



Sen. Michael W. Halpin

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10400SB2351sam001

LRB104 05051 AAS 22549 a

1 AMENDMENT TO SENATE BILL 2351

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2351 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Auction License Act is amended by changing  
5 Sections 5-10 and 10-1 as follows:

6 (225 ILCS 407/5-10)

7 (Section scheduled to be repealed on January 1, 2030)

8 Sec. 5-10. Definitions. As used in this Act:

9 "Advertisement" means any written, oral, or electronic  
10 communication that contains a promotion, inducement, or offer  
11 to conduct an auction or offer to provide an auction service,  
12 including but not limited to brochures, pamphlets, radio and  
13 television scripts, telephone and direct mail solicitations,  
14 electronic media, Internet online, and other means of  
15 promotion.

16 "Advisory Board" or "Board" means the Auctioneer Advisory

1 Board.

2 "Auction" means the sale or lease of property, real or  
3 personal, by means of exchanges between an auctioneer and  
4 prospective purchasers or lessees, which consists of a series  
5 of invitations or bids for offers made by the auctioneer to ~~and~~  
6 ~~offers by~~ prospective purchasers or lessees for the purpose of  
7 obtaining an acceptable offer for the sale or lease of ~~the~~  
8 ~~property, including the sale or lease of property~~ via mail,  
9 telecommunications, or the Internet online.

10 "Auction contract" means a written agreement between an  
11 auctioneer or auction firm and a seller or sellers.

12 "Auction firm" means any corporation, partnership, or  
13 limited liability company that acts as an auctioneer and  
14 provides an auction service.

15 "Auction school" means any educational institution, public  
16 or private, that offers a curriculum of auctioneer education  
17 and training approved by the Department.

18 "Auction service" means the service of arranging,  
19 managing, advertising, or conducting auctions.

20 "Auctioneer" means a person or entity who, for another,  
21 for a fee, compensation, commission, or any other valuable  
22 consideration at auction or with the intention or expectation  
23 of receiving valuable consideration by the means of or process  
24 of an auction or sale at auction or providing an auction  
25 service, offers, negotiates, or attempts to negotiate an  
26 auction contract, sale, purchase, or exchange of goods,

1 chattels, merchandise, personal property, real property, or  
2 any commodity that may be lawfully kept or offered for sale by  
3 or at auction.

4 "Address of record" means the designated address recorded  
5 by the Department in the applicant's or licensee's application  
6 file or license file maintained by the Department.

7 "Buyer premium" means any fee or compensation paid by the  
8 successful purchaser of property sold or leased at or by  
9 auction, to the auctioneer, auction firms, seller, lessor, or  
10 other party to the transaction, other than the purchase price.

11 "Department" means the Department of Financial and  
12 Professional Regulation.

13 "Division" means the Division of Real Estate within the  
14 Department.

15 "Email address of record" means the designated email  
16 address recorded by the Department in the applicant's  
17 application file or the licensee's license file maintained by  
18 the Department's licensure maintenance unit.

19 "Estate sale" means a sale for liquidation of personal  
20 property of an estate owned by one or more individuals,  
21 families, or legal representatives of the estate that is  
22 advertised and scheduled for a predetermined amount of time  
23 and to which the public is invited to participate in a  
24 negotiation or bid for the purchase of the personal property.

25 "Estate sale service" means the performance of an auction  
26 service for the owners of personal property to be sold at an

1 estate sale, where an auctioneer undertakes the responsibility  
2 of conducting the sale. "Estate sale service" does not include  
3 the sale of real property.

4 "Goods" means chattels, movable goods, merchandise, or  
5 personal property or commodities of any form or type that may  
6 be lawfully kept or offered for sale.

7 "Interactive computer service" means any information  
8 service, system, or access software provider that provides or  
9 enables computer access by multiple users to a computer  
10 server, including specifically a service or system that  
11 provides access to the Internet.

12 "Internet auction listing service" means a website on the  
13 Internet, or other interactive computer service, that is  
14 designed to allow or advertise as a means of allowing users to  
15 offer personal property or services for sale or lease to a  
16 prospective buyer or lessee through an online bid submission  
17 process using that website or interactive computer service and  
18 that does not examine, set the price, prepare the description  
19 of the personal property or service to be offered, or in any  
20 way utilize the services of a natural person as an auctioneer.

21 "Licensee" means any person licensed under this Act.

22 "Managing auctioneer" means any person licensed as an  
23 auctioneer who manages and supervises licensees.

24 "Online auction" means an auction or auction service  
25 conducted by an auctioneer via a website on the Internet, an  
26 application, an interactive computer service, or other similar

1 media.

2 "Person" means an individual, association, partnership,  
3 corporation, or limited liability company or the officers,  
4 directors, or employees of the same.

5 "Pre-renewal period" means the 24 months prior to the  
6 expiration date of a license issued under this Act.

7 "Real estate" means real estate as defined in Section 1-10  
8 of the Real Estate License Act of 2000 or its successor Acts.

9 "Secretary" means the Secretary of Financial and  
10 Professional Regulation or his or her designee.

11 (Source: P.A. 100-534, eff. 9-22-17; 101-345, eff. 8-9-19.)

12 (225 ILCS 407/10-1)

13 (Section scheduled to be repealed on January 1, 2030)

14 Sec. 10-1. Necessity of license; exemptions.

15 (a) It is unlawful for any person, corporation, limited  
16 liability company, partnership, or other entity to conduct an  
17 auction, provide an auction service, hold himself or herself  
18 out as an auctioneer, or advertise his or her services as an  
19 auctioneer in the State of Illinois without a license issued  
20 by the Department under this Act, except at:

21 (1) an auction conducted solely by or for a  
22 not-for-profit organization for charitable purposes in  
23 which the individual receives no compensation;

24 (2) an auction conducted by the owner of the property,  
25 real or personal;

1           (3) an auction for the sale or lease of real property  
2           conducted by a licensee under the Real Estate License Act,  
3           or its successor Acts, in accordance with the terms of  
4           that Act;

5           (4) an auction conducted by a business registered as a  
6           market agency under the federal Packers and Stockyards Act  
7           (7 U.S.C. 181 et seq.) or under the Livestock Auction  
8           Market Law;

9           (5) an auction conducted by an agent, officer, or  
10          employee of a federal agency in the conduct of his or her  
11          official duties; and

12          (6) an auction conducted by an agent, officer, or  
13          employee of the State government or any political  
14          subdivision thereof performing his or her official duties.

15          (b) Nothing in this Act shall be construed to apply to a  
16          new or used vehicle dealer or a vehicle auctioneer licensed by  
17          the Secretary of State of Illinois, or to any employee of the  
18          licensee, who is a resident of the State of Illinois, while the  
19          employee is acting in the regular scope of his or her  
20          employment for the licensee while conducting an auction that  
21          is not open to the public, provided that only new or used  
22          vehicle dealers, rebuilders, automotive parts recyclers, or  
23          scrap processors licensed by the Secretary of State or  
24          licensed by another state or jurisdiction may buy property at  
25          the auction, or to sales by or through the licensee.  
26          Out-of-state salvage vehicle buyers licensed in another state

1 or jurisdiction may also buy property at the auction.

2 (c) Nothing in this Act shall be construed to prohibit a  
3 person under the age of 18 from selling property under \$250 in  
4 value while under the direct supervision of a licensed  
5 auctioneer.

6 (d) Nothing in this Act shall be construed to apply to a  
7 person providing an Internet auction listing service as  
8 defined in Section 5-10.

9 (e) Nothing in this Act shall be construed to apply to a  
10 third-party reseller of personal property where owners or  
11 representatives of an estate have transferred ownership of the  
12 property to the reseller to be sold anonymously. A third-party  
13 reseller may include, but is not limited to, a retail seller, a  
14 consignment seller, or a distributor who does not conduct an  
15 estate sale.

16 (f) Nothing in this Section shall be construed to apply to  
17 any person as a receiver, trustee in bankruptcy, guardian,  
18 administrator, or executor; any such person acting under an  
19 order of any court, under the direction of any public  
20 authority, or pursuant to any judicial decree; or any such  
21 person acting pursuant to a trust agreement, deed of trust, or  
22 will.

23 (Source: P.A. 100-534, eff. 9-22-17.)".