



# North Carolina Auctioneer Licensing Board Newsletter

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## Chairperson's Corner



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### An Open Invitation to all North Carolina Licensed Auctioneers

Ladies and gentlemen as Chairperson of the Auctioneers Licensing Board I would like to extend an open invitation to all auctioneers to visit our Board Meetings, which take place on the second Monday of each month at 9:00 AM.

If you would like to speak to or ask a question of the Board Members, or express an opinion during the meeting you would need to call Ms. Teresa Watson our Executive Director in advance and ask to be placed on the board agenda. Phone (919) 567-2844. It would be a great time to ask our attorney Mr. Garris Neil Yarborough a legal question you may have regarding our Licensing Laws or Rules. Mr. Yarborough is a great attorney and could furnish very helpful information.

Remember, it is your Licensing Board. It is your licensing fee that pays the cost of running this board. Once again please allow me to encourage you to visit our meetings to see and experience what you are paying for.

Also, at this time I would like to encourage all of you to take time each week to study and review your Auctioneers Law and Rule Book. Be sure you know the Laws and Rules and understand them. I would love to see our Board Investigator "become very bored" because he did not have any investigations to perform. You can help that happen by "knowing" the North Carolina Laws and Rules and following them carefully.

Keith J. Pierce, Chairperson

### Board Members

- Keith J. Pierce, Chairperson
- William B. Lilly, Vice Chairperson
- Randy B. Lee, Board Member
- Jesse G. Meeks, Board Member

### NCALB Staff

- Teresa L. Watson, Executive Director
- Becky J. Stewart, Administrative Officer
- Barbara Phillips, Secretary
- Ralph Southerland, Investigator
- Garris Neil Yarborough, Legal Counsel

### Active Licenses

The new fiscal year commenced July 1, 2010. There are currently 2,317 active auctioneers, including apprentice auctioneers, and 602 active firms.

### Frequently Asked Questions:

1. How long can my license be in lapse status? Two years and then your license will become inactive.
2. How many continuing education hours do I need per year? Currently four hours are required per year. However, the Board may change this amount at the April Board meeting for the upcoming year if needed.
3. When is the latest date that I can submit proof of my completion of the required continuing education before having to pay a late fee? On or before May 15th of each year.
4. What is a designated person? A designated person(s) of the auction firm have the authority to do business transactions under the firm license. This includes arranging, managing, soliciting, and contracting auctions; supervision of the auction staff; supervision of the acceptance of consignments of items for sale at auction; supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction. Ref: 21 NCAC 4B .0606 (b) of the Rules.
5. Where are the Auctioneer Examination and Auction Firm License Examination given? The North Carolina Auctioneer Licensing Board, 108 Ber Creek Drive, Fuquay Varina, NC 27526.
6. Can an auctioneer/firm bid on items in a sale? No, not unless he intends to purchase the item. However, a sale with reserve, the auctioneer/firm may bid on the reserve item up to, and including, the amount of the reserve price without the intent to purchase the item., however, this must be announced in advance of the auction.

## **Do I need an Auction Firm License to sell Real Estate at Auction?**

*This question seems to boggle most auctioneers and real estate brokers that want to sell real estate at auction. To bring some clarity to the matter pursuant to N.C.G.S. § 85B-1 (6) "Auction Firm" means a sole proprietorship of which the owner is not a licensed auctioneer, or any partnership, association, or corporation, not otherwise exempt from this Chapter, that sells either directly or through agents, **real or personal property** at auction, or that arranges, sponsors, manages, conducts or advertises auctions, or that in the regular course of business uses or allows the use of its facilities for auctioneers. This definition applies whether or not an owner or officer of the business acts as an auctioneer. The process of auctioning real estate is regulated by two separate regulatory boards for the State. Care must be taken knowing, understanding and following both sets of law and administrative rules. The following provides five different licensing scenarios and the licensing requirements:*

### **1. The owner or the attorney for the owner is selling real property "by owner."**

*A licensed auctioneer can be hired by the owner or the attorney for the owner to be the "mere crier of the sale." Unless the auctioneer also holds a currently valid real estate brokers license, an auctioneer cannot solicit or negotiate the listing of the real property for sale, cannot advertise the real property sale, cannot make any representations about or engage in the showing of the real property for sale, cannot complete any sales contract, receive or hold earnest money or other funds, or otherwise engage in acts for which a real estate license would be required.*

### **2. A person that is a licensed auctioneer and a licensed real estate broker and the business is a sole proprietorship who wants to sell real estate at auction.**

*No further licenses are required and this person is legally capable of handling all aspects of the real estate auction under both the Auctioneer law and rules and the Real Estate law and rules.*

### **3. An entity that is a licensed real estate broker but is not a licensed auctioneer who wants to sell real estate at auction.**

*An individual broker acting as a sole proprietor, or a licensed real estate brokerage firm, must also obtain an auction firm license. In doing so, the sole proprietor, or the individual broker employed by the licensed brokerage firm would list themselves as the Designated Real Estate Person for the auction firm and handle all aspects of the firm as it would relate to real estate auctions, except bid calling. Any licensed auctioneer could be hired or contracted, but only to call bids at the real estate auction.*

### **4. An entity that is a licensed auctioneer but is not a licensed real estate broker who wants to sell real estate at auction.**

*This person must also obtain an auction firm license and a real estate firm license. This can pose a problem if this person's business is a sole proprietorship. Unlike the Auctioneer Licensing Board, the Real Estate Commission does not allow sole proprietorships to obtain firm licenses. To be eligible to obtain a real estate firm license the entity must be a corporation, a partnership, a single member LLC, etc. Also, a real estate broker must be hired or contracted to be the Broker-In-Charge for the real estate firm and to be the Designated Real Estate Person for the auction firm. The licensed auctioneer could only call bids at the real estate auction and the Broker-In-Charge/Designated Real Estate Person would handle all other aspects of the real estate auction.*

### **5. An entity that is neither a licensed auctioneer nor a licensed real estate broker who wants to sell real estate at auction.**

*This person must obtain an auction firm license and a real estate firm license. Again as above, this can be a problem if the person's business is a sole proprietorship. The business structure would need to be changed prior to obtaining a real estate firm license. A real estate broker would be hired or contracted to be the Broker-in-Charge for the real estate firm and to be the Designated Real Estate Person for the auction firm. Any licensed auctioneer could be hired or contracted, but only to call bids at the real estate auction and the Broker-In-Charge/Designated Real Estate Person would handle all other aspects of the real estate auction.*