

1 AN ACT relating to online auctions.

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

3 ➔Section 1. KRS 330.020 is amended to read as follows:

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

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

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

7 or

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

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

14 (3) "Auction" means any method of sale, lease, or exchange of real property, personal  
15 property, or any combination thereof, by means of competitively increasing or  
16 decreasing bids. Any sale, lease, or exchange of real property, personal property, or  
17 any combination thereof, advertised or presented in any way by or at auction, is an  
18 auction for the purposes of this chapter;

19 (4) (a) "Auction house" means any fixed-base commercial establishment at which  
20 personal property is regularly or customarily offered at auction, or at which  
21 personal property is customarily or regularly deposited and accepted, on  
22 consignment or otherwise, for sale at auction at a fixed location;

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

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

27 2. Tobacco and fixed-base livestock markets regulated by the United States

- 1 Department of Agriculture; or
- 2 3. Fixed-base motor vehicle markets regulated by the Kentucky Motor
- 3 Vehicle Commission pursuant to KRS Chapter 190;
- 4 (5) "Auction house operator" means the individual principally or ultimately responsible
- 5 for the operation of an auction house, or in whose principal interest the
- 6 establishment is operated. The auction house operator is responsible for retaining a
- 7 licensed auctioneer to call bids at all auctions at the auction house;
- 8 (6) "Auctioneer" or "principal auctioneer" means any person who offers, solicits,
- 9 negotiates, or attempts to offer, solicit, or negotiate an auction listing contract, sale,
- 10 lease, or exchange of real property, personal property, or any other item of value, or
- 11 any combination thereof, which may lawfully be kept or offered for sale, lease, or
- 12 exchange, or any combination thereof, by or at auction, or who offers the same at
- 13 auction and who is allowed to supervise and accepts the responsibility of
- 14 sponsoring one (1) or more apprentice auctioneers;
- 15 (7) "Board" means the Board of Auctioneers;
- 16 (8) "Escrow account" means an account, separate from the auctioneer's individual or
- 17 office account, in which all money belonging to others is held for the preservation
- 18 and guarantee of funds until disbursement to the appropriate party;
- 19 (9) "Limited livestock auctioneer" means any auctioneer whose professional activities
- 20 are limited to the calling of bids at the sale of livestock at fixed-based livestock
- 21 yards operating under the control and guidance of the United States Department of
- 22 Agriculture;
- 23 (10) "Personal property" means any tangible or intangible property, goods, services,
- 24 chattels, merchandise, commodities, or any item of value in any form or type, other
- 25 than real property, which may be lawfully kept or offered for sale, exchange, or
- 26 lease;
- 27 (11) "Person" means any individual, association, partnership, corporation, limited

1 liability company, or other business entity, including any officer, director, or  
2 employee thereof;

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

7 (13) "Sealed bid auction" means a sealed bidding procedure which incorporates or  
8 allows for any competitive increasing or decreasing of bids after the opening of  
9 sealed bids. A "sealed bid auction" is an auction subject to the provisions of this  
10 chapter; and

11 **(14) "Timed listing" means an offer of goods for sale with a fixed ending time and**  
12 **date that does not extend based on bidding activity.**

13 ➔Section 2. KRS 330.040 is amended to read as follows:

14 (1) KRS 330.030 shall not apply to:

15 (a) An auction conducted by or under the direction of any public authority or  
16 pursuant to any judicial order or decree, or to any sale required by law to be at  
17 auction;

18 (b) An auction of any real or personal property conducted exclusively by an  
19 individual who personally owns such real or personal property and who did  
20 not acquire such real or personal property for resale. This paragraph is  
21 applicable only to individuals. It does not apply to any other "person" as  
22 defined in KRS 330.020, nor does it apply to any officer, director, or  
23 employee thereof when engaged in any duties associated with those  
24 capacities.

25 (c) Any person who calls bids at the sale of livestock owned and offered at  
26 auction by 4-H Clubs or FFA Clubs or club members, or by any university  
27 operated by the Commonwealth of Kentucky;

- 1 (d) An auction conducted by or on behalf of any political party, church, or  
2 charitable organization, corporation, or association if:
- 3 1. The individual conducting the sale receives no compensation and does  
4 not, by advertising or otherwise, present himself or herself as a licensed  
5 auctioneer;
  - 6 2. All real or personal property is donated and not consigned; and
  - 7 3. One hundred percent (100%) of the net proceeds of the auction are  
8 donated to the political party, church, or charitable organization,  
9 corporation, or association;~~or~~

- 10 (e) A student who:
- 11 1. Is calling bids for a maximum of twenty (20) items or lots of personal  
12 property during a twenty-four (24) hour period at an auction;
  - 13 2. Is under the direct supervision of a person who is both the student's  
14 instructor from a board-approved auction education provider and a  
15 licensed auctioneer; and
  - 16 3. Receives no compensation and does not, by advertising or otherwise,  
17 present himself or herself as being a licensed auctioneer.

18 The student and the supervising auctioneer instructor may both be liable for  
19 the student's auction-related activities; or

20 (f) Any person conducting an online auction that has a fixed price or timed  
21 listing that allows bidding.

- 22 (2) Notwithstanding the provisions of this section, a licensee shall not be exempt from  
23 any provisions of this chapter in connection with or by reason of his or her  
24 participation in any sale excepted under this section.