

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 150
Department or Agency: Alabama State Board of Auctioneers
Rule No.: 150-X-1-.01
Rule Title: Definitions
Intended Action: Amend

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? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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 Services Agency.

Signature of certifying officer

Keith E. Warren
Keith E. Warren

Date

Friday, July 19, 2024

REC'D & FILED
JUL 19, 2024
LEGISLATIVE SVC AGENCY

ALABAMA STATE BOARD OF AUCTIONEERS

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama State Board of Auctioneers

RULE NO. & TITLE: 150-X-1-.01 Definitions

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

The board proposes to redefine the definition of auction also define public sale.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Written comments will be received by the Board until 4:00 p.m. on Wednesday, September 4, 2024. Comments should be directed to Keith E. Warren, Executive Director, 2777 Zelda Road, Montgomery, Alabama 36106 or via electronic mail at keith@alstateboard.com.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, September 4, 2024

CONTACT PERSON AT AGENCY:

Keith E. Warren  
Executive Director  
Alabama State Board of Auctioneers  
2777 Zelda Road  
Montgomery, Alabama 36106  
334-420-7235

*Keith E. Warren*

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Keith E. Warren

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**150-X-1-.01            Definitions.**

(1) Auctioneer: 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.

(2) Auction: ~~A~~Any public sale of property or goods, which includes any chattels, goods, merchandise, real or personal property or commodities of any form or type which may lawfully be kept or offered for sale in any manner, whether in person, via written offers or bids, or online, when offers or bids are made by a prospective purchaser and the property is intended to be sold to the highest bidder.

(3) Auction Business or Business of Auctioneering: The sale, either directly or through agents, or real or personal property at auction or the arranging, sponsoring, managing, promoting, conducting of advertising of auctions.

(4) Auction Company: Any legal business entity, including a sole proprietorship, that engages in the business of auctioneering.

(5) Absolute Auction: An auction without reserve. See Auction Without Reserve.

(6) Auction With Reserve: An auction in which the seller or his agent reserves the right to establish a minimum bid, to accept or reject any and all bids and to withdraw the property at any time prior to the completion of the sale by the auctioneer.

(7) Auction Without Reserve: An auction in which property put up for sale is sold to the highest bidder; where no minimum price will limit the bid; where the seller may not withdraw the property from the auction after the auctioneer calls for bids thereon, unless no bid is made within a reasonable time; and where the seller may not nullify the sale by bidding himself or through an agent. "Auction Without Reserve" is equivalent to the term "Absolute Auction." The Practice of deliberately misleading customers/buyers by marketing a property as "absolute" for the sole purpose of obtaining a pre-auction bid which is sufficient to meet or exceed the actual reserve of the seller, with the intention of either converting to a reserve auction or canceling the sale if the strategy is unsuccessful, is strictly prohibited and may be grounds for disciplinary action against the licensee.

(8) Estate Auction: An auction in which all the property advertised and sold is the property of a specified deceased person or the property of a specified living person's estate.

(9) Personal Auction: Any person selling his or her own goods at public or online auction.

(10) Public Sale: 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.

(11) Single Day Auction: A singular auction event for a fee held by a company licensed in accordance with another state's law

conducted by an auctioneer licensed in accordance with another state's laws.

**Author:** J. O. Blandenburg

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

**History: New Rule:** Filed July 12, 1995; effective August 16, 1995. **Amended:** Filed January 18, 2002; effective February 22, 2002. **Amended:** Filed January 29, 2003; effective March 5, 2003. **Amended:** Filed October 4, 2013; effective November 8, 2013. **Amended:** Filed June 19, 2019; effective August 3, 2019.

**Amended:** Published February 28, 2022; effective April 14, 2022.

**Amended:** Published \_\_\_\_\_ ; effective \_\_\_\_\_ .