

Study Guide

Tips for taking the Designated Person
or Auction Firm exam.

You have an important job
ahead of you.

**North Carolina Auctioneer
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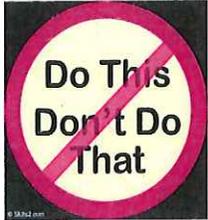
Prepared by Betty O'Neal, NCAL# 6690
Stanly Community College 2015

Study Guide/ Designated Person (DP)

This booklet is designed to help you:

- prepare for the exam
- understand your role and responsibilities as a DP
- become familiar with the laws, rules and regulations in the auction industry

N.C.G.S § 85B is known as the **Auctioneer Law** and the foundation for the auction industry in North Carolina.



LAWS
you need to
KNOW

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Why a Designated Person (DP) ?



Auction Firms are required to have at least **ONE** Designation Person (DP)
DP'S add value to the firm by sharing duties
DP's do **NOT** have to be licensed auctioneers
DP's **CAN** be licensed auctioneers, attorneys or real estate brokers

The law defines the duties of a DP in
Subchapter 4B Section .0606 AUCTION FIRMS



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Application **and** Exam are critical

- A completed application is the first step
- Read carefully and answer honestly
Don't forget the criminal background check
- Prepare for the exam
- Don't panic- test taking tips are next



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Test Taking Tips

- Be prepared (read the rules/regulations- DUH!)
- Read the question carefully **BEFORE** you try to answer it
- Watch wording like " EXCEPT"
- Remember you want the **BEST** answer
- When you don't know an answer- mark it and **MOVE ON** —*don't stress over what you don't know- answer what you do know—and come back to it- you may have seen the answer as you worked*

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More tips

- If you skip a question make sure you **mark your answer sheet** so you don't put the next answer in the wrong place
- Test taking can cause anxiety even if you know the material- Stay calm by preparing to succeed.
Talk to yourself, "**I can do this**".
- When you finish- review your paper- make sure you have not left anything out- HOWEVER, **don't change** your answers **unless** you have new information. Generally your 1st impression is right (if you read the question correctly)

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What to study



- N.C.G.S § 85B and 21 NCAC 4B are available on-line at the NCALB website to download
- Pay attention to the **TWO** sections:
 - N.C.G.S. § 85 B** is the most restrictive— (maximum)
 - 21 NCAC 4B** includes the current status and the interpretation of **N.C.G.S. § 85 B plus** additional information such as Continuing Education requirements and Auction Schools

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Who can be a designated person?

Anyone at least 18, with proof of a High School diploma or equivalent may complete the **full** application process **and** take the exam, to be approved by the board. (NCALB)



Real estate brokers* and auctioneers

(only need to complete the **full** application process including a criminal background check) **NO EXAM** is required.

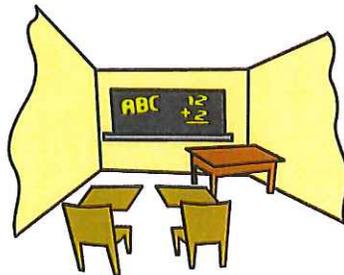


* Real Estate Brokers may only handle real estate. To deal with personal property, Brokers must also take the exam.

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Continuing Education

Designated Persons need to complete the **same** Continuing Education Requirements as an auctioneer.



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Responsibilities of a designated person

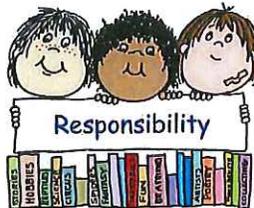
- If a firm has a non-auctioneer who has passed the firm exam as a DP, he/she may perform all of the duties associated with auctioneering, **EXCEPT bid calling**
- If a firm has a DP who is an auctioneer, he/she may perform ALL of the duties associated with auctioneering for the firm.



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Responsibilities of a designated person

If the firm is involved in real estate auctions and has a licensed real estate broker as a DP (exempt from the exam), it must **also** designate a licensed auctioneer to perform all duties associated with auctioning personal property. If the broker wants to do real **and** personal property they must take the exam.



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Things to know



- The definitions are **IMPORTANT !**
- What constitutes being in the auction business?
- What is an auctioneer ?
- What type auctions are exempt from auction law and regulations ?
- Where would you find out about liens ?

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Things to know

- What must be in all print advertising ?
- What is the recovery fund and how can it be used ?
- What constitutes a **CONTRACT** ?
- What can a DP do ?
- When are licenses renewable ?



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Auction Firm License

Restricted to the persons named in the license

Does Not Inure

to the benefit of any other person.

Authority to transact business under the license is **limited** to the person or persons designated in the application **AND** named in the license.

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Who Needs a Firm License?

- Individuals who do not have an auctioneer's license, but who are interested in owning an auction business
- Two or more individuals who are interested in jointly owning an auction business, no matter whether one or more has an auctioneer license
- Any partnership or corporation who is interested in owning an auction business
- An individual who is interested in owning an auction business that is a real estate broker, but is not an auctioneer
- An auctioneer who wants to sell real estate, but is not a real estate broker.
- Other



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Critical Items

OPM (other people's money) \$\$\$\$

- Client money
- Customer payments
- Settlement statements



Paper Trail

- Contract/Marketing
- Registration
- Clerking records
- Reporting any change of address, name or other information required by law



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Sample Questions

Watch the format of the questions:

True/False:

EVERYONE applying to be a designated person must fill out an application, complete a criminal background check and take a written exam. -key word is everyone- which makes this question **FALSE**

Short Answer:

Every auction firm must have at least _____

Designated person (s). Ans. **one**



Multiple choice:

Designated persons are involved in "auctioneering" in all of the following **except**:

- Accepting consignments of items for sale at auction
- Advertising an auction
- Accepting payment or disbursing monies for items sold at auction
- Soliciting, arranging, sponsoring or managing an auction
- Providing concessions and/or parking assistance for auction attendees

Key word : **EXCEPT** makes **answer E** the correct choice. Anyone can do concessions/parking not just designated persons. A-D are from the definitions on what is auctioneering.

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Sample Questions

- All of the following are exempt from license law except:
 - A. Leaf Tobacco sales
 - B. Sale at auction of automobiles conducted under the provisions of GS 20-77
 - C. Estate auctions for a friend
 - D. Sales conducted by a receiver, trustee, guardian or similarly appointed person under order of any court. **C. estate auctions are NOT exempt**
- The auction sales for the last month are: \$ 1,200.00, \$ 2,500.00 , \$1800.00 and \$ 4,000.00. What is the average sale for the month?
 - A. \$ 2,370.00
 - B. \$ 1,800.00
 - C. \$.2,375 .00
 - D. \$. 9,500.00



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COME PREPARED

- Know the law, rules and regulations
- Know how to avoid violations
- Read the questions carefully
- Select the BEST answer

The auction method of marketing is a great business!



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Designated Person
by Neil Yarborough, ,NCALB Board Counsel

1

Often times Individually licensed auctioneers serve as the " Designated Person" for auction firms with which they are not regularly employed or have an ownership interest. Without close supervision and on-going contact, this can cause major problems for the Individual auctioneer and the auction firm. Section .0606 of the North Carolina Auctioneer Licensing Board's Administrative Regulations provides:

(a) All licensed auction firms shall have at least one Board approved designated person . If a licensed auction firm does not have at least one designated person in good standing, the status of the auction firm license shall be changed to invalid.

(b) Only designated person(s) for an auction firm have the authority to transact business under the firm license. This includes arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.

(c) At least one designated person shall be on the premises of an auction firm's auction sale location while the auction sale is conducted.

(d) Any auctioneer licensed under G.S. 85B may call bids for a licensed auction firm without being a designated person

(e) Any apprentice auctioneer licensed under G.S. 85B and supervised by the sponsor auctioneer may call bids for a licensed auction firm without being a designated person

(f) Individuals that hold a currently valid real estate broker license are exempt from the auction firm examination if their authority to transact business under the auction firm license is only related to real estate sales at auction

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Designated Person by Neil Yarborough, ,NCALB Board Counsel continued

As you can tell under subsections (b) and (c) , the designated person has very specific responsibilities for the daily management and operation of an auction firm which CANNOT be performed by remote control. If an individually licensed auctioneer is serving as a designated person for an auction house, he or she needs to be directly involved in its day-to-day activities because only the designated person can perform certain activities for the auction firm

I initially addressed this issue to the individually licensed auctioneers who may find themselves in trouble because of some activity occurring within the auction firm for which they may be unaware. As designated person , if there is a problem with the auction firm in which the individually licensed auctioneer is serving as the designated person, it can also have an extremely negative impact on the individual license of the auctioneer. This , of course, in addition to what might happen to the auction firm license. (All of the above holds true for non-auctioneer designated persons as to their ability to continue to serve as a designated person for that auction firm or another one)

Although absolutely legal and authorized, it is a tricky situation for an auctioneer to serve as the designated person for an auction firm that he or she does not own or otherwise control. If you place yourself in this position, you need to take particular caution, every day, to make sure your "boss" doesn't get you and your auction license in trouble.

Submitted with permission from Neil Yarborough, NCALB Board Counsel 2015



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