

Legislative Analysis



ELIMINATE REGISTRATION OF AUCTIONEERS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 4681 & 4684 (as reported)
Sponsor: Rep. Cindy Denby

House Bill 4682 (as reported)
Sponsor: Rep. Harold Haugh

House Bill 4683 (as reported)
Sponsor: Rep. David Nathan

Committee: Regulatory Reform
Complete to 5--29-13

A SUMMARY OF HOUSE BILLS 4681 - 4684 AS REPORTED FROM COMMITTEE 5-21-13

House Bill 4681 would repeal Article 29 of the Occupational Code, which established the Board of Auctioneers and requires individuals to register with the Department of Licensing and Regulatory Affairs (LARA) before using the title "registered auctioneer."

Under Article 29, LARA must issue a registration as a registered auctioneer to any individual that meets the following conditions:

- Two years of apprentice experience with a registered auctioneer or proof of graduation from an accredited auction school and one year of apprentice experience with a registered auctioneer.
- Successful completion of the registration examination under Article 29.
- Be of good moral character.

Article 29 also contains a series of prohibited acts for registered auctioneers, penalties for individuals found in violation of Article 29, and provides for reciprocity with other states.

House Bill 4682 would repeal Section 28 of the State License Fee Act (MCL 338.2228), which establishes processing, examination, and annual registration fees for individuals registered or seeking registration as an auctioneer under Article 29 of the Occupational Code. The application processing and examination fees for registered auctioneers are \$50 and the annual registration fee individuals and firms is \$200. The bill is tie-barred to House Bill 4681.

House Bill 4683 would amend Section 1031 of the Liquor Control Code (MCL 436.2031) to eliminate a provision exempting wine auction licensees from having to comply with the registration requirements of registered auctioneers under Article 29 of the Occupational Code. The bill is tie-barred to House Bill 4681, which would repeal Article 29.

House Bill 4684 would amend Part 821 (Snowmobiles) of the Natural Resources and Environmental Protection Act (MCL 324.82101) to remove references to registered auctioneers, and instead, define "auctioneer" to mean a person that is engaged in the

business of conducting auctions or that offers to conduct an auction for compensation. The bill is tie-barred to House Bill 4681.

FISCAL IMPACT:

House Bills 4681 through 4684 would have a positive fiscal impact on the Corporations, Securities, and Commercial Licensing Bureau (CSCLB) within the Department of Licensing and Regulatory Affairs (LARA) to the extent that fee revenue generated by registered auctioneers is insufficient to cover direct expenditures for the auctioneer registration program.

As of FY 2012, there were fifty-five (55) individuals and firms registered by the CSCLB as auctioneers. Statutory fees collected from registered auctioneers generated a total of \$79,650 in revenue (fees include \$50 for application and examination and \$200 for annual registration). Over the past five fiscal years, the CSCLB has spent \$118,897 in *direct* expenditures to administer the registration program pursuant to 2007 PA 77. Direct expenditures comprise relatively variable salary, supply, and supplementary costs directly attributable to activities performed by CSCLB staff, whereas *total* expenditures include relatively fixed overhead costs such as departmental administration, property management and rent, information technology services, and Attorney General legal services. Since fiscal year 2008, total expenditures have amounted to \$629,169.

As evidence by the table to the right, both direct and total expenditures substantially exceed the fee revenue collected from registered auctioneers. By eliminating the auctioneer registration program, House Bills 4681 through 4684 would be expected to eliminate future direct expenditures for the program, engendering an annual savings equivalent to the difference between annual direct expenditures and annual fee revenue.

Fiscal Year	Revenue	Auctioneer Registration Expenditures	
		Direct	Total
2008	\$17,650	\$385	\$73,027
2009	\$25,960	\$36,168	\$144,709
2010	\$12,990	\$37,554	\$167,837
2011	\$15,610	\$25,034	\$154,546
2012	\$7,440	\$19,757	\$89,050
Total	\$79,650	\$118,897	\$629,169
Average	\$15,930	\$23,779	\$125,834
Avg per Lic	\$290	\$432	\$2,288

However, the overhead costs that constitute total expenditures are relatively fixed and, if the auctioneer registration requirements of 2007 PA 77 are eliminated by HBs 4681 through 4684, would be reallocated amongst other occupational regulatory programs under the CSCLB.

It should be noted, however, that if the Legislature eliminates multiple occupation regulatory programs under the CSCLB which do not generate adequate fee revenues (generally those programs with few licensees), overhead costs would be expected to decrease by an indeterminate amount once a sufficient number are eliminated thereby reducing total expenditures.

BACKGROUND INFORMATION AND DISCUSSION:

The Office of Regulatory Reinvention's report regarding occupational licensing recommended the deregulation of auctioneers in the state. Under Article 29 of the Occupational Code, individuals and companies must register with the Department of Licensing and Regulatory Affairs in order to use the title of "registered auctioneer." The bills would eliminate the voluntary registration of auctioneers in the state. According to testimony, when enacted in 2006, it was estimated that at least 800 auctioneers would register with the department. Registration numbers never met expectations: only 87 auctioneers were registered in 2010 and 55 in 2013. Additionally, some believe the voluntary registration provides little protection to consumers and is unnecessary. According to the ORR recommendation "consumers do not appear to be seeking retribution from unscrupulous auctioneers as there have been zero consumer complaints in the past three years." As a result of low participation and no clear need for consumer protection, "continued regulation of auctioneers appears to provide no public health and safety benefit and is an inefficient use of public resources."

Members of the auctioneering industry testified in opposition to the bills. According to testimony, the 2006 law establishing a voluntary registration was intended to serve as a precursor to full licensure of the profession. This would allow licensed auctioneers in Michigan to have reciprocity with other states, thus preventing them from having to meet additional licensing requirements in those states. Testimony indicated that members of the industry would like to see the registration law modified, and eventually turned into full licensure, instead of having the profession completely deregulated. House Bill 4503 was identified as one possible avenue to make industry acceptable changes to the current registration law.

POSITIONS:

Michigan Department of Licensing and Regulatory Affairs and the Office of Regulatory Reinvention support the bills. (5-28-13)

Americans for Prosperity - Michigan supports the bills. (5-14-13)

Michigan State Auctioneers Association opposes the bills. (5-14-13)

Legislative Analyst: Jeff Stoutenburg

Fiscal Analyst: Paul Holland

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.