

1 AN ACT relating to auctions.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED
4 TO READ AS FOLLOWS:

5 *If the Department for Medicaid Services considers the fair market value of an*
6 *applicant's property for purposes of determining eligibility, "fair market value"*
7 *means:*

8 *(1) An estimate of the value of an asset if sold at the prevailing price at the time it*
9 *was actually transferred, based on:*

10 *(a) The gross assessed value of the property as listed by the local property*
11 *valuation administrator; or*

12 *(b) The professional opinion of an independent, licensed appraiser; or*

13 *(2) The price brought on the property at a public auction conducted by a licensed*
14 *auctioneer.*

15 ➔Section 2. KRS 330.020 is amended to read as follows:

16 As used in this chapter, unless the context otherwise requires:

17 (1) "Advertisement" means any written, oral, or electronic communication that:

18 (a) Offers real or personal property or any combination thereof by or at auction;
19 or

20 (b) Promotes, solicits, induces, or offers to conduct an auction or to provide
21 auction services;

22 (2) "Apprentice auctioneer" means any person who is employed or supervised, directly
23 or indirectly, by an auctioneer to deal or engage in any activity in subsection (6) of
24 this section, excluding the authority to enter into an auction listing contract or to
25 independently maintain an auction escrow account;

26 (3) "Auction" means any method of sale, lease, or exchange of real property, personal
27 property, or any combination thereof, by means of competitively increasing or

1 decreasing bids. Any sale, lease, or exchange of real property, personal property, or
2 any combination thereof, advertised or presented in any way by or at auction, is an
3 auction for the purposes of this chapter;

4 (4) (a) "Auction house" means any commercial establishment at which personal
5 property is regularly or customarily offered at auction, or at which personal
6 property is customarily or regularly deposited and accepted, on consignment
7 or otherwise, for sale at auction at a *physical* fixed location;

8 (b) "Auction house" does not mean:

9 1. Those establishments which limit personal property sold in regard to
10 Thoroughbred horses or other horses or any interests therein, including
11 but not limited to horse shares and seasons;

12 2. Tobacco and fixed-base livestock markets regulated by the United States
13 Department of Agriculture; or

14 3. Fixed-base motor vehicle markets regulated by the Kentucky Motor
15 Vehicle Commission pursuant to KRS Chapter 190;

16 (5) "Auction house operator" means the individual principally or ultimately responsible
17 for the operation of an auction house, or in whose principal interest the
18 establishment is operated. The auction house operator is responsible for retaining a
19 licensed auctioneer to call bids at all auctions at the auction house;

20 (6) "Auctioneer" or "principal auctioneer" means any person who offers, solicits,
21 negotiates, or attempts to offer, solicit, or negotiate an auction listing contract, sale,
22 lease, or exchange of real property, personal property, or any other item of value, or
23 any combination thereof, which may lawfully be kept or offered for sale, lease, or
24 exchange, or any combination thereof, by or at auction, or who offers the same at
25 auction and who is allowed to supervise and accepts the responsibility of sponsoring
26 one (1) or more apprentice auctioneers;

27 (7) "Board" means the Board of Auctioneers;

1 (8) "Escrow account" means an account or accounts separate from the auctioneer's
 2 individual or office account in which all money belonging to others is held for the
 3 preservation and guarantee of the funds until disbursement to the appropriate
 4 party;

5 (9) "Limited livestock auctioneer" means any auctioneer whose professional activities
 6 are limited to the calling of bids at the sale of livestock at fixed-based livestock
 7 yards operating under the control and guidance of the United States Department of
 8 Agriculture;

9 ~~(10)~~~~(9)~~ "Personal property" means any tangible or intangible property, goods,
 10 services, chattels, merchandise, commodities, or any item of value in any form or
 11 type, other than real property, which may be lawfully kept or offered for sale,
 12 exchange, or lease;

13 ~~(11)~~~~(10)~~ "Person" means any individual, association, partnership, corporation, limited
 14 liability company, or other business entity, including any officer, director, or
 15 employee thereof;

16 ~~(12)~~~~(11)~~ "Real property" means real estate in its ordinary meaning, including but not
 17 limited to timeshares, options, leaseholds, and other interests less than leaseholds of
 18 any form or type which may be lawfully kept or offered for sale, exchange, or lease;
 19 and

20 ~~(13)~~~~(12)~~ "Sealed bid auction" means a sealed bidding procedure which incorporates or
 21 allows for any competitive increasing or decreasing of bids after the opening of
 22 sealed bids. A "sealed bid auction" is an auction subject to the provisions of this
 23 chapter.

24 ➔Section 3. KRS 330.032 is amended to read as follows:

25 (1) A licensed auctioneer shall not sell real estate at auction without a real estate
 26 broker's license.

27 (2) A licensed real estate broker shall not sell real estate at auction without an

1 auctioneer's license.

2 (3) Notwithstanding the provisions set forth in KRS 426.522, an auctioneer and real
3 estate broker may collaborate in conducting the sale of real estate at auction. When
4 an auctioneer and real estate broker collaborate in the conduct of a sale of real estate
5 at auction, a real estate broker shall be paid for services rendered as a broker, and an
6 auctioneer shall be paid for services rendered as an auctioneer.

7 **(4) The proceeds of all real property auctions conducted through collaboration shall**
8 **be placed into the escrow account of the real estate broker, unless the auctioneer**
9 **holds both a real estate license and an auctioneer license.**

10 ➔Section 4. KRS 330.050 is amended to read as follows:

11 (1) There is hereby created a Board of Auctioneers. The Governor shall appoint a board
12 consisting of five (5) members, all of whom immediately prior to the date of their
13 appointment have been residents of the Commonwealth of Kentucky for five (5)
14 years, and four (4) whose vocation for a period of at least five (5) years has been
15 that of an auctioneer. One (1) member shall be a citizen at large who is not
16 associated with or financially interested in the practice or business regulated. The
17 term of the members of the board shall be for three (3) years and until their
18 successors are appointed and qualified. Members to fill vacancies shall be appointed
19 for the unexpired term.

20 (2) At no time shall there be more than two (2) auctioneer members of the same
21 political party on the board. Whenever there is an auctioneer vacancy on the board,
22 the Kentucky Auctioneer Association shall recommend to the Governor at least
23 three (3) names for each auctioneer vacancy, and such appointment or appointments
24 shall be made from the recommendations of the association.

25 (3) The board, immediately upon qualification of the member appointed in each year,
26 shall organize by selecting from its members a chairman.

27 ~~(4) Each member of the board shall receive the sum of twelve thousand dollars~~

1 ~~(\$12,000) per year, payable twice monthly, and reimbursement for actual and~~
2 ~~necessary expenses incurred in the performance of official duties.~~

3 ~~(5)~~ The board shall have full authority to employ, and discharge, any personnel,
4 including counsel, as it may deem necessary to efficiently administer and enforce
5 the provisions of this chapter, and it shall outline the duties and fix the
6 compensation of such persons, provided that compensation shall be comparable to
7 the salaries paid other state employees, if any, which the board may deem to be
8 doing similar work. The board shall obtain office space, furniture, stationery, and
9 any other proper supplies and conveniences reasonably necessary to carry out the
10 provisions of this chapter. If any items deemed to be reasonably necessary by or
11 which are required by the board are available through vendors under contract with
12 the Commonwealth of Kentucky at less cost than if obtained otherwise, then the
13 items shall be acquired pursuant to the contract. The board shall have full authority
14 to obtain for its members, staff, and employees complete insurance coverage,
15 including, but not limited to, liability and errors and omissions insurance, so long as
16 the insurance concerns the business of the board.

17 ~~(5)~~~~(6)~~ All fees and charges collected by the board under the provisions of this
18 chapter shall be paid into the State Treasury through the Finance and
19 Administration Cabinet and shall be credited to an agency fund account for the
20 Board of Auctioneers under the provisions of KRS 45.253 and shall be withdrawn
21 or expended as provided in that section, if such payment, credit, withdrawal, or
22 expense provisions do not conflict with any provision of this chapter.

23 (a) The board may establish and collect reasonable fees relating to the
24 administration and enforcement of this chapter for application or other
25 processing costs, on-line service, continuing education provider services, copy
26 and mailing services, or other fees necessary to offset the licensing and
27 processing costs.

1 (b) The total expenses for all purposes and obligations of the board shall not
2 exceed the total fees, charges, fines, penalties, and other income imposed
3 under the provisions of this chapter and paid into the state treasury.

4 (c) The board shall be financially self-sustaining, and if funds permit it may
5 underwrite, within its financial limitations, educational programs for the
6 enlightenment and benefit of all licensees who have paid fees pursuant to this
7 chapter.

8 ~~(6)~~~~(7)~~ The board shall maintain annually a list of the names and addresses of all
9 licensees regulated by the board. This list shall also contain the names of all persons
10 whose licenses have been suspended or revoked within the preceding year, as well
11 as any other information relative to the enforcement of the provisions of this chapter
12 that the board may deem of interest to the public.

13 ~~(7)~~~~(8)~~ The board may promulgate administrative regulations in accordance with KRS
14 Chapter 13A as required to fulfill the duties and functions assigned to the board by
15 this chapter.

16 ~~(8)~~~~(9)~~ A board member shall be automatically removed from the board and a
17 vacancy shall occur when:

- 18 (a) An auctioneer member of the board ceases to be a licensed auctioneer;
19 (b) A nonlicensed member of the board acquires a license regulated by the board;
20 (c) A board member enters a plea of guilty, an Alford plea, a plea of no contest to,
21 or has been convicted of, any felony, and the time for appeal has passed or the
22 judgment of conviction has been finally affirmed on appeal; or
23 (d) A board member ceases to be a resident of the Commonwealth of Kentucky.

24 **(9) The Governor shall set the compensation of the members of the board, but voting**
25 **members of the board shall be compensated no more than three hundred dollars**
26 **(\$300) per day for official business, subject to an annual maximum of six**
27 **thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid**

1 and incurred in the discharge of official business consistent with the
 2 reimbursement policy for state employees.

3 → Section 5. KRS 330.060 is amended to read as follows:

4 (1) (a) Every applicant for licensure shall be at least eighteen (18) years of age~~[, show~~
 5 ~~proof of a high school diploma or equivalent]~~, and, within the preceding five
 6 (5) years, shall not have committed any act that constitutes grounds for license
 7 suspension or revocation under this chapter.

8 (b) ~~[The board may waive the high school diploma or equivalent requirement for~~
 9 ~~an apprentice, licensed prior to 1985, applying for an auctioneer license.~~

10 ~~(c) —~~ Any license issued pursuant to this chapter shall be granted only to a person
 11 found to be of good repute, trustworthy, and competent to transact the
 12 business for which the license was granted in a manner requisite to
 13 safeguarding the interest of the public.

14 ~~(c)~~~~(d)~~ An~~[Effective July 1, 2015,]~~ an applicant for an apprentice auctioneer
 15 license or auction house operator's license shall have successfully completed~~[~~
 16 ~~at least twelve (12) hours of approved classroom instruction, consisting of]~~the
 17 core course~~[and six (6) additional hours as prescribed by the board,]~~ from a
 18 board-approved auction education provider.

19 ~~(d)~~~~(e)~~ The board may waive the core course~~[twelve (12) hours of approved~~
 20 ~~classroom instruction requirement]~~ if the applicant demonstrates sufficient
 21 previous auction experience and competency by affidavit or other evidence as
 22 required by the board.

23 (2) The board is authorized to require information from every applicant to determine
 24 the applicant's honesty and truthfulness.

25 (3) (a) Every applicant shall successfully complete an examination, conducted by the
 26 board or its authorized representative. Every application for examination shall
 27 be submitted on board-prepared forms, and each applicant shall furnish

- 1 pertinent background data as outlined on the forms.
- 2 (b) To defray the cost of administration of the examination, the board shall
3 require each applicant to remit an examination fee established by
4 administrative regulations promulgated by the board in accordance with KRS
5 Chapter 13A.
- 6 (c) Examination fees shall be nonrefundable.
- 7 (d) If the applicant is unable to attend the scheduled exam, the examination fee
8 shall be deferred to the next scheduled administration of the examination.
- 9 (e) Upon successful completion of the examination, the applicant shall apply for
10 initial licensure within forty-five (45) days of receiving notice of successfully
11 completing the examination.
- 12 (f) The examination shall be of the scope and wording sufficient in the judgment
13 of the board to establish the competency of the applicant to act as an
14 auctioneer or other licensee regulated by the board.
- 15 (4) If a license has been revoked, suspended, or is allowed to expire without renewal,
16 the board may require the applicant to pass the written examination or complete
17 some form of board-approved auction education before a license may be issued.
- 18 (5) If a license has not been renewed within six (6) months of the expiration date, the
19 board shall require a person to successfully complete the written examination before
20 a license is issued.
- 21 (6) In addition, every nonresident applicant shall file an irrevocable consent that actions
22 may be commenced against the applicant in any court of competent jurisdiction in
23 the Commonwealth of Kentucky, by the service of any summons, process, or
24 pleadings authorized by law on the authorized representative of the board. The
25 consent shall stipulate and agree that the service of any summons, process, or
26 pleadings on the authorized representative shall be taken and held in all courts to be
27 as valid and binding as if actual service had been made upon the applicant in

1 Kentucky. In case any summons, process, or pleadings are served upon the
2 authorized representative of the board, it shall be by duplicate copies, one (1) of
3 which shall be retained in the office of the board, and the other immediately
4 forwarded by certified mail, return receipt requested, to the last known business
5 address of the applicant against whom the summons, process, or pleadings are
6 directed.

7 ➔Section 6. KRS 330.070 is amended to read as follows:

- 8 (1) An apprentice auctioneer applying for an auctioneer license shall, subject to the
9 provisions of KRS 330.060:
- 10 (a) Possess a current Kentucky apprentice auctioneer license;
 - 11 (b) Serve an apprenticeship for a period of one (1) year as an apprentice
12 auctioneer in Kentucky;
 - 13 (c) Submit a statement to the board, signed by the principal auctioneer, verifying
14 that the applicant has actively and materially participated in at least ten (10)
15 auctions prior to application; and
 - 16 (d) Successfully complete at least eighty (80) hours of approved~~[-classroom]~~
17 instruction from a board-approved auction education provider. The board may
18 waive the eighty (80) hours of approved classroom instruction requirement if
19 the applicant demonstrates sufficient previous auction experience and
20 competency by affidavit or other evidence as required by the board.
- 21 (2) An apprentice auctioneer with an original license issued prior to June 30, 2010, or
22 after July 1, 2015, shall be required to successfully complete the auctioneer
23 examination.
- 24 (3) If an applicant for an auctioneer license resides in a state which does not have a
25 current reciprocity agreement with the board, the board may waive the eighty (80)
26 hour education requirement or the apprenticeship requirement, or both, if the
27 applicant demonstrates sufficient previous auction experience and competency by

1 affidavit or by other evidence as required by the board.

2 (4) An applicant for an auctioneer license who has previously held an auctioneer license
3 which has been revoked, suspended, or which has expired without renewal may
4 request, and the board may grant, a waiver of the requirement of possession of a
5 current apprentice license.

6 (5) Every application for a license issued by the board shall be submitted on forms
7 prepared by the board. Each applicant shall furnish pertinent background data as
8 outlined on those forms.

9 (6) The board shall promulgate administrative regulations in accordance with KRS
10 Chapter 13A to establish an initial license fee and annual renewal license fee,
11 neither of which shall exceed one hundred fifty dollars (\$150).

12 (a) All licenses shall expire on the thirtieth day of June.

13 (b) Each license shall be renewed on or before the expiration date.

14 (c) In addition to the renewal fee, a late fee shall be established by administrative
15 regulations promulgated by the board on each license renewed within six (6)
16 months after the expiration date.

17 (d) In the absence of any reason or condition which might warrant the refusal of
18 renewing a license, and upon timely receipt of the renewal form and the
19 annual fee, the board shall issue a license for the ensuing year.

20 (7) (a) The board may require as a condition precedent to the renewal of any license,
21 that each licensee complete continuing education up to ten (10) hours per
22 license year. The board may impose different continuing education
23 requirements upon different classifications of licenses under this chapter. The
24 continuing education requirements in this subsection shall not apply to those
25 auctioneers licensed prior to January 1, 1980.

26 (b) A licensee who has not completed the required continuing education may,
27 within the time period set forth in subsection (6) of this section, remit a fee

1 established by administrative regulations promulgated by the board with the
2 applicable renewal fees, and the continuing education reporting requirement
3 shall be deferred to the next annual renewal. If the licensee fails to meet the
4 continuing education requirement for the next annual renewal, the licensee
5 shall successfully complete the examination before renewal of his or her
6 license.

7 (c) 1. The board may require all licensees to complete a six (6) hour board-
8 approved core course once every four (4) years, that includes the core
9 subjects of Kentucky auction statutes and regulations, ethics, and any
10 other subject matter deemed appropriate by the board.

11 2. Effective July 1, 2016, each licensee with at least twenty-five (25) years
12 of continuous licensure shall be exempt from the requirements of this
13 paragraph.

14 (8) The board shall prepare and deliver to each licensee a pocket license. The pocket
15 license of the apprentice auctioneer shall contain the name and address of his or her
16 principal auctioneer. The board shall also prepare and deliver a license to each
17 auction house operator.

18 (a) Auction house operators shall display their licenses conspicuously and at all
19 times in the auction house identified on the license.

20 (b) All licensees shall carry their pocket licenses, or a digital facsimile thereof,
21 when performing auctioneering tasks, to be shown upon request.

22 (c) A license or pocket license shall be replaced upon the request of the licensee
23 and payment of a replacement fee established by administrative regulations
24 promulgated by the board in accordance with KRS Chapter 13A.

25 (9) When an apprentice auctioneer is discharged or voluntarily terminates employment
26 with the auctioneer for any reason:

27 (a) It shall be the immediate duty of the principal auctioneer to deliver to the

1 board a written release of the apprentice auctioneer; and

2 (b) The apprentice auctioneer shall affiliate with a principal auctioneer within
3 thirty (30) days by submitting to the board an affiliation letter signed by the
4 new principal auctioneer and a fee established by administrative regulations
5 promulgated by the board in accordance with KRS Chapter 13A.

6 An apprentice auctioneer shall not perform any of the acts regulated by this chapter
7 until receiving a new license bearing a new principal auctioneer's name and address.

8 (10) (a) A licensee may place his or her license in escrow with the board if the licensee
9 does not engage in any board-regulated auctioneering activity and continues to
10 pay the annual renewal license fee.

11 (b) For each year the license is in escrow, a licensee shall be exempt from the
12 contribution to the auctioneer's education, research, and recovery fund and the
13 continuing education requirement.

14 (c) To reactivate a license in escrow, the licensee shall complete the core course
15 and pay a reactivation fee and the annual renewal recovery fee, both of which
16 shall be established by administrative regulations promulgated by the board in
17 accordance with KRS Chapter 13A.

18 (11) Notice in writing shall be given to the board by each licensee of any change of
19 principal business location or residence address within ten (10) days of the change,
20 and the board shall issue an updated license for the unexpired period. The board
21 may fine, suspend, or revoke the license of a licensee who does not notify the board
22 of a change of address within ten (10) days. Changing a business or a residence
23 address on its records shall entitle the board to collect a fee established by
24 administrative regulations promulgated by the board in accordance with KRS
25 Chapter 13A.

26 ➔Section 7. KRS 330.110 is amended to read as follows:

27 The board may suspend for a period up to five (5) years or revoke the license of any

1 licensee, or levy fines not to exceed two thousand dollars (\$2,000), with a maximum fine
2 of five thousand dollars (\$5,000) per year arising from any single incident or complaint,
3 against any licensee, or place any licensee on probation for a period of up to five (5)
4 years, or require successful passage of any examination administered by the board, or
5 require successful completion of any course of auction study or auction seminars
6 designated by the board, or issue a formal reprimand, or order any combination of the
7 above, for violation by any licensee of any of the provisions of this chapter, or for any of
8 the following causes:

- 9 (1) Obtaining a license through false or fraudulent representation;
- 10 (2) Making any substantial misrepresentation;
- 11 (3) Pursuing a continued and flagrant course of misrepresentation or intentionally
12 making false promises or disseminating misleading information through agents or
13 advertising or otherwise;
- 14 (4) Accepting valuable consideration as an apprentice auctioneer for the performance of
15 any of the acts specified in this chapter, from any person, except his or her principal
16 auctioneer;
- 17 (5) Failing to account for or remit, within a reasonable time, any money belonging to
18 others that comes into the licensee's possession, commingling funds of others with
19 the licensee's own funds, or failing to keep the funds of others in an escrow or
20 trustee account;
- 21 (6) Paying valuable consideration to any person for services performed in violation of
22 this chapter, or procuring, permitting, aiding, or abetting any unlicensed person
23 acting in violation of any of the provisions of this chapter;
- 24 (7) Entering a plea of guilty, an Alford plea, a plea of no contest to, or being convicted
25 of, any felony, and the time for appeal has passed or the judgment of conviction has
26 been finally affirmed on appeal;
- 27 (8) Violation of any provision of this chapter or any administrative regulation

- 1 promulgated by the board;
- 2 (9) Failure to furnish voluntarily at the time of execution, copies of all written
3 instruments prepared by any licensee to each signatory of the written instrument;
- 4 (10) Any conduct of a licensee which demonstrates bad faith, dishonesty, incompetence,
5 or untruthfulness;
- 6 (11) Any other conduct that constitutes improper, fraudulent, dishonest, or negligent
7 dealings;
- 8 (12) Failure to enter into a binding written auction listing contract with the seller or with
9 the seller's duly authorized agent prior to advertising, promoting, or offering any
10 real or personal property by or at auction;
- 11 (13) Failure to provide a receipt to all persons consigning personal property with any
12 licensee for auction;
- 13 (14) Failure to establish and maintain, for a minimum of five (5) years from final
14 settlement, complete and correct written or electronic records and accounts of all
15 auction transactions, including:
- 16 (a) Listing contracts, including the name and address of the seller;
- 17 (b) Written purchase contracts;
- 18 (c) Descriptive inventory and final bid amounts of all items or lots offered;
- 19 (d) Buyer registration records; and
- 20 (e) Settlement records, including all moneys received and disbursed and escrow
21 account activity;
- 22 (15) Failure of any licensee to deliver, within twenty (20) days of receipt of a request
23 from the board, any auction-related information, including but not limited to
24 clerking records, buyer registration records, settlement records, escrow account
25 information, license, advertising, listing contracts, purchase contracts, or any
26 other auction-related information to the board staff or the board's designee†
27 ~~present any auction-related information, including but not limited to advertisements,~~

1 ~~listing contracts, purchase contracts, clerking records, buyer registration records,~~
 2 ~~settlement records, escrow account information, license, or any other auction related~~
 3 ~~information, subsequent to a request by the board's executive director, a board~~
 4 ~~compliance officer, or board counsel]; or~~

5 (16) Failure of a principal auctioneer to provide supervision to his or her apprentice
 6 auctioneers **to ensure compliance with this chapter.**

7 ➔Section 8. KRS 330.120 is amended to read as follows:

8 (1) The board may upon its own motion, and shall upon the verified written complaint
 9 of any person, investigate the actions of any licensee or any person who assumes to
 10 act as a licensee if the complaint, or complaint together with other evidence
 11 presented in connection with it, presents a prima facie case of a violation of this
 12 chapter. If a prima facie case is not established or the violation is deemed
 13 inconsequential, the board may immediately dismiss the complaint.

14 (2) If, after an investigation that includes opportunity for the licensee to respond, the
 15 board determines that a violation took place but was not of a serious nature, it may
 16 issue a written admonishment to the licensee. A copy of the admonishment shall be
 17 placed in the file of the licensee. The licensee shall have the right to file a response
 18 to the admonishment within thirty (30) days of its receipt and to have the response
 19 placed in the licensure file. The licensee may alternatively, within thirty (30) days of
 20 the receipt, file a request for hearing with the board. Upon receipt of this request,
 21 the board shall set aside the written admonishment and set the matter for hearing
 22 under the provisions of KRS Chapter 13B.

23 **(3) Upon the board's request, a licensee may submit to a criminal background check**
 24 **at the licensee's expense.**

25 ➔Section 9. KRS 330.130 is amended to read as follows:

26 (1) Before denying an application for license or before imposing any disciplinary action
 27 authorized under KRS 330.110, the board shall set the matter for an administrative

1 hearing, if a hearing is requested by the applicant or licensee. The hearing shall be
2 conducted in accordance with KRS Chapter 13B. If the subject of the hearing is an
3 apprentice auctioneer, the board shall also provide notification of the hearing to the
4 auctioneer employing the apprentice auctioneer~~[-him]~~ or whose employ he or she
5 is about to enter, by sending notice by certified mail, return receipt requested, to the
6 auctioneer's last known business address.

7 (2) Any party aggrieved by a final order of the board refusing to grant a license or
8 suspending or revoking a license may appeal the final order within thirty (30) days
9 after the issuance of the order to the Franklin Circuit Court or the Circuit Court
10 of the county in which the applicant or licensee resides, in accordance with KRS
11 Chapter 13B.

12 ➔Section 10. KRS 330.220 is amended to read as follows:

13 (1) If real or personal property is offered in lots or parcels in a sale by auction, each lot
14 or parcel shall be the subject of a separate sale. This subsection shall not preclude
15 real or personal property from being offered for bidding individually or in some
16 form or combination.

17 (2) Unless otherwise provided in the conditions of sale for auctions regarding horses or
18 any interests therein, a sale by auction is complete when the auctioneer so
19 announces by the fall of the hammer, announcing the item sold, and the successful
20 bidder's identification or in other customary manner. If it becomes immediately
21 apparent at the close of the bidding that the auctioneer and a bid assistant or
22 ringman have acknowledged the same bid from different bidders, the auctioneer
23 may continue the bidding between the disputed bidders. When a bid is made while
24 the auctioneer is in the process of completing the sale by auction, the auctioneer
25 may continue the bidding or declare the real or personal property sold under the bid
26 on which the hammer was falling.

27 (3) No auction shall be advertised as "absolute" nor shall any advertising contain the

1 words "absolute auction" or the word "absolute" or words with similar meaning nor
2 shall any licensee offer or sell any real or personal property at absolute auction
3 unless:

4 (a) There are no liens or encumbrances on the real or personal property, except
5 property tax obligations, easements, or restrictions of record, in favor of any
6 person, firm, or corporation other than the seller, or unless each and every
7 holder of each and every lien and encumbrance, by execution of the auction
8 listing contract, or otherwise furnishing to the auctioneer written evidence of a
9 binding commitment therefor, shall have agreed to the unqualified acceptance
10 of the highest bid for the property, without regard to the amount of the highest
11 bid or the identity of the high bidder; or, alternatively, that a financially
12 responsible person, firm, or corporation, by execution of the auction listing
13 contract or by otherwise furnishing to the auctioneer written evidence of a
14 binding commitment therefor, shall have absolutely guaranteed the forthwith
15 and complete discharge and satisfaction of any and all liens and encumbrances
16 immediately after the sale or at the closing, without regard to the amount of
17 the highest bid received, or the identity of the high bidder; and

18 (b) There is the bona fide intention at the time of the advertising and at the time
19 of the auction to transfer ownership of the real or personal property, regardless
20 of the amount of the highest and last bid, to the high bidder, subject to
21 subsection (5)(b) of this section, that intent existing without reliance on any
22 agreement that any particular bid or bid level must be ~~made or be~~ reached,
23 below which level the real or personal property would not be transferred to the
24 high bidder; and

25 (c) The auction listing contract contains a binding requirement that the auction be
26 conducted without reserve, and includes an acknowledgment that the seller, or
27 anyone acting upon behalf of the seller, shall not bid at the absolute auction,

1 or otherwise participate in the bidding process.

2 (4) Compliance with subsection (3) of this section shall not prohibit:

3 (a) A secured party or other lienholder who is not the seller from bidding at an
4 absolute auction, providing that such bidding does not constitute, nor is it
5 tantamount to the direct or indirect establishment or agreement to the
6 establishment of a reserve price on the real or personal property by the seller
7 or by the auctioneer, or by anyone aiding or assisting, or acting upon behalf of,
8 the seller or the auctioneer; or

9 (b) Any individual party to the dissolution of any marriage, partnership, trust,
10 limited liability company, or corporation from bidding as an individual entity
11 apart from the selling entity, on real or personal property being sold at auction
12 pursuant to that dissolution; or

13 (c) Any individual party or heir of a deceased person's bona fide estate from
14 bidding as an individual entity, apart from the selling entity, on real or
15 personal property being offered at auction pursuant to that estate settlement; or

16 (d) The inclusion of nonmisleading advertising of certain real or personal
17 property to be sold at "absolute auction" and the nonmisleading advertising of
18 certain real or personal property to be offered at auction with reserve, within
19 the same advertisement, or for sale at the same date and place, providing that
20 advertisement shall make clearly apparent through equal or appropriate
21 emphasis, which real or personal property is being offered by each method.

22 (5) (a) Any auction sale is, without requirement of announcement at any time,
23 presumed to be with reserve unless the real or personal property is in explicit
24 terms offered at absolute auction. An auction without reserve means an
25 absolute auction. An auction with reserve means the real or personal property
26 may be offered subject to the seller's confirmation or subject to a certain
27 reserve price. In an auction with reserve, the auctioneer may withdraw the real

1 or personal property at any time until he or she announces completion of the
2 sale. In an absolute auction, after the auctioneer calls for bids on an article, lot,
3 or parcel, that article, lot, or parcel shall not be withdrawn unless no bid is
4 made within a reasonable time. ~~[At both reserve auctions and without reserve
5 auctions, the auctioneer may establish reasonable bid increments once an
6 opening bid has been offered.]~~

7 **(b) At both reserve auctions and without-reserve auctions, the auctioneer may**
8 **establish reasonable, minimum bid increments once an opening bid has**
9 **been offered.**

10 (6) (a) The provisions of this chapter shall not prohibit any licensee from bidding on
11 his or her own behalf at any auction sale, whether absolute or with reserve, if his or
12 her option to do so has been fully disclosed, including disclosure to the seller.

13 (b) Except as provided in subsection (4) of this section, the seller may not bid at
14 an absolute auction, nor may anyone bid upon his or her behalf. No licensee
15 shall knowingly receive a bid by or on behalf of the seller at an absolute
16 auction.

17 (c) Bids may be made by the seller, or upon the seller's behalf, at any auction with
18 reserve, provided that full disclosure has clearly been made that liberty for
19 bidding is retained. No licensee shall knowingly receive a bid in the absence
20 of full disclosure. If the auctioneer knowingly receives a bid on the seller's
21 behalf or the seller makes or procures a bid and notice has not been clearly
22 given that liberty for bidding is reserved, the buyer may avoid the sale or take
23 the real or personal property at the price of the last good faith bid prior to the
24 completion of the sale.

25 (d) There shall be no requirement that the reserve be announced when it is
26 attained.

27 (e) Nothing in this subsection shall be construed to alter or diminish the

- 1 provisions of KRS 330.210.
- 2 (7) (a) At any absolute auction, any advertisement or representation of a minimum or
- 3 suggested starting bid is prohibited.
- 4 (b) At any reserve auction, any advertisement or representation of a minimum or
- 5 suggested starting bid is prohibited unless:
- 6 1. The minimum or suggested starting bid advertised or represented is
- 7 sufficient to satisfy the auction listing contract stated reserve or
- 8 confirmation amount; and
- 9 2. The auction listing contract contains a binding acknowledgment by the
- 10 seller that permission has been granted for disclosure.