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312 8th Avenue North, 8th Floor Tennessee Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Fax: 615-741-5133  
Email: sos.information@state.tn.us

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# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

<b>Agency/Board/Commission:</b>	Auctioneers Commission
<b>Division:</b>	Regulatory Boards
<b>Contact Person:</b>	Adrian Chick
<b>Address:</b>	Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower, 12th Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	615-741-3072
<b>Email:</b>	adrian.chick@state.tn.us

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

- Amendment  
 New  
 Repeal

**Rule(s) Revised** (for additional chapters, copy and paste table)

<b>Chapter Number</b>	<b>Chapter Title</b>
0160-01	Regulations of Auctioneers
<b>Rule Number</b>	<b>Rule Title</b>
0160-01-.06	Dates of Examination
0160-01-.10	Auction Schools
0160-01-.11	Civil Penalties
0160-01-.14	Fees
0160-01-.25	Public Automobile Auction and Public Automobile Auctioneer License

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0160-01  
Regulations of Auctioneers

New Rules

Table of Contents

0160-01-.25. Public Automobile Auction and Public Automobile Auctioneer License.

0160-01-.25. Public Automobile Auction and Public Automobile Auctioneer License.

- (1) Any individual desiring a license as a public automobile auctioneer shall submit an application on a form prescribed by the commission, accompanied by a nonrefundable application fee, along with satisfactory proof that the applicant has:
  - (a) Reached at least twenty-one (21) years of age;
  - (b) Served as an auctioneer for a period of two (2) years; and
  - (c) Successfully completed, in addition to the education required by T.C.A § 62-19-111(a)(2), thirty (30) hours of rigorous classroom instruction in automobile auctioneering approved by the commission.
  
- (2) An applicant for a public automobile auction license shall submit an application on a form prescribed by the commission, accompanied by a nonrefundable application fee, and accompanied by satisfactory proof that:
  - (a) The public automobile auction has a letter of compliance with local ordinances from the local zoning authority;
  - (b) The public automobile auction has garage keeper's legal liability insurance in an amount not less than five hundred thousand dollars (\$500,000);
  - (c) The public automobile auction has a surety bond of fifty thousand dollars (\$50,000) issued by a licensed bonding company;
  - (d) The public automobile auction has a compiled financial statement prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not earlier than twelve (12) months prior to the date of the application;
  - (e) The public automobile auction has a minimum net worth of one hundred thousand dollars (\$100,000);
  - (f) The public automobile auction has a business telephone land line in the public automobile auction's name;
  - (g) The public automobile auction has a permanently installed professional business sign with letters which are at least eight (8) inches in height;
  - (h) The public automobile auction has a current business tax license as required by local law;

- (i) The public automobile auction has displayed on its premises a valid motor vehicle dealer license from the Tennessee Motor Vehicle Commission; and
- (j) The public automobile auction has displayed on its premises a valid license from the Tennessee Auctioneer Commission.

Authority: T.C.A. § 62-19-106 and Chapter 724 of the Public Acts of 2008, §§ 3, 4 and 8.

#### Amendments

Rule 0160-01-.06 Dates of Examinations 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:

0160-01-.06. Dates of Examinations.

(1) The Commission shall, in conjunction with the current contractor, administer the examination on the dates provided by the contractor five (5) days per week excluding holidays. Provided, however, that no examination shall be administered to an applicant who lacks more than ninety (90) days completing the two (2) year apprenticeship.

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

Rule 0160-01-.10 Auction Schools 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:

0160-01-.10. Auction Schools.

- (1) In order to be approved by the Auctioneer Commission (for the purpose of providing instruction required by T.C.A. § 62-19-111 for an apprentice, auctioneer, or firm license), an auction school must:
  - (a) execute an application on the form prescribed by the Commission, accompanied by a description of the school's curriculum;
  - (b) have a permanent business location;
  - (c) conduct a minimum of eighty (80) hours of instruction, including at least forty (40) hours under the supervision of a licensed auctioneer with at least five (5) years of experience;
  - (d) for applicants applying for an upgrade from apprentice to auctioneer, conduct a minimum of thirty (30) hours of instruction, including at least fifteen (15) hours of instruction given by a licensed auctioneer with at least five (5) years of experience;
  - (e) maintain a pass/fail grading system, with a supplementary "good/fair/poor" designation;
  - (f) provide instruction in public speaking, bid calling, sales management, advertisements, contracts, closing statements, license law, the Uniform Commercial Code, bulk sales and firearms;
  - (g) demonstrate every two (2) years that it has met the requirements of the Tennessee Higher Education Commission (or the equivalent thereof in another state).

- (2) In order to be approved by the Auctioneer Commission (for the purpose of providing instruction required by T.C.A. § 62-19-111 for an automobile auctioneer license), an auction school must:
- (a) execute an application on the form prescribed by the Commission, accompanied by a description of the school's curriculum;
  - (b) have a permanent business location;
  - (c) conduct a minimum of thirty (30) hours of rigorous classroom instruction in automobile auctioneering including instruction in ethics of automobile auctions, registration and licensing of motor vehicles, transfers of title and registration, and rules and statutes relating to public automobile auctions.
  - (d) demonstrate every two (2) years that it has met the requirements of the Tennessee Higher Education Commission (or the equivalent thereof in another state).

Authority: T.C.A. §§ 62-19-106(b), 62-19-111(b) and (d) and Public Chapter 724 of the Public Acts of 2008 §§ 3 and 8.

Rule 0160-01-.11 Civil Penalties is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language so that, as amended, the paragraph 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. § 62-19-128(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

Authority: T.C.A. §§ 56-1-308, 62-19-106(b) and 62-19-126 and Chapter 724 of the Public Acts of 2008, § 8.

Rule 0160-01-.14 Fees is amended adding fees for a public automobile auctioneer license and a public automobile auction license of one hundred seventy-five dollars (\$175) each to the list of fees in paragraph (2) so that, as amended, paragraph (2) shall read:

- (2) Fees for the issuance of initial licensure and the renewal thereof shall be as follows:

Auctioneer License.....	one hundred seventy-five dollars (\$175)
Apprentice Auctioneer License.....	one hundred twenty-five dollars (\$125)
Principal Office Firm License.....	one hundred twenty-five dollars (\$125)
Gallery License.....	one hundred seventy-five dollars (\$175)
Auction Firm Branch License.....	seventy-five dollars (\$75)
Gallery Branch License.....	seventy-five dollars (\$75)
Auctioneer Education and Recovery Account Fee.....	fifty dollars (\$50)
Public Automobile Auctioneer License....	one hundred seventy-five dollars (\$175)
Public Automobile Auction License.....	one hundred seventy-five dollars (\$175)

Rule 0160-01-.14 Fees is further amended by adding "public automobile auctioneer" to the first sentence so that, as amended, paragraph (3) shall read as follows:

- (3) A licensee shall pay a one-time fee of one hundred fifty dollars (\$150.00) for the retirement of an auctioneer, apprentice auctioneer, or public automobile auctioneer license. An application or activation of a retired license shall be accompanied by an application fee of one hundred dollars (\$100.00), the applicable license fee and the Auctioneer Education and Recovery Account fee.

Authority: T.C.A. §§62-19-106(b), 62-19-111 and 62-19-116 and Chapter 724 of the Public Acts of 2008, § 8.

**Regulatory Flexibility Addendum**

Pursuant to Public Chapter 464 of the 105<sup>th</sup> General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

**Economic Impact Statement:**

- 1. Types of small businesses directly affected:

The new rules, which relate to the newly created public automobile auction license and the public automobile auctioneer license, will affect any firm or individual, respectively, that chooses to apply for either of these new licenses. The amendments to existing rules, which include changes to the list of civil penalties, license fees, and examinations, will apply to all licensees.

- 2. Projected reporting, recordkeeping and other administrative costs.

Those individuals or firms wishing to obtain licensing as a public automobile auction or public automobile auctioneer license will be required to submit an application and the required fee. Neither the new rules nor the amendments create any additional reporting requirements for licensees. The new licensing provisions may create additional administrative costs to the Commission.

- 3. Probable effect on small businesses:

The new rules may have a positive effect on small businesses that choose to take advantage of the newly created licenses by allowing them to engage in public automobile auctions that are currently not permissible. The amendments will require small businesses wishing to obtain a public automobile auction license to pay a required application fee of \$50 and a public

automobile auction license fee of \$175. The amendments will subject a small business engaged in the business of a public automobile auction who violates these rules or statutes to a civil penalty.

4. Less burdensome, intrusive or costly alternative methods:

There are no alternative means available to accomplish these objectives as required by Chapter 724 of the Public Acts of 2008.

5. Comparison with federal and state counterparts:

There are no Federal counterparts. The Commission is unaware of similar rules in other states.

6. Effect of possible exemption of small businesses:

There is no expected exemption of small businesses as a result of the new rules or amendments.