

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. 37:3118(A)(1) and (B), to enact R.S. 37:3103(A)(13)(14),
3 3113(B)(3) and (4) and (D)(1)(f) and (g), and 3118(B), and to repeal R.S.
4 37:3118(A)(4) and (D), relative to auctioneers; to provide for definitions; to provide
5 for qualifications of applicants; to provide for bond requirements; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:3118(A)(1) and (B) are hereby amended and reenacted and R.S.
9 37:3103(A)(13)(14), 3113(B)(3) and (4) and (D)(1)(f) and (g), and 3118(B) are hereby
10 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 (13) "Soft closing auction" means an online auction that utilizes an indefinite
16 number of time extensions to accept additional bids before the auction ends.

17 (14) "Hard closing auction" means an online auction that closes at a
18 predetermined time and does not allow any time extensions to accept additional bids.

19 * * *

20 §3113. Qualifications of applicants

1 * * *

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

5 * * *

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

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

1 (4) If the entity intends to conduct auctions, excluding hard closing auctions,
2 wherein vehicles will be auctioned as defined by RS 32:1, the entity shall hold a
3 valid dealer license pursuant to R.S. 32:1254.

4 * * *

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

7 * * *

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

9 (g) A copy of the dealer license for those entities conducting auctions of
10 vehicles.

11 * * *

12 §3118. Bond requirements

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

21 * * *

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

26 * * *

27 Section 2. R.S. 37:3118(A)(4) and (D) are hereby repealed in their 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 Original

2024 Regular Session

Riser

Abstract: Provides relative to auctioneers.

Present law provides for definitions.

Proposed law adds definitions for "soft closing auction" and "hard closing auction".

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 hard closing 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 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 incorporator 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, excluding hard closing auctions, wherein vehicles will be auctioned as defined by present law, the entity must hold a valid dealer license pursuant to present law.

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 a copy of the dealer license for those entities conducting auctions of vehicles 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 \$50,000 in cash or a surety bond in the amount of \$50,000.

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 repeals present law.

(Amends R.S. 37:3118(A)(1) and (B); Adds R.S. 37:3103(A)(13)(14), 3113(B)(3) and (4) and (D)(1)(f) and (g), and 3118(B); Repeals R.S. 37:3118(A)(4) and (D))