



Alabama State Board of Auctioneers
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March 01, 2024

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Notwithstanding the forgoing disclaimer, the Board has published the following informational memorandum in an effort to further assist the public regarding what activity generally is within the jurisdiction of the Board's authority to regulate.

Sincerely,

Keith Warren
Executive Director

Cameron W. Elkins
Board Counsel



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Informational Memorandum Regarding Jurisdiction

The Alabama State Board of Auctioneers has jurisdiction to regulate auctioneers, the practice of auctioneering, the conducting of auctions, those who either directly or indirectly engage or assume to engage in the auction business or those who do anything to give the impression upon the public that he or she is an auctioneer or is so engaged within any county located in the State of Alabama. This is to include auctions that occur traditionally or electronically. See § 34-4-20, Ala. Code 1975.

Board's Jurisdiction

The Code of Alabama defines the jurisdiction of the Board as follows:

“It shall be unlawful for any person, partnership, association, or corporation in any county of this state to act as an auctioneer or apprentice auctioneer, or directly or indirectly to engage or assume to engage in the auction business and act as either without first obtaining a license issued by the State Board of Auctioneers, under the provisions of this chapter. It shall be unlawful for any person not licensed under the provisions of this chapter to advertise that he or she is in the auction business or to do anything to leave any impression upon the public that he or she is an auctioneer or is so engaged.”

§ 34-4-20, Ala. Code 1975.

The Code of Alabama defines the term “Auctioneer” as follows:

“Any person who has graduated from an accredited auction school and has one year's experience as an apprentice auctioneer or has two years' experience as an apprentice auctioneer in bid calling, for a fee, commission or any other valuable consideration, or with the intention or expectation of receiving the same, by the means of or process of an auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase, or exchange of goods, chattels, merchandise, real or personal property or of any other commodity which may lawfully be kept or offered for sale by or at public auction.”

§ 34-4-2(1), Ala. Code 1975.

In conjunction with the previous definition, the Code of Alabama further states that “The term ‘auctioneer’ shall include any person selling real estate, goods, wares, merchandise, automobiles, livestock, or other things of value by or at public auction.” § 34-4-27, Ala. Code 1975.

The Code of Alabama defines the term “Auction Business or Business of Auctioneering” as follows: “The performing of any of the acts of an auctioneer or apprentice auctioneer as defined in this section.” § 34-4-2(6), Ala. Code 1975.

The Office of the Attorney General provided an opinion on what is defined as “public auction” within the State of Alabama, and stated as follows: (1) have an opportunity to publicly bid; (2) are sufficiently notified of the time, place, and collateral to be sold; and (3) have access to the location of the sale and the collateral. See Attorney General Opinion 2024-008.

Exemptions from Licensure Requirement from the Board

The Alabama Code provides exemptions for certain auctions that would otherwise qualify as being within the jurisdiction of the Alabama State Board of Auctioneers:

“The provisions of this chapter and the terms "auctioneer," "apprentice auctioneer," "auction business or business of auctioneering," as defined in Section 34-4-2, shall not apply to and shall not include any person acting as a receiver, trustee in bankruptcy, guardian, administrator, or executor or any such person acting under order of any court, nor shall they include a trustee acting under a trust agreement, deed of trust or will, nor shall they include sales at auction conducted by or under the direction of any public authority or pursuant to any judicial order or decree.”

§ 34-4-3, Ala. Code 1975.

“Sales at public auction involving any of the following may be conducted for compensation without a license:

(1) Sales at auction conducted by the owner of any part of the goods or real estate being offered, or an attorney representing the owner, unless the owner acquired the goods to resell.

(2) Sales for the estate of a decedent by an administrator, executor, or any person acting under order of any court or the attorney of an administrator, executor, or any person acting under order of any court.

(3) Sales of property conveyed by deed of trust, mortgage, judgment, or ordered to be sold according to the mortgage, judgment, order, or decree.

(4) All sales under legal process.”

§ 34-4-27, Ala. Code 1975.

Using the Term Auction in Advertising and/or Business Name

Any business that advertises or otherwise holds itself out as an auctioneer or conducting an auction would be subject to the Board's jurisdiction regardless if they would not be subject otherwise. See § 34-4-20, Ala. Code 1975. See also Attorney General Opinion 2008-109.

Internet/Online Auctions

The Board's jurisdiction extends to businesses that conduct online auctions within the State of Alabama, provided that all members of the community: (1) have an opportunity to publicly bid; (2) are sufficiently notified of the time, place and collateral to be sold; and (3) have access to the location of the sale and the collateral. See Attorney General Opinion 2024-008.

Generally, if a business is simply serving as an intermediary between the seller and buyer, i.e. eBay or other internet platforms, where they are not receiving payment from buyers or performing other functions of an auctioneer, would not fall under jurisdiction. See Attorney General Opinion 2008-109.

However, if that business holds themselves out as auctioneers or conducting auction business, then it would come under the jurisdiction of the Board. See Attorney General Opinion 2008-109, Attorney General Opinion 2007-101, and § 34-4-2, Ala. Code 1975.

Sincerely,

Keith Warren
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