

ALABAMA STATE BOARD OF AUCTIONEERS
ADMINISTRATIVE CODE

CHAPTER 150-X-1
RULES AND REGULATIONS

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150-X-1-.01 Definitions.

(1) Auction: A public sale of property to the highest bidder.

(2) Absolute Auction: An auction without reserve.
See Auction Without Reserve.

(3) Auction With Reserve: An auction in which the seller or his agent reserves the right to establish a minimum bid, to accept or reject any and all bids and to withdraw the property at any time prior to the completion of the sale by the auctioneer.

(4) Auction Without Reserve: An auction in which property put up for sale is sold to the highest bidder; where no minimum price will limit the bid; where the seller may not withdraw the property from the auction; and where the seller may not nullify the sale by bidding himself or through an agent. "Auction Without Reserve" is equivalent to the term "Absolute

Auction." The Practice of deliberately misleading customers/buyers by marketing a property as "absolute" for the sole purpose of obtaining a pre-auction bid which is sufficient to meet or exceed the actual reserve of the seller, with the intention of either converting to a reserve auction or canceling the sale if the strategy is unsuccessful, is strictly prohibited and may be grounds for disciplinary action against the licensee.

(5) . Estate Auction: An auction in which all the property advertised and sold is the property of a specified deceased person or the property of a specified living person's estate. (34-4-4)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-4.

History: New Rule: Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed January 18, 2002; effective February 22, 2002. **Amended:** Filed January 29, 2003; effective March 5, 2003.

150-X-1-.02 Application For Auctioneer's License.

(a) Upon application for an auctioneer's license, each apprentice auctioneer must present a statement signed by his/her sponsoring auctioneer, stating that said apprentice has participated as principal auctioneer in the required number of sales during the course of his/her apprenticeship. The applicant must furnish proof of the sales in the form of advertisements containing the applicant's name and license number in equal prominence with the name and license number of the sponsoring auctioneer, and proof that he/she was compensated for his/her services in these sales in the form of copies of canceled checks showing that the monies went through the sponsor's escrow account. (34-4-21)

(b) Non-resident, non-reciprocal applicants must prove they have been active auctioneers during the past five (5) years immediately preceding the date of application. Proof of activity may include some or all of the following and must contain dates which will effectively verify that the applicant has been an active auctioneer for the five (5) years immediately preceding the application: advertisements containing the applicant's name; copies of closing statements which show the date of the sale and are signed by the applicant; copies of county and or municipal auctioneer licenses; and affidavits from duly licensed Alabama auctioneers that the applicant has engaged in auctions during this time. (34-4-25)

(c) Reciprocity will be granted to those states having licensing requirements of equal or higher standards than Alabama and who have entered into a reciprocal agreement with the board. Applicants for reciprocity from states without an apprenticeship program equivalent to the Alabama apprenticeship program will be required to be licensed in their home state for two (2) years prior to application for reciprocity as stated in the reciprocal agreement. (34-4-25)

(d) Incomplete applications will be returned to the applicant with a letter describing deficient items to be completed and returned to the board. Incomplete applications will be considered expired after one (1) year from the first date of notification of such deficiencies. (34-4-4)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-25.

History: New Rule: Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed July 24, 2007; effective August 28, 2007.

150-X-1-.03 Advertisements.

(a) Any advertisements for auction sale must identify the name and license number of the auctioneer and any apprentices who will be conducting the auction business.

(b) Apprentice auctioneers must meet the same requirements and must additionally identify their sponsor's name and state license number.

(c) This rule pertains to any and all advertisements and includes billboards, Internet, television and radio advertisements, etc.

(d) Auctioneers will be held responsible for all advertising and should take precautions that mistakes do not occur.

(e) False, deceptive, misleading and untruthful advertising is expressly prohibited. Any advertisement or advertising shall be deemed to be false, deceptive, misleading or untruthful, if it:

- (1) Contains misrepresentations of facts;

- (2) Is misleading or deceptive because in its content or in the context in which it is presented, it makes only a partial disclosure of relevant facts;
- (3) Creates false or unjustified exceptions of the services to be performed;
- (4) Contains any representation or claim which the advertising licensee fails to perform;
- (5) Advertises an auction as absolute when any portion to be sold is subject to confirmation or with reserve or with minimum bids.
- (f) Advertising designed to generate business and let the public know of the availability of an auctioneer's services need not include the auctioneer's name and state license number.
- (g) Auction houses must include the name and license number of the principal auctioneer in any and all advertisements. (34-4-29)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-29.

History: **New Rule:** Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed January 18, 2002; effective February 22, 2002. **Amended:** Filed July 24, 2007; effective August 28, 2007.

150-X-1-.04 **Examination Days.**

(a) Exams will be computer-based and administered in several locations throughout the state by an appropriate vendor of such services as selected by the board. A completed application for licensure must be received and approved by the board before an applicant will be allowed to sit for the examination. Upon approval of his/her application, the applicant will receive written notification from the board regarding scheduling of the examination and the time frame during which the applicant remains eligible to sit for the examination under his/her current application.

(b) An applicant whose application has been canceled for failure to sit for the examination during the prescribed time period must pay another examination fee as if no prior fee had been submitted. Each time an examination is taken and failed, the examination fee is forfeited. The applicant may request reexamination without submitting another application, but must remit the appropriate examination fee. (34-4-21)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-21.

History: New Rule: Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed December 9, 1998; effective January 13, 1999. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .05 was renumbered to .04 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.05 **Exams.**

(a) The examination shall test the applicant's knowledge of the following:

(1) General knowledge of ethics.

(2) Reading, writing and elementary arithmetic.

(3) The statutes of this state relating to auctions and this chapter.

(4) The fundamentals of auctioneering.

(b) Exams are confidential tests. They are designed and administered under conditions established to protect the security of the tests. Neither the current forms nor any previous forms of the tests are available for purchase or inspection. No applicant who has taken the examination will be permitted to inspect that or any other completed examination after it has been graded in order to ensure the validity of the examination. (34-4-21)

(c) The board will make accommodations for examination for those applicants that qualify as disabled under the provisions of the Americans with Disabilities Act. The disability asserted must be documented by a qualified professional, and said documentation must be submitted with the application. (34-4-21)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-21.

History: New Rule: Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed January 18, 2002; effective February 22, 2002. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended (Rule Number Only):** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .06 was renumbered to .05 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.06 Fees.

(a) Fees submitted to the board shall be in the form of a checks or money orders only. In the event that a check is returned to the board, the individual's license may be revoked in accordance with disciplinary proceedings conducted under the Auctioneers License Act and the Alabama Administrative Procedure Act until proper restitution is made, plus payment of any applicable fee for late renewal.

(b) Upon receipt of notice of passing the examination or approval of the reciprocal application, the applicant shall submit his/her annual license fee within thirty (30) days of receipt of said notice. Failure to submit such license fee within the above prescribed time shall be deemed sufficient reason for cancellation of said application. (34-4-21)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-21.

History: **New Rule:** Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed December 9, 1998; effective January 13, 1999. **Amended:** Filed January 18, 2002; effective February 22, 2002. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .07 was renumbered to .06 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.07 Unprofessional Conduct. Use of abusive, vulgar, profane or threatening language by a licensed auctioneer while conducting auction business will be grounds for disciplinary actions. (34-4-29)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-29.

History: **New Rule:** Filed July 12, 1995; effective August 16, 1995. **Amended (Rule Number Only):** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .08 was renumbered to .07 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.08 **Statements To The Board.** Any false information, statements or testimony given to the Alabama State Board of Auctioneers or its agents by a licensee or applicant will be grounds for denial of an application or disciplinary actions against the licensee. (34-4-29)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-29.

History: New Rule: Filed July 12, 1995; effective August 16, 1995. **Amended (Rule Number Only):** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .09 was renumbered to .08 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.09 **Inspection Of Records.** Documents, books or records concerning an auction or auctions must be made available for inspection by the board or its authorized personnel or representative upon request. Failure to produce requested documents, books, records, or copies thereof, within thirty (30) days will be grounds for administrative action by the board. (34-4-4)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-4.

History: New Rule: Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .10 was renumbered to .09 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.10 **Duties Of Sponsors.**

(a) Sponsoring auctioneers have agreed to assume responsibility for the acts of their apprentices in the conduction of auction business and sales and have agreed to be present at the sale site and directly supervise any auction sale conducted by said apprentice. In the event a sponsoring auctioneer cannot attend a particular sale, he/she must make a written appointment of a qualified licensed auctioneer to act in his/her stead.

(b) All sponsoring auctioneers shall reside in the same state as his/her apprentice auctioneer(s).

(c) If a sponsoring auctioneer has disassociated and ended his/her sponsorship, said sponsor must notify the State Board in writing within thirty (30) days of the termination of the sponsorship. The license certificate of the terminated apprentice must be returned with the written notice of termination. (34-4-21)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-21.

History: **New Rule:** Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed December 9, 1998; effective January 13, 1999. **Amended:** Filed January 18, 2002; effective February 22, 2002. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .11 was renumbered to .10 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.11 **Non-Licensed Violations.** The board may levy and collect administrative fines for serious violations of the Alabama Auctioneers Licensing Act or the rules and regulations of the board of not less than two hundred dollars (\$200) and not more than five hundred (\$500) for each violation as provided in Section 34-4-29, Code of Ala. 1975. (34-4-20)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-20.

History: **New Rule:** Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .12 was renumbered to .11 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.12 **Auctioneer Schools.** In order to be eligible for approval by the Alabama State Board of Auctioneers, an auction school must provide evidence of annual certification by the Alabama Department of Education or the Postsecondary Education Department (or the equivalent thereof in another state) as required by state law.

(a) Schools of auctioneering seeking approval of their curriculum shall file an application with the Board.

(b) A minimum of eighty-five (85) hours of classroom instruction in the fundamentals of auctioneering is required for graduation for auctioneers.

(c) Truthfulness, honesty and integrity of the profession must be emphasized in all coursework. Ethical conduct must also be stressed, in an auctioneer's dealings with fellow auctioneers, buyers and sellers, and the public-at-large.

(d) The laws of principal and agent must be clearly presented. Care must be taken to see that training sessions do not degenerate into random discussions.

(e) Specific "educational objectives" for each session must be identified. "Educational objectives" must be planned and coordinated so that an "overall educational objective" is achieved during the courses.

(f) An examination on the information presented must be administered at the end of each course of instruction; students shall be given credit for completing the course only after taking and passing such an examination.

(g) In order to be accepted as an approved school, and in order to remain approved, the course curriculum must contain classroom instruction in the following subjects:

- (1) Bid calling with drill
- (2) Auction laws and auctioneering ethics
- (3) Contract law
- (4) Law of Principal and agent
- (5) Conducting an auction
- (6) Clerking and cashiering
- (7) Auction advertising
- (8) Livestock auctions
- (9) Real estate auctions
- (10) Auction house auctions
- (11) Farm sales
- (12) Estate and Bankruptcy auctions

- (13) Machinery & equipment auctions
- (14) Automobile auctions
- (15) Business liquidations
- (16) Fund raisers and antique auctions

(h) In addition to classroom training, it is required that the student have experience in selling at a real auction. The practice of selling at a real auction must be a part of the supervised instruction offered by the school. Personal appearance, good manners, and showmanship should be stressed to all participants. "Hands-on" experience in clerking, cashiering and tagging and handling merchandise is also required.

(i) Academic excellence is as appropriate to an auction school as it is to any institution of learning. Personal appearances, good manners and showmanship are also important. Outstanding auction school instructors are more likely to find themselves being quoted and copied as role models. Highly successful auctioneers often become outstanding in the field of auction education. Outstanding, experienced auctioneers from as many fields of specialization as possible must be sought as teachers. Academic excellence must always remain in the forefront as a qualification for selection of school faculty. In view of the required subjects, a minimum of at least five instructors is required.

(j) Schools shall furnish each students who successfully completes their course of instruction with an official certification of graduation or diploma containing the student's name, the date the course was completed, and total number of hours attended and successfully completed by the student.

(k) The board may deny, suspend or revoke the approval of any school when it finds that the school has failed to meet or to continuously maintain any requirement, standard or procedure of this rule. Additionally, the board may suspend or revoke the approval of any school upon finding that any information required under this rule or provided in the school's application was knowingly falsified or misrepresented. (34-4-21)

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-21.

History: New Rule: Filed July 12, 1995; effective

August 16, 1995. **Amended:** Filed January 18, 2002; effective

February 22, 2002. **Amended:** Filed January 29, 2003; effective

March 5, 2003. **Amended:** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: 150-X-1-.13 License Name And Number Nontransferable.
Repealed and Rule .14 was renumbered to .12 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.13 Continuing Education.

(a) Biannual continuing education shall consist of six (6) clock hours of instruction.

(b) Hours in excess of the minimum biannual requirement may be carried forward for credit in the succeeding renewal period.

(c) New licensees who have taken the examination for their license within the twelve (12) months immediately preceding expiration of their licenses will be considered to have met the continuing education requirements for the renewal period. New reciprocal licensees who prove that their license in the reciprocal state whose license was recognized by Alabama was obtained by examination within twelve (12) months preceding expiration of their Alabama license will also be considered to have met the continuing education requirements for the renewal period.

(d) Reciprocal licensees whose home state requires continuing education for license renewal will be considered to have met the continuing education requirements of Alabama.

(e) Four (4) hours continuing education credit will be given to board members currently serving on the Alabama State Board of Auctioneers.

(f) Licensees who do not meet the requirements under sections (c), (d), and (e) of this Rule may meet the continuing education requirement by completing six (6) clock hours of instruction in one or more of the following:

(1) Any board approved course offered by an approved auctioneering school and taught by an approved instructor.

(2) Any course offered by the National Auctioneers Association (NAA) which provides credit toward any of the designations offered by the NAA as of October 1, 1994.

(3) Any seminar offered by the Alabama Auctioneers Association which is approved by the board.

(4) Any combination of courses which meet the requirements of the Alabama Real Estate Commission for continuing education.

(5) Any seminar underwritten by the board or its designated representative (hour for hour).

(6) Presentation of an auctioneer-related paper for a seminar or conference prepared and presented by the licensee (approval and credit determined by the Board).

(7) Publication of an auctioneer-related article in a board-recognized professional journal (approval and credit determined by the board).

(8) Any seminar or course which the board deems to be appropriately related to the auctioneering industry (hour for hour).

(g) The curriculum presented by the course sponsors listed above in Section F, (1-3) shall be "core" auctioneering subjects which will assist the licensee in fulfilling the board's objective of protecting the public from the unprofessional or unethical practice of auctioneers in this state. Some examples of acceptable subject matter are auctioneering ethics, appraisal and valuation, liability of auctioneers, writing contracts, and handling of funds. Examples of unacceptable subject matter are motivational courses, personal development courses, sales meetings, orientation courses, and courses in selling techniques. All course topics and content are subject to approval by the board.

(h) Every continuing education instructor, other than approved auction school instructors, must apply for approval by the board. No instructor may begin teaching a course offered for continuing education credit until he/she has received written approval to do so from the board.

(i) Each person seeking approval to teach an approved continuing education course, must possess one of the following qualifications:

(1) A bachelor's degree in the field of instruction;

(2) A valid teaching certificate from Alabama or another state authorizing the holder to teach in the field of instruction in which the person is to teach;

- (3) Five (5) years full-time experience in a profession, trade or technical occupation in the applicable field;
- (4) Any combination of at least five (5) years of full-time experience relevant to the applicable field and college level education with course work in the field of instruction.
- (j) All course sponsors for courses listed in Section F (1-3) must apply for course approval from the board.
- (k) Approved continuing education courses must be taught only by approved instructors. The approved instructor must be present at all times during the course offering.
- (l) In order to be approved for continuing education credit, courses must contain a minimum of two (2) clock hours of instruction. No more than eight (8) clock hours of instruction may be offered in any one (1) day.
- (m) Course sponsors may not hold courses out as approved nor may the course be offered for continuing education credit prior to the course sponsor receiving written approval from the board. Course sponsors should submit the application for approval from the board at least thirty (30) days prior to the proposed beginning date of the course.
- (n) The instructor will issue an official ASBA Continuing Education Unit (CEU) Reporting Form to each student who completes the course of instruction. The CEU Reporting Form must be completed with the name of the course, course dates, and number of credit hours awarded for the course and must be issued in the name of the student and signed by the instructor. Students are responsible to return their completed CEU forms to the board for appropriate credit. The CEU Reporting Form is to provide confidential information regarding instructor performance and course satisfaction. Comments concerning instructor performance and coursework will be recorded and considered annually when evaluating the continuing education provider's application for board approval.
- (o) Students must attend 100% of the course offering in order to be awarded continuing education credit. Credit will not be given for time spent on breaks, meals or other unrelated activities. (34-4-21)
- Author:** J. O. Blandenburg
Statutory Authority: Code of Ala. 1975, §34-4-21.
History: **New Rule:** Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed December 9, 1998; effective

January 13, 1999. **Amended:** Filed May 31, 2002; effective July 5, 2002. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed March 26, 2004; effective April 30, 2004. **Amended:** Filed July 24, 2007; effective August 28, 2007.

Ed. Note: Rule .15 was renumbered to .13 as per certification filed July 24, 2007; effective August 28, 2007.

150-X-1-.14 Board Policies And Procedures.

(a) Anyone wishing to address the board at a regularly scheduled board meeting will be required to submit a written request to the board no later than two weeks prior to the board meeting date. The request should include the topic to be addressed and the name(s) of the presenter(s). If time permits, the matter will be placed on the board's agenda; otherwise, the matter will be placed on the agenda for the next regularly scheduled board meeting. All presenters will be given a time limit of fifteen (15) minutes to present their requests to the board.

(b) The board will issue letters verifying Alabama licensure (Letter of Verification) to any other state licensing board upon receipt of a written request from the licensee. The request should include the State Licensing Board the letter is to be sent to.

(c) The board should be notified immediately and in writing of a change of address for any licensee. The request for change of address should be signed by the licensee and accompanied by the \$5.00 change of address fee and the license certificate issued under the old address. A new license reflecting the new address will then be issued and forwarded to the licensee.

(d) Upon notification that a licensee's bond is subject to cancellation by his/her bonding company, the board will notify the affected licensee in writing of the company's intent to cancel coverage. The licensee will be required to furnish a new bond to the board before the old bond expires in order to remain in good standing with the board and prevent a lapse in licensure.

(e) A signed and completed Complaint Form is required in order to file an official complaint with the board. Anonymous complaints will not be accepted.

(f) The board must receive CEU Reporting Forms for all licensees in order to ensure proper credit for continuing education hours. CEU forms should be given to all attendees of approved continuing education by the education provider and should be signed by the instructor. The licensee is responsible to complete the questionnaire, sign it, and submit it to the board for proper credit. (34-4-4)

Author: J.O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-21.

History: New Rule: Filed January 29, 2003; effective March 5, 2003. **Amended (Rule Number Only):** Filed July 24, 2007; effective August 28, 2007.

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APPENDICES 1 FEES

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- \$150 Application Processing Fee for Reciprocal Licensure
 - \$75 Apprentice Annual Licensure Fee (due September 30th each year)
 - \$125 Auctioneer Annual Licensure Fee (due September 30th each year)
 - \$100 Auctioneer and Apprentice Examination Fee charged each time the exam is taken.
 - \$5 Change of Address Fee

 - \$25 Fine for late renewal of Apprentice License if renewed by November 30th of expiration year. If not renewed by November 30th of expiration year, the license is considered expired.
 - \$50 Fine for late renewal of Auctioneer License if renewed by November 30th of expiration year. If not renewed by November 30th of expiration year, the license is considered expired.

ALABAMA STATE BOARD OF AUCTIONEERS
ADMINISTRATIVE CODE

APPENDIX II
FORMS ASSOCIATED WITH THESE RULES AND REGULATIONS

Application for Licensed Apprentice Auctioneer
Application for Licensed Auctioneer
Application for Reciprocal Licensure
Application for Continuing Education Provider
Application for Approved Auction School
Application for Licensed Auctioneer Renewal
Application for Licensed Apprentice Auctioneer Renewal
CEU Reporting Form
Change of Address Form
Complaint Form

Author: State Board of Auctioneers
Statutory Authority: Code of Ala. 1975, S
History: **New Rule:** Filed May 31, 2002; effective July 5, 2002.