

831 KAR 1:020. Standards of conduct and complaints.

RELATES TO: KRS 330.110, 330.120, 330.130

STATUTORY AUTHORITY: KRS 330.050(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 330.050(8) authorizes the Board of Auctioneers to promulgate administrative regulations with the approval of the executive director of the Kentucky Real Estate Authority in accordance with KRS Chapter 13A as required to fulfill the duties and functions assigned to the board. This administrative regulation establishes requirements to protect the public through adequate recordkeeping and accounting by licensees.

Section 1. Personal Property Auction Proceeds.

(1) Proceeds due from the sale of personal property shall be disbursed to the seller no later than thirty (30) days after the date of each auction. If the seller's personal property is not sold in a single auction, proceeds from the sale shall be disbursed to the seller no later than thirty (30) days after the auction at which such personal property was sold. Notice shall be given to the seller of the tentative date of auction of the remaining personal property.

(2) Proceeds of a personal property auction not disbursed to the seller on auction day shall be deposited in an auction escrow account by the auctioneer or auction firm no later than three (3) banking days following the date of auction or sale of the personal property, whichever occurs first.

Section 2. Real Property Auction Proceeds.

(1) If an auction consisted of both personal property and real property for the same seller, the proceeds due from the sale of the personal property may be disbursed to the seller in conjunction with the real property closing and settlement if the real property closing and settlement occurs within sixty (60) days following the date it was auctioned.

(2) Proceeds from a real estate auction shall be held in escrow until settlement in accordance with the agreement of sale.

Section 3. Auctioneer Escrow Accounts.

(1) Auctioneers and auction firms shall use federally insured depositories in the Commonwealth of Kentucky.

(2) The auction escrow account or accounts shall be separate from any individual or office account and used solely for the preservation and guarantee of money belonging to others consisting of auction proceeds and real property contract deposits.

(3) Funds for any other purpose shall not be commingled with the auction escrow account.

(4) Escrow funds shall only be disbursed at settlement or withdrawn by agreement in writing by all parties, by an order of a court of competent jurisdiction or, in the case of real property contract deposits held by a broker, in accordance with KRS Chapter 324 and 201 KAR Chapter 11.

(5) Moneys due to the auctioneer or auction firm shall not be withdrawn from the auction escrow account until final settlement is made with the seller.

Section 4. Complaints and Discipline.

(1) A licensee shall comply with all applicable provisions of KRS Chapter 330 and 831 KAR Chapter 1.

(2) Failure to comply shall subject a licensee to discipline in an administrative action.

(3) A complaint against a licensee for a violation of this administrative regulation or KRS Chapter 330 shall be notarized, filed with the board on the Complaint Form, and shall not require a fee.

(4) All claims for monetary damages or relief from the auctioneer's education, research, and recovery fund established pursuant to KRS 330.192 shall be made in writing and submitted to the board within twelve (12) months of the act of the auctioneer giving rise to the loss.

(5) Amendments to a timely filed proof of claim shall be accepted.

(6) A licensee shall file a notarized answer to a complaint with the board no later than twenty (20) days of receiving the complaint from the board.

(7) A licensee shall maintain and provide to the board at least one (1) physical residential mailing address that is not a P.O. Box and a business address which may be a P.O. Box.

Section 5. Incorporation by Reference.

(1) "Complaint Form", KBA-6, May 2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Auctioneers, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(5 Ky.R. 695; eff. 6-6-1979; 37 Ky.R. 2891; 38 Ky.R. 736; eff. 11-4-2011; 44 Ky.R. 2544; 45 Ky.R. 327; eff. 8-31-2018; Recodified from 201 KAR 3:045, 10-12-2018; 45 Ky.R. 3549; eff. 9-6-2019.)