

# HOUSE BILL No. 5874

May 20, 1998, Introduced by Reps. Scranton, Brewer, Rocca, Scott, Sanborn, Varga and Richner and referred to the Committee on Regulatory Affairs.

A bill to amend 1980 PA 299, entitled  
"Occupational code,"  
by amending section 303a (MCL 339.303a), as amended by 1995 PA  
183, and by adding article 28; and to repeal acts and parts of  
acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 303a. The terms provided for in this act shall com-  
2 mence on the following dates:

3       Accountancy	July 1
4       Architects	April 1
5       Athletic board of control	April 1
6       AUCTIONEERS	JANUARY 1
7       Barbers	October 1
8       Collection agencies	July 1

1	Community planners	July 1
2	Cosmetology	January 1
3	Employment agencies	October 1
4	Foresters	April 1
5	Hearing aid dealers	October 1
6	Land surveyors	April 1
7	Landscape architects	July 1
8	Marriage counselors	October 1
9	Mortuary science	July 1
10	Nursing home administrators	January 1
11	Professional engineers	April 1
12	Real estate appraisers	July 1
13	Real estate brokers and salespersons	July 1
14	Residential builders	April 1
15	Social workers	October 1

16 ARTICLE 28

17 SEC. 2801. AS USED IN THIS ARTICLE:

18 (A) "AUCTION" MEANS THE SALE OR OFFER FOR SALE BY COMPETI-  
 19 TIVE BIDDING OF REAL OR PERSONAL PROPERTY AT A PUBLIC OR PRIVATE  
 20 LOCATION.

21 (B) "AUCTIONEER" MEANS A PERSON WHO, FOR COMPENSATION, IS  
 22 ENGAGED IN THE BUSINESS OF THE CONDUCT OF OR OFFERS TO ENGAGE IN  
 23 THE CONDUCT OF AN AUCTION.

24 SEC. 2803. (1) A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF  
 25 THE CONDUCT OF OR OFFERING TO CONDUCT AN AUCTION UNLESS LICENSED  
 26 UNDER THIS ARTICLE AS AN INDIVIDUAL OR A FIRM OR UNLESS EXEMPT  
 27 FROM LICENSURE UNDER THIS ARTICLE. THIS ARTICLE DOES NOT

1 PROHIBIT AN APPRENTICE FROM ENGAGING IN THE CONDUCT OF AN AUCTION  
2 UNDER THE SUPERVISION AND CONTROL OF AN INDIVIDUAL LICENSEE SO  
3 LONG AS THE LICENSEE IS RESPONSIBLE FOR COMPLIANCE WITH THE PRO-  
4 VISIONS OF THIS ARTICLE.

5 (2) A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY,  
6 ASSOCIATION, OR OTHER LEGAL ENTITY MAY APPLY FOR LICENSURE AS A  
7 FIRM UNDER THIS ARTICLE IF NOT LESS THAN 1 OF ITS OFFICERS, PART-  
8 NERS, MEMBERS, OR MANAGING AGENTS IS DESIGNATED AS A QUALIFYING  
9 MEMBER. THE DEPARTMENT SHALL ISSUE A LICENSE TO THE QUALIFYING  
10 MEMBER UPON THAT INDIVIDUAL'S FULFILLMENT OF THE REQUIREMENTS OF  
11 THIS ARTICLE REGARDING LICENSURE OF INDIVIDUALS. THE QUALIFYING  
12 MEMBER IS RESPONSIBLE FOR EXERCISING THE SUPERVISION AND CONTROL  
13 OF THE ACTIVITIES REGULATED BY THIS ARTICLE SO AS TO ASSURE FULL  
14 COMPLIANCE WITH THIS ARTICLE AND ANY RULES THAT MAY BE PROMUL-  
15 GATED UNDER THIS ACT.

16 (3) THE DEPARTMENT SHALL SUSPEND, REVOKE, OR DENY THE  
17 LICENSE OF A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY,  
18 ASSOCIATION, OR OTHER LEGAL ENTITY WHEN THE LICENSE OF THE QUALI-  
19 FYING MEMBER IS SUSPENDED, REVOKED, OR DENIED.

20 (4) IF THE QUALIFYING MEMBER OF A LICENSEE STOPS BEING ITS  
21 QUALIFYING MEMBER, SUCH CIRCUMSTANCE OPERATES AS AN AUTOMATIC  
22 SUSPENSION OF THE ENTITY'S LICENSE. UPON REQUEST, THE DEPARTMENT  
23 MAY PERMIT THE LICENSE TO REMAIN IN FORCE FOR A REASONABLE PERIOD  
24 OF TIME IN ORDER TO ALLOW THE QUALIFYING OF A NEW QUALIFYING  
25 MEMBER.

26 (5) AN AUCTIONEER SHALL HAVE IN EFFECT A PERFORMANCE BOND IN  
27 THE AMOUNT OF \$25,000.00. FAILURE TO MAINTAIN THE BOND IS

1 GROUNDS FOR SUSPENSION OR DENIAL OF RENEWAL OF THE AUCTIONEER'S  
2 LICENSE.

3 (6) A PERSON SHALL NOT ADVERTISE OR USE THE TERM "AUCTION",  
4 "AUCTIONEER", OR ANY OTHER TERM OF SIMILAR MEANING THAT CONNOTES  
5 THAT THE PERSON IS LICENSED UNDER THIS ARTICLE UNLESS THAT PERSON  
6 OBTAINS A LICENSE AS AN INDIVIDUAL OR FIRM UNDER THIS ARTICLE OR  
7 IS SPECIFICALLY EXEMPT FROM LICENSURE UNDER THIS ARTICLE.

8 (7) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
9 ADDED THIS ARTICLE AND UNTIL THE EXPIRATION OF 12 MONTHS AFTER  
10 THAT EFFECTIVE DATE, A PERSON MAY APPLY TO THE DEPARTMENT FOR A  
11 LICENSE AS AN AUCTIONEER WITHOUT TAKING AN EXAMINATION BY DEMON-  
12 STRATING THAT HE OR SHE HAS NOT LESS THAN 2 YEARS OF EXPERIENCE  
13 IN THE CONDUCT OF AUCTIONS, WHICH EXPERIENCE INCLUDES THE ACTIVE  
14 PARTICIPATION IN NOT LESS THAN 15 AUCTIONS WITHIN THAT TIME  
15 PERIOD. UPON PRESENTATION OF PROOF ACCEPTABLE TO THE DEPARTMENT  
16 AND PAYMENT OF THE APPLICATION FEE, THE DEPARTMENT SHALL ISSUE A  
17 LICENSE TO THAT PERSON.

18 SEC. 2805. THE FOLLOWING PERSONS ARE EXEMPT FROM LICENSURE  
19 UNDER THIS ARTICLE:

20 (A) A PERSON SELLING BY AUCTION HIS OR HER OWN REAL OR PER-  
21 SONAL PROPERTY WHERE THAT OWNER DOES NOT ACQUIRE THE REAL OR PER-  
22 SONAL PROPERTY SOLELY FOR THE PURPOSE OF RESALE.

23 (B) A PERSON PROVIDING BID CALLING SERVICES ONLY BY AUCTION  
24 OF REAL OR PERSONAL PROPERTY FOR THE BENEFIT OF A CHARITABLE,  
25 RELIGIOUS, OR CIVIC ORGANIZATION EXEMPT FROM TAXATION UNDER SEC-  
26 TION 501(c)(3) OF THE INTERNAL REVENUE CODE OF 1986 WHERE THE

1 AUCTIONEER DOES NOT RECEIVE COMPENSATION OF MORE THAN \$1,000.00  
2 AND DOES NOT HANDLE ANY AUCTION PROCEEDS.

3 (C) AN AGENT OR EMPLOYEE OF A COURT OF COMPETENT JURISDIC-  
4 TION SELLING BY AUCTION REAL OR PERSONAL PROPERTY PURSUANT TO A  
5 COURT ORDER; A LAW ENFORCEMENT AGENCY SELLING BY AUCTION ABAN-  
6 DONED OR SEIZED PROPERTY; OR A GOVERNMENTAL UNIT SELLING BY AUC-  
7 TION REAL OR PERSONAL PROPERTY AS THE RESULT OF A TAX SALE OR AS  
8 SURPLUS OR SALVAGE PERSONAL PROPERTY.

9 (D) A DEALER OR BROKER LICENSED UNDER 1937 PA 284, MCL  
10 287.121 TO 287.131, SELLING BY AUCTION LIVESTOCK. THIS SUBDIVI-  
11 SION DOES NOT EXEMPT FROM LICENSURE UNDER THIS ARTICLE AN AUC-  
12 TIONEER WHO CONTRACTS WITH OR IS OTHERWISE EMPLOYED BY A DEALER  
13 OR BROKER LICENSED UNDER 1937 PA 284, MCL 287.121 TO 287.131, FOR  
14 THE CONDUCT OF THE AUCTION.

15 (E) A DEALER LICENSED UNDER THE MICHIGAN VEHICLE CODE, 1949  
16 PA 300, MCL 257.1 TO 257.923, SELLING BY AUCTION MOTOR VEHICLES.  
17 THIS SUBDIVISION DOES NOT EXEMPT FROM LICENSURE UNDER THIS ARTI-  
18 CLE AN AUCTIONEER WHO CONTRACTS WITH OR IS OTHERWISE EMPLOYED BY  
19 A DEALER LICENSED UNDER THE MICHIGAN VEHICLE CODE, 1949 PA 300,  
20 MCL 257.1 TO 257.923, FOR THE CONDUCT OF THE AUCTION.

21 (F) A DEALER OR MANUFACTURER SELLING BY AUCTION BOATS OR  
22 WATERCRAFT REQUIRED TO HAVE A CERTIFICATE OF TITLE UNDER PART 801  
23 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994  
24 PA 451, MCL 324.80101 TO 324.80199. THIS SUBDIVISION DOES NOT  
25 EXEMPT FROM LICENSURE UNDER THIS ARTICLE AN AUCTIONEER WHO CON-  
26 TRACTS WITH OR IS OTHERWISE EMPLOYED BY A DEALER OR MANUFACTURER  
27 LICENSED UNDER PART 801 OF THE NATURAL RESOURCES AND

1 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.80101 TO  
2 324.80199, FOR THE CONDUCT OF THE AUCTION.

3 (G) AN APPRENTICE OPERATING UNDER THE SUPERVISION AND CON-  
4 TROL OF A LICENSEE.

5 SEC. 2807. THE DEPARTMENT SHALL ISSUE A LICENSE AS AN AUC-  
6 TIONEER TO AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING  
7 CONDITIONS:

8 (A) HAS EITHER AT LEAST 6 MONTHS OF APPRENTICE EXPERIENCE  
9 WITH A LICENSED AUCTIONEER INCLUDING ACTIVE PARTICIPATION IN THE  
10 CONDUCT OF NOT LESS THAN 5 AUCTIONS OR PROOF OF GRADUATION FROM  
11 AN ACCREDITED AUCTION SCHOOL ACCEPTABLE TO THE DEPARTMENT AND AT  
12 LEAST 90 DAYS OF APPRENTICE EXPERIENCE WITH A LICENSED AUCTIONEER  
13 INCLUDING ACTIVE PARTICIPATION IN THE CONDUCT OF NOT LESS THAN 5  
14 AUCTIONS. THE EXPERIENCE SHALL BE VERIFIED BY AN AFFIDAVIT OF A  
15 LICENSED AUCTIONEER AND SHALL PROVIDE THE NAMES AND ADDRESSES OF  
16 THE PARTIES ON WHOSE BEHALF THE AUCTION WAS HELD AND THE DATES OF  
17 THE AUCTION.

18 (B) HAS COMPLETED AN EXAMINATION AS DESCRIBED IN  
19 SECTION 2813.

20 (C) IS OF GOOD MORAL CHARACTER.

21 SEC. 2809. (1) MONEY PAID BY ANY PERSON TO A LICENSEE IS  
22 CONSIDERED TO BE HELD IN TRUST FOR THE BENEFIT OF THE SELLER OF  
23 THE MERCHANDISE, AND THE LICENSEE IS CONSIDERED THE TRUSTEE FOR  
24 THE MONEY.

25 (2) EXCEPT IN THE CASE OF A NONRESIDENT AUCTIONEER LICENSED  
26 UNDER SECTION 2815, AN AUCTIONEER SHALL MAINTAIN A REGULAR PLACE  
27 OF BUSINESS IN THIS STATE. IF MORE THAN 1 PLACE OF BUSINESS IS

1 MAINTAINED, THE DEPARTMENT SHALL ISSUE A DUPLICATE LICENSE UPON  
2 PAYMENT OF A FEE NOT TO EXCEED THE ACTUAL COST OF ISSUING THE  
3 DUPLICATE LICENSE.

4 (3) A LICENSED AUCTIONEER SHALL NOT CONDUCT AN AUCTION  
5 UNLESS A WRITTEN CONTRACT IS EXECUTED BETWEEN THE PERSON DESIRING  
6 AUCTION SERVICES AND THE LICENSED AUCTIONEER. A LICENSEE SHALL  
7 KEEP A COPY OF THE CONTRACT AS PART OF HIS OR HER RECORDS AND,  
8 UPON REQUEST, MAKE THEM AVAILABLE TO THE DEPARTMENT FOR INSPEC-  
9 TION DURING NORMAL BUSINESS HOURS.

10 (4) A LICENSEE UNDER THIS ARTICLE SHALL MAINTAIN WRITTEN  
11 RECORDS OF EACH AUCTION SALE FOR A PERIOD OF NOT LESS THAN 3  
12 YEARS FROM THE DATE OF THE AUCTION SALE. THE RECORDS SHALL  
13 INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

14 (A) CONSIGNMENT RECEIPTS.

15 (B) BIDDER REGISTRATIONS.

16 (C) DOCUMENTS RELATING TO FINAL SETTLEMENTS WITH  
17 CONSIGNORS.

18 (D) CLERKING RECORDS.

19 (5) A LICENSEE UNDER THIS ARTICLE SHALL MAINTAIN RECORDS ON  
20 ALL CURRENT EMPLOYEES AND ON PAST EMPLOYEES FOR NOT LESS THAN 3  
21 YEARS AFTER A PAST EMPLOYEE LEAVES THE EMPLOYMENT OF THE LICENS-  
22 EE, WHICH RECORDS SHALL INCLUDE THE EMPLOYEE'S NAME, ADDRESS,  
23 SOCIAL SECURITY NUMBER, AND DATE OF BIRTH.

24 (6) A LICENSEE UNDER THIS ARTICLE SHALL CONSPICUOUSLY POST  
25 AT THE REGULAR PLACE OF BUSINESS AND AT THE REGISTRATION LOCATION  
26 AT AN AUCTION EVENT A COPY OF THE LICENSE ISSUED UNDER THIS  
27 ARTICLE.

1       (7) AS PART OF HIS OR HER REGULAR BUSINESS PRACTICES, THE  
2 AUCTIONEER IS CONSIDERED RESPONSIBLE FOR PERFORMING ANY LIEN OR  
3 UNIFORM COMMERCIAL CODE CHECKS AGAINST THE PROPERTY SUBJECT TO  
4 THE AUCTION.

5       SEC. 2811. (1) A LICENSEE UNDER THIS ARTICLE SHALL ESTAB-  
6 LISH A CUSTODIAL ACCOUNT IN THE MANNER DESCRIBED IN THIS  
7 SECTION. THE LICENSEE SHALL DEPOSIT INTO THE CUSTODIAL ACCOUNT  
8 ALL CHECKS, DRAFTS, NEGOTIABLE INSTRUMENTS, AND CASH TENDERED BY  
9 A BUYER FOR THE PAYMENT OF AN ITEM SOLD BY AUCTION. THE LICENSEE  
10 SHALL MAKE A DISBURSEMENT RELATIVE TO A SALE BY AUCTION THROUGH  
11 THAT CUSTODIAL ACCOUNT IN THE TIME PERIOD AND MANNER DESCRIBED IN  
12 THIS SECTION.

13       (2) A LICENSEE SHALL NOT PERMIT AN ADVANCE PAYMENT OF MONEY  
14 BY A CUSTOMER TO BE DEPOSITED IN THE LICENSEE'S BUSINESS OR PER-  
15 SONAL ACCOUNT OR TO BE COMMINGLED IN ANY WAY WITH FUNDS BELONGING  
16 TO THE LICENSEE, EXCEPT AS PROVIDED IN THIS SECTION. THE  
17 LICENSEE SHALL DEPOSIT CUSTOMER MONEY INTO A SEPARATE CUSTODIAL  
18 ACCOUNT WITHIN 2 BANKING DAYS AFTER THE AUCTION TRANSACTION UNTIL  
19 THE TRANSACTION INVOLVED IS CONSUMMATED OR TERMINATED, BUT NOT  
20 LATER THAN 5 DAYS AFTER ITS RECEIPT.

21       (3) THE SEPARATE CUSTODIAL ACCOUNT IS SUBJECT TO THE FOLLOW-  
22 ING REQUIREMENTS:

23       (A) SHALL BE AN INTEREST BEARING ACCOUNT MAINTAINED IN A  
24 FEDERALLY INSURED BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT  
25 UNION, OR DEPOSITORY RECOGNIZED BY THE DEPARTMENT. THE CONTRACT  
26 SHALL DISCLOSE THAT THE ACCOUNT IS INTEREST BEARING AND THAT



1 DISPOSITION OF THE INTEREST IS A CONTRACTUAL TERM SUBJECT TO  
2 NEGOTIATION BETWEEN THE PARTIES.

3 (B) SHALL DESIGNATE THE LICENSEE AS THE CUSTODIAN OR  
4 TRUSTEE.

5 (C) SHALL PROVIDE FOR WITHDRAWAL OF MONEY WITHOUT PREVIOUS  
6 NOTICE AND SHALL NOT BE ENCUMBERED IN ANY MANNER.

7 (D) SHALL NOT CONTAIN ANY MONEY OF THE LICENSEE EXCEPT FOR  
8 SUCH AMOUNTS AS ARE NECESSARY TO PAY SERVICE CHARGES ON THE  
9 ACCOUNT OR TO MAINTAIN THE ACCOUNT WHEN CUSTOMER MONEY IS NOT ON  
10 DEPOSIT.

11 (4) DISBURSEMENTS FROM THE SEPARATE CUSTODIAL ACCOUNT SHALL  
12 BE MADE ACCORDING TO THE TERMS OF THE CONTRACT AND ONLY FOR THE  
13 FOLLOWING PURPOSES:

14 (A) PAYMENT AS A RESULT OF THE SALE OF AN ITEM BY THE  
15 LICENSEE.

16 (B) REFUND OF AN AMOUNT TO THE CUSTOMER UPON TERMINATION OF  
17 THE TRANSACTION.

18 (C) PAYMENT TO THE LICENSEE OF A COMMISSION AND DOCUMENTED  
19 AND APPROVED EXPENSES FOLLOWING THE CONSUMMATION OF A TRANSACTION  
20 UPON WHICH A COMMISSION IS PAYABLE TO THE LICENSEE.

21 (5) THE LICENSEE SHALL KEEP RECORDS OF MONEY DEPOSITED IN  
22 THE SEPARATE CUSTODIAL ACCOUNT. THE RECORDS SHALL SHOW ALL OF  
23 THE FOLLOWING:

24 (A) THE DATE OF THE RECEIPT OF MONEY FROM A CUSTOMER AND THE  
25 NAME OF THE CUSTOMER ON WHOSE BEHALF THE MONEY WAS PAID.

26 (B) THE PURPOSE FOR WHICH THE MONEY WAS PAID.

1 (C) THE DATE THE MONEY WAS DEPOSITED IN THE CUSTODIAL  
2 ACCOUNT.

3 (D) THE DATE OF WITHDRAWAL OF THE MONEY, THE PURPOSE OF THE  
4 WITHDRAWAL, AND THE NAME OF THE PERSON TO WHOM THE MONEY WAS PAID  
5 UPON WITHDRAWAL.

6 (E) ANY OTHER PERTINENT INFORMATION REGARDING THE  
7 TRANSACTION.

8 (6) THE DEPARTMENT MAY, UPON NOTICE GIVEN TO A LICENSEE,  
9 INSPECT THE RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS  
10 SECTION.

11 SEC. 2813. (1) THE DEPARTMENT SHALL PROVIDE FOR AN EXAMINA-  
12 TION FOR APPLICANTS FOR LICENSURE UNDER THIS ARTICLE IN THE  
13 MANNER PROVIDED FOR IN SECTION 316.

14 (2) THE EXAMINATION DESCRIBED IN SUBSECTION (1) SHALL  
15 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING SUBJECT MATTER  
16 AREAS:

17 (A) THE PROVISIONS OF THIS ARTICLE.

18 (B) ETHICS AND ETHICAL PRACTICES AS THEY RELATE TO THE BUSI-  
19 NESS OF CONDUCTING AUCTIONS.

20 (C) ELEMENTARY MATHEMATICS.

21 (D) ELEMENTARY PRINCIPLES OF REAL ESTATE ECONOMICS.

22 (E) ELEMENTARY PRINCIPLES OF THE LAW REGARDING BULK SALES,  
23 DEEDS, MORTGAGES, CONTRACTS OF SALE, AGENCY, LEASES, AUCTIONS,  
24 AND BROKERAGE.

25 (3) THE DEPARTMENT SHALL PROVIDE THE ADMINISTRATION OF EXAM-  
26 INATIONS ON AN AS-NEEDED BASIS.

1        SEC. 2815. (1) THE DEPARTMENT SHALL ISSUE A LICENSE WITHOUT  
2 EXAMINATION TO A NONRESIDENT INDIVIDUAL WHO, AT THE TIME OF  
3 APPLICATION, IS LICENSED, REGISTERED, CERTIFIED, OR OTHERWISE  
4 REGULATED BY HIS OR HER STATE OF RESIDENCE IF THE REQUIREMENTS OF  
5 THAT STATE, AS DETERMINED BY THE DEPARTMENT, ARE SUBSTANTIALLY  
6 THE EQUIVALENT OF THE REQUIREMENTS OF THIS ARTICLE AND IF THE  
7 OTHER STATE OFFERS LICENSURE, CERTIFICATION, OR REGISTRATION ON A  
8 RECIPROCAL BASIS SIMILAR TO THIS SECTION TO LICENSEES UNDER THIS  
9 ARTICLE.

10        (2) A NONRESIDENT SHALL FILE AN IRREVOCABLE CONSENT TO SERV-  
11 ICE OF PROCESS WHICH CONSENT SHALL BE SIGNED BY THE LICENSEE. A  
12 PROCESS OR PLEADING SERVED UPON THE DEPARTMENT SHALL BE SUFFI-  
13 CIENT SERVICE UPON THE LICENSEE. A PROCESS OR PLEADING SERVED  
14 UPON THE DEPARTMENT UNDER THIS SECTION SHALL BE IN DUPLICATE.  
15 THE DEPARTMENT SHALL IMMEDIATELY SERVE BY FIRST-CLASS MAIL A COPY  
16 OF THE PROCESS OR PLEADING TO THE LICENSEE'S LAST KNOWN ADDRESS  
17 AS DETERMINED BY THE RECORDS OF THE DEPARTMENT.

18        SEC. 2817. A PERSON SHALL NOT BRING AN ACTION IN A COURT OF  
19 THIS STATE FOR THE COLLECTION OF COMPENSATION FOR THE PERFORMANCE  
20 OF AN ACT OR FOR ENFORCEMENT OF A CONTRACT INVOLVING ACTIVITY FOR  
21 WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE WITHOUT ALLEGING  
22 AND PROVING THAT THE PERSON WAS LICENSED UNDER THIS ARTICLE  
23 DURING THE PERFORMANCE OF THE ACT OR CONTRACT.

24        SEC. 2819. A LICENSEE WHO COMMITS ANY OF THE FOLLOWING ACTS  
25 IS SUBJECT TO THE SANCTIONS AND PENALTIES CONTAINED IN  
26 ARTICLE 6:

1 (A) FAILS TO ENTER INTO A WRITTEN CONTRACT WITH A SELLER OR  
2 CONSIGNOR BEFORE PLACING OR AUTHORIZING ANY ADVERTISING FOR AN  
3 AUCTION.

4 (B) FAILS TO REDUCE TO WRITING OR FAILS TO ISSUE ANY APPRO-  
5 PRIATE DOCUMENTATION RELATIVE TO AN AUCTION-RELATED TRANSACTION.

6 (C) FAILS TO APPROPRIATELY USE OR ISSUE PAYMENT FROM A CUS-  
7 TODIAL FUND.

8 (D) PERMITS AN UNLICENSED AUCTIONEER TO CONDUCT AN AUCTION.

9 (E) IS INVOLVED IN CAPPING, SHILLING, OR STEERING RELATIVE  
10 TO AN AUCTION.

11 (F) FAILS TO DISCLOSE HIS OR HER LICENSE NUMBER ON ALL  
12 ADVERTISING.

13 (G) KNOWINGLY MISREPRESENTS THE NATURE OR VALUE OF AN ITEM  
14 BEING AUCTIONED.

15 (H) FAILS TO OBTAIN OR MAINTAIN A PERFORMANCE BOND IN AN  
16 AMOUNT ACCEPTABLE TO THE DEPARTMENT.

17 (I) VIOLATES THE REQUIREMENTS OF THIS ARTICLE OR A RULE  
18 PROMULGATED UNDER THIS ARTICLE.

19 SEC. 2821. IT IS THE INTENT OF THE LEGISLATURE THAT THIS  
20 ARTICLE EXEMPT FROM LICENSURE THE CONDUCT OF AUCTIONS UNDER ANY  
21 OTHER ACT ALLOCATING POWERS FOR LOCAL UNITS OF GOVERNMENT.

22 Enacting section 1. The following acts and parts of acts  
23 are repealed:

24 (a) 1955 PA 224, MCL 446.51 to 446.60.

25 (b) 1846 RS 21, MCL 446.26 to 446.35.

1       Enacting section 2. This amendatory act does not take  
2 effect unless all of the following bills of the 89th Legislature  
3 are enacted into law:

4       (a) House Bill No. 4388.

5       (b) House Bill No. 4389.

6       (c) House Bill No. 4390.