Agency Name: Auctioneers’ Commission - Labor, Licensing and Regulation

Statutory Authority: 40-6-40

Document Number: 5010

Proposed in State Register Volume and Issue: 44/10

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Labor, Commerce and Industry Committee

120 Day Review Expiration Date for Automatic Approval 05/12/2021

Final in State Register Volume and Issue: 45/5

Status: Final

Subject: Auctioneers’ Commission

History: 5010

By Date Action Description Jt. Res. No. Expiration Date

- 10/23/2020 Proposed Reg Published in SR

- 01/12/2021 Received by Lt. Gov & Speaker 05/12/2021

H 01/12/2021 Referred to Committee

S 01/12/2021 Referred to Committee

S 02/17/2021 Resolution Introduced to Approve 562

H 02/24/2021 Committee Requested Withdrawal

 120 Day Period Tolled

- 02/24/2021 Withdrawn and Resubmitted 05/12/2021

S 04/13/2021 Resolution Introduced to Approve 748

- 05/12/2021 Approved by: Expiration Date

- 05/28/2021 Effective Date unless otherwise

 provided for in the Regulation

Document No. 5010

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**AUCTIONEERS**’ **COMMISSION**

CHAPTER14

Statutory Authority: 1976 Code Section 40‑6‑60

14‑1. Examinations

14‑2. Reporting of Continuing Education.

14‑3. Change of Address.

14‑4. Display of License.

14‑5. Advertising.

14‑6. Allowing Unlicensed Bid Callers.

14‑11. Written Agreements Relating to Auctions.

14‑12. Late Fees.

14‑13. Conditions for Apprentice. Exceptions.

14‑15. Supervision of Apprentice Auctioneer.

**Synopsis:**

 The South Carolina Auctioneers’ Commission proposes to amend: R.14‑1 related to examinations; R.14‑2 related to reporting of continuing education; R.14‑3 to delete the change of address fee; R.14‑4 and R.14‑5 to combine and rename them, and to clarify requirements for displaying license and advertising; R.14‑6 to rename the section and strike the word auctioneer from the section following the parenthetical referencing unlicensed bid callers; R.14‑11 to rename to add escrow accounts; R.14‑12 to rename the section and delete fees; and R.14‑13 and R.14‑15 to combine, rename and clarify requirements for apprentice auctioneers and supervisors.

 A Notice of Drafting was published in the *State Register* on August 28, 2020.

**Instructions:**

 Replace regulation as shown below. All other items and sections remain unchanged.

**Text:**

14‑1. Examinations.

 A. Examinations for licensure as required by statute for apprentice auctioneers, auctioneers and auction firms shall be administered as approved by the Commission.

 B. A completed initial application for licensure must be received with a non‑refundable application fee and approved for examination prior to the scheduling of the examination.

 C. Applicants are responsible for the non‑refundable examination fee as set by the examination provider. D. The examination shall test the applicant’s knowledge of:

 1. Fundamentals of auctioneering, auctioneer contracts, bid calling, advertisement, ethical practices and mathematics relating to the auction business;

 2. The South Carolina Auctioneers’ Commission’s statutes and regulations; and

 3. The South Carolina Uniform Commercial Code as it relates to auction and bulk sales.

 E. Any applicant who fails to pass the examination may be re‑examined, but no applicant shall be allowed to take the examination within six months after having failed it a second time. Such applicants must submit an application form and pay the required fee.

14‑2. Reporting of Continuing Education.

 A. Eight hours of continuing education credit must be reported on each biennial renewal application on a form provided by the Commission. All credits must be earned during the previous licensing period and at Commission‑approved classes. Individuals who have completed auctioneer’s school within two years of the renewal application will be deemed to have four hours of continuing education hours.

 B. Licensees may apply to the Commission for continuing education credit for activities of service to the industry including, but not limited to, writing articles for professional publications, teaching courses on professional subjects and serving as a hearing officer for professional matters. The burden of demonstrating that the activity is the equivalent of classroom education is placed upon the licensee.

14‑3. Change of Address.

 Licensees shall notify the Commission in writing of each change of address or change of business trade name within ten days of such change.

14‑4. Display of License and Advertising.

 A. All licensees shall prominently display their licenses at their business address and the pocket card shall be carried by the licensee when conducting auction business.

 B. All advertisements for an auction shall contain the name and license number of the auctioneer or firm conducting the auction and shall indicate that it is the advertisement of an auctioneer or auction firm.

 C. An auctioneer employed by a licensed real estate broker‑in‑charge must include the name and auctioneer license number in all advertisements.

 D. An apprentice auctioneer shall not advertise without the approval for the auctioneer‑supervisor. Such advertisements must include not only the name and license number of the apprentice auctioneer but also the name and license number of the auctioneer‑supervisor.

14‑5. Repealed.

14‑6. Licensees Prohibited from Using Unlicensed Bid Callers.

 Licensees are prohibited from allowing an unlicensed bid caller to cry bids at an auction.

14‑11. Written Agreements and Escrow Accounts Relating to Auctions.

 A. The Commission shall have the authority to demand a copy of any written agreement or records of an auction which the licensee is required to maintain by 40‑6‑290, Code of Laws of South Carolina, 1976, (as amended). If the documents relate to an auction being conducted or to be conducted within ten days of demand, the licensee must produce such documents before the auction can proceed. If the documents relate to any other auction, the licensee must produce such documents within ten days of the demand. Failure to produce such documents in accordance with this regulation shall be grounds for disciplinary action, suspension or revocation of the license.

 B. The Commission shall have the authority to demand copies of escrow account records as required to be maintained by 40‑6‑300. The licensee must produce such records within 10 days of the demand. Failure to produce such escrow records in accordance with this regulation shall be grounds for disciplinary action, suspension or revocation of the license.

14‑12. Renewal Applications and Lapsed Licenses.

 A. All applications for renewal of licenses shall be filed with the Commission on or before June 30 of the renewal period. A late fee shall be paid thereafter for a license renewal application received on or before July 31 of the renewal period.

 B. A late fee shall be paid after July 31 of the renewal period and on or before September 30 of the renewal period.

 C. After September 30 of the renewal period, any license of an auctioneer, apprentice auctioneer, or auction firm that has not been renewed shall be lapsed. Any licensee in lapse status must make application for a new auctioneer, apprentice auctioneer or auction firm license and must be in accordance with S.C. Code Sections 40‑6‑220, 40‑6‑230, or 40‑6‑235, as applicable.

14‑13. Repealed.

14‑15. Apprentice Auctioneer’s Supervision, Requirements, Exception and Termination.

 A. An apprentice license is valid only while the licensee has a licensed auctioneer who serves as the licensee’s duly appointed supervisor. No apprentice auctioneer may enter into an agreement to conduct an auction without the express approval of the supervisor.

 B. No licensed auctioneer shall serve as the supervisor of an apprentice auctioneer pursuant to 40‑6‑220, Code of Laws of South Carolina, 1976 (as amended), unless that person shall have held a valid South Carolina auctioneering license for three consecutive years preceding the date on which that licensed auctioneer is appointed as supervisor of the apprentice.

 C. The supervising auctioneer assumes responsibility for the compliance of the apprentice with all laws and regulations governing the practice of auctioneering. The auctioneer‑supervisor shall review the records of the apprentice auctioneer before each monthly report to the Commission.

 D. No applicant, pursuant to S.C. Code Section 40‑6‑230, shall be deemed to have satisfactorily completed an apprenticeship until the applicant has participated in eighty hours of supervised training including forty hours of auctioneering, ten hours of auction ringing, twenty hours of clerking, and ten hours of cashiering. Such training must be completed in not less than one year nor more than two years. This section does not apply to apprentice auctioneers under supervising tobacco auctioneers.

 E. Upon termination of such association, the auctioneer‑supervisor shall immediately endorse the back of the apprentice’s license, showing the date of termination, and return the same to the Commission for cancellation or transfer.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

 The updated regulations will: amend R.14‑1 regarding examinations as they are now offered by third party testing companies and no longer by the Commission; amend 14‑2 to reference biennial renewal as opposed to annual renewal; amend 14‑3 and 14‑12 to delete fees that are now consolidated in Chapter 10 of the Code of Regulations; combine 14‑4 with 14‑5 and 14‑13 with 14‑15, as they contain related content and should be considered in conjunction with one another; and amend the title to 14‑4, 14‑6, 14‑11, 14‑12, and 14‑15, to correctly reflect their content.