

**Department of State**  
**Division of Publications**  
 312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower  
 Nashville, TN 37243  
 Phone: 615.741.2650  
 Fax: 615.741.5133  
 Email: register.information@tn.gov

**For Department of State Use Only**

Sequence Number: 06-21-14  
 Notice ID(s): 2188  
 File Date: 10/21/14

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Tennessee Auctioneer Commission
<b>Division:</b>	Regulatory Boards
<b>Contact Person:</b>	Julie Cropp
<b>Address:</b>	500 James Robertson Parkway, Nashville, Tennessee 37243
<b>Phone:</b>	(615) 741-3072
<b>Email:</b>	Julie.Cropp@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Don Coleman
<b>Address:</b>	500 James Robertson Parkway, 12 <sup>th</sup> Floor, Nashville, Tennessee 37243
<b>Phone:</b>	(615) 741-6500
<b>Email:</b>	Don.Coleman@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Davy Crockett Tower, Conference Room 1-B		
Address 2:	500 James Robertson Parkway		
City:	Nashville		
Zip:	37243		
Hearing Date :	October 6, 2014		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

--

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0160-01	Regulations of Auctioneers
Rule Number	Rule Title
0160-01-.01	Duties of Auctioneer
0160-01-.05	Publication of Name
0160-01-.11	Civil Penalties

0160-01-.14	Fees
0160-01-.16	Non-Auctioneer Firm License Application
0160-01-.24	Notification of Change of Information
0160-01-.26	Escrow Account Requirement
0160-01-.27	Livestock Auction Sales
0160-01-.28	Online Auctions
0160-01-.29	Military Applicants

Chapter 0160-01  
Regulations of Auctioneers

Amendments

Rule 0160-01-.01 Duties of Auctioneer is amended by numbering the existing paragraph as paragraph (1) and adding a new paragraph (2), which shall read as follows:

- (1) The Auctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefrom and shall, over his signature, issue a closing statement to the seller or sellers.
- (2) No licensed auctioneer shall accept offers for hire to call bids at any auction held by an auction house, auction barn, or auction gallery that is not either:
  - (a) owned and operated by a licensed auctioneer holding a valid firm license; or
  - (b) licensed as a gallery pursuant to the provisions of T.C.A. § 62-19-125.

Authority: T.C.A. §§ 62-19-106 and 62-19-125.

Rule 0160-01-.05 Publication of Name is amended by deleting the phrase "name of its sponsoring auctioneer, and the auctioneer" in paragraph (2) and replacing it with the phrase "name of its principal auctioneer, and the principal auctioneer" so that, as amended, the paragraph shall read:

- (2) All advertising of an auction sale by an auction firm not owned by a licensed auctioneer shall include the name of its principal auctioneer, and the principal auctioneer shall attend all auction sales.

Authority: T.C.A. §§ 62-19-106 and 62-19-111.

Rule 0160-01-.11 Civil Penalties is amended by deleting the text of the rule in its entirety and substituting, instead, the following language so that, as amended, the rule shall read:

- (1) With respect to any person required to be licensed by the Commission, the Commission may assess a civil penalty against such person in accordance with the following schedule:

Violation	Penalty
T.C.A. § 62-19-102(a)(1)	0 - \$1,000
T.C.A. § 62-19-102(a)(2)	0 - \$1,000
T.C.A. § 62-19-102(a)(3)	0 - \$1,000
T.C.A. § 62-19-102(b)	0 - \$1,000
T.C.A. § 62-19-112(b)(1)	0 - \$1,000
T.C.A. § 62-19-112(b)(2)	0 - \$1,000
T.C.A. § 62-19-112(b)(3)	0 - \$1,000
T.C.A. § 62-19-112(b)(4)	0 - \$1,000
T.C.A. § 62-19-112(b)(5)	0 - \$1,000

T.C.A. § 62-19-112(b)(6)	0 - \$1,000
T.C.A. § 62-19-112(b)(7)	0 - \$1,000
T.C.A. § 62-19-112(b)(8)	0 - \$1,000
T.C.A. § 62-19-112(b)(9)	0 - \$1,000
T.C.A. § 62-19-112(b)(10)	0 - \$1,000
T.C.A. § 62-19-112(b)(11)	0 - \$1,000
T.C.A. § 62-19-112(b)(12)	0 - \$1,000
T.C.A. § 62-19-112(b)(13)	0 - \$1,000
T.C.A. § 62-19-125(a)	0 - \$1,000
T.C.A. § 62-19-125(b)	0 - \$1,000
T.C.A. § 62-19-128(b)	0 - \$1,000
T.C.A. § 62-19-128(c)	0 - \$1,000
T.C.A. § 62-19-128(d)	0 - \$1,000
T.C.A. § 62-19-128(e)	0 - \$1,000
T.C.A. § 62-19-128(f)	0 - \$1,000
Any Commission Rule or Order	0 - \$1,000

- (2) Each day of a continued violation under paragraph (1) may constitute a separate violation.
- (3) The Commission's administrative director and investigator, acting on behalf of the Commission, may issue citations to unlicensed individuals or entities in accordance with T.C.A. § 62-19-126 and the following schedule:

Violation	Penalty
T.C.A. § 62-19-102 (a) (1)	\$50-\$2,500
T.C.A. § 62-19-102 (a) (2)	\$50-\$2,500
T.C.A. § 62-19-102 (b)	\$50-\$2,500
T.C.A. § 62-19-125 (a)	\$50-\$2,500

- (4) In determining the amount of any penalty to be assessed pursuant to this rule, the Commission may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (b) The circumstances leading to the violation;
  - (c) The severity of the violation and the risk of harm to the public;
  - (d) The economic benefits gained by the violator as a result of non-compliance; and
  - (e) The interest of the public.

Authority: T.C.A. §§ 56-1-308, 62-19-106, 62-19-116 and 62-19-126.

Rule 0160-01-.14 Fees is amended by deleting paragraph (6) in its entirety:

Authority: T.C.A. §§ 62-19-106(b).

Rule 0160-01-.16 Non-Auctioneer Firm License Application is amended by deleting the name and text of the rule in its entirety and substituting, instead, the following language so that, as amended, the name and rule shall read:

**0160-01-.16 NON-AUCTIONEER OWNED FIRMS.**

- (1) A non-auctioneer owned firm is an auction firm which is not owned in any part by a person who holds a Tennessee auctioneer's license.

- (2) Every application by a business entity, including a limited liability company, corporation or partnership not principally engaged in the auction business, for an auction firm license or license renewal shall designate as the applicant a natural person who is an employee, owner, shareholder, partner, or member of the entity and meets the applicable requirements of T.C.A. § 62-19-111. The designated applicant shall be the individual responsible for the firm's license.
- (3) A non-auctioneer owned firm must also designate in its auction firm license application one (1) licensed auctioneer who shall serve as the firm's principal auctioneer. The principal auctioneer shall attend and, along with the firm, shall accept responsibility for all auctions conducted by the firm.
- (4) Any non-auctioneer owned firm must notify the Commission within ten (10) days of the death, resignation, termination or other extended absence of the firm's principal auctioneer. The firm shall have no longer than thirty (30) days from the death, resignation, termination or other extended absence within which to replace the principal auctioneer and must immediately notify the Commission in writing of the auctioneer's replacement. The firm shall not conduct any auctions until the Commission has received its designation of a new principal auctioneer.

Authority: T.C.A. §§ 62-19-102, 62-19-106, and 62-19-111.

Rule 0160-01-.24 Notification of Change of Information is amended by adding the following language as a new paragraph (2):

- (2) Any firm must notify the Commission within ten (10) days of the death, resignation, termination or other extended absence of the firm's principal auctioneer. The firm shall have no longer than thirty (30) days from the death, resignation, termination or other extended absence within which to replace the principal auctioneer and must immediately notify the Commission in writing of the auctioneer's replacement.

Authority: T.C.A. §§ 62-19-106 and 62-19-111.

Chapter 0160-01  
Regulations of Auctioneers

New Rules

0160-01-.26 Escrow Account Requirement

All licensed auction firms and galleries shall maintain an escrow or trustee account for all funds that belong to others but which are held by the firm or gallery as a result of an auction sale.

Authority: T.C.A. §§ 62-19-106 and 62-19-112(b)(4).

0160-01-.27 Livestock Auction Sales

- (1) Pursuant to T.C.A. § 62-19-103(8), the provisions of title 62, chapter 19 do not apply to any livestock auction sale regulated by the United States Department of Agriculture Packers & Stockyards Administration, if the sale uses:
  - (a) The shipper's proceeds account required by federal regulations; and
  - (b) A Tennessee licensed auctioneer.

- (2) Any operator of a livestock auction sale that is not registered with and regulated by the Packers & Stockyards Administration shall not qualify for the firm or gallery license exemption under T.C.A. § 62-19-103(8) and must be appropriately licensed.
- (3) If the operator of a livestock auction sale that is registered with and regulated by the Packers & Stockyards Administration sells any items other than livestock at a regulated livestock auction and the proceeds are deposited into the shipper's proceeds account, then neither a Tennessee auction firm nor a Tennessee auction gallery is required. Any such auction must still be conducted by a Tennessee licensed auctioneer.
- (4) Any person acting as an auction firm or gallery outside of a livestock auction regulated by the Packers & Stockyards Administration shall hold a Tennessee auction firm or gallery license and is subject to all statutes and rules of the Tennessee Auctioneer Commission notwithstanding such person's registration with the Packers & Stockyards Administration.
- (5) Nothing in this rule shall be construed as exempting any person acting as or advertising or representing to be an auctioneer or apprentice auctioneer from the licensure requirements of T.C.A. § 62-19-102.

Authority: T.C.A. §§ 62-19-102, 62-19-103, and 62-19-106.

0160-01-.28 Online Auctions

If the time for an online only auction with a fixed bidding time is extended beyond the online auction's fixed ending time, then the auction and the person conducting the auction are not included within the exemption specified at T.C.A. § 62-19-103, and the statutes and rules of the Tennessee Auctioneer Commission shall govern the online auction.

Authority: T.C.A. §§ 62-19-102, 62-19-103, and 62-19-106.

0160-01-.29 Military Applicants

- (1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:
  - (a) Be issued a license upon application and payment of all fees required for the issuance of a regular license of the same type if, in the opinion of the Commission, the requirements for licensure of such other state are substantially equivalent to that required in Tennessee; or
  - (b) Be issued a temporary permit as described herein if the Commission determines that the applicant's license does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including – but not limited to – education, training, or experience, in order to meet the requirements for the license to be substantially equivalent. In that case, the Commission may issue a temporary permit upon application and payment of all fees required for issuance of a regular license of the same type which shall allow such person to perform services as if fully licensed for a set period of time that is determined to be sufficient by the Commission for the applicant to complete such requirements.
    - 1. After completing those additional requirements and providing the Commission with sufficient proof thereof as may be required, a full license shall be issued to the applicant with an issuance date of the date of the original issuance of the temporary permit and an expiration date as if the full license had been issued at that time.
    - 2. A temporary permit shall be issued for a period of less than the length of a renewal cycle for a full license.

3. A temporary permit shall expire upon the date set by the Commission and shall not be subject to renewal except through the timely completion of the requirements for substantial equivalency as required by the Commission or by an extension of time granted for good cause by the Commission.
  4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full license, then the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the Commission for all other renewals of a full license of the same type.
- (2) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any license issued by the Commission under the Division of Regulatory Boards if such military education, training or experience is determined by the Commission to be substantially equivalent to the education, training, or experience required for the issuance of such license.
- (3) Renewal:
- (a) Any licensee who is a member of the national guard or a reserve component of the armed forces of the United States called to active duty whose license expires during the period of activation shall be eligible to be renewed upon the licensee being released from active duty without:
    1. Payment of late fees or other penalties;
    2. Obtaining continuing education credits when:
      - (i) Circumstances associated with the person's military duty prevented the obtaining of continuing education credits and a waiver request has been submitted to the Commission; or
      - (ii) The person performs the licensed occupation as part of such person's military duties and provides documentation sufficient to demonstrate such to the Commission.
    3. Performing any other similar act typically required for the renewal of a license.
  - (b) The license shall be eligible for renewal pursuant to this subsection for six (6) months from the person's release from active duty.
  - (c) Any person renewing under this paragraph shall provide the Commission such supporting documentation evidencing activation as may be required by the Commission prior to renewal of any license pursuant to this paragraph.

Authority: T.C.A. §§ 4-3-1304 and 62-19-106.

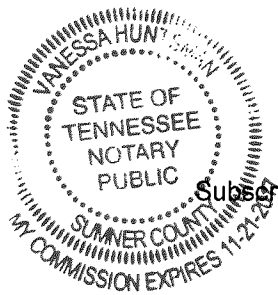
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 6/23/14

Signature: Julie E. Cropp

Name of Officer: Julie E. Cropp

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 6/23/14

Notary Public Signature: Vanessa Hunt Green

My commission expires on: 11/21/17

**Department of State Use Only**

Filed with the Department of State on: 6/24/14

Tre Hargett  
Tre Hargett  
Secretary of State

RECEIVED  
2014 JUN 24 PM 1:13  
OFFICE OF  
SECRETARY OF STATE