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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part III. Auctioneers

**Chapter 1. Description of
Organization**

§101. Organization of the Board

A. The Louisiana Auctioneer Licensing Board (hereafter referred to as *board*) is created by virtue of R.S. 37:3111 and is created as an agency of the state government in the Department of Economic Development. No member of the board shall be held liable as an individual in any suit against the board. Statutes relating thereto are found in R.S. 37:3111 et seq., of the Louisiana Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:781 (November 1988).

§103. Number, Qualifications of Members

A. The board shall be composed of seven persons, consisting of the chairman and vice-chairman, and five of whom shall be auctioneers, one selected from each Public Service Commission district, and two of whom shall be consumers from the public-at-large, all appointed by the governor. Each appointee shall be a citizen of the United States of America and a resident of Louisiana and at least 30 years of age. The initial auctioneer members shall not be required to be licensed but shall obtain a license within a reasonable time after appointment; each subsequent member shall be a licensed auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988).

§105. Election and Term of Office

A. The chairman and vice-chairman shall hold office as board members so long as they hold their respective positions as elective officers of the board. Each appointed member shall serve at the pleasure of the governor for a term concurrent to the term of office of the governor appointing him except that each member shall serve until his successor has been appointed and begins serving. Each appointment by the governor shall be submitted to the Senate for confirmation. In the event of the death, resignation, or disability of a member of the board, the governor shall fill the vacancy by appointing a qualified person for the remainder of the unexpired term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005).

§107. Oath

A. Each member of the board shall receive a certificate of appointment from the governor, and before beginning his term of office, shall file with the secretary of state his written oath or affirmation for faithful discharge of his official duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988).

§109. Salaries

A. Members of the board may receive a per diem or compensation when actually attending a meeting of the board or any of its committees and for time spent on behalf of the board on official business. Additionally, members may be reimbursed for actual and necessary travel, incidental, and clerical expenses incurred in carrying out the provisions of this Chapter when and if funds are available from the board's funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988).

**Chapter 3. General Course and
Method of Operations**

§301. Domicile

A. The board shall be domiciled in Baton Rouge, Louisiana, but shall be authorized to meet elsewhere in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111(C).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988).

§303. Chairman and Vice-Chairman of the Board

A. The chairman, or in his absence, the vice-chairman, or in the absence of both of them, the chairman chosen by the members present shall preside at all meetings of the board. The chairman shall be the chief executive officer of the

board, and subject to the direction and under the supervision of the board, shall have general charge of the business affairs and property of the board and control of its officers. The chairman shall preside at all meetings of the members, shall appoint the members of all committees created by the bylaws or by resolution of the board. He shall be an ex-officio member of all standing committees and other committees created by the bylaws or by resolution of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988).

§305. Meetings of the Board

A. The board shall conduct regular meetings at least four times a year. A special meeting may be held at such time and place as specified by the executive secretary on call of the chairman or four members. The executive secretary shall give written notice of all meetings to the members of the board and the interested public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 7:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988).

§307. Special Meetings

A. Special meetings of the board may be called by the chairman or at the request of any four members. The persons authorized to call such a special meeting may fix any place within the state of Louisiana.

B. Notice of any special meeting shall be given by mail posted at least five days prior to such a meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988).

§309. Quorum of the Board

A. Four members of the board constitute a quorum for all purposes including the granting or issuance of licenses and the rulemaking and adjudicative functions of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988).

§311. Majority Action

A. The act of the majority of the board members present at a meeting at which a quorum is present shall be the act of the board, except as specified by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988).

§315. Bylaws

A. Bylaws of the board may be adopted, amended or repealed by the members of the board at a regular meeting or a special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:339 (April 1985).

Chapter 5. Order of Business; Rules of Order

§501. Board Meeting; Order of Business

A. The order of business at all meetings of board members shall be:

1. call to order;
2. reading of the minutes of the previous meeting;
3. reports of members;
4. consideration of financial statements and reports;
5. consideration of unfinished business;
6. consideration of new and miscellaneous business;
7. adjournment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988).

§503. Rules of Order

A. Except as otherwise provided in the statute or the Administrative Procedure Act, the latest edition of *Robert's Rules of Order* as revised from time to time, shall determine procedure in all meetings of the members and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988).

Chapter 7. General Scope of Responsibilities

§701. Duties

A. The business and affairs of the board shall be managed by its board members.

B. The board shall perform the following duties:

1. examine each applicant desiring to be licensed as an auctioneer in the state of Louisiana;
2. administer a written examination for licensing at least four times each year in the city of Baton Rouge;
3. adopt rules and regulations to govern auctioneers in the state of Louisiana;
4. issue, suspend, modify or revoke licenses to do business in the state of Louisiana;
5. report to the attorney general of the state of Louisiana all persons violating the provisions of the statute and rules;
6. report annually, no later than March 1, to the governor, the secretary of the department and the legislature on its activities;
7. adopt its official seal;
8. furnish, upon request, a copy of Louisiana auction laws, and also an accurate list of those states having reciprocity with Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988).

§703. Authorities

A. The board is authorized and shall do the following:

1. adopt and enforce rules and regulations, bylaws and rules of professional conduct as the board may deem necessary and proper to regulate auctions under its jurisdiction in the state of Louisiana, to provide for the efficient operation of the board, and otherwise to discharge its duties and powers under the statute and rules;
2. prescribe and adopt regulations, standards, procedures and policies governing the manner and conditions under which credit shall be given by the board for participation in a program of continuing education, as the board may consider necessary and appropriate to maintain the highest standards of proficiency as an auctioneer in the state of Louisiana;
3. authorize any member of the board to make any affidavit necessary to the issuance of any injunction or other legal process authorized under the statute or rules of the board;
4. authorize and issue subpoenas to require attendance and testimony and the production of documents for the purpose of enforcing the laws relative to auctions and securing evidence of violations thereof;

5. maintain a current list of licensed auctioneers;
6. select its officers annually.

B. The board is authorized and may do the following:

1. appoint a qualified executive secretary;
2. employ clerical assistance necessary to carry out the administrative work of the board;
3. employ legal counsel to carry out the provisions of the statute and rules, provided that the fees of such counsel and the costs of all proceedings, except criminal prosecutions, are paid by the board from its own funds;
4. incur all necessary and proper expenses.

C. The chairman and executive secretary of the board, or in their absence, any other member of the board, may administer oaths in the taking of testimony upon any matter appertaining to the duties and powers of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988).

Chapter 9. Official Seal

§901. Official Seal

A. The official seal of the Louisiana Auctioneer Licensing Board shall be as follows. The board shall have a seal which shall be in the form of a circle with the words "State of Louisiana" together with the words "Louisiana Auctioneers Licensing Board" inscribed thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988).

Chapter 11. License of Auctioneer

§1101. Qualifications for Applicant

A. The board shall base determination of satisfactory minimum qualifications for licensing as follows:

1. be of good moral character;
2. be a citizen, or a legal resident of the United States;
3. be at least 18 years of age;
4. has completed one of the following:
 - a. completed a series of studies at a school of auctioneering licensed or approved by the board;
 - b. completed an apprenticeship of one year working with and under an auctioneer duly licensed in the state of Louisiana.

B. An applicant for licensing shall fill out and file with the board an application form provided by the board. The

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form shall require relevant information about the applicant's character, knowledge and experience in application of that knowledge. Among the data required on the application form, the applicant shall submit the following information:

1. education background;
2. previous occupational experience in the auction business;
3. three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards.

C. If, in the opinion of the board, the applicant provides inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005).

§1103. Licensing Procedure

A. Applications for the license to be obtained under provision of the board's enabling act shall be verified by the oath or affirmation of the applicant and shall be on the forms prescribed by the board and furnished to such applicants. The applications shall contain such information as the board deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license applied for.

B. The board shall require the following in an application:

1. applicant's residential address;
2. applicant's business address;
3. applicant's telephone number;
4. voter's registration or other satisfactory proof of citizenship of this state or of other; in the alternative, a proof of resident alien status;
5. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000;
6. cashier's check, money order or cash (no checks will be accepted) in the sum of \$300 for all fees covered in the initial licensing procedure;
7. oath of office as a Louisiana Auctioneer;
8. irrevocable consent (if applicable);

9. current letter of good standing from other state, if applicable;

10. educational background;

11. three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards;

12. previous occupational experience as an auctioneer;

13. copies of all current auctioneers licenses, if any;

14. Louisiana sales tax number or the signed waiver on the application stating they are not responsible for collecting sales tax since it is the employer's responsibility;

15. tax identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005), LR 37:2147 (July 2011).

§1105. Availability of Applications and Apprentice License

A. Applications and all other pertinent forms are available through the board's website or will be mailed upon request of the person seeking to be licensed as an auctioneer or as an apprentice auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005), LR 37:2147 (July 2011).

§1107. Change of Address

A. All licensees shall notify the board in writing of each change of address within 30 days of that change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

§1109. Examination Procedure

A. The board shall determine the scope, form, and content of the examinations for licensure which shall be written and shall include questions on Louisiana auction law and sound business practices.

B. The board shall issue a numbered license to an applicant who meets the requirements of this statute and rules, passes satisfactorily 68 percent the examination administered by the board and pays the fee to be a licensed auctioneer.

C. The board shall give examinations for licensure at least six times per year.

D. An applicant failing in an examination may be examined again upon filing a new application and the payment of the re-examination fee of \$50 fixed by the statute.

E. The board within 10 days and in writing shall notify any applicant who is denied licensing of the reason therefor. Within 15 days after receipt of notice, such applicant may make written request to the board that his or her examination be regraded and reviewed by the board. Upon regrading and review of the examinee's examination, the examinee will be advised in writing of the decision of the board. If it is determined by the board that the examination remains in the failure status, the examinee may, at his or her discretion, request a formal hearing with regard to the failing status of his or her examination grade. A formal hearing shall then be conducted under the Administrative Procedure Act.

F. An individual who fails to pass two successive examinations is not eligible to take another examination until the expiration of one year from the date of his most recent failure, at which time he shall complete and file a new application, bond and fee with the board.

G. All auctioneer license examinations are confidential tests. They are designed and administered under conditions established to protect the security of the tests. Neither the current forms nor the previous forms of the tests are available for purchase or inspection.

H. Examinations for persons with disabilities will be provided without discrimination based upon current law and upon the individual's disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 37:2147 (July 2011).

§1111. License Renewal and Penalty

A. A license shall expire annually on December 31. Each renewal license shall be valid throughout this state from January 1 of each year to December 31 of each year. All applications for renewal of auctioneers' licenses shall be submitted to the board by November 1 of each year, and licenses shall be issued by January 10 of each year. If application of renewal of the license has not been made, the license shall expire on December 31 and it shall be illegal for any person to represent himself and act as an auctioneer thereafter. Any auctioneer who submits a renewal application after January 1 shall be subject to a late penalty of \$75, which shall be paid to the Louisiana Auctioneers Licensing Board. Any auctioneer having a previous annual license shall be presumed to be a renewal applicant unless the auctioneer has allowed the license to lapse for more than one year from the date of renewal. If such license has lapsed for one year or more, then the auctioneer shall be charged a

license restoration fee of \$100, in addition to all other applicable fees, and the auctioneer's request for reinstatement must be approved by the Louisiana Auctioneers Licensing Board at one of the board's regularly scheduled meetings. If an applicant is seeking reinstatement after the license has been expired by more than 24 months, the applicant is subject to reexamination if originally licensed for less than five years.

B. The board shall notify the auctioneer of the need for renewal at the last known address at least 60 days in advance of the expiration and send such forms for renewal as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3115.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 37:2147 (July 2011).

§1113. Fees

A. The board shall assess the following schedule of fees, which shall not be refundable:

1. application fee—\$75;
2. examination fee—\$75;
3. re-examination fee—\$50;
4. initial license fee for an auctioneer—\$150;
5. annual renewal license fee for an auctioneer—\$150;
6. restoration fee of a license—\$100;
7. replacement fee of a lost, destroyed, or mutilated license—\$25;
8. delinquent renewal fee—\$75;
9. apprentice fee—\$100;
10. annual certification of a licensed auctioneer school—\$150;
11. initial license fee for an auction business—\$300;
12. annual license renewal fee for an auction business—\$300;
13. replacement fee of lost, destroyed or mutilated identification card—\$5.

B. All fees shall be paid by certified check or money order made payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3116.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), amended LR 37:2147 (July 2011).

§1115. Reciprocity and Licensure without Examination

A. A person holding a license to engage in auctions issued to him by a proper authority of a state, territory or possession of the United States of America or the District of Columbia having licensing requirements comparable to Louisiana and who in the opinion of the board otherwise meets the requirements of the statute and rules may upon application be licensed without further examination. The nonresident auctioneer must comply with all other provisions of the statute and rules.

B. A nonresident who does not hold a license in a reciprocal state must pass the examination and must comply with all other requirements of the statute and rules to be licensed in this state.

C. Notwithstanding any other provision of law to the contrary, no person duly licensed as an auctioneer in any other state and temporarily present in this state shall conduct an auction in this state unless he acts in association with an auctioneer duly licensed in this state if the state in which the nonresident auctioneer is licensed requires such an association with an auctioneer licensed in this state before an auctioneer duly licensed in Louisiana may conduct an auction in that state.

D. Every nonresident applicant for a license under the statute and rules shall file with the board as part of the application for a license a written irrevocable consent that any cause of action growing out of any transaction subject to the statute and rules may be commenced against the licensee in the proper court of any parish of this state in which the cause of action may arise or in which the plaintiff may reside by a service of process upon the board as the licensee's agent and stipulating and agreeing that such service has been made upon the person according to the laws of this or any other state. Such instrument shall be in such form and supported by such additional information as the board may by rule require.

E. All individuals making application for an auctioneer license per reciprocal agreement shall submit with their application a letter of certification from the state board or commission of their state of domicile, certifying that they are duly licensed in said state, stating their residency, date of issuance, expiration date and license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3117.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988).

§1117. Qualifications for Licensing as an Apprentice Auctioneer

A. In order to qualify as an apprentice auctioneer, the applicant must comply with the following.

1. The applicant must be at least 18 years of age and have a high school diploma or its equivalent.

2. The applicant must be a legal resident of the state of Louisiana.

3. The apprentice applicant must have worked in the auction business for a minimum of one year prior to application for an apprenticeship.

4. The applicant must submit the following:

a. an application for licensing on a form to be provided by the board;

b. an oath of office;

c. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000, which shall be delivered to the board at the time of the initial license application (see §1201);

d. a certified copy of voter registration or other appropriate proof of residency;

e. application fee in the sum of \$100;

f. a form signed by the supervising Louisiana resident licensed auctioneer stating that the apprentice will be serving under him for the term of one year;

g. a copy of the rules and regulations signed by both the apprentice and the supervising auctioneer.

5. The apprentice must work under a Louisiana licensed auctioneer during his one-year training period who has qualified as a supervising auctioneer pursuant to §1118 of this Chapter.

6. The prospective apprentice and the supervising Louisiana licensed auctioneer must appear together before the Louisiana Auctioneers Licensing Board at a regularly scheduled meeting in order for the application to be considered and approved prior to being granted apprentice status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 37:2147 (July 2011), LR 40:2541 (December 2014).

§1118. Qualifications to be Supervising Auctioneer for Apprentice

A. In order to qualify as a supervising auctioneer for an apprentice, the auctioneer must comply with the following.

1. The auctioneer must be a Louisiana resident.

2. The auctioneer must have been licensed by the board for at least five consecutive years at the time of the application by the apprentice.

3. Any auctioneer who presently has an apprentice training under him may complete the year. This regulation

will affect only those who begin an apprenticeship training after the approval of these regulations.

4. The auctioneer cannot have any other apprentice being supervised at the time of application. A supervising auctioneer may have only one apprentice working under his supervision at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 40:2541 (December 2014).

§1119. Apprentice Auctioneer Licensing

A. The licensed Louisiana auctioneer acting as the supervisor for the apprentice auctioneer must hold the apprentice auctioneer's license. Under no circumstances is the apprentice auctioneer to have, display, or carry his license at any time.

B. When an apprentice auctioneer's employment with the supervising auctioneer is terminated for any reason, the supervising auctioneer shall immediately deliver or send by registered mail the apprentice auctioneer's license to the board. He must sign the back and indicate the termination date. Such apprentice auctioneer shall not engage in any auctioneer activity until he receives a new license (for the expired term) bearing the name and current license number of his new supervising auctioneer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

C. There will be just one licensed auctioneer supervisor at a time for an apprentice auctioneer. Should the apprentice auctioneer practice under another licensed auctioneer without a release from the first, the apprentice auctioneer's license shall be suspended.

D. There will be an additional charge of \$25 for the new license.

E. The length of time that an applicant shall work as an apprentice auctioneer shall be 12 months. During that period of time the apprentice auctioneer shall work and be directly involved in at least 80 hours over a minimum period of 12 days.

F. The apprentice auctioneer shall receive training in the following areas:

1. the establishment and use of escrow accounts;
2. bid calling;
3. pre-auction activities which will include: handling consignments, and all related matters, including but not limited to consignment contracts, the assignment of lot numbers, the establishment of conditions and reserves for consignments, and advertising;
4. auction day activities which will include: clerking at the auction, including writing sale tickets, keeping track of all sales, and any related paper work or using appropriate auction software, ringman/spotter;

5. post auction activities which will include: closing out the auction and maintaining and balancing auction account records, collecting and remitting sales taxes to the proper government entities, settlements, closeouts and payments to consignors.

G. Any person acting as an apprentice auctioneer within the meaning of these rules and regulations without a license and any person who violates these rules and regulations shall be subject to revocation of his license. The Louisiana auctioneer serving as sponsoring supervisor is also subject to discipline of his license should his apprentice auctioneer violate these rules and regulations.

H. The license of an apprentice auctioneer shall be automatically suspended upon the revocation or suspension of the license of the Louisiana auctioneer who is his sponsoring supervisor or in the event the supervising auctioneer becomes incapacitated; however, the apprentice auctioneer may retain his license by transferring to the supervision of another Louisiana licensed auctioneer within 21 days of the effective date of such revocation or suspension. If the apprentice auctioneer does not transfer to another Louisiana licensed auctioneer within the 21 days, he must start his one-year apprentice program over.

I. This Subsection of the rules and regulations specifically prohibits the apprentice auctioneer from calling an auction unless the supervising licensed auctioneer is directly supervising the sale sight at all times. If he does call an auction outside of the presence of his supervising auctioneer, his license will be suspended.

J. Upon completion of the one-year apprentice program, the apprentice auctioneer may apply to take the Louisiana auctioneer's examination and become licensed in the state of Louisiana. He must submit the following in order to be considered for administration of the test:

1. a completed application for license as an auctioneer;
2. oath of office;
3. posting of a \$10,000 surety bond, made payable to the Louisiana Auctioneers Licensing Board (see §1201);
4. a certified copy of voter registration or other appropriate proof of residency;
5. application fee in the sum of \$300 (this includes the \$150 license fee, the \$75 application fee, and \$75 examination fee);
6. a form signed by the supervising Louisiana licensed auctioneer stating that the apprentice did serve under him for the term of twelve months and during which he worked at least 80 hours over a minimum period of 12 days. Evidence of the number of days/ auctions, along with the place, date and time and the type of work done by the apprentice shall be established by completion of a form to be provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 40:2541 (December 2014).

§1121. Causes for Nonissuance, Suspension, Revocation or Restriction; Fine, Reinstatement

A. The board may refuse to issue or may suspend, revoke or impose probationary or other restrictions of any license issued under this statute and rules for any of the following causes:

1. conviction of a felony or entry of a plea of guilty or nolo contendere to a felony charge under the laws of the United States of America or of any state;
2. deceit or perjury in obtaining any certificate or license issued under this statute and rules;
3. providing false testimony before the board;
4. efforts to deceive or defraud the public;
5. incompetency or gross negligence;
6. rendering, submitting, subscribing, or verifying false, deceptive, misleading or unfounded opinions or reports;
7. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate in that state or the revocation or suspension of or other restriction imposed on a license, permit or certificate issued by such licensing authority;
8. aiding or abetting a person to evade the provisions of this statute and rules or knowingly combining or conspiring with an unlicensed person or acting as an agent, partner, associate or otherwise, of an unlicensed person with intent to evade the provisions of this statute and rules;
9. violation of any provision of this statute and rules or any rules or regulations of the board or rules of conduct promulgated by the board;
10. indebtedness to the state or to any municipal corporation for any tax as an auctioneer or for any license or commission that he has neglected to pay after final judgment has been rendered against him for it;
11. false, deceptive or misleading advertising;
12. failure to notify the board within 30 days, of any administrative action taken by another licensing authority, board or commission;
13. failure to comply with all local, city, parish/county, or state laws.

B. The board may, as a probationary condition or as a condition of the reinstatement of any license suspended or revoked hereunder, require the holder to pay all costs of the board proceedings, including investigators', stenographers' and attorneys' fees.

C. Four concurring votes of the board shall be required for revocation of any license. Four concurring votes shall be

required for suspension of any license or the imposition of costs or fines in excess of \$500.

D. Any certificate or license suspended, revoked or otherwise restricted by the board may be reinstated by majority vote of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3121.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

Chapter 12. Bonds; Funds

§1201. Bonds

A. Each applicant for licensure as a resident auctioneer, apprentice auctioneer, or auction business shall deliver to and deposit with the board at the time of application either the sum of \$10,000 in cash or a surety bond in the amount of \$10,000. Such bond shall:

1. be executed by the applicant as principal and by a surety company qualified to do business in the state as a surety;
2. be in a form approved by the board;
3. be conditioned upon compliance by the applicant with the conditions of any written auctioneer's contract made by such applicant in connection with a sale or auction in which he is a party;
4. be conditioned upon the assurance that the applicant shall not violate any provision of this Chapter or state law in the conduct of the business for which he is licensed;
5. be made payable to the board for the use, benefit, and indemnity of any person who suffers any loss as a result of a violation of this Chapter and for the proper disposition of all funds, taxes and registration fees;
6. be for the period of licensure.

B. The bond shall be maintained throughout the period of licensure. If the bond is canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to that date.

C. A new bond or proper continuation certificate shall be delivered to the board at the beginning of each period of licensure. However, the aggregate liability of the surety in any one year shall not exceed the sum of the bond.

D. A licensed resident auctioneer shall not be required to deposit with the board an additional cash amount or an additional surety bond upon application for licensure as an auction business.

E. The board may promulgate rules to require a cash deposit or surety bond not to exceed \$10,000 as a condition of reinstatement of a license revoked, canceled, suspended, or otherwise restricted pursuant to R.S. 37:3121.

F. The board may promulgate rules to require a cash deposit or surety bond not to exceed \$10,000 of a nonresident auctioneer either licensed in or conducting an auction in Louisiana under the reciprocity provisions of R.S. 37:3117 if a bond is required of a Louisiana auctioneer for licensure or the conduct of an auction in the licensing jurisdiction of such nonresident auctioneer.

G. An auction business which is owned by a nonresident auctioneer shall, prior to being licensed by the board, post a surety bond in the amount which shall be the greater or either:

1. \$10,000;
2. the amount of the bond required of an auction business owned by an auctioneer licensed in Louisiana in the licensing jurisdiction of such nonresident auctioneer.

H. Such bond shall name the board as beneficiary.

1. In the case of a cash deposit, the auctioneer or auction business making the cash deposit shall deposit funds in a recognized state depository with the account or certificate pledged to the Louisiana Auctioneer Licensing Board under the same requirements as a surety bond. The funds shall be maintained in this depository for a period of one calendar year past the expiration date of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005).

Chapter 13. Cease and Desist; Injunctions

§1301. Cease and Desist; Injunctions

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided in the statute and rules, the board is empowered to issue an order to any person or firm engaged in any activity, conduct or practice constituting a violation of any provision of the statute or rules directing such person or firm to cease and desist from such activity, conduct or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct or practice prescribed by the statute and rules, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct or practices pending the hearing on a preliminary injunction and in due course a permanent injunction shall issue after the hearing commanding the cessation of the unlawful activity, conduct or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction or permanent injunction issued hereunder shall not be subject to being released upon bond.

C. If the person or firm to whom the board directs a cease and desist order does not cease and desist the prescribed activity, conduct or practice within 10 days from service of such cease and desist order by certified mail, the

board may cause to issue in any court of competent jurisdiction and proper venue a writ of injunction enjoining such person or firm from engaging in any activity, conduct or practice by the statute and rules.

D. Those who hold auction licenses who are found in violation of the statutes or regulations shall be responsible for reasonable attorney fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3122.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1327 (June 2005).

Chapter 15. Violations and Penalties

§1501. Violations and Penalties

A. Any person who engages in auctions without a valid license violates this statute and rules.

B. Any person who willfully violates any provision of this statute and rules or any rules and regulations adopted under its authority shall be fined for each offense not more than \$500 or imprisoned not more than six months, or both. Each individual sale or act in connection with the conduct of an auction in violation of any provision of this statute and rules shall constitute a separate offense and violation of this statute and rules.

C. Any person who fails to comply with any order issued by the board or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3123.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1327 (June 2005).

§1503. Fines for Advertising Violations

A. Violations of Chapter 17 requiring that the licensee place his name and license number in all advertising will result in a money fine to be levied against him. The amount of the fine will be \$50 for the first offense and \$100 for the second offense. A third or subsequent offense may result in a fine or other disciplinary action within the discretion of the board. Signs and business cards shall be exempt from this requirement of displaying the licensee number so long as the contact information is present since these are not considered ads.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Auctioneers Licensing Board, LR 20:1367 (December 1994), amended by the Office of the Governor, Auctioneers Licensing Board, LR 37:2148 (July 2011).

Chapter 17. Responsibilities of Licensed Auctioneer

§1701. Advertising and Management of Sale

A. The auctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefore and shall, over his signature, issue a closing statement to the sellers.

B. All advertising of an auction sale must be made in the name of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer board. The current license number must be published.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988).

§1703. Conduct in Professional Manner

A. A licensee shall conduct his professional activities in a professional manner that will reflect credit upon him, the auction profession and auctioneers.

B. Unprofessional conduct includes but is not limited to the following:

1. failure of a licensee to deposit in one or more identifiable bank accounts maintained in the state in which the auctioneer is situated all funds derived from an auction sale paid to the licensee or to a person, corporation, firm or combination thereof which conducted the sale. No funds belonging to the auctioneer shall be deposited therein except as follows:

a. funds reasonably sufficient to pay bank charges may be deposited therein;

b. funds belonging in part to the person who employs the auctioneer and in part to the auctioneer must be deposited therein, but if the portion belonging to the auctioneer to receive it is disputed by the person who employs the auctioneer, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved;

2. failure of a licensee to account to and pay over all monies and tangible personal property coming into his possession which belong to others including buyers at auction as well as consignors no later than 30 days from the date that the obligation arises to remit or deliver the said monies or tangible personal property;

3. a licensee's payment of compensation in money or other valuable things to any person other than a licensee for the rendering of any service or the doing of any of the acts by this act forbidden to be rendered or performed by other than licensees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development,

Auctioneers Licensing Board, LR 14:787 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1327 (June 2005).

§1705. Record Keeping

A. All licensees, including all individual auctioneers and auction businesses, must retain the following records of each sale conducted by that licensee or conducted by an apprentice auctioneer for which that licensee is responsible, for at least three years after the sale:

1. clerk sheets;
2. consignor sheets;
3. records showing deposits and disbursements from the escrow account;
4. consignor's contracts;
5. settlement sheets;
6. receipts to buyers;
7. any document showing lot numbers, item numbers, amounts of sale and commission amounts for each sale;
8. sales tax licenses;
9. occupational licenses;
10. any other license which the auctioneer is required to have to operate his business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

§1706. Absolute Auction

A. Absolute Auction—changes ownership regardless of price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 37:2148 (July 2011).

Chapter 19. Fund of the Board

§1901. Auctioneers Licensing Board Fund

A. There is hereby created a special fund designated as the Louisiana Auctioneers Licensing Board Fund. The fund shall be audited by a firm of certified public accountants and maintained and controlled by the board. All fees paid to the board and any other revenues shall be deposited in said fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:339 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988).

Chapter 21. Rulemaking Process

§2101. Adoption of Rules

A. The adoption of any rule or regulation, guideline, substantive procedure or code of conduct shall be subject to the provisions of the Administrative Procedure Act.

B. Fiscal Year. The fiscal year of the board shall end on June 30 of each year hereafter.

C. Bylaws. Bylaws of the board may be adopted, amended or repealed by the members of the board at a regular meeting or a special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3120.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:339 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988).

Chapter 25. Auctioneer Business

§2501. Licensing of Auction Business

A. Preamble. Louisiana Auctioneers Licensing Board herein promulgates rules for the licensing and regulation of auction businesses in the state of Louisiana, pursuant to the authority granted to it in R.S. 37:3101(A).

B. Application of Rules

1. For purposes of these rules and regulations, the term *Auction Business* shall mean the same and may be used interchangeable with the term *Auction House* and *Auction Company* as articulated in R.S. 37:3103(A)(11).

2. Definitions

Auction Business—as used in R.S. 37:3103(A)(11) shall be further defined as any place of business, including but not limited to an auction barn, sale barn, antique gallery, sale pavilion, and contiguous surrounding, where two or more auctions are held within any 12-month period and where representations are regularly made that goods are sold at auction. Each day when goods or real estate are being offered for sale at auctions shall constitute one auction. A sale barn or livestock auction business that is used exclusively for the auctioning of livestock is not an auction business as defined herein.

Board—the Louisiana Auctioneers Licensing Board.

Licensee—any person licensed under these rules, and in the case of an auction business, includes the person required to obtain a license for such auction house or auction company.

C. Scope of Regulation. Every applicant seeking to operate an auction house shall file with the board a completed application (on a form provided by the board) for a license for each auction business to be operated by that person. Although an auction business may operate in more than one location, at all times, it may only operate under the name licensed with the Louisiana Auctioneers Licensing Board.

D. Licensing Fee. Each application for licensing shall be accompanied by a license fee in the amount of \$300. Any applicant whose application is denied shall be refunded the entire application/license fee within 30 days of such denial. Renewal of each auction business license shall be on an annual basis, no later than February 1 of each calendar year. An auction business license renewal fee shall be \$300.

E. Application Information. Each applicant shall submit the following information on the designated application form:

1. the name of each owner of the entity and the length of time each such person has been an owner;
2. each business address of the entity;
3. each auctioneer licensed by the date of application who has been employed by the business for more than one auction in the previous calendar year;
4. the nature of the business and the product to be sold;
5. two references who shall be auctioneers currently licensed in this state in good standing with the board;
6. tax identification number;
7. Louisiana sales tax number;
8. all related business entities or individuals, such as co-owners, holding companies, sister companies, etc.;
9. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000.

F. If, in the opinion of the board, the applicant provided inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

G. The qualifications of an applicant applying for an auction business license shall be the same as those articulated at R.S. 37:3113(a)1 through 37:3113(b)4, pertaining to the licensing of auctioneers.

H. An auction business licensee shall be able to operate the licensed auction business in any parish of the state of Louisiana. Should the licensee desire to operate the business at more than one location or change the location, the licensee shall give the Louisiana Auctioneers Licensing Board written notice of the change at least five days prior to the change of address or establishment of new location, as well as provide a physical and mailing address of the new or additional location of the business. Failure by licensee to give notice to the Louisiana Auctioneers Licensing Board after such change of location (or establishment of an additional location) shall be grounds for revocation of the auction business license by the board.

I. A licensee's auction business license shall automatically be suspended if no licensed auctioneer is engaged in conducting the auctions for the licensee. Such license may be reinstated by the board for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the auction business.

J. The provision of R.S. 37:3115 relative to renewal of license, certificate and penalties for failure to renew the license of auctioneers, shall also apply to an auction business license.

K. No auction business license shall be issued or renewed unless the applicant presents a bond in the amount of \$10,000 in a form approved by the board.

L. A resident Louisiana licensed auctioneer may operate an auction business without a fee, and without posting of an additional surety bond if a surety bond guaranteeing his performance as an auctioneer has previously been posted.

M. An auction business must display in its office or offices, its current license to do business as an auction business at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Auctioneers Licensing Board, LR 20:1367 (December 1994), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005).

Chapter 29. Miscellaneous

§2901. Costs for Letters of Good Standing and Rosters of Licensees

A. The board may charge any individual, board or other party requesting a letter of good standing for an individual auctioneer or an Auction Business the sum of \$25 as cost for research, preparation, postage and copies necessary for the preparation of that letter.

B. The board may charge any individual, board or other party the sum of \$25 for the preparation and mailing of a roster of licensees or for preparation of electronic media or labels containing that information.

C. The board may charge any individual, board or other party the sum of \$10 plus the cost of labels to prepare mailing labels. Any such request must be approved by the board chairman before preparing.

D. Should any reciprocal auctioneer licensing board request any of the above, or any other document, that board shall be charged what it charges the Louisiana Auctioneers Licensing Board for the same document.

E. Any auctioneer or auction business licensed under any reciprocity agreement with a reciprocal state will be charged for any of the items listed in this Section the same amount as that charged to Louisiana individual and/or business licensees by the reciprocal state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 31:1329 (June 2005).