PUBLIC AUCTIONS

Act 224 of 1955

AN ACT to regulate sales at public auction; to provide for the issuing of licenses; and to prescribe penalties for violations of the provisions of this act.

History: 1955, Act 224, Imd. Eff. June 18, 1955

The People of the State of Michigan enact:

446.51 Sale of new merchandise at public auction; license required.

Sec. 1.

It shall be unlawful for any person, firm or corporation to sell, dispose of, or offer for sale at public auction at any place outside the limits of any city or village in the state of Michigan, or within the limits of any village in the state of Michigan that has not by ordinance provided for the licensing of sales by auction, any new merchandise, unless such person, firm or corporation, and the owners of such merchandise, if it is not owned by the vendors, shall have first secured a license as herein provided and shall have complied with the regulations hereinafter set forth.

History: 1955, Act 224, Imd. Eff. June 18, 1955

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446.52 Licenses; application, filing, contents.

Sec. 2.

Any person, firm or corporation desiring such license shall, at least 10 days prior to such proposed auction sale, file with the township clerk of the township wherein it is proposed to hold such auction sale, an application in writing duly verified by the person, firm or corporation proposing to sell, dispose of or offer for sale any new merchandise at public auction, which application shall state the following facts:

(1) The name, residence and postoffice address of the person, firm or corporation making the application, and if a firm or corporation, the name and address of the members of the firm or officers of the corporation, as the case may be;

(2) The name, residence and postoffice address of the auctioneer who will conduct such auction sale;

(3) A detailed inventory and description of all such new merchandise to be offered for sale at such auction and a valuation thereof;

(4) A statement as to whether or not the sale at public auction shall be with or without reservation.

History: 1955, Act 224, Imd. Eff. June 18, 1955

446.53 Licenses; bond; amount; beneficiaries; conditions; liability; service of process; jurisdiciton; joinder of parties.

Sec. 3.

At the time of filing said application, and as a part thereof, the applicant shall file and deposit with the township clerk a bond, with sureties to be approved by the township board, in the penal sum of 2 times the value of the merchandise proposed to be offered for sale at such auction as shown by the inventory filed, running to the state of Michigan and for the use and benefit of any purchaser of any merchandise at such auction who might have a cause for action of any nature arising from or out of such auction sale against the auctioneer or applicant; the bond to be further conditioned on the payment by the applicant of all taxes that may be payable by, or due from, the applicant to the state of Michigan, or any department or subdivision thereof, the payment of any fines that may be assessed by any court against the applicant or auctioneer for violation of the provisions of this act, and the satisfaction of all causes of action commenced within 1 year from date of such auction sale and arising therefrom: Provided, however, That the aggregate liability of the surety for all said taxes, fines and causes of action shall in no event exceed the sum of such bond.

In such bond the applicant and the surety shall appoint the township clerk of the township in which such bond is filed, the agent of the applicant and the surety for the service of process. In the event of such service, the agent on whom such service is made shall, within 5 days after the service, mail by ordinary mail a true copy of the process served upon him to each party for whom he is served, addressed to the last known address of such party. Failure to so mail said copy shall not, however, affect the court's jurisdiction.

Such bond shall contain the consent of the applicant and surety that the circuit court of the county or the justice court of the township wherein the application and bond is filed shall have jurisdiction of all actions within the jurisdiction of the respective courts against the applicant or surety, or both, arising out of said sale.

The state of Michigan, or any subdivision thereof, or any person having a cause of action against the applicant arising out of the sale of such new merchandise, may join the applicant and the surety on such bond in the same action, or may in such action sue either such applicant or the surety alone.

History: 1955, Act 224, Imd. Eff. June 18, 1955

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446.54 Licenses; fees.

Sec. 4.

At the time of filing said application and bond the applicant shall pay to the township clerk a license fee in the sum of $25.00 for each day it is supposed to hold such auction sale as shown by the application for such license.

History: 1955, Act 224, Imd. Eff. June 18, 1955

446.55 Licenses; issuance, transferability, validity.

Sec. 5.

Upon the filing of such application and after the applicant has fully complied with all the provisions of this act, the township board, by the township clerk, shall issue to the applicant a license authorizing the holding of such auction sale as proposed in said application. Such license shall not be transferable, and shall be valid only in the township where issued, and shall not be valid in any village which has enacted an ordinance providing for the licensing of sales by auction.

History: 1955, Act 224, Imd. Eff. June 18, 1955

446.56 Report of sale and inventory of unsold merchandise; filing.

Sec. 6.

Within 10 days after the last day of said auction the applicant shall file in duplicate with the township board a listing of all merchandise sold at such auction and the prices received therefor, together with a detailed inventory of all merchandise unsold at the close of such auction sale. The township clerk shall, immediately after receiving such listing of sales, forward a copy thereof to the department of revenue.

History: 1955, Act 224, Imd. Eff. June 18, 1955

446.57 Licensing of sales by auction; definitions.

Sec. 7.

"New merchandise" as used in this act shall mean all merchandise not previously sold at retail. "Auction sale" as used in this act shall mean the offering for sale or selling of personal property to the highest bidder, or offering for sale or selling of personal property at a high price and then offering the same at successive lower prices until a buyer is secured.

History: 1955, Act 224, Imd. Eff. June 18, 1955

446.58 Cappers, boosters, shillers or false bids prohibited.

Sec. 8.

At any such sale by auction, no person shall act as "bidder," or what is commonly known as a "capper,""booster" or "shiller," or offer or make any false bid, or offer any false bid or pretend to buy any article sold or offered for sale at any sale by auction.

History: 1955, Act 224, Imd. Eff. June 18, 1955

446.59 Nonapplication of act as to certain sales.

Sec. 9.

The provisions of this act shall not extend to the sale at public auction of livestock, farm machinery or farm produce, used homestead goods or other items commonly sold at farm or homestead sales, or to auction sales by individuals of new merchandise, which was assessed personal property tax in the state of Michigan or is replacement stock of merchandise inventory which was assessed personal property tax in the county in which the sale is to be had, and to auction sales under a mortgage foreclosure or under the direction of a court or court officers of such sales as may be required by law. The owner of the personal property specified in this section may furnish the person or persons conducting the public auction with a statement that the property set forth in the statement has been assessed as personal property in the state of Michigan or that it has been purchased as replacement for property that has been assessed, and the possession of such a statement shall absolve the person or persons to whom it is given from all liability under the provisions of this act.

History: 1955, Act 224, Imd. Eff. June 18, 1955

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446.60 Violation of act; penalty.

Sec. 10.

Any person, firm or corporation found to be in violation of this act shall be guilty of a misdemeanor and may be punished by a fine not to exceed $100.00, or by imprisonment in the county jail not to exceed 90 days, or by both fine and imprisonment.

History: 1955, Act 224, Imd. Eff. June 18, 1955

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