

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 324

House Bill No. 271*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 66-11-101(14), is amended by deleting the subdivision and substituting instead the following:

(14) "Remote contractor" means a person, including a land surveyor as defined in § 62-18-102, a subcontractor, and a person licensed to practice architecture or engineering under title 62, chapter 2, who provides work or labor or who furnishes material, services, equipment, or machinery in furtherance of any improvement under a contract with a person other than an owner;

SECTION 2. Tennessee Code Annotated, Section 66-11-101, is further amended by inserting the following as a new subdivision:

() "Subcontractor" means a contractor who performs work on behalf of another contractor or remote contractor in the construction or remodeling of a structure;

SECTION 3. Tennessee Code Annotated, Section 66-11-102, is amended by adding the following as a new subsection:

()

(1)

(A) All lienors, except laborers, must serve a notice on the owner setting forth the lienor's name and address, with a description sufficient for identification of the real property, and the nature of the services or materials furnished or to be furnished, as a prerequisite to perfecting a lien under this chapter and recording a claim of lien.



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(B) A subcontractor of a remote contractor or a materialman to a remote subcontractor must serve a copy of the notice to owner as required in subdivision (a)(1)(A) on the contractor as a prerequisite to perfecting a lien under this chapter and recording a claim of lien.

(C)

(i) A materialman to a subcontractor of a remote contractor must serve a copy of the notice to owner as required in subdivision (a)(1)(A) on the contractor as a prerequisite to perfecting a lien under this chapter and recording a claim of lien.

(ii) A materialman to a subcontractor of a remote contractor must serve a copy of the notice to owner as required in subdivision (a)(1)(A) on the remote contractor if the materialman knows the name and address of the remote contractor. The notice must be served before commencing, or not later than forty-five (45) days after commencing, to furnish the materialman's labor, services, or materials, but, in any event, before the date of the owner's disbursement of the final payment.

(2)

(A) The notice required by subdivision (a)(1) must be served regardless of the method of payment by the owner, whether proper or improper, and does not give the lienor serving the notice any priority over other lienors in the same category.

(B) Failure to timely serve the notice is a complete defense to enforcement of a lien by any person.

(C) Service of the notice does not dispense with any requirements to record the claim of lien.

(D) The notice is not a lien, cloud, or encumbrance on the real property and does not constitute actual or constructive notice of a lien, cloud, or encumbrance.

SECTION 4. Tennessee Code Annotated, Section 66-11-112(a), is amended by deleting the language "no later than ninety (90) days" and substituting instead the language "no later than one hundred twenty (120) days".

SECTION 5. Tennessee Code Annotated, Section 66-11-115(b), is amended by deleting the subsection and substituting instead the following:

(b) The lien continues for the period of twelve (12) months from the date of completion of the work or for the period of twelve (12) months after substantial completion of the project for work completed, whichever occurs first, and until the final termination of any suit for its enforcement properly brought pursuant to § 66-11-126 within that period. As used in this subsection (b), "work completed" means the completion of the scope of the work and all terms and conditions covered by the contract under which the lien is held.

SECTION 6. Tennessee Code Annotated, Section 66-11-145(a), is amended by deleting the language "within ninety (90) days of the last day of each month" and substituting instead the language "within one hundred twenty (120) days of the last day of each month".

SECTION 7. Tennessee Code Annotated, Section 66-34-302, is amended by deleting the language "subject only to any condition precedent for payment clause in the contract, and".

SECTION 8. Tennessee Code Annotated, Title 66, Chapter 34, Part 3, is amended by adding the following as new sections:

66-34-305.

(a)

(1) A written contract between a prime contractor and a remote contractor must not include a condition precedent for payment clause stating that

the prime contractor is not obligated to pay the remote contractor for performing in accordance with the contract unless the prime contractor is paid by the owner.

(2)

(A) Except as provided in subdivision (a)(2)(B), a written contract between a prime contractor and a remote contractor must not include a condition precedent for payment clause stating that the prime contractor is not obligated to pay the remote contractor for performing in accordance with the contract until the prime contractor is paid by the owner.

(B) Subdivision (a)(2)(A) does not apply to contracts between a prime contractor and a remote contractor where the prime contractor agrees, as part of the written contract, that the prime contractor does not intend to deny payment for work performed by the remote contractor under the contract or change order and performed in full compliance with the contract due to the owner's refusal to pay the prime contractor for the work.

(b) Upon an owner's default or refusal to pay a prime contractor, the right to recovery by a remote contractor is limited to the remote contractor's expenses actually incurred under the contract.

(c) This section only applies to contracts or agreements entered into, renewed, or extended on and after the effective date of this act.

66-34-306.

(a) If an owner does not pay a prime contractor within seven (7) days after the date established in a written contract, then the prime contractor may, upon seven (7) days' written notice to the owner, stop the work until payment of the amount owing has been received.

(b) If a prime contractor does not pay a remote contractor within fifteen (15) days after the date established in a written contract, then the remote contractor may, upon

fifteen (15) days' written notice to the prime contractor, stop the work until payment of the amount owing has been received.

(c) This section only applies to contracts or agreements entered into, renewed, or extended on and after the effective date of this act.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring

it.

House Business Subcommittee Am. #1

Amendment No. _____

Signature of Sponsor

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Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1443

House Bill No. 602*

by deleting the amendatory language of SECTION 1 and substituting the following:

Notwithstanding any charter, ordinance, or resolution to the contrary, a local government shall not require any alarm systems contractor or alarm systems business to acquire or pay for any permits or renewal permits to operate alarm systems at any alarm site that is owned or leased by a customer of an alarm systems contractor. However, this subsection does not apply to an installation permit required by code.



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AMEND Senate Bill No. 513*

House Bill No. 1265

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Fair Accountability and Clarity in Tax Subsidies Act" or "FACTS Act".

SECTION 2. Tennessee Code Annotated, Section 4-3-731, is amended by deleting subsection (a) and substituting instead the following:

(a) Notwithstanding any law to the contrary, the department of economic and community development shall execute a separate agreement in conjunction with any grant or loan contract awarded pursuant to § 4-3-717(d)(1) that reserves the right of the department to recover the amount of funds, grants, or other incentives disbursed by the department, in whole or in part, if the person or entity benefitting from the funds, grants, or other incentives fails to fulfill the commitments made by the person or entity to the department, including, but not limited to, a failure to:

(1) Meet or exceed the percentage of committed jobs set in the original grant or loan contract or the separate agreement required by this section, which must not be less than eighty percent (80%); or

(2) Submit annual and baseline reports, as applicable.

SECTION 3. Tennessee Code Annotated, Section 67-4-2009, is amended by deleting the second sentence of subdivision (3)(H) and substituting instead the following:

For purposes of this subdivision (3)(H), "best interests of the state" means a determination that the taxpayer established its headquarters or a warehousing or distribution hub within a tier 4 enhancement county in this state, or converted a regional headquarters or regional warehousing or distribution hub within a tier 4 enhancement



county in this state into its national or international headquarters or a national or international warehousing or distribution hub, as a result of that action.

SECTION 4. Tennessee Code Annotated, Section 67-4-2009(3)(l), is amended by deleting the language "subdivisions (3)(A)-(H)" wherever it appears and substituting instead the language "subdivisions (3)(A)-(G)".

SECTION 5. Tennessee Code Annotated, Section 67-4-2109, is amended by deleting subdivisions (b)(3)(B), (b)(3)(l), and (g)(9)(i).

SECTION 6. Tennessee Code Annotated, Section 67-4-2109(b)(3)(E), is amended by deleting the language "where the newly created position existed in this state" and substituting instead the language "where the newly created position existed within a tier 4 enhancement county in this state".

SECTION 7. Tennessee Code Annotated, Section 67-4-2109, is amended by adding the following new subsection:

(s) The commissioner shall, no later than January 1, 2020, and every five (5) years thereafter, submit to the speaker of the senate and the speaker of the house of representatives a report that indicates, in aggregate by county, the total amount of credits that have been awarded during the previous five (5) fiscal years.

SECTION 8. Tennessee Code Annotated, Section 67-6-224, is amended by deleting subsection (e).

SECTION 9. Tennessee Code Annotated, Title 4, Chapter 3, Part 7, is amended by adding the following new section:

Notwithstanding any other law to the contrary, the department of economic and community development shall execute a separate agreement in conjunction with any capital grant awarded by the department that reserves the right of the department to recover any capital grant funds awarded or disbursed by the department, in whole or in part, if the person or entity benefitting from the capital grant fails to fulfill the commitments made by the person or entity in any agreement with the department

related to the capital grant. For purposes of this section, "capital grant" does not include any funding or assistance awarded pursuant to §§ 4-3-715 - 4-3-717.

SECTION 10. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 11. This act shall take effect July 1, 2019, the public welfare requiring it, and applies to contracts and agreements entered into, amended, or renewed on or after that date.

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Signature of Sponsor

AMEND Senate Bill No. 709*

House Bill No. 1113

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Title 55, is amended by adding the following as a new chapter:

55-31-101. Short title.

This chapter shall be known and may be cited as the "Peer-to-Peer Car Sharing Program Act."

55-31-102. Chapter definitions.

As used in this chapter:

(1) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement;

(2) "Car sharing period" means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that commences with the car sharing start time and, in either case, ends at the car sharing termination time;

(3) "Car sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. "Car sharing program agreement" does not mean a rental car agreement;

(4) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the



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reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program;

(5) "Car sharing termination time" means:

(A) The time when the shared vehicle is returned to the location designated by the shared vehicle owner through a peer-to-peer car sharing program; and

(B) The earliest of the following occurs:

(i) The expiration of the agreed period of time established for the use of a shared vehicle in the car sharing program agreement;

(ii) The intent to terminate the use of the shared vehicle is verifiably communicated by the shared vehicle driver to the shared vehicle owner using the peer-to-peer car sharing program; or

(iii) The shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle;

(6) "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program. "Peer-to-peer car sharing" does not mean services offered by a rental car company;

(7) "Peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer car sharing program" does not mean a platform operated by a rental car company;

(8) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program. "Shared vehicle" does not mean a rental car or rental vehicle;

(9) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement; and

(10) "Shared vehicle owner" means the registered owner of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

55-31-103. Insurance requirements.

(a)

(1)

(A) A peer-to-peer car sharing program shall assume liability, except as provided in subdivision (a)(1)(B), of a shared vehicle owner for any bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement, which amount must comply with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12, part 1 of this title.

(B) The assumption of liability under subdivision (a)(1)(A) does not apply if the shared vehicle owner made an intentional or fraudulent material misrepresentation to the peer-to-peer car sharing program before the car sharing period in which the loss occurred.

(2) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that:

(A) Recognizes that the vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; and

(B) Provides insurance coverage in compliance with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12, part 1 of this title.

(3) The insurance described under subdivision (a)(2) may be satisfied by motor vehicle liability insurance maintained by:

(A) A shared vehicle owner;

(B) A shared vehicle driver;

(C) A peer-to-peer car sharing program; or

(D) A combination of the shared vehicle owner, shared vehicle driver, and peer-to-peer car sharing program.

(4) The insurance described in subdivision (a)(3) satisfying the insurance requirement of subdivision (a)(2) must be primary during each car sharing period.

(5) The peer-to-peer car sharing program shall assume primary liability for a claim when the program is in whole or in part providing the insurance required under subdivision (a)(2) and:

(A) A dispute exists as to who was in control of the shared vehicle at the time of the loss; and

(B) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by subsection (e).

(6) The shared vehicle's insurer shall indemnify the car sharing program to the extent of its obligation under, if any, the applicable insurance policy, if it is determined that the shared vehicle's owner was in control of the shared vehicle at the time of the loss.

(7) If insurance maintained by a shared vehicle owner or shared vehicle driver in subdivision (a)(3) has lapsed or does not provide the required coverage, then insurance maintained by a peer-to-peer car sharing program must provide

the coverage required by subdivision (a)(2) beginning with the first dollar of a claim and have the duty to defend the claim.

(8) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program must not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(9) This chapter does not:

(A) Limit the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(B) Limit the ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

(b) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

(c) An authorized insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's personal motor vehicle liability insurance policy. This chapter does not invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes

coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

(d)

(1) Except as provided in subdivision (a)(2), a motor vehicle insurer shall not deny, cancel, void, terminate, rescind, or nonrenew a policy of personal private passenger automobile liability insurance of a shared vehicle owner solely on the basis that vehicle covered under the policy has been made available for sharing through a peer-to-peer car sharing program.

(2) A motor vehicle insurer may deny, cancel, void, terminate, rescind, or nonrenew a policy of personal private passenger automobile liability insurance covering a vehicle that has been made available for sharing through a peer-to-peer car sharing program if the applicant or policyholder of the policy of personal private passenger automobile liability insurance fails to provide complete and accurate information about the shared vehicle owner's participation with their shared vehicle in a peer-to-peer car sharing program as requested by the motor vehicle insurer during the application or renewal process of the policy of personal private passenger automobile liability insurance.

(3) A motor vehicle insurer may limit the number of vehicles made available for sharing through a peer-to-peer car sharing program that it will insure on a single policy.

(e) A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner and provide the information upon request to the shared vehicle owner, the shared vehicle owner's insurer, and the shared vehicle driver's insurer to facilitate a claim coverage investigation. The peer-to-peer car sharing program shall retain the records for a time period not less than the applicable personal injury statute of limitations.

(f) A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability in accordance with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

(g) A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

(1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period; and

(2) Excluded under the terms of its policy.

(h)

(1) Notwithstanding any other law, statute, or rule to the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing period.

(2) This section does not create liability on a peer-to-peer car sharing program to maintain the coverage mandated by subsection (a).

55-31-104. Consumer protections.

(a) Each car sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

(1) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;

(2) That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(3) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during

each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle; and

(6) An emergency telephone number for personnel capable of fielding roadside assistance and other customer service inquiries.

(b)

(1) A peer-to-peer car sharing program may not enter into a peer-to-peer car sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(A) Holds a driver license issued by this state that authorizes the driver to operate vehicles of the class of the shared vehicle; or

(B) Is a nonresident who:

(i) Has a driver license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(ii) Is at least the same age as that required of a resident to drive under an unrestricted license.

(2) A peer-to-peer car sharing program shall keep a record of:

(A) The name and address of the shared vehicle driver;

(B) The number of the driver license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(C) The date and place of issuance of the driver license.

(c) A peer-to-peer car sharing program has sole responsibility for any equipment, such as a GPS system or other special equipment, that is put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall indemnify and hold harmless the vehicle owner for any damage to or theft of the equipment during the sharing period that is not caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek indemnity from the shared vehicle driver for any loss or damage to the equipment that occurs during the sharing period.

(d)

(1) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(A) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

(B) Notify the shared vehicle owner of the requirements under subdivision (d)(2).

(2)

(A) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, then a shared vehicle owner shall not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(B) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(C) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act shall take effect July 1, 2019, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1167

House Bill No. 614*

by deleting all language after the caption and substituting the following:

WHEREAS, the General Assembly finds, determines, and declares that federal law requires that certain conditions be met before an alien may be authorized to be lawfully present in the United States. Those conditions are found principally in the federal Immigration and Naturalization Act, compiled in 8 U.S.C. § 1101, et. seq.; and

WHEREAS, the presence of illegal aliens places a fiscal burden on this State, increasing the demand for, and cost of, public benefits and services and undermining state laws allocating available resources; and

WHEREAS, crimes committed by illegal aliens in this State harm the health, safety, and welfare of Tennessee citizens and persons lawfully present in this State; and

WHEREAS, the employment of illegal aliens in this State displaces authorized Tennessee workers and adversely affects their wages; and

WHEREAS, in 1996, Congress amended the Immigration and Nationality Act to require the federal government to verify the immigration status of any alien upon the request of a state, county, or municipality, for any purpose authorized by law pursuant to 8 U.S.C. § 1373(c); and

WHEREAS, this law is in harmony with the congressional objectives of prohibiting the knowing harboring of illegal aliens; and

WHEREAS, because the matters contained in this chapter have important statewide ramifications for compliance with and enforcement of federal immigration laws and for the welfare of all citizens in this State, these matters are of statewide concern; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:



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SECTION 1. Tennessee Code Annotated, Title 66, is amended by adding the following language as a new chapter.

66-38-101. Short title.

This chapter shall be known and may be cited as the "Tennessee Lawful Housing Act."

66-38-102. Chapter definitions.

As used in this chapter:

(1) "Business entity":

(A) Means any person, group of persons, partnership, or corporation that engages in any activity, enterprise, profession, or occupation for financial gain, benefit, or livelihood; and

(B) Includes:

(i) All activities, enterprises, professions, or occupations, whether performed in one (1) or more establishments by one (1) or more corporate or other organizational units, including departments or establishments operated through leasing arrangements, whether for profit or not-for-profit;

(ii) Contractors, subcontractors, self-employed individuals, partnerships, and corporations;

(iii) Business entities that are required to obtain a license or permit to conduct business in this state; and

(iv) Businesses that are not required to obtain a license or permit to conduct business in this state;

(2) "Dwelling unit" means:

(A) A structure or the part of a structure with living facilities, whether furnished or unfurnished, that is let or rented as a home, residence, or sleeping place by one (1) or more persons for valuable consideration, and with one (1) or more rental units on the premises; and

(B) In a multifamily residence or apartment building, each residential unit or apartment;

(3) "Illegal alien" means a person who is not lawfully present in the United States, according to the federal Immigration and Naturalization Act (8 U.S.C. § 1101, et seq.);

(4) "Lessor" means any person or business entity letting, subletting, leasing, subleasing, or renting a dwelling unit as, or on behalf of, the owner of the dwelling unit;

(5) "Occupant" means a person who resides at a dwelling unit;

(6) "Person" means an individual, corporation, partnership, association, governmental entity, or other legal entity; and

(7) "Unlawfully present in the United States" means unlawfully present in the United States according to the federal Immigration and Naturalization Act (8 U.S.C. § 1101, et seq.) and must not be determined by the state until an authorized representative of the state has verified the alien's immigration status with the federal government pursuant to 8 U.S.C. § 1373(c).

66-38-103. Renting or leasing housing to illegal aliens.

(a) It is unlawful for any lessor to let, sublet, lease, sublease, or rent a dwelling unit in this state to an illegal alien or allow an occupant who is an illegal alien to reside in a dwelling unit leased or rented by the lessor, knowing or in reckless disregard of the fact that the alien has come to, entered, or remains in the United States in violation of law, unless the activity is otherwise expressly permitted by federal law.

(b) A lessor shall verify the citizenship and lawful presence in the United States of a prospective occupant prior to leasing, subleasing, or renting a dwelling unit to the occupant by requesting and maintaining a copy of one (1) of the following documents:

(1) A valid Tennessee driver license or photo identification license issued by the department of safety;

(2) A valid driver license or photo identification license issued by another state where the issuance requirements are at least as strict as those in this state, as determined by the department of safety;

(3) An official birth certificate issued by a United States state, jurisdiction, or territory;

(4) A United States government-issued certified birth certificate;

(5) A valid, unexpired United States passport;

(6) A United States certificate of birth abroad (DS-1350 or FS-545);

(7) A report of birth abroad of a citizen of the United States (FS-240);

(8) A certificate of citizenship (N560 or N561);

(9) A certificate of naturalization (N550, N570, or N578);

(10) A United States citizen identification card (I-197 or I-179); or

(11) Valid alien registration documentation or other proof of current immigration registration recognized by the United States department of homeland security that contains the individual's complete legal name and current alien admission number or alien file number, or numbers if the individual has more than one (1) number.

(c) The lessor shall maintain any documents received pursuant to subsection (b) for a minimum period of one (1) year following the occupant ceasing to let, sublet, lease, sublease, or rent a dwelling unit from the lessor.

(d) This section does not prevent a lessor from contracting with or otherwise obtaining the services of an agent, or similar third party, for the purpose of complying with subsections (a) and (b).

(e)

(1) An initial violation of subsection (a) is a Class B misdemeanor, punishable by fine only of not less than three hundred fifty dollars (\$350) nor more than one thousand five hundred dollars (\$1,500).

(2) A second or third violation is a Class A misdemeanor, punishable by both incarceration in the county jail and a fine not less than six hundred dollars (\$600) nor more than three thousand five hundred dollars (\$3,500).

(3) A fourth or subsequent violation is a Class E felony, punishable by both incarceration and a fine of not less than three thousand dollars (\$3,000) nor more than fifteen thousand dollars (\$15,000).

(f) It is a separate violation of subsection (a) for each occupant who is an illegal alien in a leased or rented dwelling unit.

(g) An occupant shall not enter into a contract for the lease, sublease, or rental of a dwelling unit in this state unless the occupant is a U.S. citizen or national, or an alien lawfully present in the United States according to the federal Immigration and Naturalization Act (8 U.S.C. § 1101, et seq.). An occupant who is neither a U.S. citizen or national, nor an alien lawfully present in the United States, who enters into such a contract is deemed to have breached the lease or rental agreement for which the lessor may seek termination of the lease or tenancy. An occupant who is an alien who, subsequent to the beginning of the occupant's lease or rental agreement becomes unlawfully present in the United States, is deemed to have breached the lease or rental agreement for which the lessor may seek termination of the lease or tenancy.

(h) This law applies only to contracts to let, sublet, lease, sublease, or rent dwelling units that are entered into or renewed, and tenancies that begin on or after the effective date of this act.

(i) Any law enforcement officer who investigates a violation of this section shall request that the federal government verify, pursuant to 8 U.S.C. § 1373(c), whether an occupant is an alien lawfully present in the United States, and the law enforcement officer must rely upon the verification. A law enforcement officer or law enforcement agency shall not attempt to make an independent determination of any occupant's immigration status. If the federal government notifies the law enforcement officer that it is unable to conclusively ascertain the immigration status of the occupant, or that the federal government's ascertainment of immigration status is tentative, the law enforcement officer shall take no further action until final ascertainment of the immigration status of the occupant is received from the federal government. If the federal government notifies the law enforcement officer that more information is required before the federal government can issue a final ascertainment of the occupant's immigration status, the law enforcement officer shall notify the lessor and the occupant, who shall provide the information.

(j) In any judicial proceeding arising from this chapter in which the question of whether an occupant is an alien not lawfully present in the United States is to be decided, that question must be determined under federal law. In answering the question, the court shall defer to any conclusive ascertainment of immigration status by the federal government. The court may take judicial notice of any ascertainment of the immigration status of the occupant previously provided by the federal government. The court may, either sua sponte or at the request of a party, request the federal government to provide, in automated, documentary, or testimonial form, a new ascertainment of the immigration status of the occupant pursuant to 8 U.S.C. § 1373(c). The most recent ascertainment of the immigration status of an occupant by the federal government shall create a rebuttable presumption as to the occupant's immigration status.

(k) This section must be applied uniformly, and enforcement procedures must not differ based on a person's race, ethnicity, religion, or national origin. Additionally, the requirements and obligations of this section must be implemented in a manner fully consistent with federal law regulating immigration and protecting the civil rights of all citizens, nationals, and aliens.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 196*

House Bill No. 261

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 4-5-501, is amended by deleting the section and substituting the following:

As used in this part:

(1) "Affected person" means a licensee, an applicant for a license who has applied for a license within the previous one hundred eighty (180) days, or any person who would otherwise be an applicant for a license but cannot apply due to an entry regulation;

(2) "Effectively served by restrictions that allow greater private participation" means that the legitimate public health or safety concern could be substantially addressed by a less onerous restriction on entry in the marketplace, including alternative forms, such as market competition, industry or consumer-related ratings and reviews, private or government certification, a specific private civil cause of action to remedy consumer harm, a deceptive trade practice act, a regulation of the process of providing the specific goods or services to consumers, prohibitions on individual malfeasants, existing consumer protection laws, inspections, bonding or insurance, registration, or similar means;

(3) "Entry regulation":

(A) Means any rule, policy, or practice promulgated, established, adopted, or implemented by a licensing authority prescribing qualifications or requirements for a person's entry into, or continued



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participation in, any business, trade, profession, or occupation in this state, or any statute prescribing qualifications or requirements for a person's entry into, or continued participation in, any business, trade, profession, or occupation in this state; and

(B) Does not include a rule, policy, practice, or statute as described in subdivision (3)(A) that is explicitly required by federal law;

(4) "Health or safety":

(A) Means protection of members of the public against harm, to be narrowly construed; and

(B) Does not:

(i) Encompass the protection of existing businesses or agencies, whether publicly or privately owned, against competition;

(ii) Include general welfare or fraud, because other adequate consumer safeguards exist to address those matters; and

(iii) Include general competency except when the entry regulation is the least onerous way to exclude gross negligence in the performance of the business, trade, profession, or occupation;

(5) "License" means a license, certificate, registration, certification, permit, or other similar document for the purpose of entry into, or regulation of, any business, trade, profession, or occupation in this state;

(6) "Licensee" means a person with a current license;

(7) "Licensing authority":

(A) Means any state agency, regulatory board, commission, council, or committee in the executive branch of state government established by statute or rule that issues a license; and

(B) Does not include any state agency, regulatory board, commission, council, or committee that regulates a person under title 38; title 41; title 48; title 49; title 56; title 62, chapter 1; title 63; or title 68, chapter 11 or chapter 140;

(8) "Local governmental entity" means a governing body, board, commission, committee, or department of a municipality, county, or other political subdivision of this state; and

(9) "Local restriction" means a rule, regulation, code, ordinance, license, fee, permit, or other similar requirement imposed by a local governmental entity.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 5, Part 5, is amended by adding the following as new sections:

4-5-503.

(a) All entry regulations must genuinely fulfill a legitimate public health or safety objective that cannot be effectively served by restrictions that allow greater private participation.

(b) All rules promulgated by a licensing authority must include language certifying compliance with this section.

(c) This section does not prevent a licensing authority from promulgating rules unrelated to entry regulations intended to prevent fraud in the actual practice of a business, trade, profession, or occupation.

4-5-504.

(a) An affected person may petition a licensing authority to repeal or modify an entry regulation within the licensing authority's jurisdiction, including entry regulations promulgated relative to a statute. Within one hundred twenty (120) days of a petition filed under this subsection (a), the licensing authority shall:

(1) Grant limited, probationary, or restricted licenses to persons whose past individual conduct warrants oversight;

(2) Begin the process of repealing the entry regulation and continue the repeal process until the entry regulation is repealed;

(3) Begin the process of modifying the entry regulation and continue the modification process until the entry regulation achieves the standard set forth in § 4-5-503;

(4) Report the entry regulation and the effect of the entry regulation on the affected person to the chairs of the joint government operations committee if the licensing authority determines that the entry regulation does not comply with § 4-5-503 and requires legislative action to repeal or modify the entry regulation; or

(5) State in writing to the affected person the basis on which the licensing authority concludes that the entry regulation conforms to the standard set forth in § 4-5-503 and report that decision in writing to the chairs of the joint government operations committee.

(b) An affected person may petition a licensing authority to determine if a statute within the licensing authority's jurisdiction complies with § 4-5-503. Within one hundred twenty (120) days of a petition filed under this subsection (b), the licensing authority shall:

(1) Report the statute and the effect of the statute on the affected person to the chairs of the joint government operations committee if the licensing authority determines that the statute does not comply with § 4-5-503 and requires legislative action to repeal or modify the statute; or

(2) State in writing to the affected person the basis on which the licensing authority concludes that the statute conforms to the standard set forth in § 4-5-503 and report that decision in writing to the chairs of the joint government operations committee.

(c) At any point during the period when the licensing authority is considering the petition, the commissioner of commerce and insurance or the commissioner's designee has the authority to grant the license with or without reasonable conditions.

(d) The governor may remove a licensing authority board member who the governor has the authority to appoint and who makes decisions that are anti-competitive and not in keeping with the goals of expanding the ability of persons within the state to practice the persons' business, trade, profession, or occupation without unnecessary restriction and regulation. The governor shall report any removal made pursuant to this subsection (d) to the chairs of the joint government operations committee.

4-5-505.

(a) After ninety (90) days following a petition filed pursuant to § 4-5-504, the person filing a petition challenging an entry regulation has a cause of action under existing § 1-3-121 to challenge its legality. A petition made pursuant to this section is subject to the following limitations:

(1) Venue exists in the court nearest to the place of residence of the person filing the petition or, alternatively, at the person's discretion, in the chancery court of Davidson County;

(2) The named defendant in a cause of action brought under this section is the licensing authority and not the named individuals who enacted or who enforced the entry regulation or statute;

(3) If requested by the person filing the petition within thirty (30) days after filing the petition, the court must hold an evidentiary hearing, including testimony and argument, to the extent necessary to make the determination required in this section. The person filing the petition has a right to discovery as set forth in the Tennessee Rules of Civil Procedure. If the person exercises the right to discovery, then the court must hold the evidentiary hearing within thirty (30) days following completion of discovery as ordered by the court. The court

may hear testimony from witnesses, compel production of documents, and admit relevant admissible evidence that was not considered by the licensing authority; and

(4) In any proceeding under this section, the court shall decide all questions of law, including the interpretation of an entry regulation adopted by a licensing authority or a statute, without deference to any previous determination that may have been made on the question by the licensing authority.

(b) With respect to the challenge of an entry regulation, the plaintiff prevails if the court finds by a preponderance of evidence that the challenged entry regulation on its face or in its effect burdens the creation of a business, the entry of a business into a particular market, or entry into a business, trade, profession, or occupation, and:

(1) That the challenged entry regulation does not genuinely fulfill a legitimate public health or safety objective; or

(2) Where the challenged entry regulation is necessary to fulfill a legitimate public health or safety objective, the objective can be effectively served by restrictions that allow greater private participation.

(c) The burden of proof in any action brought under this section rests with the licensing authority at all times.

(d) Upon a finding for the plaintiff, the court shall issue a declaratory judgment and enjoin further enforcement of the challenged entry regulation.

4-5-506.

(a) The right of persons to pursue a chosen business, trade, profession, or occupation is a matter of statewide concern, and therefore persons should not be subject to a local restriction by a local governmental entity that fails to achieve the standard set forth in § 4-5-503. This part preempts and prohibits all local restrictions adopted by a local governmental entity that fail to achieve the standard set forth in § 4-5-503 is prohibited.

(b) A person may petition a local governmental entity regarding a local restriction within the local governmental entity's jurisdiction that fails to achieve the standard set forth in § 4-5-503 in order to recommend that the local governmental entity repeal or modify the local restriction. Within ninety (90) days of a petition filed under this subsection (b), the local governmental entity shall:

(1) Repeal or modify the challenged local restriction to achieve the standard set forth in § 4-5-503; or

(2) State the basis on which the local governmental entity concludes that the challenged local restriction conforms to the standard set forth in § 4-5-503.

(c) After ninety (90) days following a petition, the person filing a petition challenging a local restriction has a cause of action under existing § 1-3-121 to challenge the local restriction's legality in the same manner that an entry regulation is challenged pursuant to § 4-5-505(a) and (b).

(d)

(1) Notwithstanding any other law, in any case in which a license is required prior to a person engaging in any constitutionally protected activity, the criteria for the granting or denial of that license must be specified in clear and unambiguous language, and the applicant is entitled to a review and determination of that license application within ninety (90) days.

(2) Venue lies at the discretion of the person in the court nearest to the place of residence of the person filing the petition; the judicial district containing the county, municipality, or other political subdivision of the local government entity; or in the chancery court of Davidson County.

(3) The determination of what constitutes clear and unambiguous language is a judicial question, without deference to the party defending the license.

(4) At all times, the burden of proof to demonstrate that the person has not met the criteria is on the party defending the license.

(5) The person filing the petition has a right to discovery as set forth in the Tennessee Rules of Civil Procedure. If the person exercises the right to discovery, then the court shall hold the evidentiary hearing within thirty (30) days following completion of discovery as certified in writing by the person.

(6) The court may hear testimony from witnesses, compel production of documents, and admit relevant admissible evidence that was not considered by the local governmental entity.

(e) Upon a finding for the plaintiff in a cause of action under subsection (c) or (d), the court shall issue a declaratory judgment and enjoin further enforcement of the local restriction.

SECTION 3. Tennessee Code Annotated, Section 1-3-121, is amended by deleting the last sentence and substituting the following:

A cause of action does not exist under this chapter to seek damages, costs, or attorney fees.

SECTION 4. For the purposes of promulgating rules, forms, and procedures and making necessary provisions for implementation of this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2020, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1361

House Bill No. 797*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 35-5-109, is amended by deleting the section and substituting instead the following:

The published ending time for auctions conducted under this chapter on an internet-based bidding platform and the published start time for an in-person auction must be between the hours of nine o'clock a.m. (9:00 a.m.) and seven o'clock p.m. (7:00 p.m.) of the day fixed in the notice or advertisement. The day fixed may be any day Monday through Saturday, but must not be fixed on a state or federal legal holiday. However, this section does not apply to sales of parcels pursuant to title 67, chapter 5.

SECTION 2. Tennessee Code Annotated, Section 35-5-112(b), is amended by deleting the subsection and substituting instead the following:

(b) Whenever real property is sold at a public sale conducted by an auctioneer, the manner and method of sale is at the discretion of the court. As used in this section, "public sale" includes auctions on internet-based bidding platforms, in-person, on-site, or off-site auctions, and other accepted auction methods, so long as the auctions are open for participation by the public at large. The court, in its discretion, may impose additional conditions or procedures upon the sale of property as are reasonably necessary.

SECTION 3. Tennessee Code Annotated, Section 55-17-120, is amended by adding the following as a new subsection:

When motor vehicles are sold incidentally at a bona fide going-out-of-business sale, no license as a motor vehicle dealer is required to sell the vehicles at auction if:



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(1) All vehicles for sale were owned and titled in the name of the business for at least one (1) year prior to the going-out-of-business sale;

(2) The auctioneer gives a fourteen-day prior written notification to the motor vehicle commission providing the time and place of the sale and a list of items to be sold; and

(3) The sale does not violate the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1.

SECTION 4. Tennessee Code Annotated, Section 62-19-101, is amended by deleting the section and substituting instead the following:

As used in this chapter:

(1) "Affiliate auctioneer" means an individual who, for compensation or valuable consideration, or otherwise, is employed, directly or indirectly, by a principal auctioneer to deal or engage in any activity described in subdivision (9);

(2) "Auction" means a sales transaction conducted by oral, written, or electronic exchange between an auctioneer and members of the audience, consisting of a series of invitations by the auctioneer for offers to members of the audience to purchase goods or real estate, culminating in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience;

(3) "Auctioneer" means a principal auctioneer, bid caller auctioneer, or public automobile auctioneer;

(4) "Bid caller auctioneer" means an individual who, for compensation or valuable consideration, or otherwise, is hired by a principal auctioneer, public automobile auctioneer, or public automobile auctioneer to solicit bids for the purchase of goods at an auction;

(5) "Commission" means the Tennessee auctioneer commission;

(6) "Continuing education" means six (6) hours each renewal period;

(7) "Goods" means chattels, merchandise, real or personal property, or commodities of any form or type that may lawfully be kept or offered for sale;

(8) "Person" includes an individual, association, partnership, corporation, and the officers, directors, and employees of a corporation;

(9) "Principal auctioneer" means an individual who, for a fee, commission, or any other valuable consideration, or with the intention or expectation of receiving a fee, commission, or any other valuable consideration by the means or process of auction or sale at auction, offers and executes a listing contract, sale, purchase, or exchange of goods, and is responsible for the management and supervision of an auction company, including its wholly owned subsidiary or affiliate company;

(10) "Public automobile auction" means offering motor vehicles for sale to the highest bidder, where buyers are members of the public, by a motor vehicle dealer licensed to sell used motor vehicles and licensed as an auctioneer by the commission. However, no public automobile auction may otherwise limit the auctioning of used motor vehicles exclusively to licensed motor vehicle dealers or their duly authorized agents;

(11) "Public automobile auctioneer" means an individual who, for a fee, commission, or any other valuable consideration, or with the intention or expectation of receiving a fee, commission, or any other valuable consideration at an auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase, or exchange of goods, including motor vehicles; and

(12) "Timed listing" means offering goods for sale with a fixed ending time and date that does not extend based on bidding activity.

SECTION 5. Tennessee Code Annotated, Section 62-19-102, is amended by deleting the section and substituting instead the following:

(a) It is unlawful for a person to:

(1) Act as, advertise as, or represent to be an auctioneer without holding a valid license issued by the commission;

(2) Conduct or offer to conduct an auction of real property unless the person is duly licensed as an auctioneer or affiliate auctioneer and as a broker or affiliate broker under chapter 13 of this title. However, with respect to the authority of an affiliate auctioneer to conduct or offer to conduct an auction of real property, the auctioneer for whom the affiliate auctioneer is employed for such purposes must be on the premises of the property during the auction. This subdivision (a)(2) does not require ringpersons or other persons not vocally conducting an auction to be duly licensed as auctioneers, nor duly licensed under chapter 13 of this title, unless the ringpersons or other persons act as an affiliate broker or broker within the meaning of chapter 13 of this title; or

(3) Act as, advertise as, or represent to be a public automobile auctioneer unless the person is duly licensed as a public automobile auctioneer and as a motor vehicle dealer under title 55, chapter 17, part 1.

(b) All auctions arranged by or through a principal auctioneer must be conducted exclusively by individuals licensed under this chapter.

SECTION 6. Tennessee Code Annotated, Section 62-19-103, is amended by deleting the section and substituting instead the following:

This chapter does not apply to:

(1) A person acting as a receiver, trustee in bankruptcy, guardian, administrator, executor, or other person acting under order of a court;

(2) A trustee acting under a trust agreement, deed of trust or will, or a secured party selling collateral after default by a debtor in accordance with title 47, chapter 9;

(3) An auction conducted by or under the direction of a governmental entity or pursuant to a judicial order or decree;

(4) An auction conducted by or on behalf of a political party, church, or charitable corporation or association, if the individual conducting the sale receives no compensation and does not, by advertising or otherwise, hold their self out as available to engage in the sale of goods at auction;

(5) A person performing acts in the regular course of or as an incident to the management of and investment in property owned or leased by the person, if the property was not acquired for the purpose of resale. When a sales tax, as prescribed in title 67, is not levied upon the sale of personal property, there is a presumption that the personal property was purchased for the purpose of resale;

(6) An auction conducted for the sale of livestock sponsored through or in cooperation with the state department of agriculture or the University of Tennessee extension, or both;

(7) An auction sale of tobacco at or for a warehouse operated pursuant to title 43, chapter 19;

(8) A livestock auction sale regulated by the United States department of agriculture packers and stockyards administration, if the sale uses:

(A) The shipper's proceeds account required by federal regulations; and

(B) An auctioneer licensed under this chapter;

(9) Any fixed price or timed listings that allow bidding on an internet website, but do not constitute a simulcast of a live auction;

(10) An exclusive online auction whose primary business activity is selling nonrepairable or salvage vehicles in this state and holds the appropriate license issued by the Tennessee motor vehicle commission; and

(11) An in-person or simulcast auction whose primary business activity is selling nonrepairable or salvage vehicles in this state, and holds the appropriate license issued by the Tennessee motor vehicle commission and that uses a licensed auctioneer.

SECTION 7. Tennessee Code Annotated, Sections 62-19-104, 62-19-119, 62-19-120, and 62-19-124 are amended by deleting the word "apprentice" wherever it appears and substituting instead the word "affiliate".

SECTION 8. Tennessee Code Annotated, Section 62-19-106(e)(2), is amended by adding the following as a new subdivision:

The auctioneer holds only a bid caller license.

SECTION 9. Tennessee Code Annotated, Section 62-19-106(e), is amended by deleting subdivision (3) and substituting instead the following:

(3) No affiliate auctioneer is exempt from continuing education requirements.

SECTION 10. Tennessee Code Annotated, Section 62-19-111, is amended by deleting the section and substituting instead the following:

(a)

(1) An individual applying for a license as a bid caller auctioneer must submit an application to the commission on the prescribed form. The application must be accompanied by satisfactory proof that the applicant:

(A) Is at least eighteen (18) years of age; and

(B) Has successfully completed sixteen (16) hours of classroom or online instruction on the basic fundamentals of auctioneering at an auction school accredited by the commission; and

(2) Auction chant instruction is optional and is not to be included in the basic fundamentals of auctioneering, nor may auction chant instruction be completed online.

(b) An individual applying for a license as an affiliate auctioneer must submit an application to the commission on the prescribed form. The application must be accompanied by a nonrefundable examination fee as set by the commission and must prove that the applicant:

(1) Is at least eighteen (18) years of age; and

(2) Has successfully completed, in addition to the education requirements under subdivision (a)(1)(B), thirty-four (34) hours of classroom or online instruction in the fundamentals of auctioneering at an auction school accredited by the commission.

(c) An individual applying for a license as a principal auctioneer must submit an application to the commission on the prescribed form. The application must be accompanied by a nonrefundable examination fee as set by the commission and must prove that the applicant:

(1) Is at least eighteen (18) years of age;

(2) Has served as an affiliate auctioneer under the supervision of a licensed, full-time principal or public automobile auctioneer for a period of six (6) months; and

(3) Has obtained a high school diploma, general equivalency diploma (GED), or HiSET® diploma.

(d) The commission may require other proof as necessary, through the application or otherwise, to assess the honesty, trustworthiness, integrity, reputation, and competency of the auctioneer applicant.

(e) An individual who meets the requirements of subsections (b)-(d) may take an examination prescribed by the commission to determine the individual's qualifications. The examination must include, but not be limited to, reading, writing, spelling, elementary arithmetic, elementary principles of land economics, ethics, the law of this state relating to bulk sales, auctions and brokerage, and the provisions of this chapter.

The examination for a principal auctioneer's license must be more specific in nature and scope than the examination for an affiliate auctioneer's license.

(f) An applicant who fails an examination shall pay a fee as set by the commission for each reexamination.

(g) The commission shall issue a license and pocket card, upon receipt of the appropriate fee as set by the commission, to an applicant who meets the requirements for licensure under this chapter. The license must be conspicuously displayed at all times in the office of the licensee.

(h) Except as provided in § 62-19-117, every auctioneer licensed under this chapter shall maintain a place of business in this state. A bid caller licensee may list their home address as their place of business with the commission.

(i) All licenses issued by the commission expire two (2) years from the original date the license was issued. Each license must be renewed on or before its expiration date.

(j) If a licensee fails to renew a license on or before its expiration date, the commission may, in its discretion, renew the license upon application within two (2) months of the expiration date. The application must be accompanied by the prescribed fee and payment of a monetary penalty as set by the commission. A person seeking to renew a license later than two (2) months after its expiration must reapply for licensure.

The commission may, in its discretion:

(1) Waive reexamination or additional education requirements for the applicant; or

(2) Reinstate a license subject to the applicant's compliance with reasonable conditions that the commission may prescribe, including payment of an additional reasonable fee to be set by the commission.

(k) When fees are remitted by mail to the commission, the date of payment is determined by the official postmark of the mail.

(l) When an affiliate auctioneer's employment with an auctioneer is terminated for any reason, the auctioneer shall immediately deliver, or send by registered mail, the affiliate auctioneer's license to the commission. The affiliate auctioneer shall not engage in the business of an auctioneer until the affiliate auctioneer receives a new license and pocket card for the unexpired term bearing the name and address of the new employer. The fee for the new license and pocket card is set by the commission.

(m) No more than one (1) license may be issued to an affiliate auctioneer to be in effect at any one (1) time.

(n) No license issued by the commission may authorize the licensee to engage in business at a location other than what is stated on the license. A licensee shall immediately notify the commission in writing in the event of a change of business location. The written notice must be accompanied by the current license and pocket card and a fee as set by the commission.

(o) Auctions for the sale of registered livestock must be conducted by a licensed auctioneer. The auctioneer is exempt from issuing closing statements and disbursing funds if such responsibilities are performed by a duly chartered livestock association or livestock breed association.

(p) An affiliate auctioneer may be employed by a licensed auctioneer who is not designated as the affiliate's sponsor upon receiving written permission from the affiliate's sponsor and notifying the commission of the employment in the proper form and manner as prescribed by rules promulgated by the commission. An auctioneer employing an affiliate who is not under the auctioneer's sponsorship is responsible for the actions of the affiliate while under that auctioneer's employment. The sponsor is responsible for the actions of the affiliate at all other times.

(q) The commission may deny an applicant for an affiliate auctioneer or auctioneer the right to take an examination for a period of up to two (2) years if the

applicant is found by the commission to have conducted business within this state as an affiliate auctioneer or auctioneer without being licensed.

(r) An individual applying for a license as a public automobile auctioneer must submit an application to the commission on the prescribed form. The application must be accompanied by a nonrefundable examination fee as set by the commission and satisfactory proof that the applicant:

- (1) Is at least twenty-one (21) years of age;
- (2) Has served as a principal auctioneer for a period of two (2) years; and
- (3) Has successfully completed, in addition to the education required by subdivision (b)(2), fifteen (15) hours of more rigorous classroom or online instruction in automobile auctioneering as approved by the commission.

(s) An individual who receives a public automobile auctioneer license may exercise all activities authorized under a principal auctioneer license or bid caller license without having to meet additional licensure requirements.

SECTION 11. Tennessee Code Annotated, Section 62-19-112, is amended by deleting the word "apprentice" wherever it appears and substituting instead the word "affiliate".

SECTION 12. Tennessee Code Annotated, Section 62-19-112(b)(1), is amended by adding the following language before the semicolon:

including, but not limited to, individuals licensed solely as bid caller auctioneers who hold themselves out to others as principal auctioneers or public automobile auctioneers

SECTION 13. Tennessee Code Annotated, Section 62-19-112(b), is amended by adding the following as a new subdivision:

Negotiating or executing an auction contract to sell goods, take possession of seller assets, or take possession of auction proceeds as a bid caller auctioneer licensee.

SECTION 14. Tennessee Code Annotated, Section 62-19-115, is amended by designating the existing language as subsection (a) and adding the following as a new subsection (b):

A principal auctioneer may sponsor an affiliate auctioneer after one (1) year of licensure. There is no limit as to how many affiliate auctioneers a principal auctioneer or public automobile auctioneer may sponsor.

SECTION 15. Tennessee Code Annotated, Section 62-19-116, is amended by deleting the language "apprentice auctioneer or firm" wherever it appears and substituting instead the language "or affiliate auctioneer".

SECTION 16. Tennessee Code Annotated, Section 62-19-116, is amended by deleting the word "apprentice" wherever it appears and substituting instead the word "affiliate".

SECTION 17. Tennessee Code Annotated, Section 62-19-117, is amended by deleting the word "apprentice" wherever it appears and substituting instead the word "affiliate".

SECTION 18. Tennessee Code Annotated, Section 62-19-117(c), is amended by deleting the language "shall obtain a firm license as provided in § 62-19-111 and".

SECTION 19. Tennessee Code Annotated, Section 62-19-125, is amended by deleting the section in its entirety.

SECTION 20. This act shall take effect July 1, 2019, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1382

House Bill No. 743*

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 68-104-211(b), is amended by deleting the subsection and substituting the following:

(b) The permittee conducting an outdoor public display of fireworks shall have at least one (1) fire suppression vehicle or apparatus with the necessary personnel on site during the outdoor display. The permittee is responsible for all costs associated with the fire suppression vehicle or apparatus.

SECTION 2. Tennessee Code Annotated, Section 68-104-211(c)(1), is amended by deleting the subdivision and substituting the following:

(1) The permittee conducting an indoor public display of fireworks shall have at least one (1) trained firefighter or inspector on site during the indoor display. The trained firefighter or inspector may be a volunteer firefighter, a firefighter from another jurisdiction, or an inspector with the appropriate credentials, as determined by the state fire marshal by rule, to inspect the safety of fireworks at an indoor public display of fireworks. The permittee is responsible for all costs associated with the trained firefighters or inspectors.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.



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