

TEXAS OCCUPATIONS CODE CHAPTER 1802
§§ 001, 051, 052, 151, 201, 202, 205-208, 252, 301

Sec. 1802.001. Definitions

In this chapter:

- (1) "Advisory board" means the Auctioneer Education Advisory Board.
- (2) "Associate auctioneer" means an individual who, for compensation, is employed by and under the direct supervision of a licensed auctioneer to sell or offer to sell property at an auction.
- (3) "Auction" means the sale of property by competitive bid.
- (4) "Auction company" means a person who engages in the business of arranging, managing, sponsoring, advertising, or conducting auctions.
- (5) "Auctioneer" means an individual who sells or offers to sell property at auction, with or without receiving consideration, as a bid caller.
- (6) "Commission" means the Texas Commission of Licensing and Regulation.
- (7) "Commissioner" means the commissioner of licensing and regulation.
- (8) "Department" means the Texas Department of Licensing and Regulation.
- (9) "Fund" means the auctioneer education and recovery fund.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.051. License Required

(a) A person may not act as an auctioneer or associate auctioneer in an auction held in this state unless the person is an individual who holds a license issued by the commissioner under this chapter.

(b) An auctioneer who advertises to conduct an auction in this state shall provide the auctioneer's name and license number in the advertisement.

(c) A person who is licensed under this chapter may not act as an auctioneer for an auction company unless the company is owned or operated by a person who is licensed under this chapter.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.052. Eligibility for Auctioneer's License

An individual is eligible for an auctioneer's license if the individual:

- (1) is at least 18 years of age;
- (2) is a citizen of the United States or a legal alien; and
- (3) either:

(A) passes a written or oral examination demonstrating knowledge of the auction business and of the laws of this state relating to the auction business; or

(B) shows proof of employment by a licensed auctioneer for at least one year during which the applicant participated in at least five auctions.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.151. Fund

The auctioneer education and recovery fund is a trust fund with the comptroller for the payment of claims against auctioneers licensed under this chapter.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.155. Liability

(a) The fund or the department is not liable to a consumer for a recovery from the fund if the assets of the fund are insufficient to pay the amount awarded.

(b) If the fund contains insufficient assets to pay the consumer:

(1) the department shall record the time and date an order for payment to a consumer was received; and

(2) the commissioner shall pay consumers for whom an order is recorded under Subdivision (1) as funds become available in the order of the recorded time and date of the order.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.201. Investigation of Complaints

The commissioner may, on the commissioner's motion, and shall, on the written and verified complaint of a person aggrieved by the actions of an auctioneer in an auction, investigate an alleged violation of this chapter by a licensed or unlicensed auctioneer or an applicant.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.202. Consumer Claims

(a) A person who deals with an auctioneer licensed under this chapter and who is aggrieved by an action of the auctioneer as a result of a violation of a contract made with the auctioneer may initiate a claim against the fund by:

(1) filing with the department a sworn complaint against the auctioneer; and

(2) paying to the department a filing fee of \$50.

(b) The commissioner may not pay a claim against an auctioneer who was not licensed at the time of the transaction on which the claim is based.

(c) The department shall investigate a complaint filed under this section and determine the amount owed to the aggrieved party.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.205. Payment of Claim

(a) If the department's determination under Section 1802.202 is not disputed by the auctioneer or the aggrieved party, the commissioner shall pay the claim from the fund, subject to Section 1802.206.

(b) If a hearing is held on the department's determination, the commissioner shall pay to the aggrieved party the amount of actual damages determined by the commissioner.

(c) The amount of actual damages may not include attorney's fees, speculative damages, or lost profits.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.206. Payment Limits

- (a) The commissioner may not pay a single aggrieved party more than \$10,000.
 - (b) The total payment of all claims by more than one aggrieved party arising from one auction at one location, regardless of the length of the auction, may not exceed \$20,000.
 - (c) The total payment of claims against a single auctioneer may not exceed \$20,000.
- Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.207. Reimbursement; Interest

- (a) If the commissioner pays a claim against an auctioneer, the auctioneer shall:
 - (1) reimburse the fund immediately or agree in writing to reimburse the fund on a schedule to be determined by rule of the commissioner; and
 - (2) immediately pay the aggrieved party any amount due to that party or agree in writing to pay the party on a schedule to be determined by rule of the commissioner.
 - (b) Payments made by an auctioneer to the fund or to an aggrieved party under this section include interest accruing at the rate of eight percent a year beginning on the date the commissioner pays the claim.
- Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.208. Subrogation

If the commissioner pays a claim against an auctioneer, the department is subrogated to all rights of the aggrieved party against the auctioneer to the extent of the amount paid to the aggrieved party.

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.252. Revocation for Claim on Fund

- (a) The commissioner may revoke a license issued under this chapter if the commissioner makes a payment from the fund as the result of an action of the license holder.
 - (b) The commissioner may probate an order revoking a license.
 - (c) An auctioneer is not eligible for a new license until the auctioneer has repaid in full the amount paid from the fund on the auctioneer's account, including interest, unless:
 - (1) a hearing is held; and
 - (2) the commissioner issues a new probated license.
- Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

Sec. 1802.301. Practicing Without License; Offense

- (a) A person commits an offense if the person acts as an auctioneer without a license.
 - (b) An offense under this section is a Class B misdemeanor.
- Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.