

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2982

BY DELEGATES HOWELL, HOTT, PACK, CADLE,

C. MARTIN AND HAMRICK

[Passed March 9, 2019; in effect ninety days from
passage.]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2019 MAR 26 P 1:36

FILED

HB 2982

1 AN ACT to amend and reenact §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-5, §19-2C-5a, §19-2C-6,
2 §19-2C-6a, §19-2C-6c, §19-2C-8, §19-2C-8a, §19-2C-9, and §19-2C-10 of the Code of
3 West Virginia, 1931, as amended; and to amend said code by adding thereto a new
4 section, designated §19-2C-5b, all relating to amending and updating the laws relating to
5 auctioneers by providing for definitions; providing for certain exemptions to license
6 requirements; providing for additional rulemaking authority; providing for June 30 as the
7 date all licenses expire; establishing certain conditions for auctioneers to continue working
8 after license expiration; providing for record retention requirements; providing for exams
9 held a minimum of two times each year; providing for applicants for auctioneer licenses to
10 submit to background checks; providing for authorization to conduct and use information
11 relating to background checks; providing for confidentiality of background checks;
12 establishing certain conditions for apprentice auctioneers to continue working after license
13 expiration; adjusting residency requirements for members of the board of review;
14 eliminating certain outdated language; providing for reciprocal licensure; increasing civil
15 penalties for violations of this article; increasing penalties commissioner may be assessed
16 against an unlicensed auctioneer; providing for additional circumstances to suspend,
17 deny, or revoke a license; providing for written contracts with auctioneers and owners of
18 property; providing for auction houses and business entities to enter into contracts with
19 auctioneers and owners of property; and providing for certain unlawful advertising
20 practices.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2C. AUCTIONEERS.

§19-2C-1. Definitions.

1 For the purposes of this article:

2 (a) "Absolute auction" means the sale of real or personal property at auction whereby
3 every item offered from the block is sold to the highest bidder without reserve and without the

4 requirements of a minimum bid or other conditions which limit the sale other than to the highest
5 bidder.

6 (b) "Auctioneer" means a person who sells goods or real estate at public auction for
7 another on commission or for other compensation.

8 (c) "Commissioner" means the Commissioner of Agriculture of West Virginia.

9 (d) "Department" means the West Virginia Department of Agriculture.

10 (e) "Escrow account" means a separate custodial or trust fund account maintained by the
11 auctioneer.

12 (f) "Estate auction" means the sale at auction of property of a specified deceased person
13 or the property of a specified living person's estate. Estate auctions may contain property other
14 than that of the specified living or deceased person. However, the inclusion of additional property
15 must be included in all advertising and auction announcements.

16 (g) "In this state" means that an auction satisfies one of the following criteria:

17 (1) The auctioneer performed the auction within the borders of the State of West Virginia;

18 (2) The auctioneer is selling items for a person located in the State of West Virginia;

19 (3) The auctioneer is auctioning real or personal property located in the State of West
20 Virginia;

21 (4) The auctioneer delivers purchased property to a location in the State of West Virginia;

22 or

23 (5) The auctioneer is otherwise subject to the laws, including taxation authority, of the
24 State of West Virginia.

25 (h) "Public auction" or "auction" means any public sale of real or personal property in any
26 manner, whether in-person, via written offers or bids, or online, when offers or bids are made by
27 prospective purchasers and the property sold to the highest bidder.

§19-2C-2. License required; exceptions.

1 (a) Except as provided in subsection (b) of this section, no person shall conduct an auction
2 as an auctioneer in this state unless he or she shall have first obtained from the commissioner a
3 license therefor.

4 (b) The provisions of this section do not apply to:

5 (1) Persons conducting sales at auctions conducted by or under the direction of any public
6 authority or pursuant to any judicial order or direction or to any sale required by law to be at
7 auction;

8 (2) The owner of any real or personal property when personally sold at auction by the
9 owner and the owner has not personally conducted an auction within the previous 12-month
10 period;

11 (3) Persons conducting sales pursuant to a deed of trust;

12 (4) Fiduciaries of estates when selling real or personal property of the estate;

13 (5) Persons conducting sales without compensation on behalf of charitable, religious,
14 fraternal, or other nonprofit organizations: *Provided*, That the commissioner shall promulgate rules
15 to limit the number of charitable auctions an exempt person may perform in a 12-month period;

16 (6) Persons properly licensed pursuant to the provisions in §30-40-1 *et seq.* of this code
17 when conducting an auction, any portion of which contains any leasehold or any estate in land
18 whether corporeal or incorporeal, freehold or nonfreehold, when the person is retained to conduct
19 an auction by a receiver or trustee in bankruptcy, a fiduciary acting under the authority of a deed
20 of trust or will, or a fiduciary of a decedent's estate: *Provided*, That nothing contained in this article
21 exempts persons conducting sales at public markets from the provisions of §19-2A-1 *et seq.* of
22 this code, where the sale is confined solely to livestock, poultry, and other agriculture and
23 horticulture products; and

24 (7) Persons listing items online for sale via a platform that establishes a fixed time for the
25 conclusion of the sale without extension: *Provided*, That the commissioner may further define this
26 exemption in legislative rules.

§19-2C-3. Procedure for license; Department of Agriculture as statutory agent for licensees.

1 (a) An applicant for an auctioneer license shall:

2 (1) Apply on forms prescribed by the commissioner;

3 (2) Pay a nonreturnable application fee and a license fee; and, upon successful completion
4 of the application process, a license fee; and

5 (3) File a bond as required by this article.

6 (b) The commissioner shall, within 30 days after the receipt of an application, notify the
7 applicant of his or her eligibility to be examined at the next regularly scheduled examination, as
8 well as the date of the examination.

9 (c) If the license is denied, the commissioner shall refund the license fee submitted with
10 the application to the applicant.

11 (d) All licenses expire on June 30 of each year: *Provided*, That an auctioneer may continue
12 to perform auctions for up to 30 days after June 30, so long as he or she has submitted the
13 required paperwork to renew his or her auctioneer license: *Provided, however*, That licenses
14 issued in 2019 shall continue to be active through June 30, 2020. A license may be renewed upon
15 the payment of the annual renewal fee within 60 days of the expiration date. Renewals received
16 more than 60 days after the expiration date are subject to a late renewal fee in addition to the
17 annual renewal fee.

18 (e) A license that has been expired for more than two years cannot be renewed until the
19 auctioneer or apprentice auctioneer takes the written and oral examination, pays the examination
20 fee and complies with the other requirements of this article.

21 (f) Where an auctioneer or apprentice auctioneer requires a duplicate or replacement
22 license or a license reflecting a change in information, the auctioneer or apprentice auctioneer
23 shall submit the fee with the request.

24 (g) The State Department of Agriculture is the agent for the purpose of service of process
25 on a licensed auctioneer for any action occasioned by the performance of the duties of the
26 auctioneer. Every licensed auctioneer, by virtue of his or her application for a license, shall be
27 considered to have consented to the statutory agency.

§19-2C-5. Requirements for auctioneer license; duties of licensee.

1 (a) A person seeking an auctioneer license shall submit satisfactory evidence to the
2 commissioner showing that he or she:

- 3 (1) Has successfully completed the written and oral examinations required by this article;
- 4 (2) Has a good reputation;
- 5 (3) Is of trustworthy character;
- 6 (4) Has met the apprenticeship requirements set forth in this article, if applicable;
- 7 (5) Is a citizen of the United States; and
- 8 (6) Has a general knowledge of the auctioneering profession and the principles involved
9 in conducting an auction.

10 (b) A licensee shall:

- 11 (1) Promptly produce for inspection his or her license at all sales conducted by or
12 participated in by the licensee when requested to do so by any person; and
- 13 (2) Keep complete and accurate records of all transactions engaged in for a period of three
14 years from the date on which the sale was completed.

15 (c) For the purposes of this section, the term "record" includes, but is not limited to:

- 16 (1) Copies of signed contracts, including the names of buyers and their addresses;
- 17 (2) Clerk sheets showing items sold, including buyers numbers or names, and the selling
18 prices; and
- 19 (3) Final settlement papers.

20 (d) The records of the auctioneer shall be open to inspection by the commissioner or his
21 or her authorized representative.

22 (e) A person who has an auctioneer license is considered to be a professional in his or
23 her trade.

§19-2C-5a. Examinations of applicants.

1 (a) Examinations shall be held a minimum of two times each year, at a time and place to
2 be designated by the commissioner or his or her authorized representative.

3 (b) An individual auctioneer applicant may take the examination for auctioneer or
4 apprentice auctioneer at the regularly scheduled time and place.

5 (c) The apprentice auctioneer's examination shall consist of a written examination.

6 (d) The auctioneer's examination shall consist of both a written and oral examination. The
7 passing grade for any written or oral examination shall be 70 percent out of 100 percent. The oral
8 portion will be scored by the commissioner or his or her authorized representative.

9 (e) If the applicant fails either the written or oral portion of the examination, no license will
10 be issued and he or she may not be administered the examination again until the next regularly
11 scheduled examination date.

12 (f) Only one notice of the examination will be mailed or emailed to the applicant at the
13 address given on the application. If the applicant fails to appear for an examination, except as
14 provided in this subsection, a new application and a new fee shall be required. No fee will be
15 returned, except when the applicant fails to take the examination because of illness evidenced by
16 a doctor's certificate sent to the commissioner. If excused because of illness, the applicant shall
17 be admitted to the next scheduled examination without paying an additional fee. No applicant may
18 be excused from taking the scheduled examination for any reason other than illness, unless in
19 the judgment of the commissioner the applicant would suffer undue hardship by not being
20 excused.

21 (g) An examination fee and any other fees required by this article, shall be collected from
22 each person taking an examination. If the applicant has previously paid the examination fee and

23 successfully completed the apprentice auctioneer's examination, no additional examination fee
24 will be required to take the auctioneer's examination.

25 (h) If the commissioner determines that an applicant does not qualify for a license, he or
26 she shall notify the applicant by certified mail. The notice shall state:

27 (1) The reason for the refusal to grant a license; and

28 (2) The applicant's right to appeal the commissioner's decision within 20 days of receipt
29 of the notice.

30 (i) An examination is not required for the renewal of a license, unless the license has been
31 revoked or suspended, or has expired. If the license was revoked or suspended, then the
32 commissioner may require a person to take and pass a written or oral examination. If a license
33 has been expired for more than two years and was not revoked or suspended, then the applicant
34 is required to take and pass any written and oral examinations required by the commissioner.

§19-2C-5b. Background checks required.

1 (a) A person applying for a license pursuant to §19-2C-5, §19-2C-6, or §19-2C-6c of this
2 code may be required to submit to a state and national criminal history record check. The criminal
3 history record check shall be based on fingerprints submitted to the West Virginia State Police or
4 its assigned agent for forwarding to the Federal Bureau of Investigation.

5 (b) The applicant shall meet all requirements necessary to accomplish the state and
6 national criminal history record check, including:

7 (1) Submitting fingerprints for the purposes set forth in this subsection; and

8 (2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of
9 Investigation to use all records submitted and produced for the purpose of screening the applicant
10 for a license.

11 (c) The results of the state and national criminal history record check may not be released
12 to or by a private entity except:

13 (1) To the individual who is the subject of the criminal history record check;

14 (2) With the written authorization of the individual who is the subject of the criminal history
15 record check; or

16 (3) Pursuant to a court order.

17 (d) The criminal history record check and related records are not public records for the
18 purposes of chapter 29B of this code.

19 (e) The applicant shall pay the actual costs of the fingerprinting and criminal history record
20 check.

21 (f) The commissioner may not disqualify an applicant for initial licensure, certification or
22 registration because of a prior criminal conviction that has not been reversed unless that
23 conviction is for a crime that bears a rational nexus to the occupation requiring licensure.

24 (g) The commissioner may not use crimes involving moral turpitude in making licensure,
25 certification or registration determinations.

26 (h) If an applicant is disqualified for licensure, certification or registration because of a
27 criminal conviction that has not been reversed, the commissioner shall afford the applicant the
28 opportunity to reapply for licensure, certification or registration after the expiration of five years
29 from the date of conviction or date of release from the penalty that was imposed, whichever is
30 later, if the individual has not been convicted of any other crime during that period of time:
31 *Provided*, That convictions for violent or sexual offenses or offenses shall subject an individual to
32 a longer period of disqualification, to be determined by the individual board or licensing authority.

33 (i) An individual with a criminal record who has not previously applied for licensure,
34 certification or registration may petition the commissioner at any time for a determination of
35 whether the individual's criminal record will disqualify the individual from obtaining a license or
36 other authorization. This petition shall include sufficient details about the individual's criminal
37 record to enable the commissioner to identify the jurisdiction where the conviction occurred, the
38 date of the conviction and the specific nature of the conviction. The commissioner shall inform the

39 individual of his or her standing within 60 days of receiving the petition from the applicant. The
40 licensing authority may charge a fee to recoup its costs for each petition.

41 (j) Nothing in this section alters the standards and procedures the commissioner uses for
42 evaluating licensure, certification or registration renewals.

43 (k) The commissioner shall propose rules or amendments to existing rules for legislative
44 approval to comply with the provisions of this section. These rules or amendments to rules shall
45 be proposed pursuant to the provisions of §29A-3-1 *et seq.* of this code within the applicable time
46 limit to be considered by the Legislature during its regular session in the year 2020.

47 (l) The provisions of this section, enacted during the 2019 Regular Session of the
48 Legislature, shall not apply to current licensees who maintain active licensure, but shall apply to
49 individuals currently holding an apprentice auctioneer license who are applying for an auctioneer
50 license, or to any current license holder whose license lapses and who is required to reapply.

§19-2C-6. Requirements for apprentice auctioneer license.

1 (a) A person seeking an apprentice auctioneer license shall furnish to the commissioner,
2 on forms provided by the commissioner, satisfactory proof that he or she:

- 3 (1) Has a good reputation;
- 4 (2) Is a trustworthy character;
- 5 (3) Is a citizen of the United States; and
- 6 (4) Has taken and passed a written examination relating to the skills and knowledge of the
7 statutes and rules governing auctioneers.

8 (b) An apprentice auctioneer may take the examination to become an auctioneer after
9 completing one of the following:

- 10 (1) Serving a two-year apprenticeship under a licensed auctioneer; or
- 11 (2) Attending a nationally accredited graduate school of auctioneering, approved by the
12 commissioner, and serving an apprenticeship of six months.

13 (c) Before an apprentice auctioneer may take the auctioneer's examination, the apprentice
14 auctioneer shall conduct at least six auction sales under the direct supervision of the sponsoring
15 auctioneer. The commissioner may waive the requirements of this section, on an individual basis,
16 upon the presentation of written evidence that the applicant has educational training or
17 exceptional experience in the auctioneering profession and that the applicant has been unable to
18 obtain sponsorship by a licensed auctioneer: *Provided*, That the commissioner may not waive
19 apprenticeship requirements for an applicant without the concurrence of the board of review.

20 (d) When an apprentice auctioneer is discharged or terminates his or her employment with
21 an auctioneer for any reason, the auctioneer shall immediately provide written notification to the
22 commissioner. No discharged or terminated apprentice auctioneer may thereafter perform any
23 acts under the authority of his or her license until the apprentice auctioneer receives a new license
24 bearing the name and address of his or her new employer. No more than one license may be
25 issued to an apprentice auctioneer for the same period of time.

26 (e) The commissioner may not issue an apprentice auctioneer license until bond has been
27 filed. All apprentice auctioneer licenses expire on June 30 of each year, but are renewable upon
28 the payment of the annual fee: *Provided*, That an apprentice auctioneer may continue to perform
29 auctions for up to 20 days after June 30, so long as he or she has submitted the required
30 paperwork to renew his or her apprentice auctioneer license: *Provided, however*, That licenses
31 issued in 2019 shall continue to be active through June 30, 2020.

32 (f) A person cannot be licensed as an apprentice auctioneer for more than three years
33 without applying for an auctioneer license. Should an apprentice auctioneer allow the three year
34 limit to lapse, then the apprentice auctioneer shall be required to take the apprentice examination
35 and meet all the requirements of this article.

§19-2C-6a. Investigation of complaints; board of review.

1 (a) The Department of Agriculture may, upon its own action, and shall upon the verified
2 written complaint of any person, investigate the actions of any auctioneer, apprentice auctioneer,

3 any applicant for an auctioneer's or apprentice auctioneer's license, or any person who assumes
4 to act in that capacity, if the complaint, together with other evidence presented in connection with
5 it, establishes probable cause. Upon verification of the complaint, the department shall present
6 the complaint to the board of review. The board of review shall consider all of the facts of the
7 complaint and recommend a course of action to the commissioner.

8 (b) The board of review shall be appointed by the Governor, by and with the advice and
9 consent of the Senate, and shall consist of three members, each appointed for a staggered three-
10 year term. Two members of the board of review shall be licensed auctioneers in West Virginia
11 and residents of this state and shall have been licensed and been practicing the profession of
12 auctioneering for five years immediately preceding their appointment. The third member shall be
13 a lay person from the commercial or agricultural community who has utilized services of
14 auctioneers for at least three years. No more than two board members shall be from any one
15 congressional district and no more than two members shall be from the same political party. Board
16 members shall receive no compensation for their service on the board, but shall be entitled to
17 receive reimbursement for expenses in accordance with the Department of Agriculture travel
18 regulations. There shall be no limit on the number of consecutive terms a member may serve on
19 the board. The Governor is authorized to fill a vacancy when it occurs on the board for any reason.
20 An appointment to fill a vacancy shall be for the remainder of the existing term of the vacant
21 position.

**§19-2C-6c. Procedure for obtaining reciprocal or nonresident auctioneer's and apprentice
auctioneer's license.**

1 (a) To qualify for a license by reciprocity, the applicant must show evidence of licensing in
2 another state for a period of one year preceding the date of application. The licensing may have
3 been as an apprentice auctioneer or as an auctioneer. Provided this qualification is met and the
4 applicant meets all the other requirements as required by this article and by regulation, he or she

5 shall be licensed either as an apprentice auctioneer or as an auctioneer, based on a nonresident
6 license, as the case may be.

7 (b) When an applicant's resident state has no licensing law for auctioneers or the
8 applicant's resident state has no written or oral examination associated with its licensing
9 requirements, the Department of Agriculture shall require proof that the applicant has been a
10 practicing auctioneer for a period of two years preceding the date of application. The proof shall
11 be in the form of sale bills, contracts, sale permits and other such evidence acceptable to the
12 commissioner. Provided this qualification is met, and the applicant meets other requirements for
13 licensing as required by the statutes and regulations, the applicant shall be admitted to the next
14 scheduled written and oral examination for auctioneers without being required to first serve an
15 apprenticeship.

§19-2C-8. Penalties.

1 (a) *Criminal penalties.* — Any person, firm, association or corporation violating a provision
2 of this article or the rules, is guilty of a misdemeanor and, upon conviction, shall be fined not less
3 than \$250 nor more than \$500 for the first offense, and not less than \$500 nor more than \$1,000
4 for the second and subsequent offenses. Magistrates have concurrent jurisdiction with circuit
5 courts to enforce the provisions of this article.

6 (b) *Civil penalties.* — Any person violating a provision of this article or the rules, may be
7 assessed a civil penalty by the commissioner.

8 (1) In determining the amount of the civil penalty, the commissioner shall give due
9 consideration to the history of previous violations by the person, the seriousness of the violation,
10 and the demonstrated good faith of the person charged in attempting to achieve compliance with
11 this article before and after written notification of the violation. The commissioner may assess a
12 penalty of not more than \$500 for a first offense, and not more than \$1,000 for each second and
13 subsequent offense.

14 (2) In addition to a penalty assessed against an unlicensed auctioneer for practicing
15 without the required license, the commissioner may assess penalties against an unlicensed
16 auctioneer for violations of the provisions of this article that would have applied to the individual's
17 conduct had he or she held the required license.

18 (3) The civil penalty is payable to the State of West Virginia and is collectible in any manner
19 provided for collection of debt. If any person liable to pay the civil penalty neglects or refuses to
20 pay the penalty, the amount of the civil penalty, together with interest at 10 percent, is a lien in
21 favor of the State of West Virginia upon the property, both real and personal, of the person after
22 the same has been entered and docketed to record in the county where the property is situated.
23 The clerk of the county, upon receipt of the certified copy of the lien, shall enter it to record without
24 requiring the payment of costs as a condition precedent to recording.

25 (c) No state court may allow for the recovery of damages for any administrative action
26 taken if the court finds that there was probable cause for such action.

§19-2C-8a. Revocation.

1 In addition to the penalties in section eight of this article, the commissioner may, by order,
2 suspend, deny or revoke any license granted hereunder for any violation of this article or the rules
3 and regulations promulgated hereunder or for any of the following reasons:

4 (a) Obtaining a license through false or fraudulent representation;

5 (b) Making any substantial misrepresentation in any application for an auctioneer's or
6 apprentice auctioneer's license;

7 (c) Engaging in a continued or flagrant course of misrepresentation or for making false
8 promises through an agent, advertisement or otherwise;

9 (d) Failing to account for or remit within a reasonable time any money belonging to others
10 that comes into his or her possession;

11 (e) Being convicted in any court of competent jurisdiction of this state or any other state of
12 a criminal offense involving moral turpitude or a felony; or for failing to notify the department of
13 any such conviction within 15 days of conviction;

14 (f) Violating any other laws related to the conduct of auctions or auctioneering;

15 (g) Engaging in any conduct of an auctioneer which demonstrates dishonesty or
16 incompetency;

17 (h) Engaging in any other conduct that constitutes fraudulent or dishonest dealing;

18 (i) Engaging in any other unethical conduct in the contexts of his or her work as an
19 auctioneer; and

20 (j) Acting as an attorney for a client.

21 Any auctioneer or apprentice auctioneer who has had his or her license suspended or
22 revoked shall not be issued another such license until a period not to exceed two years has
23 elapsed from the date of revocation. The commissioner may also require the successful
24 completion of the examinations required for an auctioneer's license or an apprentice auctioneer's
25 license.

§19-2C-9. Written contracts.

1 (a) No person may act as an auctioneer on the sale at public auction of any goods, wares,
2 merchandise or of any other property, real or personal, until he or she has entered into a written
3 contract in duplicate with the owner or consignor of the property to be sold. No apprentice
4 auctioneer may be authorized to enter into a contract without the written consent of his or her
5 sponsoring auctioneer. All contracts shall be in the name of and on behalf of the sponsoring
6 auctioneer.

7 (b) The written contract shall:

8 (1) State the terms and conditions upon which the auctioneer receives or accepts the
9 property for sale at auction;

10 (2) Be between the auctioneer and the seller;

- 11 (3) Be made in duplicate;
- 12 (4) Be retained by the auctioneer for a period of three years from the date of final
13 settlement;
- 14 (5) Be furnished to each person that entered into the contract;
- 15 (6) State that an apprentice auctioneer may not contract directly with a client but only
16 through his or her sponsoring auctioneer;
- 17 (7) State that an apprentice auctioneer may not engage in a sale with an auctioneer by
18 whom he or she is not sponsored without first obtaining the written consent of his or her
19 sponsoring auctioneer;
- 20 (8) Have a prominent statement indicating that the auctioneer is licensed by the
21 Department of Agriculture and is bonded in favor of the State of West Virginia; and
- 22 (9) Include the following information:
- 23 (A) The name, address and phone number of the owner of the property to be sold or the
24 consignor;
- 25 (B) The date of the auction or a termination date of the contract;
- 26 (C) The terms and conditions of the auction;
- 27 (D) The location of the auction;
- 28 (E) The date the owner or consignor is to be paid;
- 29 (F) A statement establishing the responsibility for bad checks, debts and unpaid auction
30 items;
- 31 (G) A detailed list of all fees to be charged by the auctioneer, including commissions,
32 rentals, advertising and labor;
- 33 (H) A statement of the auctioneer's policy regarding absentee bidding;
- 34 (I) A statement above the owner's signature line: "I have read and accept the terms of the
35 contract"; and

36 (J) A statement indicating that an explanation of settlement⁸ of the auction, or settlement
37 sheet, will be provided to the owner or consignor at the end of the auction.

38 (c) As a condition of entering into a contract, the auctioneer shall be provided with proof
39 or certificate of ownership for all titled property, or assurances of ownership for all other property.
40 The auctioneer shall have such proof or certificate or ownership with him or her at the time the
41 auction is held.

42 (d) Notwithstanding the provisions of subsection (a) of this section, an auctioneer may
43 conduct an auction on behalf of an auction house or other business entity without having entered
44 into a contract directly with the seller of the auctioned goods, so long as the following conditions
45 are satisfied:

46 (1) The auction house or business must have a written contract with both the seller of the
47 goods and the auctioneer;

48 (2) The contract between the auction house or business entity must satisfy all the
49 requirements set forth in subsection (b) of this section; and

50 (3) The auction house or business entity must file with the commissioner a bond satisfying
51 the requirements of §19-2C-4 of this code.

52 (e) By entering into contracts with sellers of property pursuant to this section, the owners
53 and partners of any auction house or business entity agree to submit to the jurisdiction of the
54 commissioner and the Board of Review and are subject to the penalties set forth in §19-2C-8 of
55 this code.

§19-2C-10. Advertising.

1 In advertising an auction sale by any licensed auctioneer, the principal auctioneer or
2 auctioneers who physically conduct the sale shall be listed prominently in such advertising as
3 used by said auctioneer or auctioneers. The individual auctioneer or auctioneers who conduct the
4 sale shall be the person or persons who call for, accept and close bids on the majority of items
5 offered for sale.

6 Any apprentice auctioneer who advertises, as provided in this section, shall indicate in his
7 or her advertisement the name of the sponsoring auctioneer under whom he or she is licensed.

8 The auctioneer's name and license number shall be displayed in equal prominence with
9 the name of the apprentice auctioneer and license number in such advertisement.

10 Nothing in the provisions of this article shall be construed so as to prohibit any other
11 auctioneer, licensed pursuant to this article, from assisting with any auction, notwithstanding the
12 failure to list the name of the other auctioneer in any advertising associated with such auction.

13 It is unlawful to conduct or advertise that an auction is absolute if minimum opening bids
14 are required or other conditions are placed on the sale that limit the sale other than to the highest
15 bidder.

16 No property other than the property of a specified deceased person or the property of a
17 specified living person's estate may be sold at auction if the auction is conducted or advertised
18 only as an estate auction. However, property other than that of the specified estate may be sold
19 at the sale if all advertisements for the sale specify that items will be sold that do not belong to
20 the estate and those items are identified at the sale.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. Caputo
.....
Chairman, House Committee

E. J. Z.
.....
Member/Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Steve Harris
.....
Clerk of the House of Delegates

Joe Corrin
.....
Clerk of the Senate

Lee Hancock
.....
Speaker of the House of Delegates

Michael B. Cummings
.....
President of the Senate

FILED
2019 MAR 26 P 1:37
OFFICE WEST VIRGINIA
SECRETARY OF STATE

The within *is approved* this the *26th*
March
day of 2019.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 25 2019

Time 12:50 pm