
Summary

Amendment to Senate Bill 908

Printers No. 1080

Summary

Amends the bill by striking all the current language and inserts language requiring registration under the State Board of Auctioneer Examiners for trading assistants.

Analysis

Amends and renames Act 85 of 1983 as the Auctioneer Licensing and Trading Assistant Registration Act by requiring trading assistants to register with the State Board of Auctioneer Examiners.

Excludes any sale conducted through an online Internet bidding platform from being considered an auction or sale at auction.

Defines “online Internet bidding platform” as hardware or software architecture that provides or enables computer access by multiple users to an interactive computer server for the purpose of allowing users to offer property for sale and that does not examine, set the price or prepare the description of the property to be offered.

Defines “trading assistant” as a person who, for a commission or fee, conducts or intends to conduct a business within this Commonwealth of accepting property to sell on behalf of another individual through an online Internet bidding platform.

Makes it unlawful for any person to act as a trading assistant for a sale conducted by competitive bidding without either first registering with or obtaining licensure from the board. Registration is required on a biennial basis and must include a fee of \$100.

An application for registration must include the following:

1. Name of the business and the physical location where the business will be conducted.
2. Date the individual will begin accepting goods for sale through an online Internet bidding platform.
3. Pennsylvania tax identification number.
4. E-mail address.

Requires a person applying for registration to file a bond with the board in the amount of \$5,000. The bond will be for the recovery of judgment against a registrant by any aggrieved person.

Prohibits any political subdivision from requiring the registration of trading assistants.

Requires the board to maintain a list of registrants and to post the list on the Department of State's Internet website, along with a list of all individuals, partnerships, associations and corporations licensed by the board.

Requires registrants and licensees to provide a receipt for all transactions. Receipts may be provided electronically. Records and receipts must be retained for at least two years.

Trading assistants must enter into a written contract with an individual prior to conducting a sale on that individual's behalf. Contracts may be executed electronically.

Requires registrants to immediately deposit moneys, received for the sale of property and belonging to others in escrow.

Subjects trading assistants to criminal penalties provided for within the act, including conducting sales without a current registration.

Provides for the revocation and suspension of registration if the registrant is convicted in a court of competent jurisdiction of the following offenses in the Commonwealth or any other state:

- Forgery
- Embezzlement
- Obtaining money under false pretenses
- Extortion
- Criminal conspiracy to defraud
- Any other like offense

Also provides for the temporary suspension of a registration pending the outcome of a criminal trial on any of the above mentioned offenses.

Prohibits a new registration from being issued pending final decision upon appeal by a registrant.

Prohibits a new registration from being issued to a registrant for at least one year from the dated of a revocation.

Prohibits a registration from being issued to any person who has been convicted within the last five years for any of the following offenses:

- Forgery
- Embezzlement
- Obtaining money under false pretenses
- Extortion
- Criminal conspiracy to defraud
- Any other like offense

Subjects any person who fails to register to a fine of up to \$500 to be levied by the commissioner.

Reduces the number of licensed auctioneers on the State Board of Auctioneer Examiners from 5 to 4 and adds a registered trading assistant to the board.

Prohibits the board from promulgating regulations pertaining to registration applications and requires registrations to be accepted by the board upon effective date of the act.

Effective Date

60 days

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