

58-1018. Same; bond requirements; process; actions. At the time of filing the application required by this act, and as a part thereof, the applicant shall file and deposit with the said clerk a bond issued by a corporate surety authorized to do business in this state, in the penal sum of three (3) times the cost to the vendor of the merchandise proposed to be offered for sale at public auction, to the state of Kansas, and for the use and benefit of any purchaser of any such new goods, wares or merchandise at the said auction who might have a cause of action for damages sustained on account of dishonest or fraudulent conduct arising from or out of a sale or sales at such auction against the applicant or against the auctioneer, and which action is commenced within one (1) year from the date that such sale is made at any such auction; the said bond shall be further conditioned that the applicant will pay any fines that may be assessed by any court against the applicant or against the auctioneer for violation of the provisions of this act: *Provided, however,* The aggregate liability of the surety for all said taxes, fines, and causes of action shall in no event exceed the sum of such bond, but there shall be no limitation of liability against the owners of the new goods, wares and merchandise or the auctioneer or the applicant for the license.

In such bond the applicant and surety shall appoint the clerk of the county or city, as the case may be, in which said bond is filed the agent of the applicant and of the surety for the service of process, which appointment shall be irrevocable. At the time that said bond is filed and deposited with the clerk as herein provided the auctioneer shall appoint the said clerk the agent of the auctioneer for the service of process, which appointment shall be irrevocable. In the event of such service of process, the agent on whom such service is made shall, within five (5) days after the service, mail by registered mail a true copy of the process served upon the agent to each party for whom the agent has been served, addressed to the last known address of such party.

The state of Kansas or any agency or political subdivision thereof, or any person having a cause of action arising out of any sale of such new goods, wares or merchandise may join the applicant and the surety on such bond and the auctioneer in the same action, or may in such action sue either such applicant or the surety or the auctioneer alone.

History: L. 1961, ch. 265, § 5; July 1.