

Legislation Text

File #: 110756, Version: 1

Amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," by adding a new Chapter, entitled "Agents and Sheriff's Sales," specifying conditions under which any person may assist or act on behalf of another person in connection with the recovery of surplus funds due the owner upon completion of a Sheriff's sale of such owner's property; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

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CHAPTER 9-3600. AGENTS AND SHERIFF'S SALES

§ 9-3601. Definitions.

(1) Agent. Any person employed or compensated to assist the owner of property subject to Sheriff's sale in recovering surplus funds. The term does not include City or other public officials or employees providing assistance in the course of or incident to their official duties.

(2) Surplus funds. The amount of funds to which the owner of property subject to Sheriff's sale is entitled upon completion of a Sheriff's sale of that property, and which are in the custody and control of the Sheriff.

§ 9-3602. Agreements.

(1) Any agreement entered into by an agent and the owner of property subject to Sheriff's sale, under which the agent is engaged to assist the owner in recovering surplus funds, is prohibited unless all of the following requirements are met:

(a) The agreement is in writing and duly signed and acknowledged by the owner;

(b) A copy of the agreement is filed with the Sheriff and the Law Department before any surplus funds are paid to the owner; and

(c) The agreement clearly states the fee or compensation to be paid, which shall not exceed 15 percent of the value of the surplus funds.

§ 9-3603. Enforcement; Private Right of Action.

(1) Violation of this Chapter shall be a Class III offense, subject to the fines set forth in Section 1-109.

(2) Any person aggrieved by an agent's violation of subsection 9-3602(1)(c) shall have a right of action against such agent, and may recover for each such violation:

- (a) Actual damages;*
- (b) Exemplary damages of \$2,000;*
- (c) Reasonable attorney's fees and court costs;*
- (d) Such other relief, including injunctive relief, as the court may deem appropriate.*

(3) Nothing in this Section shall limit the right of an aggrieved person to recover damages under any other applicable law or legal theory, nor shall it limit the right of the City to seek fines or other remedies for violations of this Chapter, except that any fine imposed by the City for a violation of this Chapter shall be reduced by the amount of exemplary damages, if any, finally awarded pursuant to subsection 9-3603(2) for the same violation.

§ 9-3604. Notice.

(1) The Law Department is authorized to prepare and provide to the Sheriff a plain English explanation of the provisions of this Chapter, suitable for distribution to all agents and owners of property subject to Sheriff's sale and for posting on the Sheriff's website.

Explanation:

Italics indicate new matter added.