

2024 Regular Session

HOUSE BILL NO. 679

BY REPRESENTATIVE RISER

LICENSING: Provides relative to auctioneers

1 AN ACT

2 To amend and reenact R.S. 37:3103(A)(8) and 3118(A)(1)(introductory paragraph), (B), and  
3 (D)(1)(introductory paragraph) and (a), to enact R.S. 37:3113(B)(3) and (4) and  
4 (D)(1)(f) and (g), and to repeal R.S. 37:3118(A)(4), relative to auctioneers; to  
5 provide for definitions; to provide for qualifications of applicants; to provide for  
6 bond requirements; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:3103(A)(8) and 3118(A)(1)(introductory paragraph), (B), and  
9 (D)(1)(introductory paragraph) and (a) are hereby amended and reenacted and R.S.  
10 37:3113(B)(3) and (4) and (D)(1)(f) and (g) are hereby enacted to read as follows:

11 §3103. Definitions of terms

12 A. As used in this Chapter, these terms shall have the definitions ascribed to  
13 them, unless the context indicates otherwise:

14 \* \* \*

15 (8) "Internet-based platform" means ~~a website which is used by licensed~~  
16 ~~auction houses or auctioneers to conduct auctions as defined in this Chapter. a~~  
17 company that provides a forum through the internet for a person to sell the person's  
18 real or personal property via the submission of silent bids using a computer or other  
19 electronic device.

20 \* \* \*

1 §3113. Qualifications of applicants

2 \* \* \*

3 B. The board shall base determination of satisfactory minimum  
4 qualifications for licensure of an entity as an auction business on the following  
5 requirements:

6 \* \* \*

7 (3) The applicant for licensure, excluding those who conduct wholesale  
8 motor vehicle auctions in compliance with R.S. 32:794, shall designate a qualifying  
9 party who shall be the legal representative for the auction business relative to the  
10 provisions of this Chapter. The board may deny approval of the qualifying party for  
11 good cause, which may include the ability of the proposed principal owner or  
12 owners, principal shareholder or shareholders, or qualifying party to engage in the  
13 auction business as demonstrated by his prior auction business experience. Evidence  
14 which may be considered by the board shall be limited to any legal proceedings  
15 against the qualifying party or businesses where the qualifying party was in a  
16 position of control at the time a problem arose and the ultimate disposition of such  
17 proceedings, any financial history of bankruptcies, unpaid judgments, insolvencies,  
18 or any similar evidence. When the qualifying party terminates employment with the  
19 licensee, the board shall be notified in writing within thirty days of the  
20 disassociation, and another qualifying party must qualify within sixty days. The  
21 qualifying party or parties are any individual licensed as an auctioneer pursuant to  
22 the requirements in this Chapter and are one or more of the following:

- 23 (a) An applicant sole proprietor or spouse of an applicant sole proprietor.
- 24 (b) Any employee of an applicant who has been in full-time employment for  
25 one hundred twenty consecutive days immediately preceding the application. The  
26 employee may be allowed to be the qualifying party for the licensed company and  
27 related entities.
- 28 (c) Any stockholder, officer, or director of an applicant corporation.
- 29 (d) Any partner of an applicant partnership.

1           (e) Any member or manager of an applicant limited liability company.

2           (4) If the entity intends to conduct auctions wherein vehicles will be  
3           auctioned as defined by R.S. 32:1, the entity shall hold a valid dealer license  
4           pursuant to R.S. 32:1254 unless a valid dealer license is not required by the  
5           regulating agency.

6   \*       \*       \*

7           D.(1) An applicant for licensure of an entity as an auction business shall  
8           submit the following information on an application form designated by the board:

9   \*       \*       \*

10           (f) A copy of the auctioneer license of the qualifying party.

11           (g) A copy of the dealer license for those entities conducting auctions of  
12           vehicles if such license is required.

13   \*       \*       \*

14           §3118. Bond requirements

15           A.(1) ~~Except as otherwise provided in Paragraph (4) of this Subsection and~~  
16           ~~in Subsection D of this Section, each~~ Each applicant for licensure as ~~a resident an~~  
17           ~~auctioneer; or apprentice auctioneer; or auction business~~ shall deliver to and deposit  
18           with the board at the time of application either the sum of ten thousand dollars in  
19           cash or a surety bond in the amount of ten thousand dollars. Each applicant for  
20           licensure as an auction business shall deliver to and deposit with the board at the  
21           time of application either the sum of twenty-five thousand dollars in cash or a surety  
22           bond in the amount of twenty-five thousand dollars. Such bond shall:

23   \*       \*       \*

24           B. The board may promulgate rules to require a cash deposit or surety bond  
25           not to exceed ~~ten thousand dollars~~ an amount equal to that as defined in Paragraph  
26           (1) of Subsection A of this Section as a condition of reinstatement of a license  
27           revoked, canceled, suspended, or otherwise restricted pursuant to R.S. 37:3121.

28   \*       \*       \*

1           D.(1) An auction business which is owned by a nonresident auctioneer and  
 2           which receives its license through the reciprocity provision of R.S. 37:3117 shall,  
 3           prior to being licensed by the board, post a surety bond in an amount which shall be  
 4           the greater of either:

5                     (a) ~~Fer~~ Twenty-five thousand dollars.

6   \*       \*       \*

7           Section 2. R.S. 37:3118(A)(4) is hereby repealed in its entirety.

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 679 Engrossed

2024 Regular Session

Riser

**Abstract:** Provides relative to auctioneers.

Present law provides for definitions.

Proposed law amends the definition for "internet-based platform".

Present law provides the requirements that the board shall base determination of satisfactory minimum qualifications for licensure of an entity as an auction business.

Proposed law adds the requirements that the applicant for licensure, excluding those who conduct wholesale motor vehicle auctions, shall designate a qualifying party who shall be the legal representative for the auction business relative to the provisions of present and proposed law.

Proposed law provides that the board may deny approval of the qualifying party for good cause, which may include the ability of the proposed principal owner or owners, principal shareholder or shareholders, or qualifying party to engage in the auction business as demonstrated by his prior auction business experience. Evidence which may be considered by the board shall be limited to any legal proceedings against the qualifying party or businesses where the qualifying party was in a position of control at the time a problem arose and the ultimate disposition of such proceedings, any financial history of bankruptcies, unpaid judgments, insolvencies, or any similar evidence.

Proposed law provides that when the qualifying party terminates employment with the licensee, the board shall be notified in writing within 30 days of the disassociation and another qualifying party must qualify within 60 days.

Proposed law provides that the qualifying party or parties are any individual licensed as an auctioneer pursuant to the requirements in present law and proposed law and are one or more of the following:

- (1) An applicant sole proprietor or spouse of an applicant sole proprietor.
- (2) Any employee of an applicant who has been in full-time employment for one hundred twenty consecutive days immediately preceding the application. The

- employee may be allowed to be the qualifying party for the licensed company and related entities.
- (3) Any stockholder, officer, or director of an applicant corporation.
  - (4) Any partner of an applicant partnership.
  - (5) Any member or manager of an applicant limited liability company.

Proposed law provides that if the entity intends to conduct auctions wherein vehicles will be auctioned as defined by present law, the entity must hold a valid dealer license pursuant to present law unless a valid dealer license is not required by the regulating agency.

Present law provides that an applicant for licensure of an entity as an auction business shall submit the information on an application form designated by the board.

Proposed law adds that a copy of the auctioneer license of the qualifying party and a copy of the dealer license for those entities conducting auctions of vehicles, if such license is required, shall be included on the application form.

Present law provides that except as otherwise provided in present law, each applicant for licensure as a resident auctioneer, apprentice auctioneer, or auction business shall deliver to and deposit with the board at the time of application either the sum of \$10,000 in cash or a surety bond in the amount of \$10,000.

Proposed law amends present law that each applicant for licensure as an auctioneer or apprentice auctioneer shall deliver to and deposit with the board at the time of application either the sum of \$10,000 in cash or a surety bond in the amount of \$10,000.

Proposed law adds that each applicant for licensure as an auction business shall deliver to and deposit with the board at the time of application either the sum of \$25,000 in cash or a surety bond in the amount of \$25,000.

Present law provides that the board may promulgate rules to require a cash deposit or surety bond not to exceed \$10,000 as a condition of reinstatement of a license revoked, canceled, suspended, or otherwise restricted pursuant to present law.

Proposed law amends present law to state that the board may promulgate rules to require a cash deposit or surety bond not to exceed an amount equal to proposed law as a condition of reinstatement of a license revoked, canceled, suspended, or otherwise restricted pursuant to present law.

Present law provides that a licensed resident auctioneer shall not be required to deposit with the board an additional cash amount or an additional surety bond upon application for licensure as an auction business.

Proposed law repeals present law.

Present law provides that an auction business which is owned by a nonresident auctioneer shall, prior to being licensed by the board, post a surety bond in an amount which shall be the greater of either \$10,000 or the amount of the bond required of an auction business owned by an auctioneer licensed in this state in the licensing jurisdiction of such nonresident auctioneer. Such bond shall name the board as beneficiary.

Proposed law amends present law to apply to a business owned by a nonresident auctioneer which received its license through reciprocity. Proposed law also changes the bond required from \$10,000 to \$25,000.

(Amends R.S. 37:3103(A)(8) and 3118(A)(1)(intro. para.), (B), and (D)(1)(intro. para.) and (a); Adds R.S. 37:3113(B)(3) and (4) and (D)(1)(f) and (g); Repeals R.S. 37:3118(A)(4))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Remove definitions for soft and hard closing auctions.
3. Amend definition for internet-based platform.
4. Change exclusion in language from hard closing auction to wholesale vehicle auctions.
5. Change reference of incorporator to director.
6. Remove language on hard closing auctions.
7. Clarify that if an entity conducts an auction with vehicles, it does not need a valid dealer license if not required by the regulating agency.
8. Clarify that a copy of a dealer license is needed for conducting auctions with vehicles if license is required.
9. Change the deposit needed for the board from \$50,000 to \$25,000.
10. Reinstate repealed proposed law and amend it relative to a business owned by a nonresident auctioneer which receives its license through the reciprocity provision.
11. Change the amount a business owned by a nonresident auctioneer has to pay in bond from \$10,000 to \$25,000.