

1 SB110
2 134895-1
3 By Senator Bussman
4 RFD: Governmental Affairs
5 First Read: 07-FEB-12
6 PFD: 01/30/2012

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, termination dates are
9 established for enumerated state agencies. The
10 agencies are periodically reviewed by the Alabama
11 Sunset Committee. After the review process is
12 completed, the committee prepares its
13 recommendations for the agencies to the Legislature
14 in the form of sunset bills which either continue,
15 terminate, or continue with modification each
16 agency reviewed.

17 This bill would provide for the continuance
18 of the State Board of Auctioneers until October 1,
19 2016, with the following change: To clarify the
20 time period in which a license may be renewed.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT
25

1 Relating to the Alabama Sunset Law; to continue the
2 existence and functioning of the State Board of Auctioneers
3 until October 1, 2016, with certain modifications; to amend
4 Section 34-4-21, Code of Alabama 1975, so as to clarify the
5 time period in which a license may be renewed.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Pursuant to the Alabama Sunset Law, the
8 Sunset Committee recommends the continuance of the State Board
9 of Auctioneers until October 1, 2016, with the additional
10 recommendation for statutory change as set out in Section 3.

11 Section 2. The existence and functioning of the
12 State Board of Auctioneers, created and functioning pursuant
13 to Sections 34-4-1 to 34-4-54, inclusive, Code of Alabama
14 1975, is continued until October 1, 2016, and those code
15 sections are expressly preserved.

16 Section 3. Section 34-4-21 of the Code of Alabama
17 1975, is amended to read as follows:

18 "§34-4-21.

19 "(a) Any person desiring to enter into the auction
20 business and obtain a license as an auctioneer or apprentice
21 auctioneer shall make written application for a license to the
22 board. Each application shall be accompanied by an examination
23 fee of an amount not to exceed one hundred dollars (\$100)
24 which shall be collected from each applicant to defray the
25 expenses of the examination. A fee of an amount not to exceed
26 one hundred fifty dollars (\$150) shall also be collected from

1 each nonresident applicant, or resident licensee of another
2 state, who seeks licensing by reciprocity. The application
3 shall be submitted on forms prepared and furnished by the
4 board.

5 "(b) Each applicant for a license as an auctioneer
6 shall be 19 years of age or over, and each applicant for a
7 license as an apprentice auctioneer shall be 18 years of age
8 or over and shall be a citizen of the United States or legally
9 present in this state. Each applicant for an auctioneer's
10 license shall: (1) have completed a prescribed course of study
11 at an accredited auctioneering school approved by the board;
12 (2) have served one year as an apprentice auctioneer under a
13 licensed auctioneer in this state; (3) have been the principal
14 auctioneer in at least five auctions of either real or
15 personal property during this period of time; and (4) furnish
16 satisfactory proof of these requirements to the board. An
17 application shall also be accompanied by a recommendation of
18 an employing auctioneer. If an applicant has not completed a
19 course of study at an accredited auctioneering school, then he
20 or she shall be required to serve two years as an apprentice
21 under a licensed auctioneer, and shall have been the principal
22 auctioneer in at least 10 auctions of real or personal
23 property.

24 "(c) Any person who files an application with the
25 board in the proper manner shall be entitled to take an oral
26 and written examination to determine his or her

1 qualifications. The board shall require applicants to take and
2 pass a written and oral examination establishing in a manner
3 satisfactory to the board that the applicant has a general
4 knowledge of ethics, reading, writing, spelling, elementary
5 arithmetic, elementary principles of land economics, and a
6 general knowledge of the statutes of this state relating to
7 the bulk sales, auctions, brokerage, and this chapter. The
8 examination for an auctioneer's license shall be of a more
9 exacting nature and scope than the examination for an
10 apprentice auctioneer. The board shall, through application
11 and examination, determine whether the applicant is of good
12 repute, trustworthy, honest, and competent to transact the
13 business of an auctioneer, or of an apprentice auctioneer, in
14 a manner that safeguards the interest of the public. The board
15 shall require, and it shall be the responsibility of any
16 applicant for an initial, renewal, or reciprocal license to
17 disclose any prior felony conviction, any prior misdemeanor
18 conviction involving moral turpitude, any pending criminal
19 arrest of any nature except misdemeanor traffic violations,
20 and any prior or pending disciplinary proceedings against the
21 applicant before a board of auctioneers or real estate
22 commission in this or any other state. All auctioneers,
23 apprentice auctioneers, and auction firms are under a
24 continuing duty to report to the board any and all such
25 criminal arrests, charges, convictions, or disciplinary
26 proceedings which they may incur, as well as any civil suits

1 involving them. The board must receive notice of any such
2 arrest, charge, criminal conviction, or commencement of
3 disciplinary proceedings within 30 days of its occurrence.
4 Notice of the commencement of any civil suit must be received
5 by the board within 30 days after service of the complaint
6 upon the defendant in the action.

7 "(d) The license fee for each auctioneer shall be an
8 amount to be determined by the board, not to exceed two
9 hundred fifty dollars (\$250), and the license fee for each
10 apprentice auctioneer shall be an amount to be determined by
11 the board, not to exceed one hundred dollars (\$100). The
12 license fees for an auctioneer shall not be increased more
13 than twenty-five dollars (\$25) in any given year.

14 "(e) All licenses shall expire on September 30 of
15 each year following issuance thereof and may be renewed upon
16 payment of the appropriate license fee as required by this
17 chapter. Renewal of a license may be effected at any time
18 during the months ~~indicated~~ preceding the date of expiration.
19 No examination shall be required for the renewal of any
20 license, unless the license has been revoked or suspended. If
21 a licensee fails to renew his or her license by the deadline
22 of each year, he or she may have his or her license renewed
23 within 60 days after the expiration date, upon payment of the
24 required fee and a late fee of twenty-five dollars (\$25) for
25 apprentices and fifty dollars (\$50) for auctioneers. If a
26 licensee elects not to pay the penalty and renew his or her

1 license, he or she shall submit an application, pay the
2 examination fee, and take the examination required for new
3 licensees.

4 "(f) The board shall adopt a program of continuing
5 education for its licensees. No licensee shall have his or her
6 license renewed unless, in addition to any other requirements
7 of this chapter, the minimum annual continuing education
8 requirements are met. The continuing education program shall
9 not include testing or examination of the licensees in any
10 manner. Any licensee 65 years of age or older shall be exempt
11 from the continuing education requirement.

12 "(g) The board shall prepare and deliver to each
13 licensee a license certificate and pocket card. The
14 certificate shall be displayed openly at all times in the
15 office of the licensee. The certificate and the pocket card of
16 the apprentice auctioneer shall contain his or her name as
17 well as that of the auctioneer under whose supervision he or
18 she is employed.

19 "(h) When any auctioneer discharges an apprentice,
20 or terminates his or her employment with the auctioneer for
21 any reason, the auctioneer shall deliver or mail by registered
22 or certified mail to the board the license of the discharged
23 apprentice auctioneer. It shall be unlawful for any apprentice
24 auctioneer to perform any of the acts contemplated by this
25 chapter, either directly or indirectly under authority of his
26 or her license, until the apprentice auctioneer receives a new

1 license bearing the name and address of his or her new
2 employer. No more than one license shall be issued to any
3 apprentice auctioneer for the same period of time.

4 "(i) Written notice shall be given immediately to
5 the board by each licensee of any change in his or her mailing
6 address and the board shall issue a new license for the
7 unexpired period. A change of mailing address without
8 notification to the board shall automatically cancel the
9 license previously issued. For changing a mailing address and
10 issuance of a new license, the board shall collect a fee of
11 five dollars (\$5). Each prior license shall be returned or
12 accounted for to the board and be canceled before the issuance
13 of the new license. The board may require other proof
14 considered desirable with due regard to the paramount interest
15 of the public in the issuance of the license.

16 "(j) Pursuant to Sections 41-22-1 to 41-22-27,
17 inclusive (the Alabama Administrative Procedure Act), the
18 board may make and enforce any necessary and reasonable rules
19 and regulations pursuant to the application for any license."

20 Section 4. The Legislature concurs in the
21 recommendations of the Sunset Committee as provided in
22 Sections 1, 2, and 3.

23 Section 5. This act shall become effective
24 immediately upon its passage and approval by the Governor, or
25 its otherwise becoming law.