

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 603
SENATE BILL 427

AN ACT TO CREATE THE AUCTIONEER RECOVERY FUND.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created and established in the office of the State Treasurer the Auctioneer Recovery Fund.

Sec. 2. G.S. 85B is hereby amended by adding new sections which read as follows:

"§ 85B-4.1. Auctioneer Recovery Fund. – (a) In addition to the license fees provided for above, upon the application for a license and upon renewal of every license and every regular renewal date thereafter, the Commission shall charge each and every licensee an amount not to exceed fifty dollars (\$50.00) per year to be included in the Auctioneer Recovery Fund (hereinafter the Fund).

(b) The purposes of the Fund shall be as follows:

- (1) When an auctioneer or apprentice auctioneer has been found guilty of violating any of the provisions of G.S. 85B or the rules promulgated thereunder, and upon the entry of a final agency decision by the Commission or if appealed, a court order, the Commission is authorized to pay the aggrieved party or parties an aggregate amount not to exceed ten thousand dollars (\$10,000) against any one auctioneer or apprentice auctioneer, provided that the auctioneer or apprentice auctioneer has refused to pay such claim within a period of 20 days of entry of the final agency decision or court order and provided further that the amount or amounts of money in question are certain and liquidated.
- (2) The Commission shall maintain a minimum level of one hundred thousand dollars (\$100,000) for recovery and guaranty purposes. These funds may be invested and reinvested by the State Treasurer in interest bearing accounts, such interest accrued being added to the Fund. Sufficient liquidity will be maintained so that there will be money available to satisfy any and all claims which may be processed through the Board. The Fund may be disbursed by a warrant drawn against the State Treasurer or other method at the discretion of the State Treasurer.
- (3) The Commission, in its discretion, may use any and all funds in excess of one hundred thousand dollars (\$100,000) for the following purposes:

- a. To carry out the advancement of education and research in the auctioneering profession for the benefit of those licensed under the provisions of this Chapter and the improvement of and making even more efficient the industry as such;
- b. To underwrite educational seminars, training centers, and other forms of educational projects for the use and benefit generally of licensees;
- c. To sponsor, contract for and to underwrite any and all other educational and research projects of a similar nature having to do with the advancement of the auctioneer profession in North Carolina; and
- d. To cooperate with associations of auctioneers and any and all other groups for the enlightenment and advancement of the auctioneer profession of North Carolina.

"§ 85B-4.2. Special provisions. – (a) In the event that an auctioneer or apprentice auctioneer is found guilty of any of the provisions of G.S. 85B or the rules promulgated thereunder, and if the amount of money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by the superior court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or rules and regulations has occurred and a final agency decision has been entered.

(b) If such final agency decision has been entered and the rights of the licensee have been finally adjudicated, then the superior court shall make a finding as to the monetary damages growing out of the aforesaid violation or violations."

Sec. 3. Until such time as the Fund reaches the minimum level set out in Section 2 above, the Commission shall not be authorized to disburse any payments to an aggrieved party. However, any party aggrieved and awarded payment by a final agency decision dated after the effective date of this act shall hold a vested right for payment once the Fund reaches the minimum level.

Sec. 4. G.S. 85B-4(f) is amended to read as follows:

"(f) No person shall be issued an auctioneer or apprentice auctioneer license until he has made the contribution to the Auctioneer Recovery Fund as required by G.S. 85B-4.1."

Sec. 5. G.S. 85B-5 is amended on line 9 by deleting the phrase, "file the bond required under G.S. 85B-4" and inserting in lieu thereof, "meet the requirements of G.S. 85B-4.1".

Sec. 6. G.S. 85B-8(a) is amended by adding a new subsection which reads as follows:

"(8) Failure to make the required contribution to the Auctioneer Recovery Fund."

Sec. 7. This act is effective July 1, 1983.

In the General Assembly read three times and ratified, this the 24th day of June, 1983.