

(11) Section 14, chapter 111, Laws of 1967 ex. sess. and RCW 71.24.140;

(12) Section 15, chapter 111, Laws of 1967 ex. sess., section 2, chapter 204, Laws of 1971 ex. sess., and RCW 71.24.150;

(13) Section 1, chapter 61, Laws of 1969, section 141, chapter 141, Laws of 1979 and RCW 71.24.165;

(14) Section 19, chapter 111, Laws of 1967 ex. sess., section 165, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 71.24.190;

(15) Section 21, chapter 111, Laws of 1967 ex. sess., section 1, chapter 145, Laws of 1979 ex. sess. and RCW 71.24.210; and

(16) Section 23, chapter 111, Laws of 1967 ex. sess. and RCW 71.24.230.

NEW SECTION. Sec. 27. Sections 1 through 5, 9 and 11 of this act are each added to chapter 71.24 RCW.

NEW SECTION. Sec. 28. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 10, 1982.

Passed the House March 9, 1982.

Approved by the Governor April 3, 1982, with the exception of Sections 17, 18, 19, 20, 21, 22, 23, and 24, which are vetoed.

Filed in Office of Secretary of State April 3, 1982.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Sections 17, 18, 19, 20, 21, 22, 23, and 24 Senate Bill No. 4786 entitled:

"AN ACT Relating to community mental health services".

I am vetoing these sections because they conflict with similar sections in House Bill 410 which contain amendatory language. I have done this to avoid difficulties in codification and future interpretation of these sections of the Code.

With the exception of Sections 17, 18, 19, 20, 21, 22, 23, and 24, which I have vetoed, the remainder of Senate Bill No. 4786 is approved."

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## CHAPTER 205

[Substitute House Bill No. 436]

### AUCTIONEER'S LICENSING ACT--APPROPRIATION

AN ACT Relating to auctioneers; amending section 21, chapter 266, Laws of 1971 ex. sess. as last amended by section 16, chapter 53, Laws of 1981 and RCW 43.24.085; adding new sections to chapter 18.11 RCW; repealing section 1, page 458, Laws of 1890 and RCW 18.11.010; repealing section 2, page 458, Laws of 1890 and RCW 18.11.020; repealing section 3, page 458, Laws of 1890 and RCW 18.11.030; defining crimes; providing penalties; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Section 1. This chapter shall be known and may be cited as the "auctioneer's licensing act."

**NEW SECTION.** Sec. 2. This chapter shall be administered under chapter 43.24 RCW.

**NEW SECTION.** Sec. 3. The department shall license each applicant for a certificate of registration under this chapter who applies in writing on a form prescribed by the director with such information as the director requires. The director shall set license and renewal fees in accordance with RCW 43.24.085.

Sec. 4. Section 21, chapter 266, Laws of 1971 ex. sess. as last amended by section 16, chapter 53, Laws of 1981 and RCW 43.24.085 are each amended to read as follows:

It shall be the policy of the state of Washington that the director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or registration of professions, occupations, or businesses, administered by the business and professions administration in the department of licensing. In fixing said fees the director shall, insofar as is practicable, fix the fees relating to each profession, occupation, or business in such a manner that the income from each will match the anticipated expenses to be incurred in the administration of the laws relating to each such profession, occupation, or business. All such fees shall be fixed by rule and regulation adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW: PROVIDED, That

(1) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than five dollars or in excess of fifteen dollars:

Auctioneer trainee

Barber

Student barber

Cosmetologist (manager-operator)

Cosmetologist (operator)

Cosmetologist (instructor-operator)

Apprentice embalmer((s))

Manicurist

Apprentice funeral director((s))

Registered nurse

Licensed practical nurse

Charitable organization

Professional solicitor;

(2) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than ten dollars or in excess of twenty dollars:

- Dental hygienist
- Barber instructor
- Barber manager instructor
- Psychologist
- Embalmer
- Funeral director
- Sanitarian
- Veterinarian
- Cosmetology shop
- Barber shop
- Proprietary school agent
- Specialized and advance registered nurse
- Physician's assistant
- Osteopathic physician's assistant;

(3) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than fifteen dollars or in excess of thirty-five dollars:

- Architect
- Dentist
- Engineer
- Land surveyor
- Midwife
- Podiatrist
- Chiropractor
- Drugless therapeutic
- Osteopathic physician
- Osteopathic physician and surgeon
- Physical therapist
- Physician and surgeon
- Optometrist
- Dispensing optician
- Landscape architect
- Nursing home administrator
- Hearing aid fitter;

(4) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than fifty dollars or in excess of two hundred dollars:

- Auctioneer
- Engineer corporation
- Engineer partnership
- Cosmetology school

Barber school  
 Debt adjuster agency  
 Debt adjuster branch office  
 Debt adjuster  
 Proprietary school  
 Employment agency  
 Employment agency branch office  
 Collection agency  
 Collection agency branch office  
 Professional fund raiser.

**NEW SECTION.** Sec. 5. Unless the context clearly requires otherwise, the definitions in this section apply through this chapter.

(1) "Auctioneer" means a person who sells goods or real estate at public auction for another on commission or for recompense, or one who conducts an auction for another on commission or for recompense.

(2) "Auction" or "sale at auction" means the verbal exchanges between an auctioneer and the members of his or her audience, constituting a series of invitations for offers for the sale of goods or real property made by the auctioneer, offers by members of the audience, and the acceptance of the highest or most favorable offer by the auctioneer.

(3) "Auction mart" means any fixed or established place designed, intended, or used for the conduct of auction sales.

(4) "Department" means the department of licensing.

(5) "Director" means the director of licensing.

(6) "Person" means an individual, or a partner or member of a firm, partnership, or association, or an officer, director, or employee of a corporation.

(7) "Goods" mean wares, chattels, merchandise, or personal property owned or consigned, which may be lawfully kept or offered for sale, including domestic animals and farm products.

(8) "Qualified public depository" means a depository defined by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, or a federal credit union or a federal savings and loan association organized, operated, and governed by any act of Congress.

**NEW SECTION.** Sec. 6. (1) On and after the effective date of this act, it is unlawful for any person to act as an auctioneer, or to engage in the business of an auctioneer in this state without a license. A person conducting an auction or sale at auction of equipment, livestock, household goods, personal property, or real estate individually owned by that person is not required to obtain a license.

(2) This section does not apply to an auction or a sale at auction:

(a) Conducted by or under the direction of a public authority;

(b) Held under judicial order in the settlement of a decedent's estate;

(c) Which is required by law to be at auction;

(d) Conducted by or on behalf of a political organization or a charitable corporation or association if the person conducting the sale receives no compensation;

(e) Conducted by or under the auspices of national, state, or county livestock breeder or producer associations;

(f) Of livestock which is conducted by a person licensed by the federal government; or

(g) Conducted by or under the auspices of the Future Farmers of America, the 4-H Club, or a county or district fair.

NEW SECTION. Sec. 7. (1) Except as otherwise provided in this chapter, no person, partnership, association, or corporation may be licensed as an auctioneer unless the person, and all members of the partnership, association, or corporation are actively engaged in the auctioneering profession, are citizens, residents of the state, and eighteen years of age or older.

(2) Applications for licenses under this subsection shall be made to the department within ninety days of the effective date of this act, and be accompanied by an issuance fee as determined by the director.

(3) Persons licensed under this chapter shall apply for a license renewal annually on or before the birth date of the licensee. If the licensee does not renew his or her license before it expires, the licensee is subject to a penalty fee.

NEW SECTION. Sec. 8. (1) A nonresident of this state may be licensed as an auctioneer upon complying with the rules of the department and this chapter.

(2) The department may accept, in lieu of the recommendations and statements otherwise required to accompany the application for a license, an auctioneer's license issued to the applicant by the state of his or her domicile upon the payment by the applicant of the proper license fee and filing with the department of a certified copy of the license issued by the other state. This section shall only apply to licensed auctioneers of those states under the laws of which similar recognition and courtesies are extended to licensed auctioneers of this state.

(3) The application of a person for a nonresident auctioneer's license under this chapter shall constitute the appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to the business of an auctioneer.

(4) Nonresidents must pay the issuance fee, annual renewal fees, and such other fees as prescribed by the director under RCW 43.24.085, and file the bond or proof of the establishment of a trust account as required by this chapter.

**NEW SECTION.** Sec. 9. Upon application and the payment of a fee as provided under RCW 43.24.085, the department shall issue a trainee auctioneer's license to a person under the age of eighteen years if the department finds that:

(1) The applicant meets the other qualifications and requirements for an applicant for a license as an auctioneer;

(2) An auctioneer licensed under this chapter has given written notice to the department that he or she has agreed to employ the applicant as a trainee auctioneer, that he or she will assume responsibility for acts of the applicant in the conduct of auction business and sales, and that he or she will be present and supervise any auction sale conducted by the applicant; and

(3) The applicant has furnished security as required by section 10 of this act or proof that the bond or trust account of the employer auctioneer under section 10 of this act requires the auctioneer to pay all legal claims which may accrue in favor of any person arising out of auction business transacted under the auctioneer's direction.

No trainee licensed under this section may sell his or her own property at an auction sale which the trainee conducts, or sell any property by auction unless the employer auctioneer is present at the time of the auction sale.

**NEW SECTION.** Sec. 10. (1) An auctioneer's license shall not be issued to any person, partnership, association, or corporation until the applicant has filed with the department an approved bond or has established a trust account in lieu of the bond, as required under this section.

(2) Each applicant for an auctioneer's license shall obtain a surety bond issued by a surety company authorized to do business in Washington or establish and maintain a trust account with a qualified public depository located in the state of Washington. Each trust account shall be managed by a trustee approved by the director. The bond or the trust account shall be at least five thousand dollars. The director may, by rule or order, establish procedures for the initiation, operation, forfeiture, or termination of any bond or trust account required under this section, including rules to ensure that the bond or trust account remains in effect for one year after expiration, revocation, or suspension of the auctioneer's license.

All bonds shall be subject to the condition that the licensee comply with this chapter and the law of the state. Each bond, or proof of the establishment of the required trust account, shall be filed with and retained by the department.

(3) The bond or trust account shall be in the name of the state of Washington. It shall be for the benefit of the state and any person injured by the auctioneer's violation of this chapter or by the auctioneer's breach of any obligation arising from auction business in this state. The state may bring an action against the bond or trust account to recover penalties. The

state or an injured person may bring an action against the bond or trust account for damages to the injured person. The liability of the surety or trustee shall be only for actual damages and shall not exceed the amount of the bond or trust account.

**NEW SECTION.** Sec. 11. No person may act as auctioneer in the sale at public auction of any goods or real estate until he or she has entered into a written contract or agreement with the owner or consignor in duplicate which contains the terms and conditions upon which the licensee receives or accepts the property for sale at auction. Auction marts shall not be subject to this section.

A person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not exceeding five hundred dollars.

**NEW SECTION.** Sec. 12. Every person engaged in the business of selling goods or real estate at auction shall keep permanent written records available for inspection which indicate clearly the name and address of the owner, employer, or consignor of the goods or real estate, the terms of acceptance and sale, and a copy of the signed written contract of the auctioneer.

**NEW SECTION.** Sec. 13. All persons, partnerships, associations, and corporations licensed as auctioneers under this chapter shall be required to have their certificates of registration prominently displayed in their offices and the current renewal card or a facsimile available on demand at all sales at auction conducted or supervised by the licensee.

The violation of this section by any licensee shall be, in the discretion of the department sufficient cause for license suspension or revocation.

**NEW SECTION.** Sec. 14. (1) If an auctioneer's license is revoked by the department after the effective date of this act, no new license may be issued to the person unless he or she complies with this chapter.

(2) After the revocation of any license, no new license may be issued to the same licensee within a period of at least one year from the date of the revocation nor at any time thereafter except in the sole discretion of the department.

(3) No license may be issued by the department to any person who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy, fraud, theft, or other similar offense, or to any partnership of which the person is a member, or to any association or corporation of which the person is an officer or employee or in which as a stockholder the person has or exercises a controlling interest either directly or indirectly.

**NEW SECTION.** Sec. 15. Any person, partnership, association, or corporation who after the effective date of this act, engages in the profession, or acts in the capacity of an auctioneer within this state without a license or

after the suspension or revocation of his or her license is guilty of a misdemeanor. Upon conviction, the person shall be fined for the first offense not less than one hundred dollars, nor more than five hundred dollars. For a second offense, the person shall be fined not less than five hundred dollars nor more than one thousand dollars, or be imprisoned for a period of not more than one year, or both.

**NEW SECTION.** Sec. 16. It shall be unlawful for a licensed auctioneer to pay compensation in money or otherwise to anyone not licensed under this chapter to render any service or to do any act forbidden under this chapter to be rendered or performed except by licensees.

The violation of this section by any licensee shall be, in the discretion of the department, sufficient cause for license suspension or revocation.

**NEW SECTION.** Sec. 17. No action or suit may be instituted in any court of this state by any person, partnership, association, or corporation not licensed as an auctioneer to recover compensation for an act done or service rendered which is prohibited under this chapter.

**NEW SECTION.** Sec. 18. The director may prescribe rules for the purpose of carrying out this chapter, including rules governing the conduct of investigations and inspections. Upon finding that any provision of this chapter has been violated, the director may deny issuance or renewal of any license authorized under this chapter or suspend or revoke any such license.

**NEW SECTION.** Sec. 19. There is added to chapter 18.11 RCW a new section to read as follows:

Chapter 18.11 RCW shall expire on June 30, 1986, unless extended by law. The legislative budget committee shall evaluate the effectiveness of chapter 18.11 RCW. The final report of the evaluation shall be available to the legislature at least six months prior to the scheduled termination date. The report shall include, but is not limited to, objective findings of fact, conclusions, and recommendations as to continuation, modification, or termination of chapter 18.11 RCW.

**NEW SECTION.** Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 21. There is appropriated from the general fund to the department of licensing for the biennium ending June 30, 1983, the sum of forty-five thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

**NEW SECTION.** Sec. 22. Sections 1 through 3 and 5 through 20 of this act are added to chapter 18.11 RCW.

**NEW SECTION.** Sec. 23. The following acts or parts of acts are each repealed:

- (1) Section 1, page 458, Laws of 1890 and RCW 18.11.010;
- (2) Section 2, page 458, Laws of 1890 and RCW 18.11.020; and
- (3) Section 3, page 458, Laws of 1890 and RCW 18.11.030.

Passed the House February 18, 1982.

Passed the Senate March 11, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.

## CHAPTER 206

[Substitute House Bill No. 855]

### MUNICIPAL CORPORATIONS—AUDITS

AN ACT Relating to the division of municipal corporations; amending section 43.09.270, chapter 8, Laws of 1965 and RCW 43.09.270; amending section 43.09.282, chapter 8, Laws of 1965 and RCW 43.09.282; adding a new section to chapter 43.09 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 43.09.270, chapter 8, Laws of 1965 and RCW 43.09.270 are each amended to read as follows:

The expense of maintaining and operating the division shall be paid out of the state general fund: PROVIDED, That those expenses directly related to the prescribing of accounting systems, training, maintenance of working capital including reserves for late and uncollectable accounts and necessary adjustments to billings, and field audit supervision, shall be considered as expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service.

Sec. 2. Section 43.09.282, chapter 8, Laws of 1965 and RCW 43.09.282 are each amended to read as follows:

~~((To facilitate the collection and expenditure of funds for auditing municipal corporations))~~ For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on taxing districts by the state auditor, there is hereby created a fund entitled the municipal revolving fund. The state treasurer shall be custodian of the fund. All moneys received by the division of municipal corporations or by any officer or employee thereof shall be deposited with the state treasurer ~~((, to be))~~ and credited to the municipal revolving fund. Funds in the municipal revolving fund will be spent only after appropriation by the legislature. Such appropriated funds shall be administered by the division of municipal corporations ~~((and shall be used for payment of the expenses of auditing public accounts)).~~ The division of municipal corporations shall keep such records as are necessary to detail the auditing costs attributable to the various types of taxing districts.