

**SUBSTITUTE FOR  
SENATE BILL NO. 1413**

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending sections 2907, 2909, 2911, and 2913 (MCL 339.2907,  
339.2909, 339.2911, and 339.2913), as added by 2006 PA 489.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2907. Except as otherwise provided in section 2917, the  
2 department shall issue a registration as a registered auctioneer to  
3 an individual or to the qualifying member of a legal entity who  
4 meets all of the following conditions:

5       (a) Has either 2 years of apprentice experience with a  
6 registered auctioneer or proof of graduation from an ~~accredited~~  
7 auction school acceptable to the board and 1 year of apprentice  
8 experience with a registered auctioneer. Under both circumstances,  
9 the individual shall have actively participated in the conduct of

1 not less than 10 auctions. The experience shall be verified by an  
2 affidavit of a registered auctioneer and shall provide the names  
3 and addresses of the parties on whose behalf the auction was held  
4 and the dates of the auction.

5 (b) Has completed an examination as described in section 2915.

6 (c) Is of good moral character.

7 Sec. 2909. (1) Notwithstanding section 2907, the department  
8 shall register as an auctioneer, after verification of the  
9 experience requirements imposed in this section, an individual who  
10 ~~applies not more than 2 years after the effective date of this~~  
11 ~~article and~~ submits to the department **A COMPLETED APPLICATION AND**  
12 an affidavit attesting to **HAVING HAD** experience in the conduct of  
13 auctions for not less than 3 years before ~~the effective date of~~  
14 ~~this article~~ **OCTOBER 1, 2007.**

15 (2) The department shall issue a registration under this  
16 section only if the applicant's experience includes conducting 12  
17 or more auctions.

18 Sec. 2911. (1) Money paid by any person to a registrant in  
19 connection with an auction under this article is considered to be  
20 held in trust for the benefit of the person making the payment and  
21 the registrant is considered the trustee for the money.

22 (2) **A REGISTRANT SHALL PROVIDE TO A CLIENT A FULL ACCOUNTING**  
23 **UPON THE CLOSING OR TERMINATION OF ANY TRANSACTION, INCLUDING ANY**  
24 **MONEY GIVEN TO THE REGISTRANT FOR PRESALE AUCTION SERVICES.**

25 Sec. 2913. (1) A registered auctioneer shall maintain a  
26 regular place of business in this state. If more than 1 place of  
27 business is maintained, the department shall issue a duplicate

1 registration at no additional cost. A regular place of business  
2 does not include a location used only as a warehouse. Records  
3 required to be kept under this article shall be kept at that  
4 regular place of business.

5 (2) A registered auctioneer shall not conduct an auction  
6 unless a written contract is executed between the person desiring  
7 auction services and the registered auctioneer. A registrant shall  
8 **PROVIDE A COPY OF THE CONTRACT TO THE CLIENT**, keep a copy of the  
9 contract as part of his or her records, and, upon request, make  
10 them available to the department for inspection or audit, or both,  
11 during normal business hours.

12 (3) A registrant under this article shall conspicuously post  
13 at the regular place of business a copy of the registration issued  
14 under this article.

15 (4) A registrant under this article shall establish a trust  
16 account, or other segregated type of account, in the manner  
17 described in this section. The registrant shall deposit into the  
18 trust account all checks, drafts, negotiable instruments, and cash  
19 tendered by 1 or more buyers for the payment of an item sold by  
20 auction. The registrant shall make a disbursement relative to a  
21 sale by auction through that trust account in the time period and  
22 manner described in this section.

23 (5) A registrant shall not permit ~~an advance~~ payment of money  
24 by a customer to be deposited in the registrant's business or  
25 personal account or to be commingled in any way with funds  
26 belonging to the registrant, except as provided in this section.  
27 The registrant shall deposit customer money into a ~~THE~~ trust

1 account until the transaction involved is consummated or  
2 terminated, within 2 banking days after the auction transaction but  
3 not later than 5 days after ~~its~~ receipt **OF THE MONEY.**

4 **(6) MONEY GIVEN TO AN AUCTIONEER BY A CLIENT OR OTHER PERSON**  
5 **FOR PRESALE AUCTION SERVICES IS NOT REQUIRED TO BE PLACED IN THE**  
6 **TRUST ACCOUNT. HOWEVER, AN AUCTIONEER SHALL PROVIDE A COMPLETE**  
7 **ACCOUNTING OF ALL AUCTION SERVICE EXPENSES TO THE CLIENT OR OTHER**  
8 **PERSON AT THE CLOSING OR TERMINATION OF THE TRANSACTION.**

9 (7) ~~(6)~~—The trust account is subject to the following  
10 requirements:

11 (a) May be an interest bearing account maintained in a  
12 depository recognized by the department. Interest accrued shall be  
13 allocated as provided for in the contract between the parties.

14 (b) Shall designate the registrant as the trustee or  
15 custodian.

16 (c) Shall provide for withdrawal of money without previous  
17 notice and shall not be encumbered in any manner.

18 (d) Shall not contain any money of the registrant except for  
19 an amount sufficient to pay service charges on the account or to  
20 maintain the account when customer money is not on deposit, that  
21 amount not to exceed \$500.00.

22 **(8) ~~(7)~~—Disbursements from the trust account shall be made**  
23 **only for the following purposes:**

24 (a) Payment as a result of the sale of an item by the  
25 registrant pursuant to the contract.

26 (b) Refund of an amount to the customer upon termination of  
27 the transaction.

1 (c) Payment to the registrant of a commission and documented  
2 and approved expenses following the consummation of a transaction  
3 upon which a commission is payable to the registrant.

4 (9) ~~(8)~~—The registrant shall keep records of money deposited  
5 in the trust account. The records shall show all of the following:

6 (a) The date of the receipt of money from a customer, the  
7 amount received, and the name of the customer on whose behalf the  
8 money was paid.

9 (b) The purpose for which the money was paid.

10 (c) The date the money was deposited in the trust account.

11 (d) The date of disbursement of the money, the purpose of the  
12 withdrawal, and the name of the person to whom the money was paid  
13 upon disbursement.

14 (e) Any other pertinent information regarding the transaction.

15 (10) ~~(9)~~—The department and the board may, upon notice given  
16 to a registrant, inspect or audit, or both, the records or other  
17 relevant documents required to be kept pursuant to this section.

18 (11) ~~(10)~~—A registrant shall create, electronically or  
19 otherwise, a cash receipts and disbursements journal and ledgers.  
20 The ledgers are to be maintained separately for each transaction  
21 and shall contain the following:

22 (a) Names of both parties.

23 (b) Postings of all transactions.

24 (c) Date of each transaction, in chronological sequence.

25 (d) Amount received or disbursed, or both; name of party  
26 giving money; name of principal or payee; and purpose of  
27 disbursements.

1 (e) Check numbers of disbursements.

2 (f) A running balance after each receipt and disbursement.

3 (g) Description of property being sold.

4 (12) ~~(11)~~—A registrant shall create, electronically or  
5 otherwise, and maintain a personal money ledger to account for  
6 personal money maintained in the trust account. The personal money  
7 ledger shall include the following:

8 (a) Chronological sequence of funds received and disbursed.

9 (b) Running balance after each receipt and disbursement.

10 (c) Receipt postings to include date of receipt, date of  
11 deposit, name of party giving money, name of principal, and amount  
12 received.

13 (d) Disbursement postings to include the date; check number,  
14 if applicable; payee; amount; purpose; and a running balance after  
15 each receipt and disbursement.

16 (13) ~~(12)~~—The ledgers and journals, as well as trust account  
17 bank statements, deposit tickets, and copies of deposit receipts,  
18 canceled checks, and voided checks shall be maintained for not less  
19 than 3 years from the date of inception of the records or not less  
20 than 3 years from the consummation or termination of the  
21 transaction, whichever is later.

22 (14) ~~(13)~~—A registrant under this article shall maintain  
23 written records of each auction sale, **INCLUDING PRESALE AUCTION**  
24 **SERVICES**, for a period of not less than 3 years from the date of  
25 the auction sale or not less than 3 years from consummation or  
26 termination of the transaction, whichever is later. The records  
27 shall include, but not be limited to, all of the following:

- 1 (a) Consignment receipts.
- 2 (b) Bidder registrations.
- 3 (C) DOCUMENTS RELATING TO PRESALE AUCTION SERVICES.
- 4 (D) ~~(e)~~—Documents relating to final settlements with
- 5 consignors.