

2020 Regular Session

HOUSE BILL NO. 815

BY REPRESENTATIVE MACK

AUCTIONS/AUCTIONEERS: Provides relative to online auctions

1 AN ACT

2 To amend and reenact R.S. 37:3103(A)(3), (3.1), and (4) and to enact R.S. 37:3103(A)(11)
3 and 3105(C) and (D), relative to online auctions; to define terms; to provide for
4 auctions conducted through internet-based platforms; to provide for the employment
5 of live auctioneers; to provide for responsible parties; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:3103(A)(3), (3.1), and (4) are hereby amended and reenacted and
9 R.S. 37:3103(A)(11) and 3105(C) and (D) are hereby enacted to read as follows:

10 §3103. Definitions of terms

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

13 * * *

14 (3)(a) "Auction" means the sale by competitive bid by means of a verbal
15 exchange, regular mail, telecommunications, or the internet of any property which
16 sale consists of a series of invitations for offers to purchase property made by the
17 auctioneer ~~and~~ or offers to purchase made by members of the audience culminating
18 in the acceptance by the auctioneer of the highest or most favorable bid.

19 (b) "Auction" includes but is not limited to all of the following:

20 (i) Live auctions.

1 (ii) Online auctions.

2 (iii) Real-time auctions.

3 (iv) Extended auctions.

4 (v) Any similar events as may be devised with the development of
5 technology.

6 (vi) Any combination of the Items provided in this Subparagraph.

7 (3.1)(a) "Auction house", "auction company", and "auction business" are
8 synonymous and interchangeable terms and mean any entity, whether a sole
9 proprietorship, partnership, limited liability partnership, limited liability company,
10 corporation, or any other legal entity defined by the board, which arranges, manages,
11 sponsors, advertises, or carries out two or more auctions within any twelve-month
12 period and which regularly represents that goods are sold at auction. The terms
13 include entities defined in this Subparagraph which conduct business on an internet-
14 based platform.

15 (b) However, a A public livestock auction business which exclusively
16 auctions livestock and which is regulated as a public livestock market by the
17 Louisiana Board of Animal Health pursuant to R.S. 3:2091 et seq. shall not be
18 defined as an auction business for purposes of this Chapter. ~~"Auction house,"~~
19 ~~"auction company," and "auction business" shall not mean an entity which sells~~
20 ~~property through an Internet-based trading platform unless such entity's activities~~
21 ~~constitute an "auction" as defined in Paragraph (3) of this Subsection.~~

22 (4) "Auctioneer" means any person who, for another, with or without
23 receiving or collecting a fee, commission, or other valuable consideration, sells or
24 offers to sell property at an auction. ~~"Auctioneer" shall not mean a person who sells~~
25 ~~property through an Internet-based trading platform unless such person's activities~~
26 ~~constitute an "auction" as defined in Paragraph (3) of this Subsection.~~

27 * * *

1 (11) "Internet-based platform" means a website which is used by licensed
2 auction houses or auctioneers to conduct "auctions" as defined in this Chapter.

3 * * *

4 §3105. Auction regulations generally

5 * * *

6 C. Auction houses which conduct business solely through internet-based
7 platforms are not required to employ a licensed auctioneer to call the auction. Any
8 live, real-time, or simulcast auction is required to employ a licensed auctioneer to
9 call the live, real-time, or simulcast auction.

10 D. Auction houses which conduct any auction through an internet-based
11 platform are responsible for the actions of that platform and its employees or agents
12 in the conduct of that auction.

13 Section 2. This Act shall become effective on January 1, 2021.

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 815 Original

2020 Regular Session

Mack

Abstract: Regulates auctions conducted through internet-based platforms.

Present law defines "auction".

Proposed law retains present law and expands the definition to include bids made by verbal exchange, regular mail, telecommunications, or the internet.

Proposed law includes the following in the definition of "auction":

- (1) Live auctions.
- (2) Online auctions.
- (3) Real-time auctions.
- (4) Extended auctions.
- (5) Any similar events as may be devised with the development of technology.
- (6) Any combination of the above items.

Present law defines "auction house", "auction company", and "auction business".

Proposed law retains present law but expands the definition to include those entities which conduct business on an internet-based platform.

Present law excludes public livestock auctions regulated pursuant to present law from the definitions of "auction house", "auction company", and "auction business".

Proposed law retains present law.

Present law defines "auctioneer".

Proposed law retains present law but removes the provision which excludes a person who sells property through an internet-based trading platform from the definition.

Proposed law defines "internet-based platform".

Proposed law does not require auction houses which conduct business solely through internet based platforms to employ a licensed auctioneer to call the auction.

Proposed law requires any live, real-time, or simulcast auction to employ a licensed auctioneer to call the auction.

Proposed law provides that auction houses which conduct any auction through an internet-based platform are responsible for the actions of that platform and its employees or agents in the conduct of that auction.

Effective Jan. 1, 2021.

(Amends R.S. 37:3103(A)(3), (3.1), and (4); Adds R.S. 37:3103(A)(11) and 3105(C) and (D))