the parties, to the same effect as if said licensee were a resident of the state. If suit is brought in a municipal court, or a trial justice 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, 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 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, \$10, otherwise his license shall be revoked and the balance of said deposit shall be forfeited to the use of the state.

Any non-resident not licensed in accordance with the provisions of sections 73 to 79, inclusive, or whose license has been revoked, conducting any sale in any city or town, unincorporated township or plantation, in the state, shall be subject to a fine of not less than \$50 nor more than \$300, and prosecution for such offense shall be maintained in the county where it occurred.

Sec. 79. Return of deposit; 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, who, at the end of 1 year from date thereof, shall return to such licensee his deposit of \$100, and the right to make service of any legal process upon the secretary of state, as hereinbefore provided, shall then terminate.'