

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Transmitted by Director of Legislative Research pursuant to joint order.

NINETY-SEVENTH LEGISLATURE

Legislative Document

No. 1184

S. P. 414

In Senate, March 2, 1955

Referred to the Committee on Legal Affairs, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Martin of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Creating the Maine Board of Auctioneers.

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

Sec. 1. R. S., c. 84-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 84-A and to read as follows:

'Chapter 84-A.

Registration of Auctioneers

Sec. 1. The Board. A State Board of Examiners for the licensing of auctioneers is hereby created whose duty it shall be to administer the provisions of this chapter and shall hereinafter be called "the Board." The Board shall be composed of 3 licensed auctioneers and shall be appointed by the Governor for initial terms of 1, 2 and 3 years respectively, the latter to be chairman of the Board. At the expiration of each of the aforesaid terms new appointments shall be made for 3-year terms. Any member of said Board may be removed from office for cause by the Governor. Members shall be compensated at the rate of \$10 per day for each day of attendance on their duties.

Sec. 2. Meetings; organization; duties and powers. The Board shall hold at least one meeting each year for the purpose of conducting examinations of candidates who desire to be licensed by the Board and such other meetings as the Board shall deem necessary. They shall elect each year one of their members as secretary and treasurer. The treasurer shall receive all fees charged and assessments payable to the Board, and account for and pay over the same according to the law. The Board shall cause a seal of suitable inscription to be procured and to be affixed to such papers as may require such seal, shall keep a

correct record of all of its proceedings and shall have power to make such rules and regulations not inconsistent with law as it may deem necessary for the enforcement of its authority and the performance of its duties. The chairman and secretary shall be empowered to administer oaths in matters connected with the duties of the Board. The records of the Board shall include, among other things, a record of all moneys advanced and disbursed by said Board, also a list of all applicants for licenses, and the fact shall be recorded whether or not the applicant was granted a license. Such records, or duplicates thereof, shall always be prima facie evidence of all matters contained therein.

Sec. 3. Resident auctioneers to be licensed; certification; fee; grandfather clause. No person, including members of partnerships, associations and corporations, resident of this State shall hold himself out as, or act as an auctioneer without a license granted by the Board. The Board shall issue renewal licenses on the application within one year of the effective date of this chapter of all auctioneers who have held licenses during any one of the three years preceding the enactment of this chapter without examination upon the payment of a fee of \$10. Such licenses and renewals thereof shall be valid during the calendar year they are issued. All other persons resident of this State, whether acting as individuals or members of firms or corporations, before obtaining licenses are required to pass an examination conducted by the Board. The examination shall test the applicant's knowledge of the laws of this State pertinent to auctions and sales, the ethics and practices of auctioneers, and such other related subjects as it may select. An application shall be filed with the secretary of the Board at least 7 days before the date of the examination together with an application fee of \$25, which will not be refunded. Each applicant shall satisfy the Board that he:

- I. Is at least 21 years of age;
- II. Is of good moral character;
- III. Is a legal resident of this State;
- IV. Possesses reasonably adequate educational background.

Applicants failing to pass the examination on first attempt may be re-examined at the discretion of the Board.

Sec. 4. Board may suspend licenses. Upon complaint, notice and hearing the Board may revoke or suspend any license after proof that the holder has been convicted of a crime involving moral turpitude or has committed any fraud, deceit or unethical act. Upon application after 1 year from date of revocation, the Board may grant reinstatement in its discretion and may make such conditions as necessary to protect the public upon the reinstatement.

Sec. 5. Permit for nonresident auctioneers; requirements. The Board may issue a permit to a nonresident auctioneer duly licensed in any other state, to conduct an auction sale in this State upon compliance with the following requirements:

- I. The applicant shall furnish proof to the Board of license to conduct auctions in another state;

II. The applicant shall file with the Board an approved surety company bond conditioned upon satisfying any judgment for damages sustained by any person, corporation or municipality arising out of the auction to be conducted by him. The penal sum of such bond shall be at least \$10,000 and in no case shall be less than double the amount of the fair market value of the stock to be auctioned.

III. The applicant shall pay a fee of \$10 for such permit.

IV. The applicant shall in writing designate the secretary of the Board as his legal representative upon whom service of any legal process in law or in equity against him may be made.

V. The applicant under oath shall state his full name, age, residence, postal addresses and telephone numbers, and such other information as the Board shall deem necessary.

Sec. 6. Suit against and service on nonresident licensee. If suit is brought against any nonresident auctioneer by any resident of the State aggrieved by acts of such auctioneer, service of any legal process may be made upon the secretary of the Board, as agent for such auctioneer, 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 auctioneer were a resident of the State. Upon service of any process upon the secretary of the Board, he shall forthwith forward a certified copy thereof to such auctioneer, by registered mail, to his last known address, which shall constitute service on the auctioneer.

Sec. 7. Application for local license; fee. Every nonresident auctioneer who has a permit issued by the Board to conduct an auction sale in any city or town, shall offer his permit 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, which shall not include any property brought in for such purpose from any other town, the location of the same, and the time and place of sale. Thereupon, and upon the payment of a fee of \$10 to the use of the city or town, the clerk of such city or town may forthwith issue to such applicant a permit to conduct 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 clerk of the nearest municipality, who may issue a permit as provided herein.

Sec. 8. Auctions by charitable and nonprofit organizations exempt. The provisions of this chapter shall not apply to sales at auctions held by charitable, educational, religious or other nonprofit organizations; nor to sales made by sheriffs or their deputies, constables, tax collectors, executors or administrators, or any other person authorized to sell property by order of any court.

Sec. 9. All members and employees to be licensed; agency liability. No partnership, association or corporation shall be granted a license or permit as provided in this chapter unless every member, officer and employee of such partnership, association or corporation who actively participates in auctioneering shall hold a license or permit. All acts of any such person acting in behalf of

such a partnership, association or corporation shall be the acts of the principal and proof of agency shall not be a requisite to the maintenance of any action arising therefrom.

Sec. 10. Crime and penalty. It shall be unlawful for any person not licensed as provided in this chapter to designate himself by the word "auctioneer" or by any other term which implies that he is a licensed auctioneer, and upon conviction thereof shall be punished by a fine of not more than \$300. Any person convicted of violating any other provisions of this chapter shall be punished by a fine of not more than \$300. The Board shall have the authority, including the right of subpoena, to investigate facts relating to the violation of this chapter.

Sec. 11. Common law liability for conversion by auctioneers amended; provisions. The common law liability of auctioneers for acts of conversion arising out of auction sales is hereby abolished where a licensed auctioneer obtains from the seller a sworn statement containing a description of the goods to be sold, a warranty of title to the same or other authority to sell, provided that such document be posted in a conspicuous place on the auction block during the sale.

Sec. 12. Disposition of fees. All fees charged and collected by the Board shall be deposited by it in the State Treasury to the credit of the Board. All such moneys are hereby appropriated to be used by the Board in carrying out the provisions of this chapter. The expenditures of the Board may be paid only from such moneys.

Sec. 13. Board to make annual report to Governor. The Board shall annually, on or before the 1st day of July in each year, make a report to the Governor containing a full and complete account of all its official records during the preceding year; also a statement of its receipts and disbursements and such comments or suggestions.'

Sec. 2. R. S., c. 18, § 31, amended. The first sentence of section 31 of chapter 18 of the revised statutes is hereby amended to read as follows: 'All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners of Psychologists, the Board of Registration of Nurses, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the Board of Examiners of Funeral Directors and Embalmers, the State Board of Registration of Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Architects, the Electricians' Examining Board, the Board of Examiners for Auctioneers, the State Board of Barbers and Hairdressers, the Examiners of ~~podiatrists~~ Podiatrists, the Board of Chiropractic Examination and Registration and the Board of Commissioners of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the provisions of law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes.'

Sec. 3. R. S., c. 100, §§ 84 to 92, inclusive, repealed. Sections 84 to 92, inclusive, of chapter 100 of the revised statutes are hereby repealed.