

APA-2
11/96

Alabama State Board of Auctioneers

NOTICE OF INTENDED ACTION

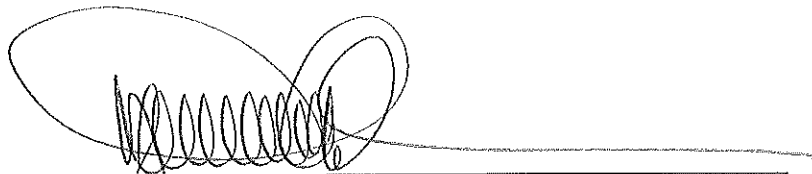
AGENCY NAME: Alabama State Board of Auctioneers
RULE NO. & TITLE: 150-X-1-.02 Application for Auctioneer's License
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to add the option of becoming licensed by reciprocity without waiting an additional year after becoming licensed in the reciprocal state if the applicant has attended auction school and has met the additional requirements to become licensed.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:00 p.m. on Tuesday, December 5, 2017. Comments should be directed to Keith E. Warren, Executive Director at 2777 Zelda Road, Montgomery, AL 36106 or via electronic mail at keith@alstateboard.com or via telephone at 334-420-7235.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Tuesday, December 5, 2017.

CONTACT PERSON AT AGENCY: Keith E. Warren
Executive Director
2777 Zelda Road
Montgomery, AL 36106
(334) 420-7235



Keith E. Warren, Executive Director
Alabama State Board of Auctioneers

APA-1
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**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama State Board of Auctioneers
Rule No.: 150-X-1-.02
Rule Title: Application For Auctioneer's License.
_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's
Police power and the protection of the public health,
Safety, or welfare? Yes

Is there another, less restrictive method of regulation
Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or
Indirectly increasing the costs of any goods or services
Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public
Than the harm that might result from the absence of
The proposed rule? No

Are all facets of the rulemaking process designed solely
For the purpose of, and so they have, as their primary
Effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-
22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the
requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all
applicable filing requirements of the Administrative Procedure Division of the Legislative
Reference Service.

Signature of certifying officer [Handwritten Signature]

Date: October 20, 2017

REC'D & FILED

OCT 20 2017

(DATE FILED)
(STAMP)

LEGISLATIVE REF SERVICE

(a) Upon application for an auctioneer's license, each apprentice auctioneer must present a statement signed by his/her sponsoring auctioneer, stating that said apprentice has participated as principal auctioneer in the required number of sales during the course of his/her apprenticeship. The applicant must furnish proof of the sales in the form of advertisements containing the applicant's name and license number in equal prominence with the name and license number of the sponsoring auctioneer, and proof that he/she was compensated for his/her services in these sales in the form of copies of canceled checks showing that the monies went through the sponsor's escrow account. (34-4-21)

(b) Non-resident, non-reciprocal applicants must prove they have been active auctioneers during the past five (5) years immediately preceding the date of application. Proof of activity may include some or all of the following and must contain dates which will effectively verify that the applicant has been an active auctioneer for the five (5) years immediately preceding the application: advertisements containing the applicant's name; copies of closing statements which show the date of the sale and are signed by the applicant; copies of county and or municipal auctioneer licenses; and affidavits from duly licensed Alabama auctioneers that the applicant has engaged in auctions during this time. (34-4-25)

(c) Reciprocity will be granted to those states having licensing requirements of equal or higher standards than Alabama and who have entered into a reciprocal agreement with the board. Applicants for reciprocity from states without an apprenticeship program equivalent to the Alabama apprenticeship program will be required (1) to have been licensed in their home reciprocating state for two (2) years prior to application for reciprocity as stated in the reciprocal agreement, or (2) to have attended auction school and/or have worked in the auction industry in the reciprocating state for the equivalent of a two (2)-year apprenticeship. Reciprocal applicants shall be required to pay any licensure, renewal or application fee in an amount equal to that imposed on Alabama licensees in the reciprocating state and shall be required to meet any other licensure requirements imposed by the reciprocating state by rule, regulation, policy or law; provided, however, that if the reciprocating state imposes a licensure, renewal or application fee that is less than that imposed by the Board, the reciprocal applicant shall be required to pay the higher fee. A list of the reciprocating

states and their fees or requirements shall be maintained by the Board. (34-4-25)

(d) Any auction company applying for an auctioneer license shall furnish the following information to the Board; for purposes of this rule, an auction company includes any legal entity which engages in the business of auctioneering, as defined by the Auctioneers License Act and the rules and regulations of the Board. An auction company exclusively owned and operated by an auctioneer licensed by this Board and in good standing therewith will be exempt from the requirement for a separate auctioneer license under this chapter. Licensed auctioneers fitting within this exemption must still complete and file an auction company application with the Board, but shall not be required to remit the application or licensure fee.

(1) A completed, signed and notarized application form, as prescribed by the Board, accompanied by the appropriate filing fee determined by the Board;

(2) If such company is a foreign entity, satisfactory evidence approved by the Board that such company is authorized to do business in this state and is registered with the Alabama Secretary of State, in accordance with Article 15 of Title 10, Code of Alabama 1975;

(3) Satisfactory evidence approved by the Board that the auction company employs or shall employ an auctioneer or auctioneers licensed under the provisions of this chapter to conduct any auctions in this state.

(e) Authority to act as an auctioneer and to transact business under the license shall be limited to one officer of the auction company, to be designated in the application and named in the license. Each other officer or member of such auction company desiring to act as an auctioneer in connection with the business of the auction company, or otherwise, shall be required to make application for and take out an individual license in his/her own name. An apprentice auctioneer cannot satisfy this requirement. Written notification of a change in the auctioneer authorized to transact business under the license shall be provided to the Board within thirty (30) days of such change.

(f) Prior to the issuance of a license, each auctioneer or auction company responsible to account for or remit funds of others that come into its possession shall provide the name of

the bank and the account number of any escrow or trustee account wherein the funds of others held by the auctioneer or auction company are maintained. Any licensed auctioneer in Alabama who works directly for an auction company or who works directly for another licensed auctioneer who maintains an active escrow account may use that escrow account and number in all applications for licensure or renewal, provided that the escrow account is used solely for the purpose of holding funds of others in relation to auctions.

(g) Authority to transact business as an auctioneer under any license issued by the Board shall be restricted to the person named in such license and shall not inure to the benefit of any other person.

(h) Incomplete applications will be returned to the applicant with a letter describing deficient items to be completed and returned to the board. Incomplete applications will be considered expired after one (1) year from the first date of notification of such deficiencies. (34-4-4)

(i) Upon the expiration of a license in good standing due solely to licensee's failure to renew, the Board may reissue the same license number to said licensee upon his/her written request therefor and successful completion of all requirements for re-licensure within 365 days from the date of expiration of the unrenewed license. The Board shall not reissue the same license number to any former licensee who does not successfully complete the licensure requirements within said period, despite any request therefor.

Author: J. O. Blandenburg

Statutory Authority: Code of Ala. 1975, §34-4-25.

History: New Rule: Filed July 12, 1995; effective

August 16, 1995. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed July 24, 2007; effective

August 28, 2007. **Amended:** Filed October 20, 2008; effective

November 24, 2008. **Amended:** Filed October 29, 2010; effective

December 3, 2010. **Amended:** Filed October 20, 2017;