

AMENDED IN SENATE JUNE 17, 2002
AMENDED IN SENATE JUNE 3, 2002
AMENDED IN SENATE MAY 22, 2002
AMENDED IN ASSEMBLY JANUARY 14, 2002
AMENDED IN ASSEMBLY APRIL 30, 2001
AMENDED IN ASSEMBLY APRIL 4, 2001
CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 875

Introduced by Assembly Member Horton

February 22, 2001

~~An act to amend Section 144 of, to add Chapter 3.7 (commencing with Section 5700) to Division 3 of the Business and Professions Code, and to repeal Title 3.95 (commencing with Section 1812.600) of Part 4 of Division 3 of the Civil Code, relating to auctioneers, and making an appropriation therefor. An act to add Chapter 3.5 (commencing with Section 19250) to Division 8 of the Business and Professions Code, relating to auctioneers.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 875, as amended, Horton. Auctioneers and auction companies.

Existing law regulating auctioneers and auction companies was repealed in 1993.

This bill would enact the *Professional Auctioneer and Auction Licensing Company Registration Act* regulating auctioneers and auction companies. The bill would authorize the charging of ~~licensing~~

~~registration and renewal fees by the California Auctioneer Commission. These funds would be deposited into the Auctioneer Commission Fund which would be continuously appropriated for the licensing and regulation of auctioneers and auction companies. By appropriating these funds, the bill would make an appropriation county clerks who would issue certificates of registration to qualified applicants.~~

~~This bill provides that a violation of the act by a licensee would be a misdemeanor. Because this bill would create new crimes, it would impose a state-mandated local program.~~

~~Existing law provides that perjury is a crime.~~

~~This bill would require that all initial and renewal applications for registration as an auctioneer or auction company and any written complaint alleging a violation of the act be in writing and signed by the complaining party under penalty of perjury. The bill would additionally provide that an auctioneer is entitled to a copy of the complaint and supporting documentation. Because this bill would require all initial applications, renewal applications, and complaints to be signed under penalty of perjury, the violation of which is a crime, the bill would impose a state-mandated local program.~~

~~This bill would authorize a loan of \$100,000 from the General Fund to the Auctioneer Commission Fund and would require the commission to repay the loan not later than June 30, 2004.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs~~



so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: $\frac{2}{3}$ majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 144 of the Business and Professions~~
2 *SECTION 1. Chapter 3.5 (commencing with Section 19250)*
3 *is added to Division 8 of the Business and Professions Code, to*
4 *read:*

5
6 *CHAPTER 3.5. PROFESSIONAL AUCTIONEER AND AUCTION COMPANY*
7 *REGISTRATION ACT*
8

9 *19250. This chapter shall be known and may be cited as the*
10 *Professional Auctioneer and Auction Company Registration Act.*

11 *19251. No individual may act as an auctioneer and no person*
12 *may operate an auction company unless that individual or person*
13 *holds an unexpired valid registration issued pursuant to this*
14 *chapter. However, the requirements of this chapter do not apply to*
15 *any of the following:*

16 *(a) An auction of goods conducted by, on behalf of, or under the*
17 *direction of, any public authority, political candidate or party,*
18 *church, or charitable organization provided that the person*
19 *actually conducting the auction does so without compensation.*

20 *(b) An auction of goods conducted by an individual who*
21 *personally owns those goods and who did not acquire the goods for*
22 *resale.*

23 *(c) A sale of real estate or a sale in any sequence of real estate*
24 *with personal property or fixtures, or both, in a unified sale*
25 *pursuant to Section 9501 of the Commercial Code.*

26 *(d) An automobile auction regulated by the Department of*
27 *Motor Vehicles. The exemption provided by this subdivision shall*
28 *extend to employees of these auctions but not to independent*
29 *contractors calling an auction.*

30 *(e) An auction of livestock in any place designated by the*
31 *Secretary of the United States Department of Agriculture as a*
32 *stockyard pursuant to Section 202 of Chapter 9 of Title 7 of the*
33 *United States Code. However, an individual other than the auction*



1 yard owner or manager, acting as an auctioneer at a livestock
2 auction shall be registered as required by this chapter.

3 19252. (a) An auctioneer and an auction company shall be
4 registered by the county clerk of the county in which he or she
5 resides or has his or her principal place of business, and in which
6 he or she maintains a branch office.

7 (b) Except as provided in subdivision (c), no other agency or
8 political subdivision of the state shall impose on a registrant or
9 seller at auction any registration or license requirement or any
10 license or employment fee or charge on account of auction
11 activities.

12 (c) This chapter does not prohibit any city, county, or city and
13 county, from imposing a business license fee on a licensed
14 auctioneer or auction company whose principal place of business
15 is located in that city, county, or city and county.

16 19253. (a) The application for registration of a natural
17 person shall be signed under penalty of perjury and shall include,
18 all of the following statements about the applicant:

19 (1) The name, age, address, and telephone number of the
20 applicant.

21 (2) That the applicant is of good character and has not been
22 convicted of any felony involving moral turpitude nor of any
23 misdemeanor prosecuted pursuant to Section 1812.604 of the Civil
24 Code within the previous 12 months nor been denied registration
25 or licensing in any other state or had this registration or licensing
26 as an auctioneer previously revoked in any other state.

27 (3) That he or she meets the following minimum standards:

28 (A) Is 18 years of age.

29 (B) Has a high school education or GED.

30 (C) (i) Has completed a course of study of not less than 80
31 hours at a recognized school of auctioneering which course of
32 study includes at a minimum the requirements of California
33 governing the conduct of auctions, or (ii) has served an
34 apprenticeship of six months with a registered auctioneer in
35 California which includes conducting at least six auctions under
36 the supervision of a registered auctioneer, or (iii) has obtained a
37 license in another state with licensing requirements requiring an
38 equivalent amount of study or apprenticeship as required in
39 California, or (iv) prior to January 1, 2003, has been actively



1 engaged as an auctioneer in California conducting auctions for at
2 least two of the last three years.

3 (4) Provide proof that the applicant, or his or her employer,
4 holds a valid seller's permit issued by the State Board of
5 Equalization.

6 (5) Provide proof that a surety bond in the name of the
7 applicant, or his or her employer, has been obtained and is on file
8 with the Secretary of State as required by Section 1812.600 of the
9 Civil Code.

10 (6) Provide two color photographs of passport size and quality.

11 (7) Provide one set of fingerprints on a form approved by the
12 Department of Justice and pay the required fee for fingerprint
13 processing.

14 (b) The application for renewal of registration of a natural
15 person shall also be submitted under penalty of perjury and shall
16 include the requirements contained in paragraphs (1) to (5),
17 inclusive, of subdivision (a) and a statement describing any
18 additional continuing education courses taken by the applicant
19 during the period since the previous registration was issued.

20 (c) The application for registration and for the renewal of
21 registration of an auction company, except an auction company
22 wholly owned by a registered individual and operated as a sole
23 proprietorship, shall contain all the same information as that of an
24 individual applicant except that the information required by
25 paragraphs (1), (2), (6), and (7) of subdivision (a) shall be
26 provided for each partner if the company is a partnership and for
27 each officer if it is a corporation.

28 19254. An applicant shall pay a fee of two hundred
29 seventy-five dollars (\$275) to the county clerk at the time he or she
30 files an application for registration. An additional fee of ten
31 dollars (\$10) shall be paid to the county clerk for each additional
32 identification card.

33 19255. (a) Upon receipt of a properly completed application
34 for registration or renewal of registration, accompanied by
35 payment of the proper fees, the county clerk shall send the
36 fingerprints to the Department of Justice for a state and federal
37 criminal offender record information (CORI) check.

38 (b) This CORI check shall include every conviction rendered
39 against the applicant, every arrest for an offense for which the
40 applicant is presently awaiting trial, and whether the applicant is



1 *incarcerated or has been released on bail or on his or her own*
2 *recognizance pending trial.*

3 *(c) The Department of Justice shall send these results back to*
4 *the county clerk.*

5 *(d) Upon receipt of the Department of Justice results showing*
6 *no criminal offender record information inconsistent with the*
7 *minimum application requirements set forth in Section 19253, the*
8 *county clerk shall issue a certificate of registration and an*
9 *identification card or cards to each registrant as provided in*
10 *Section 19258.*

11 *19256. A certificate of registration shall be effective for a*
12 *period of two years. Thereafter, a registrant shall file a new*
13 *application under penalty of perjury for renewal of registration*
14 *and pay the fee set forth in Section 19254.*

15 *19257. Each registrant under this chapter shall, as a*
16 *condition of registration, maintain in force and effect a bond or*
17 *deposit as required by Section 1812.600 of the Civil Code and shall*
18 *file a copy of the bond or proof of cash deposit with the county clerk*
19 *at the time of application for registration and renewal of*
20 *registration.*

21 *19258. (a) The county clerk shall maintain a register of*
22 *auctioneers and auction companies, assign a number to each*
23 *registered auctioneer or auction company, and issue a certificate*
24 *of registration and an identification card to each auction company*
25 *and auctioneer. Additional cards for employees of auction*
26 *companies shall be issued upon the payment of ten dollars (\$10)*
27 *for each card. Upon renewal of registration, the same number shall*
28 *be assigned, provided there is no lapse in the period of registration.*

29 *(b) The certificate of registration shall contain at the top the*
30 *title, "Registered Auctioneer" or "Registered Auction Company"*
31 *followed by the registrant's name, address, registration number,*
32 *date of expiration, and county of registration. In the case of a*
33 *registered auctioneer, it shall also contain a photograph of the*
34 *registrant.*

35 *(c) The identification card shall be a card three and*
36 *three-eighth inches by two and one-fourth inches, and shall*
37 *contain at the top the title, "Registered Auctioneer" or*
38 *"Registered Auction Company" followed by the registrant's name,*
39 *address, registration number, date of expiration, and county of*



1 registration. In the case of a registered auctioneer, it shall also
2 contain a photograph of the registrant.

3 (d) Every registered auctioneer and registered auction
4 company shall disclose his or her registration number and bond
5 number in all advertising of auctions and at his or her place of
6 business along with the information required to be disclosed and
7 displayed by Section 1812.607 of the Civil Code.

8 (e) Every registered auctioneer and registered auction
9 company shall notify the county clerk within 30 days of the
10 following:

11 (1) Any change of address of record.

12 (2) Any change in the officers of a corporate license.

13 (3) Any change in the business or trade name of the auctioneer
14 or auction company.

15 19259. (a) The county clerk shall revoke the registration of
16 an auctioneer or auction company based on any of the following:

17 (1) Upon receipt of a court document or record stating that the
18 registrant has been found guilty of a misdemeanor violation of this
19 chapter or of Section 1812.604 of the Civil Code.

20 (2) Upon receipt of notice from a bonding company or the
21 Secretary of State's office that the registrant's bond is no longer in
22 effect.

23 (3) That a civil judgment has been entered against the
24 registrant in an action arising out of a violation of Title 2.95 of the
25 Civil Code.

26 (b) The county clerk shall give notice of these court actions.

27 (c) A registrant whose registration is revoked pursuant to
28 paragraph (2) of subdivision (a) because the registrant's bond is
29 no longer in effect, may reapply upon proof that the bond has been
30 reinstated or a new bond is in place.

31 (d) A registrant whose registration is revoked pursuant to this
32 subdivision due to a civil or criminal judgment arising out of a
33 violation of this chapter or of Title 2.95 may reapply for
34 registration one year after the date the registration was revoked.

35 19260. (a) A certificate of registration may be revoked or
36 suspended by the issuing county whenever it has been determined
37 that any of the following has occurred:

38 (1) The registrant has provided information in the registration
39 application that is materially false.



1 (2) *The registrant has failed to maintain a bond as required by*
2 *Section 1812.600 of the Civil Code.*

3 (3) *The registrant has committed any act punishable under*
4 *Section 1812.604 of the Civil Code.*

5 (4) *The registrant has been convicted of a felony involving*
6 *moral turpitude.*

7 (b) *An investigation concerning the revocation of certificate of*
8 *registration of a registrant may be commenced at any time the*
9 *county district attorney deems it appropriate or upon the*
10 *complaint, in writing and signed under penalty of perjury, of any*
11 *person who claims to have been injured by conduct of the*
12 *registrant in violation of law.*

13 (c) *If the district attorney of the county determines from the*
14 *investigation that a reason may exist for the suspension or*
15 *revocation of the certificate of registration, he or she shall set the*
16 *matter for hearing and give notice to the registrant. That hearing*
17 *shall be conducted in accordance with Chapter 5 (commencing*
18 *with Section 11500) of Division 3 of Title 2 of the Government*
19 *Code, and, for the purposes of those provisions, the district*
20 *attorney shall be deemed to be the agency, but shall be charged as*
21 *provided by Section 11527 of the Government Code.*

22 19261. *A registrant whose certificate of registration is*
23 *suspended or revoked shall be entitled to challenge the decision in*
24 *a court of competent jurisdiction.*

25 19262. *A failure to comply with the requirements of this*
26 *chapter shall be punishable as a misdemeanor.*

27 SEC. 2. *No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution for*
29 *certain costs that may be incurred by a local agency or school*
30 *district because in that regard this act creates a new crime or*
31 *infraction, eliminates a crime or infraction, or changes the penalty*
32 *for a crime or infraction, within the meaning of Section 17556 of*
33 *the Government Code, or changes the definition of a crime within*
34 *the meaning of Section 6 of Article XIII B of the California*
35 *Constitution.*

36 *However, notwithstanding Section 17610 of the Government*
37 *Code, if the Commission on State Mandates determines that this*
38 *act contains other costs mandated by the state, reimbursement to*
39 *local agencies and school districts for those costs shall be made*
40 *pursuant to Part 7 (commencing with Section 17500) of Division*



1 *4 of Title 2 of the Government Code. If the statewide cost of the*
2 *claim for reimbursement does not exceed one million dollars*
3 *(\$1,000,000), reimbursement shall be made from the State*
4 *Mandates Claims Fund.*

5
6
7
8
9
10
11

**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate June 3, 2002 (JR 11)**

O

