

REGULATION OF PUBLIC AUCTIONS

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House Bills 5294 and 5295

Sponsor: Rep. Shelley Taub

Committee: Regulatory Reform

Complete to 6-14-04

A SUMMARY OF HOUSE BILLS 5294 AND 5295 AS INTRODUCED 11-12-03

Public Act 224 of 1955 regulates the sales of goods at public actions and requires a license to conduct a public auction sale. The act requires a license for auctions in townships and in villages that do not have a local ordinance regulating such sales. House Bill 5295 would name the act the Public Auction Licensing Act and extend the license requirements to cities, unless a city has enacted an ordinance with the same or more restrictive requirements regulating public auctions. House Bill 5294 would amend the Revised Judicature Act to include a violation of the Public Auction Licensing Act in the RJA's list of crimes and is tie-barred to House Bill 5295.

House Bill 5295. Under current law, an application for a license to hold a public auction shall be accompanied by a fee of \$25 for each day the auction is to be held. The bill would increase the fee to \$100 for each day.

The bill would require the applicant to post a copy of the application (including the inventory but not including the purchase price of goods) in a conspicuous place in the sales room or the place where the sale is to be conducted, and on the front door of the premises. The bill would also require that any advertisement or sales announcement clearly show the license number and expiration date, and the applicant's name, business address, and state sales tax number.

The bill would add that the act would not apply to any regularly scheduled auction sale of motor vehicles at a permanent location and conducted by an auctioneer who has complied with Chapter 21 of the Revised Statutes of 1846 (MCL 446.26 to 446.35).

The bill would permit a person to bring an action to obtain a declaratory judgment regarding an alleged violation or seek injunctive relief, regardless of whether the person seeks damages or has an adequate remedy at law, or the attorney general or prosecuting attorney has taken legal action. In addition, the bill would permit a person who suffers loss as a result of a violation of the act to bring an action to recover actually damages or \$250, whichever is greater, for each day the violation occurs, in addition to reasonable attorney fees.

Currently under the act, penalties for a violation of the act are punishable by a fine up to \$100 and/or imprisonment up to 90 days. The bill would increase the penalties to a fine of up to \$5,000 and/or imprisonment up to 93 days.

If a city or village has enacted an ordinance requiring the licensure of sales by auction that is more restrictive than the Public Auction Licensing Act, a license issued under the state act would not be valid in that city or village

MCL 446.51 et al

Legislative Analyst: Mark Wolf

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