Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 11-06-19
Notice ID(s): 3033-3034
File Date: 11/6/19

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.

Agency/Board/Commission:	Tennessee Auctioneer Commission
Division:	Regulatory Boards
Contact Person:	Anna D. Matlock
Address:	500 James Robertson Parkway, Nashville, Tennessee 37243
Phone:	(615) 741-3072
Email:	Anna.Matlock@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:

ADA Contact:	Don Coleman
Address:	500 James Robertson Parkway Davy Crockett Tower Nashville, TN 37243
Phone:	(615) 741-0481
Email:	Don.Coleman@tn.gov

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

Address 1:	500 James Robertson Parkway, Conference Room 1-B		
Address 2:			
City:	Nashville		
Zip:	37243		
Hearing Date :	February 24, 2019		
Hearing Time:	9:00 a.m.	X CST/CDT	___EST/EDT

Additional Hearing Information:

N/A

Revision Type (check all that apply):

X Amendment
___ New
X 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-.02	Unlawful Rebates
0160-01-.05	Publication of Name
0160-01-.06	Dates of Examination

0160-01-.10	Auction Schools
0160-01-.11	Civil Penalties
0160-01-.12	Apprentices – Sponsors- Supervision
0160-01-.14	Fees
0160-01-.15	Nonresident Auctioneer
0160-01-.16	Non-Auctioneer Owned Firms
0160-01-.20	Advertising Guidelines
0160-01-.21	Disclosure of Buyer's Premium
0160-01-.22	Late Renewal of License
0160-01-.23	Retirement of License
0160-01-.24	Notification of Change of Information
0160-01-.25	Public Automobile Auction and Public Automobile Auctioneer License
0160-01-.26	Escrow Account Requirement
0160-01-.27	Livestock Auction Sales

Chapter Number	**Chapter Title**
0160-03	Continuing Education
Rule Number	**Rule Title**
0160-03-.01	Definitions
0160-03-.03	Basic Requirements

Redline – 2019 Rulemaking Hearing
Tennessee Auctioneer Commission

Chapter 0160-01
Regulations of Auctioneers
Amendments

TABLE OF CONTENTS

0160-01-.01	Duties of Principal Auctioneer	0160-01-.16	Repealed
0160-01-.02	Unlawful Rebates	0160-01-.17	Charity Auction Exemption
0160-01-.03	Repealed	0160-01-.18	Electronic Media Auction License
0160-01-.04	Repealed	0160-01-.19	Types of Auctions Defined
0160-01-.05	Publication of Name	0160-01-.20	Advertising Guidelines
0160-01-.06	Dates of Examinations	0160-01-.21	Disclosure of Buyer's Premium
0160-01-.07	Repealed	0160-01-.22	Late Renewal of License
0160-01-.08	Repealed	0160-01-.23	Retirement of License
0160-01-.09	Assistants	0160-01-.24	Notification of Change of Information
0160-01-.10	Auction Schools	0160-01-.25	Public Automobile Auction and Public Automobile Auctioneer License
0160-01-.11	Civil Penalties		
0160-01-.12	Affiliates - Sponsors- Supervision	0160-01-.26	Escrow Account Requirement
0160-01-.13	Repealed	0160-01-.27	Livestock Auction Sales
0160-01-.14	Fees	0160-01-.28	Online Auctions
0160-01-.15	Non-resident Auctioneer	0160-01-.29	Military Applicants

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

0160-01-.01 DUTIES OF PRINCIPAL AUCTIONEER.

The auctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefrom and shall, over his or her signature, issue a closing statement to the seller or sellers.

Authority: *T.C.A. § 62-19-106.*

Rule 0160-01-.02 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.02 shall read:

0160-01-.02 UNLAWFUL REBATES.

It shall be unlawful for a person licensed under the provisions of this act to rebate any part of his or her commission to any person or persons not holding a real estate license or auctioneer license.

Authority: *T.C.A. § 62-19-106.*

Rule 0160-01-.05 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.05 shall read:

0160-01-.05 PUBLICATION OF NAME.

(1) All advertising of an auction sale must be made in the name of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer commission.

(2) All advertising shall include the name of the auctioneer, and the auctioneer shall attend all auction sales.

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

Rule 0160-01-.06 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.06 shall read:

0160-01-.06 DATES OF EXAMINATIONS.

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, no examination shall be administered to an applicant who is more than twenty-five (25) days short of completing the six (6) months required for an affiliate auctioneer license.

Authority: *T.C.A. §§ 62-19-106(b) and (e) and 62-19-111(b) and (c).*

Rule 0160-01-.10 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.10 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 a bid caller, affiliate, or principal 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 fifty (50) hours of classroom or online instruction, including sixteen (16) hours in basic fundamentals, and at least twenty-five (25) hours under the supervision of a licensed auctioneer with at least three (3) years of experience;

(d) Maintain a pass/fail grading system, with a supplementary "good/fair/poor" designation;

(e) Provide instruction in public speaking, bid calling, sales management, advertisements, contracts, closing statements, license law, the Uniform Commercial Code, bulk sales and firearms; and

(f) 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 fifteen (15) hours of rigorous classroom or online 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; and

(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) and 62-19-111.*

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

0160-01-.11 CIVIL PENALTIES.

(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)(2)	0 - $1,000
T.C.A. § 62-19-102(a)(3)	0 - $1,000
T.C.A. § 62-19-102	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
Any Commission Rule or Order	0 - $1,000

(2) Each day of a continued violation under paragraph (1) constitutes 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

(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-.12 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.12 shall read:

0160-01-.12 AFFILIATES - SPONSORS - SUPERVISION.

(1) In order to be permitted to sponsor an affiliate auctioneer, a principal or public automobile auctioneer must be licensed for at least one (1) year and be in good standing with the Commission.

(2) Any affiliate auctioneer so sponsored shall be under the direct supervision of his or her sponsor or under the direct supervision of his or her non-sponsoring employer auctioneer if acting pursuant to paragraph (8).

(3) A sponsoring principal or public automobile auctioneer is to be responsible and accountable for the auctioneering activities of any affiliate auctioneer associated with such auctioneer.

(4) All sponsoring principal or public automobile auctioneers shall reside in the same state as their affiliate auctioneers. However, in appropriate cases, upon good cause being shown, the Commission may waive this rule.

(5) Any legal document relative to conducting, or offering to conduct, any auction shall be executed by a principal or public automobile auctioneer, or by an affiliate auctioneer with the approval of his or her sponsor so noted on the document.

(6) Any advertisement placed by an affiliate auctioneer must clearly and conspicuously identify the affiliate auctioneer as such, contain his or her license number and the name and license number of his or her sponsor's firm.

(7) An affiliate auctioneer may be employed by a licensed principal or public automobile auctioneer who is not designated as the affiliate's sponsor if the following terms and conditions are met:

(a) The affiliate auctioneer must first notify the Commission of such employment on a form approved by the Commission. The form shall include the written permission of the affiliate's sponsor and shall contain the notarized signatures of the affiliate auctioneer, the sponsoring principal or public automobile auctioneer and the non-sponsoring employer principal or public automobile auctioneer;

(b) The non-sponsoring employer auctioneer must be currently licensed as a principal or public automobile auctioneer in the State of Tennessee and must be in good standing with the Commission;

(c) All non-sponsoring employer auctioneers shall reside in the same state as the affiliate auctioneer(s). However, in appropriate cases, upon good cause being shown, the Commission may waive this rule; and

(d) Any violation of this rule shall subject the affiliate auctioneer, the sponsoring principal or public automobile auctioneer and/or the non-sponsoring employer principal or public automobile auctioneer to disciplinary action by the Commission.

(8) An affiliate:

(a) May not execute a contract to conduct an auction without the approval of his or her sponsor noted on the document, but an affiliate may sign a contract in order to indicate he or she

procured the client and the auction.

(b) May not sign a closing statement or have an escrow or trust account in his or her name as a depository for auction proceeds, but he or she may take part in the closing and settlement proceedings of an auction. An affiliate's sponsoring auctioneer is responsible for keeping the account of and dispersing money received at an auction.

(c) May not call bids at an auction without the presence of his or her sponsor. An affiliate's sponsor is responsible for all auctioning activities of the affiliate and must be physically present to monitor those activities.

(9) An affiliate shall provide the Tennessee Auctioneer Commission with sufficient proof that he or she has been active during the affiliateship. Each affiliate shall use a log as a means to keep track of his or her experience during the (6) month affiliateship period. The log shall be completed and submitted with the application for a principal or public automobile auctioneer license, at the conclusion of the affiliateship.

(a) Points. An auction is divided into eight (8) parts. Each part has a point value assigned to it. Performance of any of the activities listed in paragraph (10) of this rule earns the affiliate the corresponding points. The details of these activities and their point values shall be included in an affiliate's log. During the six (6) month affiliateship period, an affiliate shall obtain a minimum of 1,000 points in order to be eligible for a principal or public automobile auctioneer license. This is the substantial equivalent of working five (5) auctions from beginning to end.

(b) Sponsor's Signature. A sponsoring principal or public automobile auctioneer shall acknowledge each auction activity recorded in his or her affiliate's log, by signing and dating in the appropriate space after each entry of activity.

(c) Accumulating Points. An affiliate should make every effort to obtain and log experience in all phases of the auction business. An affiliate shall not submit a log with all of their experience concentrated in fewer than four (4) auction activities. The purpose of the log is to indicate to the Commission that the affiliate has been fully exposed to the auction business and has participated in as many areas of the auction process as possible.

(10) An affiliate shall complete each of the following categories to receive points:

(a) Contracts: Complete and execute a contract with a seller (in accordance with subparagraph (8)(a) of this rule), twenty (20) points;

(b) Advertising: Write an inventory/create a newspaper ad/erect signs, twenty (20) points;

(c) Sale Preparation: Prepare an inventory for an auction or set up auction equipment, twenty (20) points;

(d) Bid Calling: Call bids at an auction, sixty (60) points;

(e) Bid Assistant/Working Ring: Work the ring at an auction for at least one (1) hour, forty (40) points;

(f) Clerking/Cashiering: Clerk at least thirty percent (30%) of an auction or collect money for at least thirty percent (30%) of an auction, twenty (20) points; and

(g) Closing: Participate in balancing auction proceeds and assist in preparation of a closing statement, twenty (20) points.

Authority: *T.C.A. §§ 62-19-106, 62-19-106(b), 62-19-111, and 62-19-112(b)(7).*

Rule 0160-01-.14 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.14 shall read:

0160-01-.14 FEES

(1) Each application for licensure shall be accompanied by a non-refundable application fee of fifty dollars ($50.00).

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

(a) Principal Auctioneer License, one hundred seventy-five dollars ($175.00);

(b) Affiliate Auctioneer License, one hundred twenty-five dollars ($125.00);

(c) Bid Caller Auctioneer License, one hundred fifty dollars ($150.00);

(d) Public Automobile Auctioneer License, one hundred seventy-five dollars ($175.00);

(e) Public Automobile Auction License, one hundred seventy-five dollars ($175.00);

(f) Auctioneer Education and Recovery Account Fee, fifty dollars ($50.00); and

(g) Replacement license, thirty-five dollars ($35.00).

(3) Licenses are valid for two (2) years from the date of their issuance and must be renewed on or before their expiration date. However, the commission may, in its discretion, renew the license upon application within the sixty (60) days immediately preceding its date of expiration.

(4) A licensee shall pay a one-time fee of one hundred fifty dollars ($150.00) for the retirement of a principal auctioneer, affiliate auctioneer, or public automobile auctioneer license. An application for 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.

(5) An applicant who fails a license examination shall pay a fee as set by contract with the Auctioneer Commission license examination administrator for each subsequent re- examination.

Authority: *T.C.A. §§ 62-19-106(b), 62-19-111, and 62-19-116.*

Rule 0160-01-.15 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.15 shall read:

0160-01-.15 NON-RESIDENT AUCTIONEER

(1) Disciplinary sanctions against a non-resident licensee imposed by the licensee's home state or any other state shall be grounds for disciplinary action by the Commission in accordance with T.C.A. § 62-19-112 and these rules.

(2) Each application for a non-resident auctioneer license shall be accompanied by documentation from a bank that includes the name and address of the bank, the account number of the non-resident auctioneer's escrow account and the signature and title of the bank officer issuing the documentation. The documentation shall further include a statement authorizing the Tennessee Auctioneer Commission, or its agents, to audit the escrow account.

Authority: *T.C.A. §§ 62-19-106, 62-19-112, and 62-19-117.*

Rule 0160-01-.20 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.20 shall read:

0160-01-.20 ADVERTISING GUIDELINES.

(1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auctioneer responsible for holding the sale.

(2) False, deceptive, misleading and untruthful advertising is expressly prohibited. Any advertisement or advertising shall be deemed to be false, deceptive, misleading or untruthful if it:

(a) Contains a misrepresentation of fact.

(b) Is misleading or deceptive because in its content or, in the context in which it is presented, it makes only a partial disclosure of relevant facts.

(c) Creates a false or unjustified expectation of the services to be performed.

(d) Contains any representation or claim that the advertising licensee in bad faith fails to perform.

(e) Advertises any auction using such descriptive words as "Urgent," "Emergency," "Distress," or any other word which connotes a liquidation of assets or that the buyers will, for some extraordinary reason, be in a position to reap some unusual bargain, without specifically disclosing the reason that the sale is "urgent," the nature of the "emergency" or the cause of the "distress." In a written advertisement, the reason, nature, and cause shall be set forth in a print size equal to the descriptive word used.

(f) Advertises any auction using descriptive words such as "Seized," "Confiscated," "Forfeited," or any other word which connotes a governmental action; the sale of items seized or taken by a government department, agency or commission; or that buyers will for some governmental reason be in a position to reap some unusual bargain, without specifically disclosing the exact nature of the governmental action. In a written advertisement, the nature of the governmental action shall be set forth in a print size equal to the descriptive word used.

(g) Advertises in bad faith an item for sale that the auctioneer does not intend to offer for sale at the auction being advertised.

(3) Advertising for a sale at which some items will be auctioned with reserve and some items will be auctioned without reserve shall clearly and conspicuously indicate this fact to the public. In written advertisements for such a sale, the font size, style and case of the type used in publicizing the part of the sale to be held without reserve shall not differ from the font size, style and case used to publicize the part of the sale to be held with reserve.

(4) Any advertising or advertisement purporting or suggesting that an auction sale is being held in conjunction with or as a result of a bankruptcy proceeding, or that items to be sold at auction were previously purchased in connection with a bankruptcy proceeding, shall contain the bankruptcy court case number assigned by the court of jurisdiction for such proceeding.

(5) An auctioneer shall not permit his or her name or license number to appear on any advertisement not in compliance with Tennessee Code Annotated, Title 62, Chapter 19 et seq. (Auctioneer Licensing Law) and the Rules of the Tennessee Auctioneer Commission.

Authority: *T.C.A. §§ 62-19-106 and 62-19-118(c)(2).*

Rule 0160-01-.21 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.21 shall read:

0160-01-.21 DISCLOSURE OF BUYER'S PREMIUM.

An auctioneer shall disclose the existence and amount of any "buyer's premium," commission, or fee to be charged to buyers at an auction sale. Such disclosure shall be made in all advertising and orally announced immediately prior to the start of an auction.

Authority: *T.C.A. §§ 62-19-106 and 62-19-118(c)(2).*

Rule 0160-01-.22 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.22 shall read:

0160-01-.22 LATE RENEWAL OF LICENSE.

(1) A licensee applying to renew a license after the date of expiration, but less than two (2) months after the expiration date thereof, shall pay, in addition to any fees required for renewal and satisfaction of any outstanding continuing education requirements, a penalty of fifty dollars ($50.00).

(2) A licensee applying to renew a license more than two (2) months after the expiration date thereof, but less than six months, shall submit an application for licensure, satisfy any outstanding continuing education requirements, and pay a penalty of one hundred and fifty dollars ($150.00).

(3) A licensee applying to renew a license six months or more after the expiration date thereof, but less than one (1) year, shall submit an application for licensure, satisfy any outstanding continuing education requirements and pay a penalty of two hundred dollars ($200.00).

(4) Upon written submission of good cause shown, the Commission may by a majority vote waive any or all of the penalties and requirements in paragraphs (1)-(3) of this rule, including but not limited to reexamination and additional education requirements, or in lieu thereof impose such other reasonable conditions or requirements as it deems appropriate.

(5) A licensee delinquent in the renewal of a license for one (1) year or more shall reapply for licensure and satisfy all requirements for obtaining such license, including but not limited to re-examination and re-application.

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

Rule 0160-01-.23 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.23 shall read:

0160-01-.23 RETIREMENT OF LICENSE.

(1) Upon written request accompanied by the license certificate, pocket card and the appropriate fee as set forth in Rule 0160-01-.14 of these rules, an auctioneer or affiliate auctioneer may retire such auctioneer's or affiliate auctioneer's license.

(2) Only a license that is current and in good standing with the Commission may be retired. For the purposes of T.C.A. § 62-19-112(d) and this rule, "current and in good standing" shall mean the license is valid and unexpired, all applicable fees and any outstanding penalties have been paid by the licensee, the licensee has met all applicable continuing education requirements, and the licensee is not under any current disciplinary sanction.

(3) Expired licenses renewed pursuant to Rule 0160-01-.22 shall be deemed valid and unexpired for

the purposes of this rule.

(4) No contribution to the Education and Recovery Account or continuing education shall be required of a licensee whose license is in retirement.

(5) A retired license may be activated upon submission to the Commission of a written application, the payment of the appropriate fees as set forth in Rule 0160-01-.14 and proof that the applicant has obtained at least six (6) hours of continuing education in the two (2) year period immediately preceding the date of application.

Authority: *T.C.A. §§ 62-19-106 and 62-19-112(d).*

Rule 0160-01-.24 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.24 shall read:

0160-01-.24 NOTIFICATION OF CHANGE OF INFORMATION.

Within sixty (60) days of occurrence, a licensee shall notify the Commission in writing of any change in information previously submitted by the licensee to the Commission. Such information includes but is not limited to the licensee's business address, auction escrow account data and the employment, termination or resignation of any affiliate.

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

Rule 0160-01-.25 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.25 shall read:

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(b)(2), fifteen (15) hours of more rigorous classroom or online 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 number 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, 62-19-111, and 62-19-128.*

Rule 0160-01-.26 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.26 shall read:

0160-01-.26 ESCROW ACCOUNT REQUIREMENT.

All principal auctioneers shall maintain an escrow or trustee account for all funds that belong to others coming into possession as a result of an auction sale.

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

Rule 0160-01-.27 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.27 shall read:

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) An auctioneer licensed under T.C.A. §§ 62-19-101 et seq. and the rules promulgated thereunder.

(2) Any operator of a livestock auction sale that is not registered with and regulated by the Packers & Stockyards Administration shall not qualify for license exemption under T.C.A. § 62-19-103(8) and must be appropriately licensed.

(3) Any person acting outside of a livestock auction regulated by the Packers & Stockyards Administration shall be a licensed auctioneer and is subject to all statutes and rules of the Tennessee Auctioneer Commission notwithstanding such person's registration with the Packers & Stockyards Administration.

(4) Nothing in this rule shall be construed as exempting any person acting as or advertising or representing to be an auctioneer or affiliate 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.*

Chapter 0160-03
Continuing Education
Amendments

Rule 0160-03-.01 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-03-.01 shall read:

0160-03-.01 DEFINITIONS

As used in this chapter, unless the context otherwise requires, the following definitions are applicable:

(a) "Commission" shall mean the Tennessee Auctioneer Commission.

(b) "License" shall mean a license issued by the Tennessee Auctioneer Commission in accordance with T.C.A. §62-19-111.

(c) "Licensee" shall mean any principal auctioneer, affiliate auctioneer, or public automobile auctioneer licensed in accordance with T.C.A. § 62-19-111. As used in this chapter, this definition does not include bid caller auctioneers.

(d) "Personal identification number" shall mean the number assigned to a continuing education program approved by the Commission.

Authority: *T.C.A. §§ 62-19-106(b), 62-19-106(e), 62-19-111, and 62-19-112(b)(7).*

Rule 0160-03-.03 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.03 shall read:

0160-03-.03 BASIC REQUIREMENTS

(1) All licensees must obtain six (6) hours of continuing education per renewal cycle in order to renew a license.

(2) A licensee attending a continuing education program shall provide the licensee's name and license number to the education provider in writing on the education provider's registration form for any Commission-approved continuing education program. If the licensee fails to follow the aforementioned requirement, the licensee shall not receive credit for attending the program from the Commission. Licensees shall also personally maintain proof of completion of each continuing education course for two (2) renewal cycles.

(3) A licensee who attends any continuing education program or engages in other continuing education activity which has not been approved by the Commission shall not be awarded credit by the Commission towards the continuing education requirement.

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

Chapter 0160-01
General Provisions
Repeal

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

0160-01-.16 REPEALED.

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: November 6, 2019

Signature: Anna D. Matlock

Name of Officer: Anna D. Matlock

Title of Officer: Associate General Counsel

CAROL L. McGLYNN
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires MAY 9, 2023

Subscribed and sworn to before me on: November 6, 2019

Notary Public Signature: Carol McGlynn

My commission expires on: May 9, 2023

Department of State Use Only

Filed with the Department of State on: 11/6/19

Tre Hargett
Secretary of State

RECEIVED
2019 NOV -6 AM 11:02
SECRETARY OF STATE
PUBLICATIONS