

CHAPTER 1027. SALE OF RIGHTS

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Cross References

This chapter cited in 52 Pa. Code § 1011.5 (relating to ineligibility due to conviction or arrest); 52 Pa. Code § 1011.15 (relating to death or incapacitation of a certificate holder or certain persons with controlling interest); 52 Pa. Code § 1013.22 (relating to execution on and seizure of medallion); 52 Pa. Code § 1013.32 (relating to bidder qualifications); 52 Pa. Code § 1013.36 (relating to bid opening); and 52 Pa. Code § 1019.13 (relating to minimum number of medallion taxicab affiliations).

§ 1027.1. Purpose.

This chapter establishes and prescribes Authority regulations and procedures for the sale of certain rights issued by the Authority.

§ 1027.2. Transferable rights.

Only the following rights may be subject to sale:

- (1) A certificate of public convenience to provide partial-rights taxicab service.
- (2) A certificate of public convenience to provide dispatching services.
- (3) A medallion.
- (4) A certificate of public convenience to provide limousine service as provided in Subpart C (relating to limousines).

Cross References

This section cited in 52 Pa. Code § 1001.10 (relating to definitions).

§ 1027.3. Authority approval of sale of rights.

(a) *Sale of transferable rights.* The sale of transferable rights without advance approval of the Authority is void by operation of law.

(b) *Sale of securities in transferable rights.* The sale of securities in an entity that owns transferable rights will be considered a sale under this chapter in either of the following circumstances:

- (1) The securities to be transferred equal or exceed 5% of the issued securities in the entity that holds an ownership interest in a transferrable right.

(2) Upon completion of the transfer the buyer will own 5% or more of the issued securities in the entity that holds an ownership interest in a transferrable right.

(c) *New certificate number.* The Authority may assign a new certificate number to the rights sold to an approved buyer.

Authority

The provisions of this § 1027.3 temporarily amended under 53 Pa.C.S. § 57B02.

Source

The provisions of this § 1027.3 temporarily amended May 5, 2017, effective February 25, 2017, expire upon promulgation of final-form regulations or on November 5, 2018, whichever is later, as set forth in 53 Pa.C.S. § 57B02(b), 47 Pa.B. 2558. Immediately preceding text appears at serial pages (373565) to (373566).

§ 1027.4. Certificate required for medallion sales.

(a) The proposed buyer of a medallion shall own a medallion taxicab certificate on or before the date of transfer.

(b) A proposed buyer that does not own a medallion taxicab certificate on the date the sale application is filed shall request a new medallion taxicab certificate through the sale application as provided in § 1027.6 (relating to application for sale transferable rights).

Cross References

This section cited in 52 Pa. Code § 1027.12 (relating to approval process and closing on sale).

§ 1027.5. Agreement of sale.

(a) The parties to a proposed sale of transferable rights shall complete an agreement of sale detailing the terms of the transaction, including provisions required by this chapter, and file the agreement with the Director.

(b) An agreement of sale for transferable rights is void by operation of law if not executed by all parties in the presence of the Director or a designee.

(c) The term of an agreement of sale for transferable rights may not exceed 15 business days from the date of execution, except when executed on the date the application for sale of transferable rights is filed as provided in § 1027.6 (relating to application for sale of transferable rights).

Source

The provisions of this § 1027.5 amended September 12, 2014, effective September 13, 2014, 44 Pa.B. 5867. Immediately preceding text appears at serial page (360462).

§ 1027.6. Application for sale of transferable rights.

(a) *Application documents.*

(1) To initiate a sale, the owner and proposed buyer shall file an original and one copy of Form No. SA-1 "Sale Application," the agreement of sale or transfer and other documents required by this chapter. The proposed buyer will be considered the applicant. The SA-1 is available at www.philapark.org/tld.

(2) The SA-1 shall be filed in person with the Director.

(3) The Director will refuse to accept an application which is incomplete for any reason.

(4) Upon acceptance, the Director will submit a copy of the application documents to the Clerk and an application docket number will be assigned.

(b) *Application signatures.*

(1) Both parties to the sale shall execute the SA-1 in the presence of the Director or a designee.

(2) Except for individuals, an original executed and notarized resolution from the buyer and seller authorizing the execution of the sale documents must be included with the filing of the SA-1.

(3) The Authority may permit an SA-1 to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney), in which case the owner will be required to attend the closing on the sale.

(c) *Verification and payment.* The SA-1 must be verified under § 1001.36 (relating to verification and affidavit) and be accompanied by payment of the transfer fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).

(d) *Multiple rights.* The SA-1 may be used to sell an unlimited number of transferable rights from one owner to one proposed buyer.

(e) *Broker.* Documents intended for submission to the Director as part of the sale process shall be prepared by a broker registered with the Authority as provided in Chapter 1029 (relating to brokers) or an attorney admitted to practice law by the Supreme Court of Pennsylvania.

Cross References

This section cited in 52 Pa. Code § 1001.71 (relating to notice and filing of copies of pleadings before other tribunals); 52 Pa. Code § 1011.8 (relating to facility inspections); 52 Pa. Code § 1013.32 (relating to bidder qualifications); 52 Pa. Code § 1027.4 (relating to certificate required for medallion sales); and 52 Pa. Code § 1027.5 (relating to agreement of sale).

§ 1027.7. Required application information.

(a) *SA-1 form.* The SA-1 is a multipurpose form intended for use in the sale of different transferable rights and shall be completed by the broker or attorney, or both, in a manner consistent with the intentions of the sale. For example, an SA-1 used only for the sale of a partial-rights certificate need not complete the portion of the application which seeks medallion numbers.

(b) *Required information.* Except as provided in subsection (a), the completed SA-1 must include the information required by the Authority, including all of the following:

- (1) The medallion numbers.
- (2) The certificate numbers.
- (3) The name of the proposed buyer and contact information, including a telephone number, an email address and a facsimile number.
- (4) If the proposed buyer is a nonindividual person and is not already a certificate holder:
 - (i) The articles of incorporation, operating agreement, formation documents or other applicable organizing documents for the applicant.
 - (ii) A certificate of good standing for the applicant from the Bureau of Corporations and Charitable Organizations.
 - (iii) A copy of the Department of State's entity page for the applicant.
- (5) The name of any holding company as defined in § 1011.2 (relating to definitions) having an interest in the proposed buyer and a contemporaneous certificate of good standing for the holding company from the Bureau of Cor-

porations and Charitable Organizations, or similarly authorized entity in another jurisdiction in the United States.

(6) The trade name, if any, of the proposed buyer and a copy of the trade name registration certificate, if applicable.

(7) The mailing address and physical address of the proposed buyer.

(8) A copy of the proposed buyer's business plan.

(9) A list including name, home address and telephone numbers for current corporate officers, directors, stockholders, key employees and persons with controlling interests as defined in § 1011.2, if applicable.

(10) A list of all Authority, PUC and Federal common carrier rights held by the proposed buyer and any of the persons listed in response to paragraph (9), including taxicab medallions.

(11) The name, address, telephone number, facsimile number and email address of any attorney assisting the proposed buyer with the application process, together with an acknowledgement that § 1029.3 (relating to use of attorney) has been reviewed by the proposed buyer.

(12) A criminal history report, issued within 30 days of the filing of the application, from any jurisdiction in which the following persons have lived in the preceding 5 years through the date of application:

(i) An individual proposed buyer.

(ii) An individual with a controlling interest in the proposed buyer.

(iii) An individual with a controlling interest in the holding company of a proposed buyer.

(iv) A key employee.

(13) A verified statement indicating that the persons identified in paragraph (12) have not been subject to a conviction as defined in § 1001.10 (relating to definitions) and that the proposed buyer has read and understands the prohibitions of ownership as provided in § 1011.5 (relating to ineligibility due to conviction or arrest).

(14) Verified statements from the owner and proposed buyer confirming that each are in compliance with § 1011.7 (relating to payment of outstanding fines, fees and penalties).

(15) The Federal Tax Identification number for the following persons:

(i) The owner of the rights.

(ii) The proposed buyer.

(iii) Persons with a controlling interest in the owner or a proposed buyer.

(iv) Key employees of an owner or proposed buyer.

(c) *Proof of ownership.* The Authority may require the owner to prove ownership of the right or rights subject to sale.

Authority

The provisions of this § 1027.7 temporarily amended under 53 Pa.C.S. § 57B02.

Source

The provisions of this § 1027.7 temporarily amended May 5, 2017, effective February 25, 2017, expire upon promulgation of final-form regulations or on November 5, 2018, whichever is later, as set forth in 53 Pa.C.S. § 57B02(b), 47 Pa.B. 2558. Immediately preceding text appears at serial pages (373567) to (373568) and (360465).

Cross References

This section cited in 52 Pa. Code § 1027.9 (relating to financial fitness generally).

§ 1027.8. Additional application requirements.

(a) *Agreement of sale.* The agreement of sale required under this chapter must include the information required by the Authority, including the following:

- (1) The parties to the transaction.
- (2) A description of the transaction.
- (3) The identification number of each right subject to sale.
- (4) The total consideration for the sale and for each right transferred if the sale involves multiple rights in United States dollars, and any payment terms required by the Authority, including the following:
 - (i) The assumption of any loan or debt.
 - (ii) Contingencies and nonmonetary consideration.
 - (iii) Monetary consideration.

(5) An acknowledgement initialed by all parties that the agreement is subject to the laws and jurisdiction of the Commonwealth, the act, this part and orders of the Authority.

(b) *Execution of agreement of sale.* The proposed agreement of sale must be signed at one time by all parties before the Director or a designee on or before the date the SA-1 is filed.

(c) *Removal of liens.* If a notice of lien relating to a medallion which is the subject of a proposed sale was filed under 13 Pa.C.S. (relating to Uniform Commercial Code), the Authority will not approve a medallion sale until evidence of a lien's removal is submitted, unless the Authority is notified by the lienholder that the lien will be satisfied from the proceeds of the sale.

(d) *Continuing service.* The owner of the rights subject to sale shall confirm that the rights will remain in active service pending review of the application, unless prohibited or authorized for suspension by a provision of this part or an order of the Authority.

(e) *Notice.*

(1) A notice of applications will be published in the *Pennsylvania Bulletin* as provided in § 1003.53 (relating to applications requiring notice).

(2) The parties to the sale will receive notices related to the SA-1 as provided in § 1001.51 (relating to service by the Authority).

(f) *Loan documents.*

(1) Any consideration identified in subsection (a)(4) that is provided to a proposed buyer must be evidenced in the form of written agreements. For example, the loaning of cash money to a proposed buyer by a bank must be confirmed through loan documents executed by the borrowing party.

(2) The documents required under paragraph (1) shall be submitted to the Director at the time the SA-1 is filed, except that specific financial information

that cannot be known until on or about the closing date for the sale may be left blank. The final loan documents must be executed at the closing on the sale.

§ 1027.9. Financial fitness generally.

The Authority will review the financial fitness of the proposed buyer, including a review of all of the following:

(1) For proposed buyers of medallions or partial-rights certificates, bank statements of the proposed buyer or the bank statements of the holder of the stock or membership certificate evidencing ownership of a bank account holding not less than the greater of \$5,000 or 2% of the sale price in unencumbered and available funds.

(2) For proposed buyers of dispatcher certificates, bank statements of the proposed buyer or the bank statements of the holder of the stock or membership certificate evidencing ownership of a bank account holding not less than the greater of \$5,000 or 2% of the sale price in unencumbered and available funds.

(3) If the sale does not include financing by a lender authorized to make commercial loans in this Commonwealth, the proposed buyer shall submit documentation for the Authority's review to insure all of the following requirements are met:

(i) The credit report of each persons identified in § 1027.7(b)(12) (relating to required application information) evidencing a credit score of at least 600 for each person.

(ii) The absence of any outstanding and unappealed civil judgments against each of the parties required to submit a criminal history report under § 1027.7(b)(12).

(4) The Authority may require the submission of additional financial information necessary to determine the financial fitness of a proposed buyer.

Authority

The provisions of this § 1027.9 temporarily amended under 53 Pa.C.S. § 57B02.

Source

The provisions of this § 1027.9 temporarily amended May 5, 2017, effective February 25, 2017, expire upon promulgation of final-form regulations or on November 5, 2018, whichever is later, as set forth in 53 Pa.C.S. § 57B02(b), 47 Pa.B. 2558. Immediately preceding text appears at serial page (360466).

§ 1027.10. Regulatory compliance review.

(a) An SA-1 will be denied if the proposed buyer has a record of regulatory violations with the Authority or the PUC which evidences a disregard for the public interest.

(b) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer has been subject to the suspension, revocation or cancellation of rights issued by the Authority or common carrier rights issued by the PUC during the 1-year period immediately preceding the date the SA-1 was filed with the Authority.

§ 1027.11. Authority review.

- (a) Notice of sale will be published in the *Pennsylvania Bulletin*.
- (b) The SA-1 will be reviewed as provided in § 1003.51 (relating to applications generally).
- (c) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer is in violation of any provision of this part or if the Authority determines that the sale is not in the public interest. The SA-1 may be denied if the owner is in violation of any provision of this part.
- (d) The Authority will review the terms of any loan associated with an SA-1 and deny the application in the circumstances in this subsection. The terms of any loan associated with an SA-1 are likely to lead to a condition of default by the proposed buyer. The Authority will specifically review the following provisions of any loan agreement to assure it does not conflict with the public interest:
 - (1) The term.
 - (2) The interest rate or rates, including any adjustable rate or balloon provisions.
 - (3) Late payment grace periods.
 - (4) Conditions of default.
 - (5) Periods in which defaults may be cured.
 - (6) The qualifications, experience and history of the lender related to commercial loans and loans to public utilities.

§ 1027.12. Approval process and closing on sale.

- (a) If the Director determines that a proposed buyer of rights is qualified as provided in the act, this part or an order of the Authority, a recommendation to approve the sale will be presented to the Authority for approval at its next regularly scheduled meeting. The Authority may require that proposals from the Director as provided in this section first be presented to a committee of the Board at a public meeting.
- (b) Upon approval of the sale by the Authority, the Director will schedule the parties to meet at a time and location where an Authority staff member will witness the closing of the transaction.
- (c) An Authority staff member will witness the execution of each document by the owner and proposed buyer, or their designated agents. Any closing not witnessed by Authority staff is void as provided in sections 5711(c)(5) and 5718 of the act (relating to power of authority to issue certificates of public convenience; and restrictions).
- (d) If the subject of the sale is a medallion that is the only medallion issued to the owner's medallion taxicab certificate, that certificate will be cancelled upon completion of the closing on the sale of the medallion. For example, if the owner of only one medallion seeks to sell the medallion through the process provided in

this chapter, the owner's medallion taxicab certificate will be cancelled upon closing on the sale of the medallion.

(e) The Authority will issue a new medallion taxicab certificate to the new medallion owner as part of the closing process if requested by the proposed buyer as provided in § 1027.4(b) (relating to certificate required for medallion sales).

(f) A medallion subject to a completed closing may not be transferred or sold for 1 year from the date of closing.

(g) Subsection (f) does not apply to the sale of a medallion in the following circumstances:

(1) When each person that owns securities of the corporation, partnership, limited liability company or other form of legal entity that owns a medallion sold under this subchapter has died or is declared incapacitated.

(2) When a person that owns securities of the corporation, partnership, limited liability company or other form of legal entity that owns a medallion sold under this subchapter has died or is declared incapacitated and that person's securities are transferred to the medallion owning entity or another owner of securities in the entity that owns the medallion.

Authority

The provisions of this § 1027.12 temporarily amended under 53 Pa.C.S. § 57B02.

Source

The provisions of this § 1027.12 temporarily amended May 5, 2017, effective February 25, 2017, expire upon promulgation of final-form regulations or on November 5, 2018, whichever is later, as set forth in 53 Pa.C.S. § 57B02(b), 47 Pa.B. 2558. Immediately preceding text appears at serial pages (360467) to (360468).

Cross References

This section cited in 52 Pa. Code § 1027.15 (relating to commencement of service); and 52 Pa. Code § 1029.10 (relating to broker agreements required).

§ 1027.13. Settlement sheet.

(a) The owner and proposed buyer shall use Form SA-2 "Standard Settlement Sheet" at any closing on the sale of rights. The SA-2 is available on the Authority's web site at www.philapark.org/tld.

(b) The SA-2 must include the information required by the Authority, including the following:

(1) The names and addresses of the owner and proposed buyer.

(2) The names and address of the brokers or attorneys used in the transaction.

(3) The name and address of the lender and a designated contact person employed by the lender, if any.

(4) A copy of all certificates or other documents authorizing the lender to make commercial loans in this Commonwealth.

(5) The amount, term and interest rate of any loan used to purchase the rights.

(6) The medallion numbers.

(7) The certificate numbers.

(8) The total consideration for the rights to be sold and any payment terms, including loan contingencies and nonmonetary consideration.

(9) An allocation of funds expended in the transaction.

(10) The fees and costs associated with the sale, including those payable to any broker or attorney, or both.

(11) Signatures of the owner and proposed buyer, or their designated agents, and the brokers.

§ 1027.14. Attachment of medallion.

Upon the completion of the closing on the sale of a medallion, the Enforcement Department will schedule a date and time to attach the medallion to the taxicab designated by the owner in a manner consistent with § 1013.2 (relating to attachment of a medallion).

§ 1027.15. Commencement of service.

A regulated party shall, within 30 days from the date of settlement under § 1027.12(b) (relating to approval process and closing on sale), begin operating and furnishing service. If it has not commenced operating and furnishing the authorized service within 30 days, appropriate proceedings shall be initiated to terminate the certificate unless, upon advanced written permission as provided in § 1011.14 (relating to voluntary suspension of certificate), the time for commencement of service is extended.

Authority

The provisions of this § 1027.15 temporarily amended under 53 Pa.C.S. § 57B02.

Source

The provisions of this § 1027.15 temporarily amended May 5, 2017, effective February 25, 2017, expire upon promulgation of final-form regulations or on November 5, 2018, whichever is later, as set forth in 53 Pa.C.S. § 57B02(b), 47 Pa.B. 2558. Immediately preceding text appears at serial page (360468).

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