

1 AN ACT relating to auctions.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Auction License Act is amended by
5 changing Section 10-1 and adding Section 10-27 as follows:

6 (225 ILCS 407/10-1)

7 (Section scheduled to be repealed on January 1, 2010)

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

9 (a) It is unlawful for any person, corporation, limited
10 liability company, partnership, or other entity to conduct an
11 auction, provide an auction service, hold himself or herself
12 out as an auctioneer, or advertise his or her services as an
13 auctioneer in the State of Illinois without a license issued
14 by OBRE under this Act, except at:

15 (1) an auction conducted solely by or for a
16 not-for-profit organization for charitable purposes;

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

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

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

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

30 (6) an auction conducted by an agent, officer, or
31 employee of the State government or any political

1 subdivision thereof performing his or her official
2 duties.

3 (b) Nothing in this Act shall be construed to apply to a
4 new or used vehicle dealer or a vehicle auctioneer licensed
5 by the Secretary of State of Illinois, or to any employee of
6 the licensee, who is a resident of the State of Illinois,
7 while the employee is acting in the regular scope of his or
8 her employment for the licensee while conducting an auction
9 that is not open to the public, provided that only new or
10 used vehicle dealers licensed by the Secretary of State or
11 licensed by another jurisdiction may buy property at the
12 auction, -or-to-sales-by-or-through-the-licensee.

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

17 (d) Nothing in this Act, except Section 10-27, shall be
18 construed to apply to a person that provides an Internet
19 auction listing service as defined in Section 10-27.

20 (Source: P.A. 91-603, eff. 1-1-00.)

21 (225 ILCS 407/10-27 new)

22 Sec. 10-27. Registration of Internet Auction Listing
23 Service.

24 (a) For the purposes of this Section:

25 (1) "Internet Auction Listing Service" means a
26 website on the Internet, or other interactive computer
27 service that is designed to allow or advertised as a
28 means of allowing users to offer personal property or
29 services for sale or lease to a prospective buyer or
30 lessee through an on-line bid submission process using
31 that website or interactive computer service and that
32 does not examine, set the price, or prepare the
33 description of the personal property or service to be

1 offered, or in any way utilize the services of a natural
2 person as an auctioneer.

3 (2) "Interactive computer service" means any
4 information service, system, or access software provider
5 that provides or enables computer access by multiple
6 users to a computer server, including specifically a
7 service or system that provides access to the Internet.

8 (b) It is unlawful for any person, corporation, limited
9 liability company, partnership, or other entity to provide an
10 Internet auction listing service in the State of Illinois for
11 compensation without being registered with the Office of
12 Banks and Real Estate (OBRE) when:

13 (1) the person, corporation, limited liability
14 company, partnership, or other entity providing the
15 Internet auction listing service is located in the State
16 of Illinois;

17 (2) the prospective seller or seller, prospective
18 lessor or lessor, or prospective purchaser or purchaser
19 is located in the State of Illinois and is required to
20 agree to terms with the person, corporation, limited
21 liability company, partnership, or other entity providing
22 the Internet auction listing service, no matter where
23 that person, corporation, limited liability company,
24 partnership, or other entity is located; or

25 (3) the personal property offered for sale or lease
26 is located in the State of Illinois.

27 (c) Any person, corporation, limited liability company,
28 partnership, or other entity that provides an Internet
29 auction listing service in the State of Illinois for
30 compensation under any of the circumstances listed in
31 subsection (b) shall register with OBRE on forms provided by
32 OBRE accompanied by the required fee as provided by rule.
33 Such registration shall include information as required by
34 OBRE and established by rule as OBRE deems necessary to

1 enable users of the Internet auction listing service in
2 Illinois to identify the entity providing the service and to
3 seek redress or further information from such entity. The fee
4 shall be sufficient to cover the reasonable costs of OBRE in
5 administering and enforcing the provisions of this Section.
6 The registrant shall be required to certify:

7 (1) that the registrant does not act as the agent
8 of users who sell items on its website, and acts only as
9 a venue for user transactions;

10 (2) that the registrant requires sellers and
11 bidders to register with the website and provide their
12 name, address, telephone number and e-mail address;

13 (3) that the registrant retains such information
14 for a period of at least 2 years;

15 (4) that the registrant retains transactional
16 information consisting of at least seller identification,
17 high bidder identification, and item sold for at least 2
18 years from the close of a transaction, and has a
19 mechanism to identify all transactions involving a
20 particular seller or buyer;

21 (5) that the registrant has a mechanism to receive
22 complaints or inquiries from users;

23 (6) that the registrant adopts and reasonably
24 implements a policy of suspending, in appropriate
25 circumstances, the accounts of users who, based on the
26 registrant's investigation, are proven to have engaged in
27 a pattern of activity that appears to be deliberately
28 designed to defraud consumers on the registrant's
29 website; and

30 (7) that the registrant will comply with OBRE and
31 law enforcement requests for stored data in its
32 possession, subject to the requirements of applicable
33 law.

34 (d) OBRE may refuse to accept a registration which is

1 incomplete or not accompanied by the required fee. OBRE may
 2 impose a civil penalty not to exceed \$10,000 upon any
 3 Internet auction listing service that intentionally fails to
 4 register as required by this Section, and may impose such
 5 penalty or revoke, suspend, or place on probation or
 6 administrative supervision the registration of any Internet
 7 auction listing service that:

8 (1) intentionally makes a false or fraudulent
 9 material representation or material misstatement or
 10 misrepresentation to OBRE in connection with its
 11 registration, including in the certification required
 12 under subsection (c);

13 (2) is convicted of any crime, an essential element
 14 of which is dishonesty, fraud, larceny, embezzlement, or
 15 obtaining money, property, or credit by false pretenses
 16 or by means of a confidence game; or is convicted in this
 17 or another state of a crime that is a felony under the
 18 laws of this State; or is convicted of a felony in a
 19 federal court;

20 (3) is adjudged to be a person under legal
 21 disability or subject to involuntary admission or to meet
 22 the standard for judicial admission as provided in the
 23 Mental Health and Developmental Disabilities Code;

24 (4) has been subject to discipline by another
 25 state, the District of Columbia, a territory of the
 26 United States, a foreign nation, a governmental agency,
 27 or any other entity authorized to impose discipline if at
 28 least one of the grounds for that discipline is the same
 29 as or equivalent to one of the grounds for discipline set
 30 forth in this Section or for failing to report to OBRE,
 31 within 30 days, any adverse final action taken against
 32 the registrant by any other licensing or registering
 33 jurisdiction, government agency, law enforcement agency,
 34 or court, or liability for conduct that would constitute

1 grounds for action as set forth in this Section;

2 (5) fails to make available to OBRE personnel
3 during normal business hours all records and related
4 documents maintained in connection with the activities
5 subject to registration under this Section;

6 (6) makes or files false records or reports in
7 connection with activities subject to registration,
8 including but not limited to false records or reports
9 filed with State agencies;

10 (7) fails to provide information within 30 days in
11 response to a written request made by the OBRE to a
12 person designated in the registration for receipt of such
13 requests;

14 (8) offers or advertises real estate for sale or
15 lease at auction without a valid broker or salesperson's
16 license under the Real Estate License Act of 2000, or any
17 successor Act, unless exempt from licensure under the
18 terms of the Real Estate License Act of 2000, or any
19 successor Act; or

20 (9) fails to perform any act or procedure described
21 in subsection (c) of this Section.

22 (e) Registrations issued pursuant to this Section shall
23 expire on September 30 of odd-numbered years. A registrant
24 shall submit a renewal application to OBRE on forms provided
25 by OBRE along with the required fee as established by rule.

26 (f) Operating an Internet auction listing service under
27 any of the circumstances listed in subsection (b) without
28 being currently registered under this Section is declared to
29 be adverse to the public welfare, to constitute a public
30 nuisance, and to cause irreparable harm to the public
31 welfare. The Commissioner of OBRE, the Attorney General of
32 the State of Illinois, the State's Attorney of any county in
33 the State, or any other person may maintain an action and
34 apply for injunctive relief in any circuit court to enjoin

1 the person or entity from engaging in such practice.

2 (g) The provisions of Sections 20-25, 20-30, 20-35,
3 20-40, 20-45, 20-50, 20-55, 20-60 and 20-75 of this Act shall
4 apply to any actions of OBRE exercising its authority under
5 subsection (d) as if a person required to register under this
6 Section were a person holding or claiming to hold a license
7 under this Act.

8 (h) OBRE shall have the authority to adopt such rules as
9 may be necessary to implement or interpret the provisions of
10 this Section.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.