

AUCTIONEERS BOARD MEETING

TENTATIVE Agenda

July 11, 2023, 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:
 - October 4, 2022, Board Meeting Minutes
 - May 17, 2023, Board Meeting Minutes
6. Public Comment Period*
7. File Review
 - File Number 2023-00738 Carwile Auction, Inc. IFF (Terry) – Disciplinary
 - File Number 2023-02542 John Lewis Brinkley IFF (Jackson-Bailey) – Licensing
8. Universal Licensing Recognition
9. Continuing Education Comments
10. Statutory Review
11. Auctioneer Comments
12. Proposed Language
13. Election of Officers
14. Licensed Population
15. Review of Financial Statements
16. Other Business
17. Conflict of Interest Forms / Travel Vouchers

18. Adjourn

NEXT MEETING TENTATIVELY SCHEDULED FOR October 3, 2023

* 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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

AUCTIONEERS REGULATORY REVIEW MEETING MINUTES

The Virginia Auctioneers Board met on October 4, 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)
Linda Terry (Auctioneer)

Board member, Angela Smith-Mackey, was not present with regrets.

Staff present for all or part of the meeting were:

Demetrios Melis, Director
Stephen Kirschner, LRPD Deputy Director
Kate Nosbisch, Executive Director
Bonnie Davis, Board Operations Administrator
Breanne Henshaw, Administrative Coordinator

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

Ms. Bennett, Vice Chair, called the meeting to order at 10:03 a.m.

Call to Order

Ms. Bennett advised the Board of the emergency evacuation.

**Emergency
Evacuation**

Ms. Davis congratulated Ms. Bennett for her reappointment to the Board. Ms. Davis introduced Steve Kirschner to the Board as he is the new Deputy Director for the Licensing and Regulatory Programs Division.

Announcements

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

**Approval of
Agenda**

Ms. Terry moved to approve the July 12, 2022 Board meeting minutes and September 13, 2022 Regulatory Review meeting minutes. Mr. Sinclair seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

**Approval of
Minutes July 12,
2022 and
September 13,
2022**

There were no members of the public present to comment.

**Public Comment
Period**

Ms. Bennett read the following resolution for consideration by the Board:

**Resolution –
Andrew W.
Smith**

Resolution for
Andrew W. Smith

WHEREAS, Andrew W. Smith, did faithfully and diligently serve as a member of the Auctioneers Board from 2016 to 2022;

WHEREAS, Andrew W. Smith, did devote generously of his time, talent and leadership to the Board;

WHEREAS, Andrew W. Smith, did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and the profession; and

WHEREAS, the Auctioneers Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Auctioneers Board this fourth day of October 2022, that Andrew W. Smith, be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

The Board members agreed to the resolution by consensus and thanked Mr. Smith for his service.

Ms. Davis presented the 2023 meeting dates.

**2023 Board
Meeting Dates**

January 10, 2023
April 11, 2023
July 11, 2023
October 3, 2023

Ms. Terry made a motion to accept the 2023 meeting dates. Mr. Sinclair seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

Ms. Davis provided the licensee counts as of September 1, 2022: Auctioneers 1,020 and Auctioneer Firms 235.

**Licensed
Population**

Board members were provided financial statements for informational purposes.

**Review of
Financial
Statements**

The Board completed a line-by-line review of the regulations using the Regulatory Review Matrix Flowchart in order to determine the relevance of each regulation with Board Counsel. The Board reviewed regulation 18VAC 25-21-170 through 18VAC25-21-190. The Board agreed to hold on revising 18VAC25-21-185 as Ms. Nosbisch and Mr. Kirschner will contact other DPOR Boards for input if this language could be streamlined and placed in state for all boards per Director Melis' suggestion. During the review, there was discussion regarding the necessity of Continuing Education (CE). Director Melis inquired whether the CE in place assisted in protecting the health, safety, and welfare of the public as the regulations are intended to do. The Board discussed CE and agreed by consensus that it was not a necessity for licensure as it does not assist in protecting the health, safety, and welfare of the public.

Regulatory Review

Mr. Sinclair made a motion to support the elimination of the CE requirement that exists within statute § 54.1-603.1., as it does not help protect the health, safety, and welfare of the public. Ms. Terry seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

The Board took a recess from 11:25 a.m. to 11:36 a. m.

Recess

The Board continued to complete a line-by-line review of the regulations with guidance from Board Counsel. The Board reviewed regulation 18VAC25-21-190 through 18VAC25-21-280.

Regulatory Review Continued

Ms. Terry made a motion for the Board to submit a Notice of Intended Regulatory Action (NOIRA) for the line-by-line revised regulations. Mr. Sinclair seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

Ms. Terry provided a link to a court audio recording for educational purposes as it provided information on absolute auctions and reserve auctions.

Other Business

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 1:24 p.m.

Adjourn

Betty Bennet, Vice Chair

Demetrios Melis, Secretary

AUCTIONEERS REGULATORY REVIEW MEETING MINUTES

The Virginia Auctioneers Board met on May 17, 2023, 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)
- Linda Terry (Auctioneer)

Board member, Angela Smith-Mackey and Douglas Sinclair (Auctioneer) were not present with regrets.

Staff present for all or part of the meeting were:

- Demetrios Melis, Director
- Stephen Kirschner, LRPD Deputy Director
- Kate Nusbisch, Executive Director
- Joe Haughwout, Regulatory Affairs Manager
- Bonnie Davis, Board Operations Administrator
- Amy Goobic, Executive Assistant

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

Ms. Bennett, Vice Chair, called the meeting to order at 10:16 a.m.

Call to Order

Ms. Nusbisch stated the Board did not have quorum so there will be no board business.

Ms. Nusbisch advised the Board of the emergency evacuation.

Emergency Evacuation

Ms. Nusbisch introduced Joe Haughwout to the Board as he is the new Regulatory Affairs Manager for the Licensing and Regulatory Programs Division.

Announcements

Tabled until the next meeting on July 11, 2023.

Approval of Agenda

Tabled until the next meeting on July 11, 2023.

Approval of Minutes October 4, 2022

There were no members of the public present to comment.

Public Comment Period

Mr. Kirschner provided information on the Universal Licensing Recognition. He stated that the individuals working in a state that does not license or certify auctioneers, may be eligible for licensure in Virginia provided they have worked in the profession for three years and pass any examination required by the Board.

Universal License Recognition

Board members were provided exam scores for informational purposes.

Exam Scores

The Board reviewed comments Ms. Terry received regarding whether continuing education should be removed from the Auctioneers Board regulation requirements for renewal. Discussion was held regarding continuing education and real estate auctions. Ms. Terry stated that required continuing education should include real estate, as real estate laws change frequently,.

Continuing Education

Director Melis stated that auctioneers may again be on a bill, either collectively or separately, to be deregulated. This would require real estate auctions to be held by a licensed real estate agent, and electronic auctions would be unlicensed.

Ms. Nosbisch stated staff will submit the paperwork for redaction of continuing education requirements.

Statutory Review

Ms. Terry requested that real estate continuing education be added to the July 11, 2023 Board meeting agenda.

The Board members were provided the public comments in response to the General Regulatory Reduction Initiative. This item was tabled until the next Board meeting on July 11, 2023.

Auctioneer Comments

Ms. Davis provided the licensee counts as of September 1, 2022: Auctioneers 1,020 and Auctioneer Firms 235.

Licensed Population

Board members were provided financial statements for informational purposes.

Review of Financial Statements

Election of Chair and Vice Chair were tabled until the next meeting on July 11, 2023.

Other Business

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 11:04 a.m.

Adjourn

Betty Bennett, Vice Chair

Demetrios Melis, Secretary

DRAFT
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA
DRAFT AGENDA

➤ **Public Comment**

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 3

An Act to amend the Code of Virginia by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205, relating to Department of Professional and Occupational Regulation; universal license recognition.

[S 1213]

Approved March 3, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205 as follows:

§ 54.1-205. Universal license recognition.

A. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual holds a current and valid professional or occupational license or government certification in another state in a profession or occupation with a similar scope of practice, as determined by the board in the Commonwealth;

2. The individual has held the professional or occupational license or government certification in the other state for at least three years;

3. The board in the other state or state of original licensure required the individual to pass an examination and to meet certain standards related to education, training, or experience;

4. There are no pending investigations or unresolved complaints against the individual, and the board in the other state holds the individual in good standing;

5. The individual does not have a disqualifying criminal record as determined by the board in the Commonwealth in accordance with § 54.1-204;

6. No board in another state has imposed discipline on the licensee, except for discipline involving only a financial penalty and no harm to the health or economic well-being of the public; and

7. The individual pays all applicable fees.

B. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize work experience in another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual worked in another state that does not use a professional or occupational license or government certification to regulate a profession or occupation, but the Commonwealth uses a professional or occupational license or government certification to regulate a profession or occupation with a similar scope of practice, as determined by the board;

2. The individual has worked in the profession or occupation for at least three years;

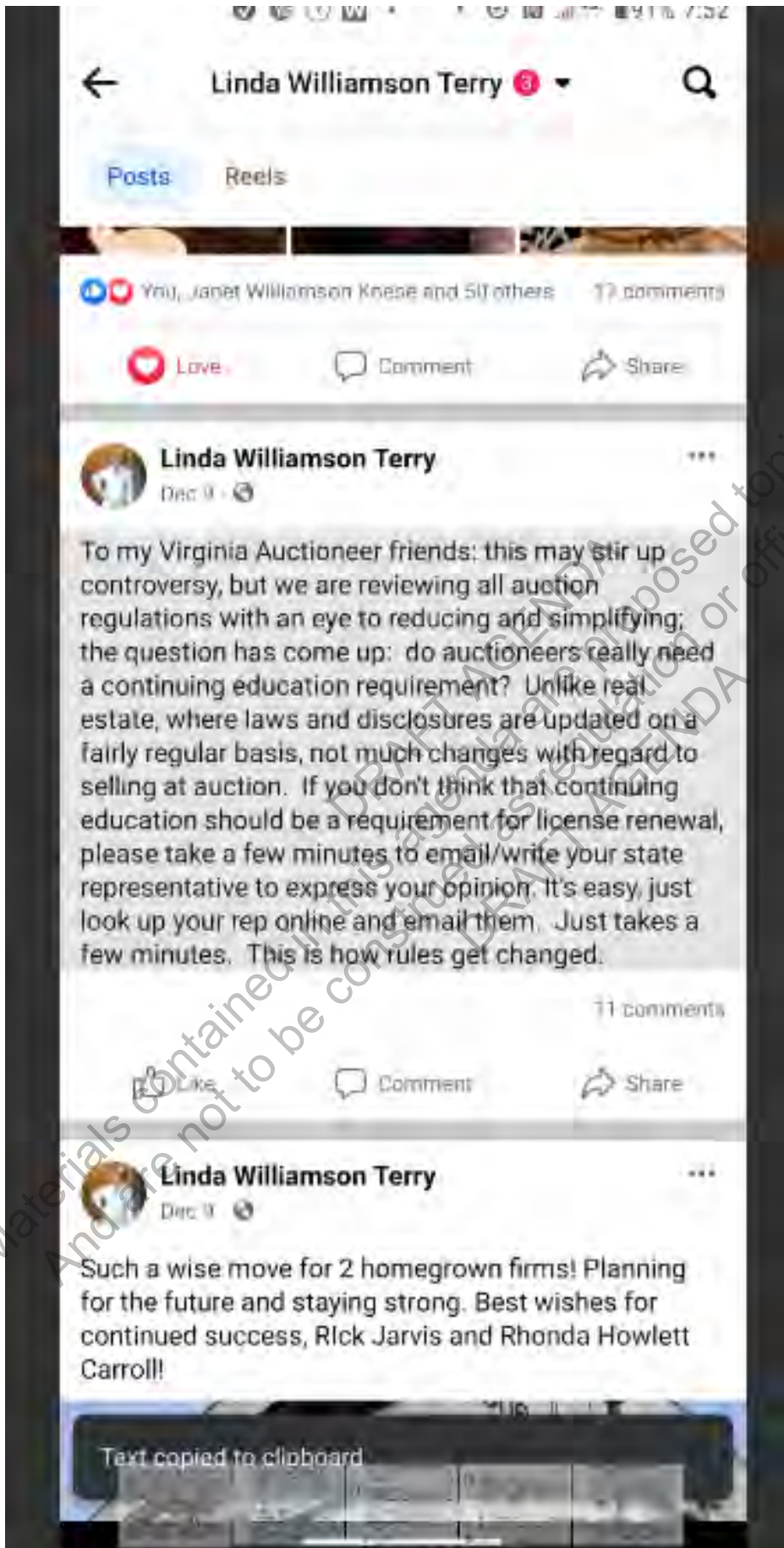
3. The individual passes any examination required by the board of applicants for licensure or certification; and

4. The individual satisfies the conditions outlined in subdivisions A 5, 6, and 7.

C. The regulatory boards within the Department of Professional and Occupational Regulation may require an individual seeking a professional or occupational licensure or government certification pursuant to this section to pass a jurisprudential examination specific to relevant state laws and administrative rules that regulate such profession or occupation if such an examination is required of other applicants for the same license or certification.

D. For purposes of this section, "other state" or "another state" means any state, territory, possession, or jurisdiction of the United States.

E. This section shall not apply to any professional services, as defined in § 2.2-4301.



Linda Williamson Terry 3

Posts Reels

You, Janet Williamson Kneese and 51 others 17 comments

Love Comment Share

Linda Williamson Terry Dec 11

To my Virginia Auctioneer friends; this may stir up controversy, but we are reviewing all auction regulations with an eye to reducing and simplifying; the question has come up: do auctioneers really need a continuing education requirement? Unlike real estate, where laws and disclosures are updated on a fairly regular basis, not much changes with regard to selling at auction. If you don't think that continuing education should be a requirement for license renewal, please take a few minutes to email/write your state representative to express your opinion. It's easy, just look up your rep online and email them. Just takes a few minutes. This is how rules get changed.

11 comments

Like Comment Share

Linda Williamson Terry Dec 11

Such a wise move for 2 homegrown firms! Planning for the future and staying strong. Best wishes for continued success, Rick Jarvis and Rhonda Howlett Carroll!

Text copied to clipboard

Most relevant ▾



Mike Brandly

It's not just that the laws are slow to change, but new people entering the business, and auctioneers forgetting... CE should be required.

2w Like Reply



Linford Berry

CE is very important in our industry. I would argue that we actually have more change in our industry than real estate agents deal with(I am a licensed real estate agent and auctioneer). The reason I say that, is because we interact with lots of different industries. Firearms, motor vehicles, real estate, taxidermy, estate and tax laws, and so much more.

2w Like Reply



Linda Williamson Terry

good feedback that I will take back to the Board- keep it coming. Does the CE that you take actually help with all those areas, or do you seek answers from targeted experts in the various fields as part of your job to well represent your clients?

2w Like Reply



Linford Berry Linda Williamson Terry Yes and bo...



Anne Nouri

As a licensee in FL as well as VA , FL has no CE requirements and many are in favor of lobbying for them to be required. It helps to keep members current. It's absolutely worthwhile in maintaining. What is harm other than paperwork?

2w Like Reply



Write a comment...

It's not just that the laws are slow to change, but new people entering the business, and auctioneers forgetting... CE should be required.

2w Like Reply



Linford Berry

CE is very important in our industry. I would argue that we actually have more change in our industry than real estate agents deal with(I am a licensed real estate agent and auctioneer). The reason I say that, is because we interact with lots of different industries. Firearms, motor vehicles, real estate, taxidermy, estate and tax laws, and so much more.

2w Like Reply



Linda Williamson Terry

good feedback that I will take back to the Board-- keep it coming. Does the CE that you take actually help with all those areas, or do you seek answers from targeted experts in the various fields as part of your job to well represent your clients?

2w Like Reply



Linford Berry

[Linda Williamson Terry](#) Yes and both. The Virginia Auctioneers Association within the past 18 months has offered CE that included the ATF and VA state police to address changing firearms sales laws, specialists with motor vehicle transactions and things auctioneers needed to know, specialists that offered guidance on how to authenticate various items we might sell or be asked to sell, real estate professionals, as well as classes on new digital technology and legal issues.

Write a comment...

2w Like Reply



Ken Garner

I don't think it should be required. I think if an auctioneer wants to take classes to further his or her education then let them but don't make it mandatory on every licensee. Continuing Education is usually pushed by those that teach it for a profit. I am a graduate of CAI and AARE but I chose to do those on my own free will. When I received those designations CE wasn't required to maintain them. Now it is and I am totally opposed to it. That's my two cents worth.

2w Like Reply



Linda Williamson Terry

Ken, Thanks for a valid opposing point of view. Self-initiated additional education can give a professional edge. I truly love thoughtful discussion.

2w Like Reply



Mike Brandly Linda & Ken I'm not advocating fo...



Ken Garner Linda Williamson Terry you are the B...



Linford Berry

Another thing that I might add as it relates to VA auctioneers specifically is in regards to the other professions which require CE that we overlap with. In the state of VA, auctioneers can sell real estate without a real estate agents license. Auctioneers can facilitate the sale of automobiles without a dealers license. Both real estate agents and motor vehicle dealers (I am also one of them) are required to get CE. Why should an auctioneer that is selling real estate or cars be treated any different?

2w Like Reply

Write a comment...



Mike Brandly

<https://mikebrandlyauctioneer.wordpress.com/2017/06/08/where-is-auctioneer-ce-needed-everywhere/>

MIKEBRANDLYAUCTIONEER.WORDPRESS...

STAT Where is auctioneer CE needed?
Everywhere ...

2w Like Reply



Ken Garner

I don't think it should be required. I think if an auctioneer wants to take classes to further his or her education then let them but don't make it mandatory on every licensee. Continuing Education is usually pushed by those that teach it for a profit. I am a graduate of CAI and AARE but I chose to do those on my own free will. When I received those designations CE wasn't required to maintain them. Now it is and I am totally opposed to it. That's my two cents worth.

2w Like Reply



Linda Williamson Terry

Ken, Thanks for a valid opposing point of view. Self-initiated additional education can give a professional edge. Truly love thoughtful discussion.

2w Like Reply



Mike Brandly Linda & Ken, I'm not advocating fo...



Ken Garner Linda Williamson Terry you are the B...



Linford Berry

Another thing that I might add as it relates to VA auctioneers specifically is in regards to the other professions which require CE that we overlap with. In the state of VA, auctioneers can sell real estate without a real estate agents license. Auctioneers can

Write a comment...

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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.

DRAFT AGENDA
Materials contained in this agenda are proposed for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

Name	Comment	Response
Mark Mast	<p>I am asking that you would consider postponing the proposed SB 1480, currently within your committee, or omitting the changes to the current Auctioneer licensing law from this bill to give myself and my fellow Auctioneers time to consider and more fully respond to this proposed legislation as it would have far-reaching effects from public safety, to state licensure reciprocity, to real estate, to the auto industry, to those not fully even understood at this time.</p> <p>Auctioneers act in a fiduciary capacity unlike most other occupations regulated by Virginia Department of Professional and Occupational Regulation. None of the other occupations selected for deregulation are so heavily fiduciary in nature. This aspect of our profession has a specific connection to the protection of the public interest. Our clients (the sellers) put their utmost trust in us as Auctioneers to help protect and oversee the sales of their most valued assets, and in some cases, their livelihoods. With scamming becoming more and more prominent in today's society, deregulating Auctioneers will most definitely open those doors further. Our licensing regulations were put in place as a safeguard in which the public could put their trust.</p> <p>Additionally, licensed Auctioneers are currently allowed to sell real estate without a broker's license. If this deregulation happens, it will require many Auctioneers to acquire additional licenses, which will in fact undermine the purpose of this proposed bill - to reduce the burden of licensure and regulation on small business owners.</p> <p>Other questions arise as well regarding deregulation of the auction industry. Currently, licensed Auctioneers are authorized to facilitate the sale of motor vehicles for private sellers and businesses without a dealer's license provided they are a licensed Auctioneer. What happens when the Auctioneer license law is repealed? These are the types of considerations that must be taken into account before a change like this is made.</p> <p>Under the proposed Universal Licensing Recognition, out-of-state professionals may find it easier to do business in the Commonwealth of Virginia; however, deregulation has the potential to have the opposite effect for Auctioneers based in Virginia. Due to our regulation and education requirements our license reciprocates to other states. Without these requirements, those reciprocal licenses may be in danger. As you can understand, proposed SB 1480 would have a significant impact within our industry and for the protection of the public citizenry. I ask that you consider postponing adding it to the docket at this time or omitting the changes that apply to Auctioneers, so we can engage in a discussion to enhance the auction industry as a whole in Virginia.</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
Jim Weigl, Blue Box Auction Gallery	<p>As a licensed auctioneer in Virginia, I'm writing to let you know that, on behalf my clients, future clients, and Virginia citizens overall, I am <i>strongly opposed</i> to removing regulation for our industry. The protection DPOR Regulation provides is "necessary for the protection or preservation of the health, safety, and welfare of the public" (§ 54.1-100).</p> <p>We are: pro-business pro-competition and most importantly pro-clients (the public citizens of Virginia)!</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this</p>

	<p>Auctioneers handle estates, assets, and escrow accounts for Virginia families and welcome the DPOR regulation to hold us accountable and keep out bad actors. DPOR regulation, licensing, and the continuing education required each year allow us to serve our clients and their families effectively.</p> <p>Some highlights to consider:</p> <p>Auctioneers maintain an escrow account and maintain care, custody, and control of client’s assets and money. How could we not regulate individuals and firms with this responsibility?</p> <p>Without proper regulation, it’s near certain, we could breed a series of bad actors affecting the longstanding history and success we have held as an industry.</p> <p>According to DPOR our auctioneer board is among the lowest of complaints. It’s working as it is!</p> <p>Unlike most other occupations regulated by Virginia DPOR, Auctioneers act in a fiduciary capacity to their clients.</p> <p>There are 973 current licensed professional auctioneers in the state of Virginia, some solely public facing bid-callers, many being full-time auction firms handling client’s assets and family finances.</p>	<p>session, but it is potentially reducing regulatory requirements.</p>
<p>Mark W. Craig, Mark W. Craig Auctions</p>	<p>By this letter, I’m submitting to the Board my comments on the IRA. By way of background, I’m a licensed Virginia auctioneer (#2905002160) doing business in the Shenandoah Valley since 1995. I conduct approximately 60 auctions each year, auctioning both personal property (including motor vehicles, farm equipment, coins, firearms, furniture, and household goods) and real property.</p> <p>First and foremost, the NOIRA has no text, or any link to the text, of whatever amendments to the Regulations the Board is considering; indeed, the Virginia Regulatory Town Hall website(townhall.virginia.gov) states that the NOIRA was submitted without any “preliminary draft text” of the amended Regulations. I’m informed by a friend of mine, who’s both an active Virginia lawyer and an avid auction-goer (and who helped me prepare these comments), that he’s been in touch with you by telephone and email, and that you’ve advised him that, after comments on the IRA are received and considered, the Board will publish for public comment the full text of the proposed amended Regulations. I’m trusting that this advice is correct and, if so, please be assured that I’ll have comments on the proposed amended Regulations if they’re warranted.</p> <p>That being said, what is posted on the Virginia Regulatory Town Hall website is an Agency Background Document (the “ABD”) for the NOIRA, which identifies 22 out of the 30 provisions of the Regulations that the Board is considering for amendment or deletion. (The eight provisions that apparently are to be left intact are 18VAC25-21-10, ?30, -70, ?95, -120, -170, -185, -260). The Board’s proposed actions <i>vis-à-vis</i> these 22 provisions fall into several distinct categories, which I address in no particular order:</p> <p>1. The ABD identifies four provisions (18 VAC25-21-40, -100, -230, -250) proposed to be “repealed as [their provisions are] specified/repeated in the statute”. I don’t think that’s a good idea. Considering the IRA’s announced purpose, these four provisions aren’t “overly burdensome or no longer applicable requirements” and their removal doesn’t “clarify [or] consolidate regulations.” Rather, in my opinion, their removal</p>	<p>The Board will take this information into consideration at the proposed stage.</p>

detracts from the nature of the Regulations as a comprehensive and comprehensible body of rules that benefits not just the public but also auctioneers, by enhancing their notice of, and thus their compliance with, those rules. Indeed, my lawyer friend mentioned above, who practiced federal administrative law for almost 40 years, tells me that regulations commonly and deliberately incorporate statutory language for that very purpose. In short, removing all statutory language from regulations may well save on paper and ink, but it has a significant downside.

2. The ABD identifies six provisions (18 VAC25-21-20, -50, -110, -140, -150, -190) for which “the language is [proposed to be] reworded and clarified”. Since the IRA doesn’t explain how their language is proposed to be reworded or clarified, I await publication of the full text of any proposed amendments to the Regulations before commenting.

3. The ABD proposes to repeal 18VAC25-21-60, regarding the auctioneer’s examination, because “it is repeated in another regulation”. That other regulation isn’t identified, and I can’t find it. The one that comes closest is 18VAC25-21-200, but that regulation specifies the subjects that a school of auctioneering must teach, not those that an auctioneer’s examination must cover.

4. The ABD proposes to amend two provisions (18VAC25-21-80, -90) because “a portion of their information is redundant”. What language is deemed redundant isn’t specified, so I await publication of the full text of any proposed amendments to the Regulations before commenting.

5. The ABD identifies five provisions (18VAC25-21-130, -180, -240, -270, ?280) that are proposed to be repealed/deleted, in whole or in part, “because [they are] unnecessary”. I disagree with that assessment. Specifically:

a. 18VAC25-21-130: As I understand it, the proprietor of every licensed business in Virginia must display the business license in the principal place of business or carry it if mobile; auctioneers should be no different.

b. 18VAC25-21-180: How is it unnecessary for the Regulations to specify the grounds for disciplinary action against an auctioneer? And what particular grounds for disciplinary action does the Board deem unnecessary?

c. 18VAC25-21-240, -270, -280: Speaking as a licensed auctioneer who regularly attends auctioneering continuing education courses, the requirements embodied in these provisions are very necessary if continuing education, as essential in auctioneering as it is in any other regulated profession or business, is to be effective and enforceable.

6. The ABD identifies four provisions that are proposed to be repealed because their substance is “better suited” to be incorporated into other provisions that are proposed to be “reworded and clarified”. Specifically, 18VAC25-21-160 is to be incorporated into revised 18VAC25-21-140, while three provisions (18VAC25-21?200, -210, -220) will be incorporated into revised 18VAC25-21-190. Absent the proposed reworded/clarified language of the provisions that will receive the substance of the provisions proposed for repeal, I can’t meaningfully comment at this time.

Finally, I think it’s important for the Board to take a step back from the details of its proposed amendments to the Regulations and consider

	<p>generally the essential purpose of legislative statutes and administrative regulations, and specifically the vogue currently enjoyed by efforts to consolidate, streamline, and otherwise “reduce” them. In the abstract, everyone (except, perhaps, a few lawyers, politicians and functionaries) would like to see our legislatures and agencies simplify the complex, shorten the verbose, remove the redundant, and do away with the unduly burdensome and the unnecessary. But these aren’t to be done for their own sake; rather, they’re the surest means to a desirable end – that being, in our particular context, crafting a set of intelligible rules and requirements that are conducive, if not essential, to the honest, economical and effective conduct of auctioneering. I respectfully urge the Board to stay focused on achieving that goal rather than “reducing” the Regulations at all costs.</p>	
<p>Wendy Grimm</p>	<p>I am a licensed Virginia auctioneer and Vice President of the Virginia Auctioneers Association.</p> <p>As a professional in the auction industry, I understand the desire to reduce costs and unnecessary business regulations in Virginia per Governor Youngkin’s initiative. However, it is important to consider the potential consequences of deregulation of the auction industry. While it may appear to reduce barriers to entry, the reality is that eliminating the statewide auctioneer’s license would, in fact, result in greater obstacles for those entering the profession. As with other fields, licensing and continuing education requirements ensure a minimum standard of competence for professionals and serve as a safeguard for the public. Eliminating the auctioneer licensing requirement would not reduce regulation for auctioneers, nor would it reduce barriers to entry into the profession. In fact, it would increase the burden on auctioneers by requiring them to obtain additional licenses for selling real estate and motor vehicles for estates, trusts, and businesses. Currently, licensed auctioneers can sell real estate without a broker's license and can facilitate the sale of motor vehicles or trailers without a motor vehicle dealer's license. Furthermore, without a statewide license, auctioneers would be required to obtain business licenses in multiple jurisdictions where they conduct auctions, adding significant regulatory burden. Importantly, without the auctioneer license law, individuals without proper training may conduct auctions without collecting and remitting sales tax appropriately. This could result in lower state revenues and increased enforcement expenses. The auctioneer license law requires licensed auctioneers to collect sales tax for all taxable sales they conduct, ensuring proper management of state funds.</p> <p>The elimination of the auctioneer license law would also affect license reciprocity with other states, increasing the regulatory burden on Virginia auctioneers and making it harder for them to conduct business outside of the state. This is because Virginia auctioneers currently have reciprocity with 14 out of 27 states that license auctioneers. Without a license law, Virginia auctioneers would have no reciprocity with other states that require licensure.</p> <p>Auctioneers hold a major fiduciary responsibility for their clients and are accountable for managing millions of dollars of assets annually. The auctioneer license law requires the use of an escrow account and timely disbursement of funds, ensuring accountability for these funds. The auctioneer licensing law also require that auctioneers be properly</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

	<p>bonded in case an issue arises. Having these regulations within the auction industry ensure the protection of the public, their assets, and their funds.</p> <p>The elimination of the auctioneer license law would also open the door to unscrupulous persons in the business, as there is already a proliferation of unlicensed tag sale, estate sale, and online auction companies that have taken advantage of unsuspecting people trying to settle estates or downsize, whereas licensed auctioneers are held to a higher standard of professionalism and accountability.</p> <p>To summarize: Eliminating the statewide auctioneer's license would INCREASE barriers to entry into the profession. Without a license, auctioneers would need to apply for ADDITIONAL LICENSES to sell real estate and motor vehicles. Deregulation would INCREASE regulatory burden and require auctioneers to obtain business licenses in multiple jurisdictions. Unlicensed individuals may conduct auctions without collecting and remitting sales tax appropriately, leading to LOWER STATE REVENUES and INCREASED ENFORCEMENT EXPENSES. Eliminating the license law would affect LICENSE RECIPROCITY with other states. Licensed auctioneers hold a fiduciary responsibility for their clients and are accountable for managing MILLIONS of dollars of assets annually. Licensing and continuing education requirements ensure a minimum standard of competence for auctioneers, just like other licensed professionals. In conclusion, I urge you to consider the negative consequences that would arise from eliminating the auctioneer license law in Virginia. Doing so would increase regulatory burdens, decrease state revenues, and lower the standard of professionalism for the auction industry. Retaining the auctioneer license law is crucial to ensuring accountability, competence, and trust in the auction profession for the benefit of both professionals and consumers. Let's work together to maintain this essential regulation.</p>	
<p>Joshua Puffenbarger</p>	<p>I am a 12 year licensed auctioneer in the Commonwealth as well as a Virginia Auction Firm license holder. I'm also the Chairman of the Board for the Virginia Auctioneers Association which represents the largest collective group of auction professionals in the state.</p> <p>I understand that DPOR has been tasked with reducing regulations but at what cost? The first and most important thing is consumer protection! The consumer in our industry is the seller. We as auctioneers take our sellers assets and sell them, collect and hold the their money, and then pay them after a brief period. If this is not regulated what keeps a immoral person acting in the capacity of an auctioneer from taking someone's lifetime worth of assets (sometimes several hundred thousand or more) and never paying the seller? We auctioneers currently maintain an escrow account and maintain care, custody, and control of client's assets and money. How could we not regulate individuals and firms with this responsibility?</p> <p>Secondly, the initiative is "to amend regulations that are determined to be overly burdensome or no longer applicable and provide clarity and/or combine other regulations."-DPOR. There is nothing burdensome about</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

	<p>our industry! It's very easy to become an auctioneer! There is very little capital investment to get started, very little time investment needed to get started, and very little time and capital investment need to maintain a license. In the event that the current license law is abolished it would require more regulations, more investment of time and money, for auctioneers as we would need to get a licensed to sell real estate and titled units that fall under the Motor Vehicle Dealers Board. It doesn't make sense to deregulate one industry in order to fulfill the Governor's initiative when, in fact, it creates more regulations.</p> <p>I hope the DPOR will consider these things when moving forward. I would also like to invite the director and other leaders at DPOR to reach out to the Virginia Auctioneers Association to see how we can work together moving forward. I/we understand that you have a task in front of you and we are in the trenches of the industry everyday; I believe we could help each other reach a resolution that works for everybody.</p>	
<p>Linford Berry</p>	<p>I am a licensed auctioneer and auction firm owner in Virginia. I also hold an auctioneer license in WV and TN. In addition, I am a licensed real estate agent in VA and a licensed Motor Vehicle Dealer in VA. I currently serve on the board of directors for the Virginia Auctioneers Association and am an active member of the National Auctioneers Association, The West Virginia Auctioneers Association, and The Auctioneers Association Of Maryland.</p> <p>I am opposed to deregulation of the auctioneer profession in the State of VA for the following reasons.</p> <p>1. Auctioneers act in a fiduciary capacity for estates, trusts, businesses, municipalities, and individuals. Auctioneers like myself sell many millions of dollars of assets annually and hold these funds in an an escrow account until disbursed to our sellers. The auctioneer license law requires the use of an escrow account and timely disbursement. There are very few professions in the state that handle more of other people's money in a fiduciary capacity than auctioneers.</p> <p>Deregulation of the auctioneer profession would not result in a net regulation reduction for auctioneers and neither would it reduce the barriers to entry into the profession. If auctioneers were not licensed in VA then they would need to apply for additional licenses in order to sell real estate and motor vehicles for estates etc. (Currently licensed auctioneers can sell real estate without a brokers license. They can also facilitate the sale of a motor vehicle or trailer etc. without a motor vehicle dealers license).</p> <p>There is also the issue of license reciprocity with other states. If Virginia did not have an auctioneer license law it would make it exponentially more difficult for auctioneers based in VA to acquire a license to work in another state. Currently 27 states license auctioneers and VA auctioneers have reciprocity with 14 of those states. Without a license law we would have no reciprocity with other states that require licensure.</p> <p>Business license and taxes. Currently licensed auctioneers are required to have a business license and pay business license tax only in their home county or city. Without a license law they would also be required to apply for business licenses in multiple jurisdictions in which they might conduct auctions instead of only the jurisdiction that their</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

business is based in. This would be a significant regulatory burden for many auctioneers in VA.

Sales Tax: Licensed auctioneers are required to collect sales tax for all taxable sales they conduct. Without license law there may very well be an increase in individuals conducting auctions without collecting and remitting sales tax appropriately. This would result in lower revenues for the state an increased enforcement expenses.

License law and associated continuing education requirements are a good way to maintain a minimum standard of competence for professionals in any field and auctioneers are no exception. We expect car dealers, real estate agents, attorneys, accountants, and other professionals to be licensed and maintain continuing education. Why should auctioneers be treated differently especially since we perform tasks that are similar and overlap many other professions?

There is already a proliferation of unlicensed tag sale, estate sale, and online auction companies which have in many cases taken advantage of unsuspecting people who are simply trying to settle their parents estate or downsize. Auctioneers are held to a higher standard and rightfully so. Eliminating the license law would make it harder for auction professionals to set themselves apart in the marketplace as professionals who have a license at stake. It would open the door to "bad actors" in the business.

In addition to these objections, I would offer some suggestions for improving the auctioneers license law so that it would be more effective. I realize that some of these suggestions may require legislative changes that go beyond the scope of the DPOR.

Update the license law to require a license for online only auctions. Online only auctions are functionally no different than an auction conducted by live-outcry auctioneers in terms of their fiduciary responsibilities to sellers. As an online only auctioneer I could sell millions of dollars of other people's assets and not be required to have a license but as soon as I open my mouth and ask for a bid verbally I am required to have an auctioneers license. It makes no sense at all. Online auctions are the way the industry is headed. Exponentially more dollars are exchanged in online only auctions in VA than in live outcry auctions and that trend will only continue. Currently NC, WV, TN, PA, and many other states do require licenses for online only auctions. It is time VA updates its laws to regulate online auctions.

Update the regulations and the test for the auctioneers license to make it more relevant to modern auctioneering. Many of the questions on the test are not applicable to what modern auctioneers deal with on a regular basis. Some of the regulations such as those surrounding advertising and contracts for auctions also need to be updated.

Create a separate category for auctioneers who only conduct benefit auctions and do not sell other people's real or personal property. These auctioneers do not generally operate in a fiduciary capacity and the current requirements of the auction law are not applicable to their work in many cases.

Create an enforcement mechanism for the auctioneer law. Currently the maximum extent of enforcement by the DPOR Auctioneers Board is the revocation or suspension of a license. The DPOR and auctioneers board has no enforcement mechanism for an unlicensed individual conducting auctions. When I reported an unlicensed auctioneer to DPOR, I was told

	<p>to contact my local commonwealths attorney or law enforcement. When I contacted local law enforcement and the commonwealth's attorney they said that it wasn't their jurisdiction and I should contact DPOR. Many other professions in VA have an enforcement mechanism. Auctioneers should too.</p> <p>In summary, I would respectfully ask that any changes to the auctioneers license law and/or regulations be carefully vetted by industry stakeholders and consumer protection agencies before being pushed forward by DPOR. These laws were designed to protect the public and they have worked very well in most cases. In my opinion, it would be reckless to eliminate the auctioneers license law and it would have many unintended consequences for auction professionals and the general public.</p>	
<p>William Austin; Double A Auction & Realty</p>	<p>The de-regulation of the auctioneer licensing regime in Virginia will not have positive results. Licensing promotes a basic level of competency and accountability and will diminish the value brought forth by licensed professional auctioneers and lower the public's trust in the profession. Auctioneers maintain an escrow account and maintain care, custody, and control of client's assets and money. This is a large responsibility and there needs to be accountability.</p> <p>I believe removal of licensing regulations will have a detrimental effect on Virginia's auction industry.</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
<p>Jarrold Hines, CAI, CES Owner/President- Farmer Auctions Director-Virginia Auctioneers Association Director-West Virginia Auctioneers Association Licensed Realtor</p>	<p>Once again, I write to you on behalf of my clients and the citizens of Virginia, in STRENUOUS opposition to the elimination of auctioneer licensing. During the last legislative session, Senate Bill1480 was introduced which would've abolished all licensure for auctioneers, in addition to abolishing the right for a licensed auctioneer to sell real estate at public auction without having to have a real estate salesperson's license. This bill was soundly defeated in committee as many of those affected by the bill appeared before the committee to voice common sense opposition to the bill. Unfortunately there appears to be a renewed effort to implement these directives and we as taxpayers are once again required to invest precious time explaining the many shortcomings and obvious pitfalls to this irresponsible proposed initiative.</p> <p>As a licensed professional and FIFTH GENERATION auctioneer, current Director of the Virginia and West Virginia Auctioneers Associations and member of the National Auctioneers Association, I feel I am appropriately qualified to testify regarding the many repercussions that are certain to follow should auctioneer licensure be eliminated and should auctioneers lose the ability to sell real estate at auction without a salesperson's license..</p> <p>It was my sincere hope that sensibility would prevail and that the overwhelming defeat of Senate Bill 1480 would be the ultimate demise of efforts to eliminate auctioneer licensure, but unfortunately, despite our best efforts, it was not. Therefore, allow me to elaborate, once</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

again, on why the passage of any legislation eliminating auctioneer licensure would be so grossly irresponsible.

First, please know that I realize that the elimination of licensure for auctioneers is an attempt to reduce costs in the wake of Governor Younkin's initiative. I understand the precarious position in which the DPOR and members of the state legislature find themselves, and do not envy their positions. That being said, I stand firm that elimination of licensure of auctioneers will act to put the consumer at great risk. I am certain that you are aware that, unlike many of the other professions regulated by DPOR, auctioneers maintain an escrow account. We act as a fiduciary for our clients and maintain care and custody of MILLIONS of dollars of tangible assets annually and that the sale of these assets results in auctioneers also maintaining care and custody of MILLIONS of dollars in liquid funds annually through their escrow accounts. In comparison, I would offer that the amount of liquid funds handled annually by real estate brokerages does not even remotely approach this level due to the fact that many earnest money deposits submitted as consideration in a real estate brokerage transaction are held by a closing attorney or other closing agent. It seems grossly irresponsible that the legislature and DPOR would relinquish governance and regulation over any profession required to handle their clients' liquid funds and maintain an escrow account in which to place these funds. I struggle with the fact that intelligent people serving in our state agencies and representing the citizens of Virginia do not grasp this very simple concept.

In addition, professional licensure, at its core, acts to identify a qualified agent/professional no matter the profession. How else could we be completely assured that the attorney, the physician, the general contractor, etc. had initially and continuously met the minimum requirements and standards necessary to perform his/her duties. What would be the standard of reference without some level of regulation and licensure? This same sensible logic would also apply to the issuance of a driver's license, either standard or commercial.

The protection that DPOR regulation provides is "necessary for the protection or preservation of the health, safety, and welfare of the public" (§ 54.1-100). The elimination of licensure for auctioneers would also, without any doubt, permit those with a revoked license to resume their nefarious business practices with no safeguard for the consumer.

In the absence of proactive measures, such as licensure, to protect the consumer from these bad actors, the consumer would merely be left at the mercy of the court system to pick up the pieces and attempt to rectify any criminal activity, when the activity could have likely been prevented had the requirement for licensure not been eliminated.

Elimination of licensure would also allow anyone to portray themselves as an "auctioneer" thus blurring the lines between those of us that serve professionally and a community of charlatans simply trying to make a quick buck, who do not possess the qualifications necessary to serve the public in that capacity. The consumer would have no means to officially validate the qualifications of any person portraying themselves as an "auctioneer" and would in turn suffer damages as a result. This is not a hypothetical, it is no doubt a relative certainty.

According to DPOR representatives to whom we have spoken, the data supports the fact that the Auctioneers Board receives a minimal number

of complaints when compared to other regulated professions. Therefore, the system is working as designed. I simply do not understand the current campaign to change it. Professional auctioneers are not a burden to the DPOR budget in that they do not have to allocate substantial resources to deal with complaints from our ranks. This is hard, factual data, not guesswork.

In contrast, members of the general public portraying themselves as "estate sale" or "tag sale" agents are completely unlicensed and unregulated and the newspapers and news websites are FILLED with stories of their criminal exploits. These everyday citizens portray themselves as "qualified experts" to assist with the liquidation of personal property. They have no oversight...no licensure...no transparency...no escrow requirements....no continuing education requirements...no professional trade organizations....yet they are permitted to perform many of the same duties as that of a professionally licensed auctioneer, much to the detriment of their unwitting clients. This is a shining example of the importance of licensure for agents engaged as a fiduciary. I would gladly supply links to media content to support my statements. Alternate to the repeal of licensure for auctioneers, it seems to make sense that some form of regulation be written to govern and legislate these "estate sale" and "tag sale" companies to ensure that the consumer is protected from unqualified individuals who are not bound to act in their clients' best interests. Alternatively, we propose that there are two ways to balance a budget...cut costs...or increase revenue. We propose that the Senate take an alternative path and consider an INCREASE in the licensure fees for professional auctioneers. The majority of FULL-TIME, PROFESSIONAL auctioneers that I have polled support a 300% - 400%, or greater, increase in the licensure fee, in lieu of the irresponsible elimination of licensure. Perhaps it's time to pivot to this more sensible resolution to this matter.

Before I address my next concern, let me start by informing the reader that I am also a licensed realtor, with one of the top selling brokerages in SWVA, and that I sell many properties through brokerage listing annually. However.....

The other matter at hand is the elimination of the legislation that permits licensed auctioneers to sell real property at auction without having a real estate salesperson's license. The proposed legislation goes even further in its requirement by proposing that an auctioneer possess a real estate BROKER'S license in order to sell real property at auction. Given the fact that licensed auctioneers have been permitted to sell real property at auction in the state of Virginia for DECADES, we are all greatly puzzled by this proposed legislation. This proposed change does nothing in the way of helping to reduce costs. It appears to merely be an attempt by the realtor lobby to stifle competition and reduce the options the consumer has to sell his/her real property. The auction method of marketing and sale of real property is a powerful and effective strategy for clients to realize fair market value for their property, as buyers engage inactive competition to own it. If it weren't, realtors wouldn't engage in strategies borrowed from the auction profession such as "escalation clauses" which permit a buyer's agent to increase the buyer's offer should a higher offer be received and

	<p>"accelerated listings" in which agents receive multiple offers over a span of several days and then help their buyer select the best offer based not only on price, but on the contingencies contained in those offers as well. We find these methods of imitation flattering and as proof that the auction method of sale carries substantial merit. Any attempt to stifle its existence is also nonsensical and irresponsible.</p> <p>Once again, we are unaware of any complaints of any substance regarding an auctioneers selling real property at auction. Therefore, we do not feel that this sales strategy acts to increase the need for additional resources within the DPOR. Professional auctioneers serve their clients ethically and professionally regarding the sale of their real property and offer a viable alternative to a brokerage listing. The evidence is crystal clear on this point nationwide. We have a decades long case study here in the state of Virginia that supports that fact. There is absolutely no evidence to support the additional burden of a salesperson's or broker's license upon an auctioneer in order to sell real property at auction. Period. The genesis of this legislation is puzzling indeed, and the requirement is extremely unnecessary and stifling to open market competition.</p> <p>I trust that these very salient opposing positions are simple and easy to understand. I also trust that the readers have the best interests of the consumers of Virginia at heart, and will no doubt see to it that this irresponsible promulgation of law does not reach the legislature for any form of consideration.</p> <p>I am available at any time for further discussion regarding this matter. You may reach me at 540-250-2964 or at jarrod@farmer-auctions.com. In the name of consumer protection, I look forward to common sense prevailing in this matter.</p>	
<p>C. Shields Jones, Jr.</p>	<p>The notice of intended regulatory action published in vol. 39, issue 13 of the Virginia Register provided notice of regulatory action based on Governor Youngkin's ED One which SB1480 provided legislative authority. With SB1480 dying in committee, the legislative authority to enact SB1480 was suspended.</p> <p>The regulatory authority provided by SB1480 had many far reaching negative impacts for the auction industry outside of reducing a minimum amount of regulatory burden particularly for a program which the legislative impact statement revealed that it was projected to add money to the state treasure rather than have a negative impact. Testimony at the Senate Committee hearing revealed that SB1480 would have resulted in many negative impacts to the auction industry and the citizens of the Commonwealth. Moreover, any reduction in regulatory burden would more than likely not exist because similarly to before the current legislation was passed every town, city, county, or other jurisdiction had its own licensing authority. Removing the Commonwealth's legislative preemption over local jurisdictions is not a correct path to be followed.</p> <p>When this issue is revisited or other issues are being reviewed that will impact the auction industry and the citizens of the Commonwealth, it is suggested and recommended that DPOR consult and involve stakeholders for their input and assistance at the earliest time.</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
<p>Rita S. Smith, Auctioneer</p>	<p>I am writing today to ask DPOR to please keep our Virginia Auctioneering License regulations intact. Virginia auctioneers have a</p>	<p>This regulatory action to</p>

	<p>fiduciary responsibility to our clients that far outweigh Licensee's of many other regulatory boards. We collect large amounts of money at the end of auctions, money that belongs to others. This money is placed in escrow accounts (maintained by us) until paid out within a required time period. We take possession of valuable items such as jewelry, coin collections, firearms, antiques etc. and keep them safe until auctions are completed. We go into people's homes and evaluate items they may want to auction or otherwise dispose of and people feel more comfortable with licensed professionals coming into their homes. When COVID came about many of us invested a great deal of money in online platforms, websites and interactive Apps to keep our businesses afloat when our brick & mortar auction houses were closed. I'm not referring to Facebook market places and all the other avenues people have to sell their items licensed or not. I am talking about software programs and hosting companies built for the auctioneering business that allow us to maintain integrity in online auctions but are not cheap to maintain. If anyone can be an auctioneer without licensing regulations then the public is at risk of being swindled, cheated, robbed and otherwise harmed which will in turn give us all a bad name and end the auction system in Virginia as we know it.</p>	<p>deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
--	--	--

DRAFT AGENDA
 Materials contained in this agenda are proposed topics for discussion
 And are not to be construed as regulation or official board position
 DRAFT AGENDA

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

9960 Mayland Drive, Suite 400
Richmond, VA 23233
(804) 367-8500
www.dpor.virginia.gov

**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.

TABLE OF CONTENTS

RULES AND REGULATIONS:

Part I Definitions 1

Part II Entry Requirements 2

Part III Renewal/Reinstatement 6

Part IV Standards of Practice 8

Part V Standards of Conduct 13

Part VI Schools of Auctioneering 15

Part VII Continuing Education Requirements 17

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

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

**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.~~

~~2.~~ 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.~~

Formatted: Font: 12 pt

Formatted: Justified, Indent: Left: 0.15", Right: 0", No bullets or numbering, Tab stops: Not at 1.15"

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.65" + Indent at: 0.9"

Formatted: Indent: Left: 0.9", No bullets or numbering

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.65" + Indent at: 0.9"

Formatted: Font: 12 pt

Formatted: Normal, No bullets or numbering

Formatted: Indent: Left: 0.65", No bullets or numbering

Formatted: Indent: Left: 0.65", No bullets or numbering

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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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](#)

Formatted: Highlight

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

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.
C. 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:

Formatted: Font: 12 pt

Formatted: Justified, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.65" + Indent at: 0.9"

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.65" + Indent at: 0.9"

Formatted: List Paragraph, Justified, Indent: Left: 0.47", Hanging: 0.27", Right: 0", Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.4" + Indent at: 0.69", Tab stops: 0.73", Left

~~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.~~

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.~~

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.15" + Indent at: 0.4"

Formatted: Justified, Right: 0.18", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.15" + Indent at: 0.4"

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

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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 VR150-01-2:1 §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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

**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

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

**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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

**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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

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.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA



Department of Professional and Occupational Regulation

9960 Mayland Dr, Suite 400
Richmond, Virginia 23233

PRE-SORT
STANDARD
U.S. POSTAGE
PAID
Permit No. 2005

NOTICE

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

➤ Election of Officers

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

➤ **Licensed Population as of 6/1/23**

- **Auctioneers 988**
- **Auctioneers Firms 231**

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

Department of Professional and Occupational Regulation
Statement of Financial Activity

**Auctioneers Board
954170**

2022-2024 Biennium

April 2023

	April 2023 Activity	Biennium-to-Date Comparison	
		July 2020 - April 2021	July 2022 - April 2023
Cash/Revenue Balance Brought Forward			0
Revenues	2,365	41,190	39,795
Cumulative Revenues			39,795
Cost Categories:			
Board Expenditures	198	3,733	4,976
Board Administration	906	16,004	15,577
Administration of Exams	7	990	233
Enforcement	32	637	663
Legal Services	0	92	92
Information Systems	1,013	11,110	9,031
Facilities and Support Services	361	4,550	3,666
Agency Administration	541	7,343	10,410
Other / Transfers	0	0	(15)
Total Expenses	3,058	44,458	44,631
Transfer To/(From) Cash Reserves	(776)	0	(4,919)
Ending Cash/Revenue Balance			83

Cash Reserve Beginning Balance	98,278	0	102,421
Change in Cash Reserve	(776)	0	(4,919)
Ending Cash Reserve Balance	97,502	0	97,502

Number of Regulants	
Current Month	1,216
Previous Biennium-to-Date	1,405

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	449	966	891	384	616	193	288	346	198	0	0	4,976	11,630	6,654	5,839	5,790	49.8%
Board Administration	2,347	1,613	1,563	782	1,433	2,464	789	1,443	2,236	906	0	0	15,577	24,571	8,994	17,535	7,036	28.6%
Administration of Exams	37	25	27	13	25	41	13	28	19	7	0	0	233	2,056	1,823	180	1,876	91.2%
Enforcement	98	70	69	34	69	105	32	63	91	32	0	0	663	1,003	340	748	255	25.5%
Legal Services	0	0	0	0	0	0	46	23	23	0	0	0	92	92	0	110	-18	-20.0%
Information Systems	640	1,022	785	529	889	807	904	1,409	1,034	1,013	0	0	9,031	12,726	3,695	10,577	2,149	16.9%
Facilities / Support Svcs	240	413	507	304	383	378	298	384	396	361	0	0	3,666	6,292	2,627	4,318	1,974	31.4%
Agency Administration	1,169	831	1,655	768	1,036	1,450	460	941	1,559	541	0	0	10,410	15,223	4,813	11,869	3,354	22.0%
Other / Transfers	0	0	0	0	0	0	-15	0	0	0	0	0	-15	0	15	-18	18	
Total Charges	5,177	4,423	5,572	3,321	4,220	5,860	2,720	4,578	5,702	3,058	0	0	44,631	73,593	28,961	51,159	22,434	30.5%

Materials contained in this agenda are proposed topics for discussion
 And are not to be construed as regulation or official board position
 DRAFT AGENDA
 DRAFT AGENDA

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

DRAFT AGENDA
*Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position*
DRAFT AGENDA