

NewsLine

The Official Publication of the Tennessee Auctioneer Commission

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John Thorpe, Chairman Middle Tennessee	12/31/20
Kimball Sterling At-Large	08/31/22
Vacant Consumer Member	open
Jeff Morris West Tennessee	08/31/20
Randy Lowe East Tennessee	08/31/21

Mission Statement

The Mission of the Tennessee Auctioneer Commission is to protect the public through the establishment and administration of minimum requirements for candidates and licensees, effective professional education of licensees and enforcement of professional conduct.

State of Tennessee
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www.tn.gov/commerce/regboards/auctioneers

A New Licensing Option

The 2019 Tennessee Auctioneer Licensing Law revisions created a new licensing option for auctioneers—the bid caller auctioneer license—wishing to work in Tennessee for a licensed auctioneer. By definition [T.C.A. §62-19-101(4)], a bid caller auctioneer is “an individual who, for compensation or valuable consideration, or otherwise, is hired by a principal auctioneer, public automobile auction, or public automobile auctioneer to solicit bids for the purchase of goods at an auction.”

Candidates for the bid caller auctioneer license must complete sixteen (16) hours of education, either in the classroom or online, and make application to the Commission. Bid caller auctioneers are also exempt from continuing education.

Bid caller auctioneers are prohibited from negotiating or entering into an auction contract with a seller; they cannot take possession of seller assets or seller funds; and they must work under a Tennessee licensed principal auctioneer, public automobile auctioneer or public automobile auction.

National Auctioneers Association Designation Academy—December 1-7, 2019 Planet Hollywood Resort & Casino—Las Vegas, NV

This is great opportunity to take advantage of a diverse range of educational programs designed to help professional auctioneers in their specialty areas.

71st Annual Conference & Show—July 14-18, 2020 Town & Country Resort—San Diego, CA

Visit www.auctioneers.org for more information on these events.

The Tennessee Department of Commerce & Insurance is committed to the principles of equal opportunity, equal access and affirmative action. Contact the EEO Coordinator or ADA Coordinator 615-741-2177 (TDD).

Auction Contracts

The auction contract is the bedrock of the auction industry. The contract is a legally enforceable agreement that is spoken, written or acted upon as evidence of a 'meeting of the minds' between the parties to the contract.

Every contract has four essential elements that must be met in order to be considered valid. Those are:

- ◆ **Competent Parties**—do the parties to the contract have the mental capacity to make the 'promise(s)' outlined in the contract?
- ◆ **Mutual Agreement**—did the parties agree to all the terms and conditions of the contract?
- ◆ **Consideration**—this is generally referring to something of value being given in exchange for a promise.
- ◆ **Legal Subject Matter**—does the seller have the right to sell, and are the assets 'legal' to sell?

Contractual disputes can occur if a party to the contract makes a mistake, changes their mind or is unclear about the contract terms. Auction complaints can arise out of unclear terms and conditions in the auction contract. It is important for an auction contract to include details about when and where the auction will be held, when the seller will be paid, how the auctioneer will be paid, and also how any unsold items, uncollected items, returned checks and other potential issues will be addressed. It is important for the auction contract to specify if the assets are being sold with or without reserve; and if a buyer's premium is charged, the contract must specify how those monies will be disbursed.

The auction contract is the road-map all auctioneers must follow in the performance of an auction. To avoid disputes, all auctioneers are encouraged to have an attorney draft or review their auction contracts before execution.

The information mentioned above is not, and should not, be interpreted as legal advice of any kind. Should you have any additional questions or concerns about auction contracts, please consult either with your local association or a private attorney.

Legal Reminder

T.C.A. 62-19-112 addresses denial, revocation or suspension of a license by the commission. Under paragraph (b), The commission may suspend, revoke or refuse to renew any license issued under this chapter...for:

(8) Failing to furnish voluntarily to all interested parties, at the time of execution, copies of all written instruments prepared by the auctioneer or affiliate auctioneer;

(9) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee receives the property for sale; and,

(14) Negotiating or executing an auction contract to sell goods, take possession of seller assets, or take possession of auction proceeds as a bid caller auctioneer licensee.

Auctioneers, and affiliate auctioneers under the supervision of their principal auctioneer, must enter into an auction contract to conduct an auction sale and they must provide copies of the contract to the seller at the time the contract is signed. Bid caller licensees are prohibited from negotiating an auction contract with a seller.

The above information is only a partial citation of T.C.A. 62-19-112. To view the full section, please visit <https://www.tn.gov/commerce/auctioneers/rules-laws.html>.

Commission Report

Commissioner Ronald W. "Ronnie" Colyer of Ten Mile, TN has fulfilled two terms as the At-Large Member on the Tennessee Auctioneer Commission. At the end of the August meeting, Commissioner Colyer was recognized for his contribution to the Commission and the auction profession. Governor Bill Lee has appointed Kimball Sterling as the At-Large member. Thank you, Ronnie Colyer for all your dedicated service to the Commission.



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Commission Calendar

2020 Commission Meetings

All meetings are held at 500 James Robertson Parkway, Nashville, TN 37243 at 9:00 a.m.

February 24, 2020

May 18, 2020

August 17, 2020

November 16, 2020

Upcoming Continuing Education Seminars:

Middle Tennessee

Monday, March 2, 2020
The Retreat at Center Hill Lake
Smithville, TN

West Tennessee

Monday, June 8, 2020
Paris Landing State Park
Paris, TN

"Estate & Financial Planning for Small Business Owners & Independent Contractors" by Aaron J. Carmack, Financial Advisor

"Unleashing Your Inner Champion: How to be successful in the auction business and life" and "Inside the World of Equipment Auctions" by Dustin Rogers, 2017 IAC Champion Auctioneer