

By Mr. Poirier of North Attleborough (by request), petition of Phillip Davis and others for legislation to establish a state board of auctioneers and defining its powers and duties. Government Regulations.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty.

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AN ACT CREATING A BOARD OF AUCTIONEERS, DEFINING ITS POWERS AND DUTIES AND PROVIDING FOR THE LICENSING AND REGULATION OF AUCTIONEERS AND APPRENTICE AUCTIONEERS.

*Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:*

1 The General Laws in this chapter, the following words shall have  
2 the following meanings:—

3 **CHAPTER 100A**

4 *Section 1. Definitions.* As used in this chapter the following  
5 words shall have the following meanings:

6 I. "Auctioneer" means a person who engages in this state in the  
7 business of selling for another real, personal or mixed property by  
8 auction.

9 II. "Auctioneering" means the business or act of selling for  
10 another real, personal or mixed property by auction.

11 III. "Board" means the state board of auctioneers.

12 IV. "Resident" means any person who has resided within the  
13 state six months next preceding the day of filing an application.

14 *Section 2. State Board of Auctioneers.* There is hereby estab-  
15 lished a state board of auctioneers, the purpose of which shall be to  
16 advise and make recommendations to the secretary of state on  
17 matters pertaining to the administration of this chapter and to

18 perform such other duties and functions as are prescribed herein.  
19 The board shall consist of three members who shall be residents of  
20 this state, and who shall be auctioneers licensed under this chapter.  
21 Members shall be appointed by the governor, with the advice of the  
22 council. Members first appointed shall be appointed for terms of  
23 one, two, and three years respectively. Thereafter one member  
24 shall be appointed each year thereafter for a term of three years.  
25 Terms shall expire March first. The board shall elect one of its  
26 members chairman, and one as secretary. Members shall serve  
27 without compensation.

28 *Section 3. Rules.* The board, with the approval of the secretary  
29 of state, shall prescribe and enforce rules governing auctioneers,  
30 auctioneering, and auctions.

31 *Section 4. Auctioneering Without a License Prohibited.* No  
32 person shall in this state engage himself in the business of auction-  
33 eer, hold himself out as an auctioneer, engage in auctioneering, or  
34 advertise that he will sell the real, personal or mixed property of  
35 another by auction unless he has been approved by the board of  
36 auctioneers and issued and holds a valid auctioneer's license from  
37 the secretary of state under this chapter. Provided, however, that a  
38 licensed auctioneer may employ unlicensed qualified or apprentice  
39 auctioneers to assist him.

40 *Section 5. Qualifications.* Subject to other requirements here-  
41 of, auctioneers' licenses shall be granted to applicants who are  
42 residents of this state, are trustworthy and competent to auction  
43 real, personal or mixed property of others in such a manner as to  
44 safeguard the interests of the public after proof thereof has been  
45 presented to the board of auctioneers, in any form they deem  
46 advisable.

47 *Section 6. Application.* An application for license shall be in  
48 writing and shall be obtained from the secretary of state. Such  
49 application shall be in such form as prescribed and approved by the  
50 boards of auctioneers. It shall contain a showing as to the appli-  
51 cant's ability to judge the value of real, personal and mixed prop-  
52 erty and such other information as the secretary of state and the  
53 board of auctioneers require to determine the qualifications of the  
54 applicant and compliance with this chapter. If the applicant is an  
55 individual, he shall verify the same; if a firm or corporation, it shall

56 be verified by at least two members or officers. The application  
57 shall be accompanied by the required fee and affidavits of at least  
58 two disinterested persons who are reputable freeholders, in the  
59 area where the applicant resides, and at least one of which is a  
60 resident licensed auctioneer under this law, certifying that the  
61 applicant is trustworthy and competent to auction real, personal  
62 and mixed property in such a manner as to safeguard the interests  
63 of the public. Each such affidavit shall among other things set forth  
64 the name, age, address, and occupation of the affiant, the extent of  
65 his acquaintanceship with the applicant, his familiarity with past  
66 business experience and dealings of the applicant and such other  
67 knowledge of the applicant and his background upon which the  
68 affidavit is founded. Applications for renewal licenses need not be  
69 accompanied by such affidavits.

70 *Section 7.* No license shall be granted hereunder until the appli-  
71 cant has filed with the secretary of state a bond in the sum of one  
72 thousand dollars for residents and five thousand dollars for non-  
73 residents, with sureties approved by the secretary of state, condi-  
74 tioned that he will properly account for and deliver to the person  
75 entitled thereto all moneys and things of value coming into his  
76 hands as an auctioneer and will conform to all laws relating to such  
77 auctions.

78 *Section 9. Expiration of License—Fee.* The annual fee for a  
79 license shall be 25 dollars for resident auctioneers and 75 dollars for  
80 out-of-state auctioneers. Said license shall expire on May thirtieth  
81 following its issuance.

82 *Section 9. Denial, Suspension, Revocation.* A license may be  
83 suspended or revoked for a maximum of one year, and an applica-  
84 tion for a renewal license may be denied only after the board shall  
85 so determine in the manner and for one of the reasons provided in  
86 this section. A license may be suspended or revoked and an appli-  
87 cation for a renewal license may be denied for one or more of the  
88 following reasons:

- 89 I. Failure to meet the qualifications in section 5.
- 90 II. Conviction of a felony;
- 91 III. Wilful violation of this chapter;
- 92 IV. Acts of bad faith or misrepresentations resulting in convic-  
93 tion in a court of law;

94 V. Unethical conduct in which the judgement of the board is  
95 reprehensible and against public welfare and protection;

96 VI. Conducting an auction sale for another without notice hav-  
97 ing been published or posted thereof and stating in such notice the  
98 name of the auctioneer conducting the sale;

99 VII. No license shall be denied, suspended, or revoked until after  
100 five days notice in writing to the licensee or applicant stating the  
101 ground of the proposed action and a public hearing at which he  
102 shall have opportunity to be heard, present testimony in his behalf  
103 and be confronted by witnesses against him. The board, in its  
104 discretion, may grant the accused a temporary permit to auction  
105 pending such hearing and determination. Determinations shall be  
106 made and the licensee or applicant notified thereof within five days  
107 after hearing. Any auctioneer notified of a suspension may request  
108 a rehearing within twenty days from the date of notification upon a  
109 rehearing and continued denial, suspension or revocation of  
110 license, or upon a refusal for rehearing said party shall be entitled  
111 to appeal his case before any superior court in the state of  
112 Massachusetts.