

AUCTIONEERS BOARD MEETING

***TENTATIVE* Agenda**

Board Room 3

October 4, 2022, 10:00 a.m.

Department of Professional & Occupational Regulation

804-367-8514

1. Call to Order
2. Emergency Evacuation
3. Announcements
4. Approval of Agenda
5. Approval of Minutes:
 - July 12, 2022 Board Meeting
 - September 13, 2022 Regulatory Review Meeting
6. Public Comment Period*
7. Resolution to Andrew Smith
8. 2023 Board Meeting Dates
9. Licensed Population
10. Review of Financial Statements
11. Regulatory Review
12. Other Business
13. Conflict of Interest Forms / Travel Vouchers
14. Adjourn

NEXT MEETING TENTATIVELY SCHEDULED FOR October 4, 2022

* Five minute public comment, per person, with the exception of any open disciplinary or application files.

** Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the Code of Virginia.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

- **Call to Order**
- **Emergency Evacuation**
- **Announcements**

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And are not to be construed as regulation or official board position

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AUCTIONEERS BOARD MEETING MINUTES

The Virginia Auctioneers Board met on July 12, 2022, at 10:00 a.m. at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia 23233.

The following members were present for all or part of the meeting:

Betty Bennett (Auctioneer)
Douglas Sinclair (Auctioneer)
Andrew Smith (Citizen Member)
Angela Smith-Mackey (Citizen Member)
Linda Terry (Auctioneer)

Staff present for all or part of the meeting were:

Demetrios Melis, Director
Kishore Thota, Chief Deputy Director
Kate Nosbisch, Executive Director
Breanne Henshaw, Administrative Coordinator

Elizabeth Peay, Assistant Attorney General was present from the Office of the Attorney General.

Mr. Smith, Chair, called the meeting to order at 10:05 a.m.

Call to Order

Mr. Smith advised the Board of the emergency evacuation.

Emergency Evacuation

Ms. Nosbisch introduced Demetrios (Mitch) Melis, DPOR Director, Kishore Thota, Chief Deputy Director, and Breanne Henshaw, Administrative Coordinator. Board members introduced themselves. Ms. Nosbisch also introduced Jennifer Sayegh, DPOR's new Policy and Legislative Affairs Manager, and Shannon Webster, Director of Examinations and Workforce Development Director. Ms. Nosbisch informed the Board of Bonnie Davis' new role as the Boxing, Martial Arts, and Professional Wrestling Advisory Board Operations Administrator.

Announcements

Mr. Sinclair moved to approve the agenda. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith, Smith-Mackey and Terry.

Approval of Agenda

Mr. Sinclair moved to approve the January 11, 2022 Board meeting minutes. Ms. Terry seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith, Smith-Mackey and Terry.

Approval of Minutes

There were no members of the public present to comment.

Public Comment Period

Ms. Nobsisch informed the Board that there were no public comments received regarding the fee adjustment previously approved by the Board. The Board was presented with the draft language for the fee increase for submission to the Registrar's Office as it moves to the second (proposed) phase of the process. Ms. Bennett moved to approve the fee adjustment action. Ms. Smith-Mackey seconded the motion, which was unanimously approved by members: Bennett, Sinclair, Smith, Smith-Mackey and Terry.

Fee Adjustment

The Board was presented with a Conceptual Framework document and Regulatory Review Information Guide in order to provide guidance regarding the regulatory review process. Ms. Nobsisch informed the Board that the agency's regulatory boards are working to reduce regulations by twenty-five percent per the governor's Executive Directive. Mr. Melis stated regulations have been added over time and in order to determine which regulations are required to protect the health, safety, and welfare of the public, a review of the regulations is needed. Mr. Melis indicated the regulatory boards are to establish licensure based on minimum competency in order to ensure unnecessary barriers are in place for people entering the workforce. Ms. Nobsisch conducted a PowerPoint presentation titled, Regulatory Review 101: What You Need to Know About the Regulatory Review Process. After the PowerPoint, the Board selected a date to review the regulations and all Board members agreed to be in attendance. The Regulatory Review Meeting is scheduled for September 13, 2022 at 10:00 a.m.

Regulatory Review

Mr. Smith provided the licensee counts as of June 1, 2022: Auctioneers 1,016 and Firms 237.

Licensed Population

Board members were provided financial statements for informational purposes.

**Review of Board
Financial Statements**

Ms. Nobsisch informed the Board of the upcoming Board Member Training Conference, which will take place in Williamsburg, VA. Ms. Terry shared information about her time at the previous Board Member Training Conference and indicated it was time well spent. Ms. Terry stated the previous conference was informative and enjoyable as she was able to meet members of other boards, while gaining a better understanding of how the boards fit in government as a whole.

**Board Member
Conference – October
13 – October 14, 2022**

Ms. Nobsisch thanked the Board for submitting their Financial Disclosure Statements by the February deadline.

**Financial Disclosure
Statements**

Ms. Nobsisch informed the Board that she received an email from Ms. Sayegh regarding DPOR's legislative package for 2023 and Ms. Nobsisch asked the Board if there were items they would like added. The Board discussed online auctions and how they could be regulated as there is

Other Business

potentially unlicensed activity occurring during the online auctions. Ms. Peay stated it may be difficult to regulate or impose statute on online auctions as there are parties outside of Virginia involved at times. Ms. Peay continued by stating another state recently imposed rules regarding online auctions and that may be something the Board could look into as a starting point. Mr. Melis informed the Board that in order to impose regulation or statute on an issue, there would need to be identifiable harm that occurred to the public due to the online auctions, such as complaints from the public.

Mr. Melis informed the Board of current initiatives being taken on by DPOR, including upgrading technology and, therefore, efficiency by better meeting customer service needs.

Conflict of Interest forms and Travel Vouchers were completed by all members present.

**Conflict of Interest
Forms / Travel
Vouchers**

There being no further business, the meeting adjourned at 11:15 a.m.

Adjourn

Andrew Smith, Chair

Demetrios Melis, Secretary

➤ **September 13, 2022 Regulatory
Review Meeting Minutes
Forthcoming**

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- **Public Comment**
- **Resolution to Andrew Smith**

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➤ **2023 Draft Meeting Dates**

January 10, 2023

April 11, 2023

July 11, 2023

October 3, 2023

➤ **Licensed Population as of 9/1/22**

○ **Auctioneers** **1,020**

○ **Auctioneer Firms** **235**

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**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Auctioneers Board
954170**

2022-2024 Biennium

August 2022

	August 2022 Activity	Biennium-to-Date Comparison	
		July 2020 - August 2020	July 2022 - August 2022
Cash/Revenue Balance Brought Forward			0
Revenues	0	7,730	2,345
Cumulative Revenues			2,345
Cost Categories:			
Board Expenditures	0	648	646
Board Administration	0	4,025	2,347
Administration of Exams	0	237	37
Enforcement	0	151	98
Legal Services	0	23	0
Information Systems	0	2,535	640
Facilities and Support Services	0	911	240
Agency Administration	0	1,733	1,169
Other / Transfers	0	0	0
Total Expenses	0	10,263	5,177
Transfer To/(From) Cash Reserves	0	0	(2,832)
Ending Cash/Revenue Balance			0

Cash Reserve Beginning Balance	99,588	0	102,421
Change in Cash Reserve	0	0	(2,832)
Ending Cash Reserve Balance	99,588	0	99,588

Number of Regulants

Current Month	0
Previous Biennium-to-Date	1,442

Department of Professional and Occupational Regulation
 Supporting Statement of Year-to-Date Activity
 Auctioneers Board - 954170
 Fiscal Year 2023

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal YTD Charges	Planned Annual Charges	Current Balance	Projected Charges at 6/30	Projected Variance Favorable (Unfavorable)	
																	Amount	%
Board Expenditures	646	0	0	0	0	0	0	0	0	0	0	0	646	11,630	10,984	6,404	5,226	44.9%
Board Administration	2,347	0	0	0	0	0	0	0	0	0	0	0	2,347	24,571	22,223	16,236	8,334	33.9%
Administration of Exams	37	0	0	0	0	0	0	0	0	0	0	0	37	2,056	2,020	-561	2,617	127.3%
Enforcement	98	0	0	0	0	0	0	0	0	0	0	0	98	1,003	905	693	310	30.9%
Legal Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Information Systems	640	0	0	0	0	0	0	0	0	0	0	0	640	13,421	12,780	4,695	8,726	65.0%
Facilities / Support Svcs	240	0	0	0	0	0	0	0	0	0	0	0	240	6,292	6,052	2,077	4,216	67.0%
Agency Administration	1,169	0	0	0	0	0	0	0	0	0	0	0	1,169	14,207	13,038	8,608	5,599	39.4%
Other / Transfers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Charges	5,177	0	0	0	0	0	0	0	0	0	0	0	5,177	73,180	68,003	38,152	35,028	47.9%

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COMMONWEALTH OF VIRGINIA
AUCTIONEERS BOARD



**REGULATIONS Governing
Auctioneers**

Last Updated December 1, 2021

STATUTES

Title 54.1, Chapter 6

Excerpts from § 54.1-2103 and the Uniform Commercial Code



Department of Professional and Occupational Regulation

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Richmond, VA 23233
(804) 367-8500
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**NOTICE
SUMMARY OF SIGNIFICANT CHANGES**

Included in this document are relevant excerpts from the Virginia Administrative Code. Please note that the Virginia Auctioneers Board is responsible for promulgating regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), and the Virginia Code Commission is responsible for compiling and codifying all of the administrative regulations of state agencies into the Virginia Administrative Code.

It is your responsibility to stay informed and follow all regulations and statutes governing your profession or occupation. As a regulant of the Board, you should read and become familiar with all regulations applicable to your profession or occupation. You can stay informed of regulatory actions that may result in changes to the regulations at Virginia Regulatory Town Hall (www.townhall.virginia.gov).

This document is a complete, edited (unofficial) copy of the December 1, 2021 Regulations (18VAC25-21). Please refer to the Virginia Administrative Code for an official copy of the regulations applicable to your profession or occupation. You can access the Virginia Administrative Code online at <https://law.lis.virginia.gov/admincode>

The following is a brief summary of significant revisions to the regulations effective December 1, 2021, but may not include all changes that were made to the Virginia Auctioneer Board Regulations:

- The regulations were amended to conform to SB 1406, enacted by the General Assembly during the 2021 Special Session I. Requirements for licensure were revised to exclude marijuana-related misdemeanor convictions from convictions that must be disclosed on an application. Standards of conduct and practice were revised to exclude marijuana-related drug distribution misdemeanor convictions from convictions that a regulant must report to the Board.

STATEMENT OF PURPOSE

This booklet contains the information you will need to obtain an auctioneer or auction firm license. The law that governs your profession is found in the *Code of Virginia*, 1950, as amended, in Title 54.1, Chapter 6. That law permits the Department of Professional and Occupational Regulation to issue regulations that tell you more about what is expected of you in your profession. This booklet contains a copy of the law and regulations that you will need to know and obey to get and keep your license. BE SURE YOU READ AND UNDERSTAND THE STANDARDS OF PRACTICE AND CONDUCT. YOUR FAILURE TO OBEY THESE STANDARDS COULD RESULT IN A MONETARY PENALTY OR THE LOSS OF YOUR LICENSE.

It is the goal of the Department of Professional and Occupational Regulation to provide you with the information you need to comply with the law and regulations. If you have a question and cannot find the answer to it in this booklet, please write to:

Auctioneers Board
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, Virginia 23233

or call the Agency at (804) 367-8506.

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EXCERPTS FROM THE CODE OF VIRGINIA:

Auctioneers License Act, §§ 54.1-600 through 54.1-607 22

Auctioneers Exemption from Real Estate Licensing, § 54.1-2103.A.8 26

Uniform Commercial Code - Sale by Auction, § 8.2-328 27

**PART I.
DEFINITIONS.**

18VAC25-21-10. Definitions.

The following word or term when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Owner" means the bona fide owner or any lawfully designated agent of the real or personal property being offered for sale; in the case of a corporation, partnership, or other entity, except a sole proprietorship, an authorized officer, director, or partner may be deemed to be "owner" of the real or personal property being offered for sale, provided such entity is licensed to do business in the Commonwealth of Virginia.

Historical Notes:

Derived from VR150-01-2:1 §1.1, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

**PART II.
ENTRY REQUIREMENTS.**

18VAC25-21-20. Licensure by Exam.

All persons or firms as defined in § 54.1-600 of the Code of Virginia who conduct auctions or offer their services to sell at auction in the Commonwealth are required to file a licensure application and pay the specified fee to the board. Applicants for individual licensure shall meet the following requirements:

1. Be at least 18 years of age.

2. In accordance with § 54.1-204 of the Code of Virginia, shall disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:

a. Involving non-marijuana misdemeanors, moral turpitude, sexual offenses, drug distribution, or physical injury within three years of the date of the application; and

b. All felony convictions within 10 years of the date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

3. Found by any regulatory board or agency to have violated any applicable regulation or law. Shall not have been previously found by any regulatory board or agency to have violated any applicable regulations or laws in the course of performing auctioneer duties or been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a non-marijuana misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision.

4. A certified copy of a final order, decree or case decision by a court or regulatory board or agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline. Applicants for licensure who do not meet requirements set forth in this section may be approved for licensure following consideration by the board in accordance with § 54.1-204 of the Code of Virginia.

3. Successfully complete a course of study at a school of auctioneering that has obtained course approval from the board, or an equivalent course and has passed the Virginia Licensed Auctioneer's Examination administered by the Auctioneers Board or its designee.

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Historical Notes:

Derived from VR150-01-2:1 §2.1, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Volume 25, Issue 7, eff. February 1, 2009.

18VAC25-21-30. Bond required.

All applicants shall submit evidence that a surety bond, executed by a surety company authorized to do business in the Commonwealth and in at least the amount of \$10,000, has been obtained. Proof of current bond must be submitted in order to obtain or renew the license. The bond must commence no later than the effective date of the license and shall expire no sooner than the date of expiration of the license.

Historical Notes:

Derived from VR150-01-2:1 §2.2, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002.

18VAC25-21-40. License by reciprocity.

The board may issue a license to any individual applicant, holding a license in any state, territory, or possession of the United States, with whom the board has established an act of reciprocity provided the requirements and standards under which the license was issued are substantially equivalent to those established by the board in 18VAC25-21-20. At the time of application for licensure, the applicant must be currently licensed in the state in which reciprocity is established with the Commonwealth of Virginia. ~~The board may deny an application if the licensed auctioneer has been found guilty (i) by any regulatory board or agency to have violated any applicable regulations or laws in the course of performing auctioneering duties or (ii) by a court of any non-marijuana misdemeanor, other criminal offense or material misrepresentation in the course of performing auctioneering duties. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline.~~

~~Nonresident applicants shall also file with the board an irrevocable consent that service of process upon the director is valid and binding as the service of process upon the applicant. – Statute 54.1603.C~~

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Historical Notes:

Derived from VR150-01-2:1 §2.3, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Volume 25, Issue 7, eff. February 1, 2009.

18VAC25-21-50. Application.

A. All applicants seeking licensure shall submit a ~~complete fully executed~~ application with the appropriate fee or fees attached. ~~Applicants will be notified if their application is incomplete.~~

~~Applications for licensure by examination must comply with the requirements of the board's designee as to the deadline for submission of the application to the board's designee.~~

B. 1. ~~For any~~ If a corporation, limited liability company, or other entity, the application shall include copies of the certificate of incorporation or certificate of organization issued by the Virginia State Corporation Commission, articles and bylaws.

2. ~~For any~~ If a foreign corporation, foreign limited liability company, or other entity, the application shall include copies of the certificate of authority to conduct business issued by the

Virginia State Corporation Commission, which shall be required in lieu of the certificates as

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required by subdivision 1 of this subsection.

3. In accordance with § 54.1-204 of the Code of Virginia, any entity shall disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:

- a. Involving non-marijuana misdemeanors, moral turpitude, sexual offenses, drug distribution, or physical injury within three years of the date of the application; and
- b. All felony convictions within 10 years of the date of application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

~~3.—3. Found by any regulatory board or agency to have violated any applicable regulation or law. Any firm applicant shall not have been previously found by any regulatory board or agency to have violated any applicable regulations or laws in the course of performing auctioneer duties or been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a non-marijuana misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline. Applicants for licensure who do not meet requirements set forth in this section may be approved for licensure following consideration by the board in accordance with § 54.1-204 of the Code of Virginia.~~

3. All applications will be reviewed by the Auctioneers Board staff, or the board's designee, to determine eligibility for examination and licensure within 30 days of receipt at the offices of the Department of Professional and Occupational Regulation or the board's designee. However, failure to review an application within 30 days of receipt shall not imply or result in the automatic approval of the application. No applicant will be approved for licensure unless all requirements of this part of this chapter are met.

Historical Notes:

Derived from VR150-01-2:1 §2.4, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Volume 25, Issue 7, eff. February 1, 2009; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

18VAC25-21-60. Examination.

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

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~~1. The auction business including fundamentals of auctioneering, elementary principles of real estate, preparation of contracts, advertising, final settlement statements, arithmetic and percentages, and ethics.~~

~~2. The Virginia statutes entitled Auctioneers' Licensure Act, Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia; bulk transfers, §§ 8.6A-101 through 8.6A-110 and 8.2-328 of the Code of Virginia; sales tax laws, Title 58.1 of the Code of Virginia; and the regulations of the board.~~

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Historical Notes:

Derived from VR150-01-2:1 §2.5, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Volume 25, Issue 7, eff. February 1, 2009.

18VAC25-21-70. Fees.

Fees are nonrefundable and shall not be prorated. The following fees shall apply:

1. Individual auctioneer license - \$25.
2. Auctioneer firm license - \$55.
3. Renewal for individual auctioneer's license - \$55.
4. Renewal for firm or corporation license - \$65.
5. Late renewal for an individual auctioneer's license - \$80.
6. Late renewal for an auction firm or corporate license - \$90.
7. Reinstatement of the individual auctioneer's license - \$105.
8. Reinstatement of the firm or corporate license - \$115.

The fee for examination or reexamination is subject to contracted charges by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The board may adjust the fee charged to candidates in accordance with these contracts.

Historical Notes:

Derived from VR150-01-2:1 §2.6, eff. August 1, 1995; amended, Virginia Register Volume 14, Issue 11, eff. April 1, 1998; Volume 15, Issue 26, eff. November 1, 1999; Volume 18, Issue 7, eff. February 1, 2002; Volume 26, Issue 22, eff. November 1, 2006; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

**PART III.
RENEWAL/REINSTATEMENT.**

18VAC25-21-80. Notice of renewal.

~~The board will mail a renewal notice to the licensee outlining the amount due and procedures for renewal to the last known mailing address of record. Failure to receive this notice shall not relieve the individual or firm licensee of the obligation to renew.~~

Licenses issued under this chapter shall be issued for a two-year period. Each license holder, corporation or firm shall be required to renew the license by submitting the proper fee made payable to the Treasurer of Virginia, with verification of current surety bond coverage as detailed in 18 VAC 25-21-30. By renewing the license, the licensee is certifying continued compliance with the Standards of Practice in Part IV (18VAC25-21-100 et seq.) and Standards of Conduct in Part V (18VAC25-21-180 et seq.), as well as Continuing Education Requirements in Part VII (18VAC25-21-230 et seq.) of this chapter.

Historical Notes:

Derived from VR150-01-2:1 §3.1, eff. August 1, 1995; Volume 23, Issue 21, eff. August 1, 2007; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

18VAC25-21-90. Failure to renew.

A. Any licensee who fails to renew a license within 30 days after the license expires, shall be required to pay a late renewal fee.

B. Any licensee, including individuals initially licensed pursuant to § 54.1-603 A of the Code of Virginia, who fails to renew his license within six calendar months after the expiration date of the license shall be required to apply for reinstatement of the license. The applicant shall submit to the board a reinstatement application and fee and comply with the following paragraph:

If the license has expired for six months or more, but less than two years, the applicant shall be required to submit a reinstatement application, which shall be evaluated by the board to determine if the applicant meets the renewal requirements. In addition, individual license holders applying for reinstatement are required to provide evidence of compliance with the continuing education requirements as contained in this chapter. A license that is reinstated shall be deemed as having been continuous without interruption. Nothing in these regulations shall divest the board of its authority to discipline a license holder for a violation of the law or regulation during the period of time for which the licensee was licensed.

C. If the license has expired for two years or more, the applicant shall be required to submit a new application and meet current entry requirements that are in effect as of the date the application is received by the board office. The applicant shall be required to submit the examination fee and sit for and pass the Virginia Licensed Auctioneer's Examination or comply with the provisions

contained in 18VAC25-21-40. Any auctioneering activity conducted between the time the previous license expired and the effective date of the new license shall be considered unlicensed activity.

D. The date that the complete renewal application, including fees and all required documentation, is received by the board or its agent will determine whether a license will be renewed without penalty or will be subject to reinstatement requirements.

~~E. Licenses issued under this regulation shall expire 24 months from the last day of the month in which the license was issued. The expiration date of the license will be indicated on the license.~~

Historical Notes:

Derived from VR150-01-2:1 §3.2, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Volume 23, Issue 21, eff. August 1, 2007; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

18VAC25-21-95. Board discretion to deny renewal or reinstatement.

The board may deny renewal or reinstatement of a license for the same reason as it may refuse initial licensure or discipline a licensee. The licensee has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Historical Notes:

Derived from Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

**PART IV.
STANDARDS OF PRACTICE.**

~~18VAC25-21-100. Advertising.~~

~~A. All advertising must be truthful. Advertising shall contain no false, misleading or deceptive statements, with respect to types or conditions of merchandise offered at auction, why merchandise is being sold, who has ownership, where the merchandise was obtained, or the terms and conditions of the auction and sale.~~

~~B. In all advertisements relating to an auction, the auctioneer's name and Virginia license number or the auction firm's name and Virginia license number shall be clearly displayed.~~

Historical Notes

Derived from VR150-01-2:1 §4.1, eff. August 1, 1995.

18VAC25-21-110. Contracts.

A. When a licensee agrees to conduct an auction, a contract shall be drawn setting forth the particulars of the terms and conditions under which the auctioneer or auction firm received the real or personal property for auction and particulars for the disbursement of the proceeds. Each contract for auction shall include the following:

1. a. A detailed list of the real or personal property received for sale with adequate descriptions of the property so that the personal property of material value can be readily identified. If a list cannot be made at the time of signing of the contract, and the owner of the items agrees to waive this requirement in writing in an addendum to the contract, then a list must be made a part of the contract (and attached) prior to auction of the real or personal property for that day; or
b. If the auctioneer or auction firm enters into a contract to sell items on a consignment basis where the total value of all the items to be sold at any one auction does not exceed \$500, then the requirement contained in subdivision 1 a of this subsection is not applicable.
2. The name, address, telephone number, email address, website, and license number of the licensee entering into the contract.
3. The name, address, ~~and~~ telephone number, and email address of the property owner.

4. The date, time and place of the auction ~~or auctions~~ at which the real or personal property is scheduled to be auctioned. The date by which the property is to be returned or otherwise disposed of in accordance with the terms of the contract if it is not sold.

5. The fee or percentage of gross sales the auctioneer or auction firm will charge the owner and what services are included in the fee, such as preparation, travel, labor, advertising and any other auction related expenses.

6. By what date the owner is to be paid and who is responsible for disbursing the funds.

7. ~~Maintain an itemized accounting of all items sold on a daily basis to be made available upon request by the owner. A statement that the clerk sheets, or other evidence to properly account for all items sold, shall be given or made available for inspection by the owner on a daily basis.~~

8. ~~The following statement above the owner's signature line: "I have read and accepted the terms of this contract."~~

B. A legible executed copy of the contract and any addendums shall be ~~provided~~ given to the owner at the time of execution.

Historical Notes:

Derived from VR150-01-2:1 §4.2, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Volume 25, Issue 7, eff. February 1, 2009; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

18VAC25-21-120. Conduct at auctions.

No licensee shall attempt to escalate bidding through false bids, or through collusion with another (shills). The licensee shall not bid on the owner's behalf nor knowingly accept a bid made by the owner or made on the owner's behalf unless notice has been given that liberty for such bidding has been reserved. The licensee shall neither bid on his own behalf nor knowingly accept a bid made on his behalf unless notice has been given that such bidding will be permitted.

Historical Notes:

Derived from VR150-01-2:1 §4.3, eff. August 1, 1995; Volume 25, Issue 7, eff. February 1, 2009; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

18VAC25-21-130. Display of license.

~~Auctioneers shall carry their pocket cards on their person and shall produce them upon request. Auction firms shall display their license in a conspicuous location at the address of record. The address of record shall not be a post office box as detailed in 18 VAC 25-21-170.C.~~

Historical Notes:

Derived from VR150-01-2:1 §4.4, eff. August 1, 1995.

18VAC25-21-140. Documentation.

A. Upon completion of the licensee’s service, each owner shall be given legible copies of bills of sale, itemized accounting of all items auctioned~~clerk sheets~~, consignment sheets, settlement papers, balance sheets and~~or~~ other evidence to properly account for all items sold at auction.

~~The licensee is required to maintain, for a period of three years from date of settlement all items in paragraph A, the contract, and buyer records. These business records shall be available for inspection by the board or its designees upon request.~~

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Historical Notes:

Derived from VR150-01-2:1 §4.5, eff. August 1, 1995; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

18VAC25-21-150. Escrow funds.

A. Proceeds of a personal property auction not disbursed to the owner on auction day shall be deposited in an auction escrow account by the licensee no later than the next banking day following the date of auction or sale of the goods, ~~whichever occurs first.~~

B. Notwithstanding the provisions of subsection A of this section, proceeds that are paid via credit card, debit card, check card, or any other electronic funds transfer (EFT) method shall be deposited into an auction escrow account upon receipt from the originating source.

C. The auction escrow account shall be used solely for the preservation and guarantee of auction proceeds until disbursed at settlement. Funds for any other purpose shall not be commingled with the auction escrow account. ~~Contingency accounts established to guarantee checks accepted on the owner's behalf shall not be considered commingling of funds.~~ Moneys due to the licensee shall not be withdrawn from the auction escrow account until final settlement is made with the owner.

D. Funds to be deposited in the escrow account may include moneys that shall ultimately belong

to the licensee for incidental expenses per the terms of the contract. Such moneys shall be separately identified in the escrow account records and shall be paid to the licensee by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow

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account contains money that may ultimately belong to the licensee does not constitute "commingling of funds," ~~provided that there are periodic withdrawals of said funds at intervals of not more than six months and that~~ the licensee can at all times accurately identify the total funds in that account that belong to the licensee.

E. ~~On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals to the transaction regarding the disbursement of interest. Disclosure as to who receives the interest shall be made when monies are deposited into an interest bearing escrow account.~~

F. Auctioneers and auction firms shall use federally insured depositories in the Commonwealth of Virginia. All accounts, checks, and bank statements shall be labeled "escrow" and the accounts shall be designated as "escrow" accounts with the financial institution where such accounts are established.

G. Proceeds due from the sale of goods other than real property shall be disbursed to the owner no later than 30 days after the date of each auction.

H. Funds from a real estate auction shall be held in escrow until settlement in accordance with the agreement of sale.

I. If the owner's goods are not sold in a single auction, proceeds due shall be disbursed to the owner within 30 days after each auction for goods other than real property, or in accordance with the agreement of sale for the sale of real property. Notice must be given to the owner of tentative date of auction, or date of return to the owner, of the remaining goods.

J. The balance in the escrow accounts shall be sufficient at all times to account for all funds that are designated to be held by the licensee. A licensee shall not disburse or cause to be disbursed moneys from an escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

Historical Notes:

Derived from VR150-01-21 §4.6, eff. August 1, 1995; Volume 25, Issue 7, eff. February 1, 2009; Volume 25, Issue 24, eff. October 1, 2009; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

~~18VAC25-21-160. Records.~~

~~The licensee is required to maintain, for a period of four years from the date of settlement, written records of the following: the contract drawn with each owner; auction records, including but not limited to lists of buyers and their addresses; and clerk sheets showing the items sold including the buyers' numbers or names and the selling prices and the final settlement papers. These business records shall be available for inspection by the board or its designees as deemed appropriate and necessary.~~

Historical Notes:

Derived from VR150-01-2:1 §4.7, eff. August 1, 1995; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

18VAC25-21-170. Change of address.

A. Licenses shall not be transferable and shall bear the same name and physical address as the business. Upon dissolution or change in the form of the business entity of an auction firm, the auction firm license shall become void.

B. A licensee shall report all changes of address to the board in writing, within 30 calendar days of the change, whereupon the board shall issue an amended license without fee for the unexpired portion of the biennial period.

C. A post office box is acceptable only when a physical address is also provided. If the licensee holds more than one license, certificate, or registration, the licensee shall inform the board of all licenses, certificates, and registrations affected by the address change.

Historical Notes:

Derived from VR150-01-2:1 §4.8, eff. August 1, 1995; Volume 25, Issue 7, eff. February 1, 2009; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

**PART V.
STANDARDS OF CONDUCT.**

18VAC25-21-180. Discipline.

The board has the power to fine any individual or firm licensee, or to suspend or revoke any license issued under the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) if it finds that:

1. The license was obtained, renewed or reinstated through fraud or misrepresentation;
2. The licensee has been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a non-marijuana misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of prior criminal convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. A certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline;
3. The licensee has been found by any regulatory board, agency, or jurisdiction where licensed to have had a license or registration suspended, revoked or surrendered in connection with a disciplinary action, who has been the subject of discipline in another jurisdiction or to have violated any applicable regulations or laws in the course of performing auctioneer duties. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline;
4. The licensee has not demonstrated reasonable care, judgment, or application of his knowledge and ability in the performance of auctioneering duties;
5. The licensee violated or assisted another to violate any provisions of Chapter 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), or 6 of Title 54.1 of the Code of Virginia, this chapter, or combined or conspired with or acted as agent, partner, or associate for another; or
6. The licensee fails to comply, or misrepresents any information pertaining to his compliance, with any of the continuing education requirements as contained in this chapter.

Historical Notes:

Derived from VRI50-01-2:1 §5.1, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002; Volume 23, Issue 21, eff. August 1, 2007; Volume 25, Issue 7, eff. February 1, 2009; Virginia Register

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18VAC25-21-185. Cooperation with Board.

A. The licensee shall, upon request or demand, produce to the board, or any of its agents, within 10 days any plan, document, book, record or copy thereof in his possession concerning a transaction covered by this chapter, and shall cooperate in the investigation of a complaint filed with the board.

B. A licensee who has direct knowledge that any individual, including himself, or firm may be violating any of these provisions, or the provisions of Chapters 1 (§ 54.1-100 et seq.) through 3 (§ 54.1-300 et seq.) or Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia, shall immediately inform the secretary of the board in writing and shall cooperate in furnishing any further information or assistance that may be required.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 7, eff. February 1, 2009; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

**PART VI.
SCHOOLS OF AUCTIONEERING.**

18VAC25-21-190. Application for course approval.

Schools seeking approval of their courses shall file a request with the board. The request shall include the following information:

1. Name and address of the school;
2. Locations where classes will be held;
3. Length of the course and total number of hours of instruction;
4. Subjects covered together with number of instruction hours assigned;
5. Names and qualifications of instructors (area of expertise and experience).

Historical Notes:

Derived from VR150-01-2:1 §6.1, eff. August 1, 1995.

18VAC25-21-200. Requirements for course approval.

To receive course approval the institution must offer to Virginia candidates a minimum of 80 hours of classroom and field instruction in the conduct of auction business to include fundamentals of auctioneering, elementary principles of real estate, brokerage, contract drawing, advertising, sale preparation, bid calling, settlement statements, ethics and exposure to the current rules and regulations of the Virginia Auctioneers Board. There must be at least five instructors who have been licensed auctioneers for at least five years and who specialize in different fields of the auction business.

Historical Notes:

Derived from VR150-01-2:1 §6.2, eff. August 1, 1995; amended, Virginia Register Volume 18, Issue 7, eff. February 1, 2002.

18VAC25-21-210. Amendments and changes.

Any change in the information provided by the school to the board as required by 18VAC25-21-190, 18VAC25-21-200 or 18VAC25-21-220 shall be reported to the board in writing within 30 days of such an occurrence.

Historical Notes:

Derived from Virginia Register Volume 18, Issue 7, eff. February 1, 2002.

18VAC25-21-220. Periodic requalification for continued course approval.

The board may require that schools that have previously obtained course approval provide the board with evidence, in a form set forth by the board, that they continue to comply with the requirements of 18VAC25-21-190 and 18VAC25-21-200. Failure to continue to comply with the board's requirements or respond to such a request may result in the board withdrawing its approval.

Historical Notes:

Derived from Virginia Register Volume 18, Issue 7, eff. February 1, 2002.; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

**PART VII.
CONTINUING EDUCATION REQUIREMENTS.**

18VAC25-21-230. Application and criteria for course approval.

A. Course providers seeking approval of their continuing education course shall file an application with the board office. All continuing education course providers shall obtain approval from the board office prior to offering to provide, or providing, a course which is advertised or represented as being eligible to comply with the continuing education provisions of this chapter. Retroactive approval of continuing education courses shall not be permitted.

Continuing education courses shall be approved provided the following criteria are met:

1. Course subjects must be related to the current practice of auctioneering and have defined learning objectives.
2. At the end of the course each attendee must be assessed to verify that they have achieved the defined learning objectives.
3. The course curriculum must be consistent with the defined learning objectives.
4. The method of instruction must be consistent with the defined learning objectives of the course.
5. Course instructors must be competent in the subject being taught, either by education or experience, and in instructional techniques.
6. Fifty contact minutes shall equal one continuing education credit hour. No credit shall be awarded for partial continuing education credit hours or partial completion of the course. In addition, attendees who fail to demonstrate successful completion of the defined learning objectives of the course shall not be awarded credit for the course. For courses in which individual segments are less than 50 minutes, the sum of the segments shall be totaled for computation of continuing education credit hours.
7. The course provider certifies that the laws, regulations, and industry practices that will be taught or utilized in the course are up-to-date and that any subsequent changes in laws, regulations, or industry practices will be incorporated into the course curriculum as they occur.
8. The course provider certifies that they will comply with provisions of this chapter in administering and providing the approved course.

B. Pursuant to § 54.1-603.1 A of the Code of Virginia, continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneer's Institute or participation

in the educational programs sponsored by the National Auctioneer's Association or Virginia Auctioneer's Association are approved.

Historical Notes:

Derived from Virginia Register Volume 23, Issue 21, eff. August 1, 2007.

18VAC25-21-240. Administration of courses.

A. Approved course providers shall comply with the requirements of this chapter when providing approved courses. Failure of a course provider to comply with the board's requirements contained in 18VAC25-21-230 or any other provision of this chapter at any time after receiving approval from the board may result in the board withdrawing its approval for a course or a specific offering or offerings of the course.

B. Course approval is not transferable from the course provider to whom it was originally issued.

C. The approved course providers shall award a certificate of completion to those attendees who successfully complete the course that includes the sponsor identification number of the course provider issued by the board office, name of the course, number of continuing education credit hours awarded, and the date of the course. Course providers shall only award continuing education credit hours in the amount as approved.

D. Attendance must be verified and documented at the beginning and end of the course and monitored during the course. No credit may be awarded to attendees who arrived late, left early, or missed a portion of the course or failed to accomplish the learning objectives of the course. Further, such individuals shall not be awarded a certificate of completion by the course provider.

E. At the end of each course, the course provider shall solicit feedback from the attendees to assess the effectiveness of the course, course content, course curriculum, instructor, and method of instruction. The course provider shall monitor the feedback from the attendees and make adjustments as warranted.

F. All records related to an approved course must be maintained for four years from the date of the course and such records shall be provided to the board or its duly authorized agents upon request. Records which must be maintained include, but are not limited to, the following: time, date and location of the course; course materials; course curriculum; instructor; instructor qualifications; learning objectives; assessment of attendees for verification of achievement of the learning objectives; end of course feedback from attendees; attendance rosters; and records of those attendees who successfully completed the course and those who did not and reasons why attendees noted as not successfully completing the course did not successfully complete the course.

Historical Notes:

Derived from Virginia Register Volume 23, Issue 21, eff. August 1, 2007.

18VAC25-21-250. Continuing education requirements for renewal or reinstatement.

A. Licensees whose licenses expire, or who apply to reinstate, shall be required to comply with the continuing education provisions of this chapter, excluding any auctioneer licensed by the board for 25 years or more and who is 70 years of age or older at the time of license expiration pursuant to §54.1-603.1 A of the Code of Virginia.

B. Licensees subject to the provisions of this section are required to complete at least six continuing education credit hours of board-approved continuing education courses for any license renewal or reinstatement.

A Virginia licensee that is also licensed in another state with which the board shares a reciprocal agreement may use board-approved continuing education in that state to meet the required six hours of continuing education for Virginia, provided that the reciprocal jurisdiction affords the same privilege to Virginia licensees.

- C. 1. Each licensee applying for renewal shall certify that he has met the continuing education requirements of this chapter. Only continuing education courses completed during the license period immediately prior to the expiration date of the license shall be acceptable in order to renew the license.
2. Licensees shall maintain records of completion of continuing education credit hours for two years from the date of expiration of the license for which the continuing education credit hours are being used to renew the license. Individuals shall provide such records to the board or its duly authorized agents upon request.
3. Continuing education credit hours utilized to satisfy the continuing education requirements to renew a license shall be valid only for that renewal and shall not be accepted for any subsequent renewal cycles or reinstatement.
- D. 1. Each individual applying for reinstatement shall provide, as part of his reinstatement application, evidence of compliance with the continuing education requirements of this chapter. The completion date of continuing education courses submitted in support of a reinstatement application shall not be more than two years old as of the date a complete reinstatement application is received by the board.
2. Continuing education credit hours utilized to satisfy the continuing education requirements in order to reinstate a license shall be valid only for that reinstatement and shall not be accepted for any subsequent renewal cycles or reinstatement.

E. Notwithstanding the provisions of subsection C of this section, continuing education hours earned during a licensing renewal cycle to satisfy the continuing education requirements of the preceding licensing renewal cycle shall be valid only for that preceding license renewal cycle and shall not be accepted for any subsequent renewal cycles or reinstatement.

Historical Notes:

Derived from Virginia Register Volume 23, Issue 21, eff. August 1, 2007; Virginia Register Volume 32, Issue 1, eff. November 1, 2015; Virginia Register Volume 33, Issue 3, eff. November 2, 2016.

18VAC25-21-260. Exemptions and waivers.

A. Pursuant to § 54.1-603.1 A of the Code of Virginia, the board shall exempt any auctioneer licensed by the board for 25 years or more and who is 70 years of age or older from the requirement to comply with the continuing education provisions of this chapter.

B. Pursuant to § 54.1-603.1 B of the Code of Virginia, as amended, the board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship. However, such exemptions, waivers, or reductions shall not relieve the individual of his obligation to comply with any other requirements of this chapter, including but not limited to the provisions of 18VAC25-21-80 or 18VAC25-21-90.

Historical Notes:

Derived from Virginia Register Volume 23, Issue 21, eff. August 1, 2007; Virginia Register Volume 33, Issue 3, eff. November 2, 2016.

18VAC25-21-270. Amendments and changes.

Any change in the information provided by a course provider to the board as required by 18 VAC 25-21-230 A, or 18 VAC 25-21-280 or change in ability to comply with the requirements of 18 VAC 25-21-240 shall be reported to the board in writing within 10 days of such an occurrence. In instances of noncompliance with the provisions of this chapter, the approval of the course is automatically suspended until such time as the course provider corrects the deficiency and notifies the board in writing that such deficiency has been corrected.

Historical Notes:

Derived from Virginia Register Volume 23, Issue 21, eff. August 1, 2007.

18VAC25-21-280. Periodic requalification for continued course approval.

The board may require that course providers that have previously obtained course approval provide the board with evidence, in a form set forth by the board, that they continue to comply with the requirements of 18VAC25-21-230 A and 18VAC25-21-240. Failure to continue to comply with the board's requirements or respond to such a request may result in the board withdrawing its approval.

Historical Notes:

Derived from Virginia Register Volume 23, Issue 21, eff. August 1, 2007; Virginia Register Volume 32, Issue 1, eff. November 1, 2015.

Included in this booklet are relevant excerpts from the *Code of Virginia*. Please note that the Virginia General Assembly is responsible for creating and amending the *Code*, not the Auctioneers Board. The version contained herein contains all changes, if any, that have been made by the General Assembly through the 2016 session. Any changes made during the 2016 session became effective July 1, 2016, unless otherwise noted. It is your responsibility to stay informed of revisions to the regulations and the statutes governing your profession or occupation. Please consult the General Assembly or your local library for annual changes.

AUCTIONEERS LICENSE ACT, §§ 54.1-600 THROUGH 54.1-607

§ 54.1-600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"*Absolute auction*" means an auction where at the time of the auction sale the real or personal property to be sold will pass to the highest bidder regardless of the amount of the highest and last bid.

"*Auction*" means the sale of goods or real estate by means of exchanges between an auctioneer and members of his audience, the exchanges consisting of a series of invitations for offers made by the auctioneer, offers made by members of the audience, and acceptance by the auctioneer of the highest or most favorable offer.

"*Auction firm*" means any corporation, partnership or entity, except a sole proprietorship, performing any of the acts of an auctioneer as defined in this section.

"*Auctioneer*" means any person who conducts or offers to conduct an auction.

"*Board*" means the Auctioneers Board.

"*Director*" means the Director of the Department of Professional and Occupational Regulation.

"*Goods*" means any chattels, merchandise, real or personal property, or commodities of any form or type which may be lawfully kept or offered for sale.

"*Person*" means any natural person, association, partnership, or corporation, and the officers, directors, and employees of a corporation.

"*Virginia licensed auctioneer*" means any auctioneer who meets the requirements for licensure as prescribed by the Board.

§ 54.1-601. Exemptions.

The provisions of this chapter and the terms "Virginia licensed auctioneer," "auctioneer" or "auction firm," as defined in § 54.1-600, shall not apply to:

1. Any person who auctions his own property, whether owned or leased, provided his regular business is not as an auctioneer;
2. Any person who is acting as a receiver, trustee in bankruptcy, guardian, conservator, administrator, or executor, or any person acting under order of a court;
3. A trustee acting under a trust agreement, deed of trust, or will;
4. An attorney-at-law licensed to practice in the Commonwealth of Virginia acting pursuant to a power of attorney;

5. Sales at auction conducted by or under the direction of any public authority, or pursuant to any judicial order or decree;
6. Sale of livestock at a public livestock market authorized by the Commissioner of Agriculture and Consumer Services;
7. Leaf tobacco sales conducted in accordance with the provisions of § 3.1-336;
8. Sale at auction of automobiles conducted under the provisions of § 46.2-644.03 or by a motor vehicle dealer licensed under the provisions of Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2;
9. Sale at auction of a particular brand of livestock conducted by an auctioneer of a livestock trade association;
10. Sales conducted by and on behalf of any charitable, religious, civic club, fraternal, or political organization if the person conducting the sale receives no compensation, either directly or indirectly, therefor and has no ownership interest in the merchandise being sold or financial interest in the entity providing such merchandise;
11. Sales, not exceeding one sale per year, conducted by or on behalf of (i) a civic club or (ii) a charitable organization granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code; or
12. Sales of collateral, sales conducted to enforce carriers' or warehousemen's liens, bulk sales, sales of goods by a presenting bank following dishonor of a documentary draft, resales of rightfully rejected goods, resales of goods by an aggrieved seller, or other resales conducted pursuant to Titles 8.1A through 8.10 and Chapter 23 (§ 55-416 et seq.) of Title 55.

§ 54.1-602. Auctioneers Board; membership, meetings and powers.

- A. The Auctioneers Board shall be composed of five members as follows: three shall be Virginia licensed auctioneers and two shall be citizen members. Board members shall serve four-year terms. The Board shall meet at least once each year for the purpose of transacting business. Special meetings of the Board may be held at the discretion of the Director.
- B. The Board shall have the following authority and responsibilities:
 1. Establish regulations to obtain and retain licensure of auctioneers.
 2. Make all case decisions regarding eligibility for initial licensure and renewal thereof.
 3. To fine, suspend, deny renewal or revoke for cause, as defined in regulation, any license.
 4. To examine auctioneers for licensure.

§ 54.1-603. License required; requirements for licensure; nonresident applicants.

- A. Unless exempted by § 54.1-601, no person or firm shall sell at auction without being licensed by the Board.
- B. Any auctioneer desiring to obtain a license may apply to the Board and shall establish to the satisfaction of the Board that he:
 1. Is a resident of Virginia and meets the application fee requirements set by the Board;
 2. Is covered by a surety bond, executed by a surety company authorized to do business in this Commonwealth, in a reasonable amount to be fixed by the Board, conditioned upon the faithful and honest conduct of his business or employment;
 3. Has successfully completed a course of study at a school of auctioneering which has obtained course approval from the Board or an equivalent course; and

4. Has passed the Virginia Licensed Auctioneer's Examination, administered by the Auctioneers Board.

C. A nonresident of the Commonwealth may be licensed as an auctioneer by meeting one of the following requirements: (i) conform to the provisions of this chapter and regulations of the Board with reference to resident auctioneers or (ii) hold a valid auctioneer's license or certificate in another state with which reciprocity has been established by the Board. Nonresident applicants shall also file with the Board an irrevocable consent that service of process upon the Director is as valid and binding as service of process upon the applicant.

Any process or pleading served upon the Director shall be filed by the Director in his office and a copy thereof immediately forwarded by registered mail to the main office of the auctioneer at the last known address.

§ 54.1-603.1. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for auctioneers licensed by the Board. Such regulations shall require the completion of the equivalent of at least six hours of Board-approved continuing education courses for any license renewal or reinstatement, except that no continuing education shall be required for any auctioneer licensed by the Board for 25 years or more and who is 70 years of age or older. The Board shall establish criteria for continuing education courses including, but not limited to (i) content and subject matter of continuing education courses; (ii) curriculum of required continuing education courses; (iii) standards and procedures for the approval of courses, course sponsors, and course instructors; (iv) methods of instruction for continuing education courses; and (v) the computation of course credit. Any continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneers Institute or participation in the educational programs sponsored by the National Auctioneers Association or Virginia Auctioneers Association shall satisfy the continuing education requirement of this section.

B. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship.

§ 54.1-604. Repealed by Acts 1991, c. 299.

§ 54.1-605. Taxation of auctioneer.

An auctioneer may not have a local license tax imposed by any county, city, or town except that in which his office is maintained. If a branch office is maintained elsewhere in Virginia, a local license tax may be imposed by the county, city or town in which the branch office is located, pursuant to §§ 58.1-3707 and 58.1-3709.

§ 54.1-606. Unlawful to advertise as an auctioneer.

It shall be unlawful for any person not licensed under the provisions of this chapter to advertise that he is in the auction business or to hold himself out to the public as an auctioneer.

§ 54.1-607. Advertising; absolute auctions involving real property.

A. No advertisements for any auction sale of personal or real property shall contain false, misleading, or deceptive statements, with respect to types or conditions of merchandise offered at auction, why merchandise is being sold, who has ownership, where the merchandise was obtained, or the terms and conditions of the auction and sale.

B. No auctioneer shall advertise an auction sale of real property as "absolute" unless all lots included in the sale meet that criteria.

AUCTIONEERS EXEMPTION FROM REAL ESTATE LICENSING, § 54.1-2103.A.8

NOTE: This statute is from the Real Estate license law and exempts licensed auctioneers from obtaining a real estate license under the following circumstances -

§ 54.1-2103. Exemptions from chapter.

A. The provisions of this chapter shall not apply to: ...

8. Any auctioneer licensed in accordance with Chapter 6 (§ 54.1-600 et seq.) of this title selling real estate at public auction when employed for such purpose by the owner of the real estate and provided the bidding at such auction is held open for no longer than forty-eight hours. An auctioneer shall not advertise that he is authorized to sell real estate. An auctioneer may advertise for sale at public auction any real estate when employed to do so as herein provided, and may advertise that he is authorized to auction real estate at public auction.

UNIFORM COMMERCIAL CODE - SALE BY AUCTION, § 8.2-328

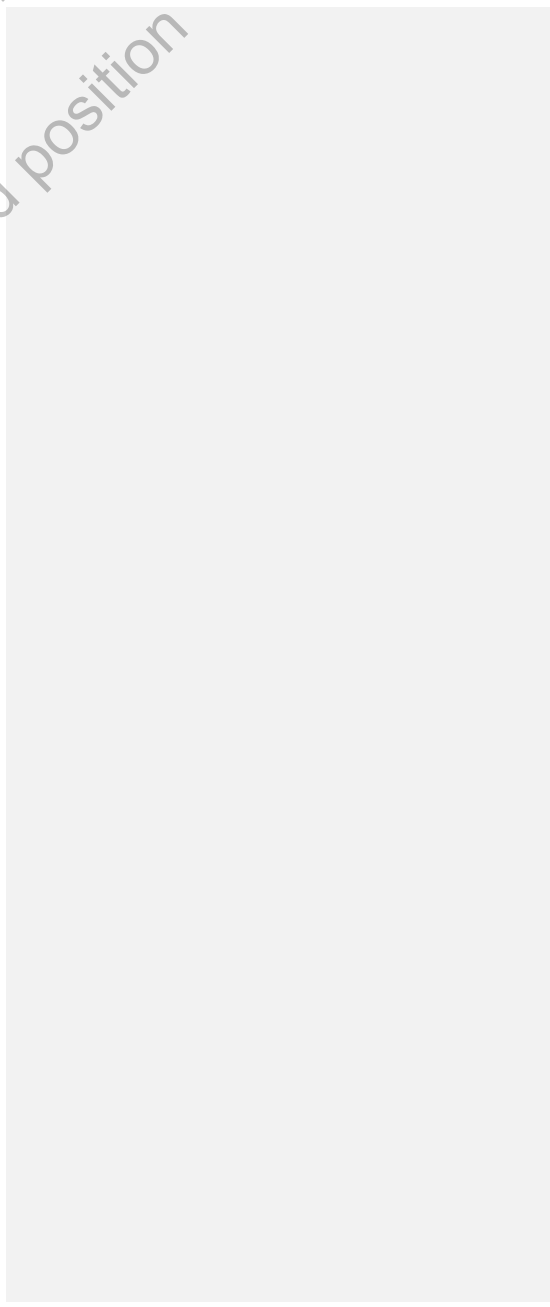
§ 8.2-328. Sale by auction.

- (1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.
- (2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.
- (3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until he announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.
- (4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale.

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NOTICE
PLEASE REFER TO FIRST PAGE OF BOOKLET FOR NOTES ON IMPORTANT CHANGES.

- **Other Business**
- **Conflict of Interest Forms /**
- Travel Vouchers**
- **Adjourn**

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