

MISSISSIPPI AUCTIONEER COMMISSION

LICENSING EXAMINATION

Section 73-4-17 (d) of the Mississippi Auctioneers License Act requires that *each applicant for a license under this chapter shall take and successfully complete an examination as prescribed by the Commission. The examination shall include questions on ethics, reading comprehension, writing, spelling, elementary arithmetic, elementary principles of land economics, general knowledge of bulk sales law, contracts of sale, agency, leases, brokerage, knowledge of various goods commonly sold at auction, ability to call bids, knowledge of sale preparation and proper sale advertising and sale summary, and knowledge of the provisions of this chapter and the Commission's rules and regulation.*

The licensing examination will consist of 100 questions and the applicant will be allowed 2 hours to complete the examination in its entirety.

STUDY GUIDE

The Mississippi Auctioneers License Act does not provide for a temporary permit or license for any reason.

Licensing requirements for a Mississippi resident are:

- a. High school diploma or GED;
- b. Diploma from an Auction School approved by the Commission;
- c. A notarized copy of their Voter Registration Card;
- d. \$10,000 Surety Bond;
- e. Letters of Good Standing from reciprocal states;
- f. 18 years of age or older by the issuance date of the license
- g. Completed application and payment of the required fee;
- h. Personal References.

No continuing education hours are not required for renewal.

A contract is an agreement that creates an obligation.

Authority given to an agent may be expressed or implied.

How does an individual become a DEALER in order to purchase automobiles from an automobile auction? The individual must contact the Mississippi Department of Motor Vehicles in order to obtain a Dealer Permit for purchasing automobiles at an automobile auction.

Licensed auctioneers are required to maintain an escrow account which may be either an interest or a non-interest bearing account.

If you are the owner of the auction firm and you serve as the ONLY auctioneer and firm manager, then you are NOT REQUIRED to have a firm license.

Online auction schools are not accepted for residents in the State of Mississippi; however if an applicant has retained a license in a reciprocal State and that State has granted a license to that individual, then yes it is accepted.

Any buyer's premium or other fees must be included in the written contract with the owner or consignor of goods. A copy of every written contract shall be retained for a period of two (2) years from the date of the auction.

A surety bond is required for each licensee or firm.

Both an auctioneer license from the MS Auctioneer Commission and a Broker's license from the Mississippi Real Estate Commission are required to auction the sale of any real estate.

Auctioneers who regularly conduct consignment-type auctions of firearms, for example, held every 1-2 months, on behalf of the firearms owners where the auctioneer takes possession of the firearms pursuant to a consignment contract with the owner of the firearms giving the auctioneer authority to sell the firearms and providing for a commission to be paid by the owner upon sale of the firearms are required to obtain a license as a dealer in firearms. In estate-type auctions, articles to be auctioned, including firearms, are sold by the executor of estate of an individual. In these cases, the firearms belong to and are possessed by the executor. The auctioneer acts as an agent of the executor of the estate of the individual. In these cases, the firearms belong to and are possessed by the executor. The auctioneer acts as an agent of the executor and assists the executor in finding buyers for the firearms. The firearms are possess by the estate and their sale to third parties is controlled by the estate. The auctioneer is paid a commission on the sale of each firearm by the estate at the conclusion of the auction. In consignment-type auctions, an auctioneer may take possession of firearms in advance of the auction. The firearms are inventoried, evaluated and tagged for identification. The firearms belong to individuals or businesses who have entered into a consignment agreement with the auctioneer giving the auctioneer the authority to sell the firearms. The agreement states that the auctioneer has the exclusive right to sell the items listed on the contract at a location, time and date to be selected by the auctioneer. The consignment-type auctions generally involve accepting firearms for auction from more than one owner. Also, these auctions are held on a regular basis, for example, every 1 to 2 months. 18 U.S.C. §923(a), provides that no person shall engage in the business of dealing in firearms until he has filed an application and received a licensed to do so.

If any licensee wishes to appear before the Commission, they are required to complete an Agenda Request Form and submit 10 days prior to the next scheduled Commission Meeting.

Anyone may attend a Commission meeting as they are open to the public; however they cannot address the Commission without submitting an Agenda Request Form.

The enacted legislation of the Mississippi Auctioneers License Act is found in Section 47-1 et sec. Mississippi Code Annotated, 1972, as amended.

Goods means any tangible personal property that can be lawfully offered for sale, real estate, property sold pursuant to any will or settlement of any estate, property sold pursuant to any legal foreclosure, automobiles or farm or other heavy equipment.

An auction means a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of his audience.

Legal exemptions to the Mississippi Auctioneers License Act include the following:

- a. A sale conducted by order of any United States court relating to bankruptcy;
- b. A sale conducted by an employee of the United States or the State of Mississippi or its political subdivisions in the course and scope of his employment.
- c. An auction conducted by a posted stockyard or market agency as defined by the Federal Packers and Stockyard Act of 1921.
- d. A sale conducted by a trustee acting under a trust agreement, deed of trust or will.
- e. A sale conducted by sealed bid.
- f. An auction conducted by a charitable or nonprofit organization chartered in Mississippi if the auction involves only the property of the organization's members and the auction is part of a fair that is organized under state, county, or municipal authority.

The Mississippi Auctioneer Commission has the following powers:

- a. Set reasonable license fees; make rules and regulations that will promote the orderly functioning of the auction profession;
- b. Ensure the protection of the public;
- c. Conduct investigations and enforce disciplinary provisions.

The Mississippi Auctioneer Commission consist of 5 members.

The two classes of licenses are auctioneers and firms.

Antiques are manufactured or crafted products that are at least 100 years old.

The required bond amount is \$10,000.

A twenty (20) day notice must be provided the licensee prior to a hearing.

The Commission may assess and levy upon any licensee or applicant for licensure costs incurred or expended by the Commission in the investigation and prosecution of any licensure or disciplinary action.

The Commission may, upon its own motion, summarily suspend a license when the interest, health, safety or welfare of the public is at risk.

No person whose license has been revoked may not apply for a new license for a period of at least five (5) years.

If an item is permanently attached to real estate, it is known as a fixture.

The Bulk Sale Transfer Article is a part of the Uniform Commercial Code.

Estates are disposed of under the jurisdiction of the probate court.

The formula for determining the number of square feet in an area is length times width.

Any person aggrieved by an action of the Commission may file an appeal of such action in the Circuit Court of Hinds County.

The two basic types of auto auctions are wholesale and public auctions.

A yellow light at an auto auction indicates there are defects.

Caveat Emptor means "let the buyer beware".

Prohibited conduct by a licensee include the following:

Knowingly filing or causing to be filed a false application.

Failure to enter into a written contract with a seller or consignor prior to placing or permitting advertising for an auction sale to be placed.

Failure of a licensee to give the seller or consignor a signed receipt of items received for sale.

Failure to give the seller or consignor a statement or lot description, selling price, purchaser's identity and the net proceeds due to the seller or consignor.

Permitting an unlicensed auctioneer to call for bids in an auction sale.

Having been convicted of or pled guilty to a felony.

False, misleading or untruthful advertising.

Any act of conduct in connection with a sales transaction which demonstrates bad faith or dishonesty.

Failure, without good cause, to cooperate with any request by the Commission to appear before it.

A demonstrated lack of financial responsibility.

Any violation of a rule or regulation duly adopted by the Commission.

An auction firm shall designate a firm manager.

An auction firm license shall terminate immediately when any of the following occur:

- a. The auction firm ceases to operate as a corporation or has ownership changes;
- b. The firm manager changes;
- c. The auction firm changes its permanent business location.

A licensee's license shall be suspended upon cancellation of the bond by the bonding company.

Every auctioneer shall perform such auctioneer's duties so that the highest or most favorable offer made by a member of the audience is accepted, and shall otherwise perform such duties in accordance with the highest standards of the auctioneering profession.

Every licensee, within five (5) business days after a sale of goods and at closing of the sale, shall pay over, or provide for the paying over of, all monies and proceeds due to the owner or consignor of goods which was the subject of an auction engaged in or conducted by such licensee or upon licensee's premises.

Except with respect to goods sold through an auction firm, no licensee shall sell goods at an auction until the auctioneer or auction firm involved has first entered into a written contract with the owner or consignor of such goods setting forth the terms and conditions upon which such auctioneer or auction firm accepts the goods for sell.

A copy of every written contract shall be retained for a period of two (2) years from the date of the auction.

A person who violates the provisions of the Mississippi Auctioneers' License Act shall be fined, upon conviction, not more than \$1,000.

The website of the Mississippi Auctioneer Commission that provides information relative to the powers of the Commission is www.auctioneers.ms.gov.

According to the statute, "Commission" means the Mississippi Auctioneer Commission.

All of the Commissioners are appointed by the Governor for a term of five (5) years. All are required to be licensed auctioneers.

No apprenticeship is required before an auctioneer license is issued in Mississippi.

An auctioneer that is a member of the National Auctioneer Association is not exempt from a state auctioneer's license.

In a bulk transfer, an auctioneer must notify all creditors at least ten (10) days before the sale.

A clear title means the land is free from encumbrances.

An absolute auction means the owner does not reserve the right to reject the final bid.

In making bank deposits of proceeds of auction sales, an auctioneer is required by law, to use an escrow account.

There is a no limit to the amount of commission that an auctioneer may charge for his/her services.

You may not auction under someone else's license number until you obtain your own auctioneer license number.

Expiration of all Mississippi Auctioneer Commission licenses occur on March 1st of odd number year.

When an auctioneer advertises and sells at an absolute auction, the auctioneer is required to sell 100% of the items without a reserve.

An estate auction advertisement must include the name of the estate owner(s).

If a seller chooses to sell "with reserve" this fact should be announced to the bidders to avoid confusion.

In signing an auction contract, the auctioneer should state the percentage of commission and other applicable fees of charges, the name of the business and if it is selling with or without a reserve price.

As an auctioneer who operates a general auction business, you have the opportunity to sell an estate that contains several pieces of fine art that are thought to be extremely valuable. Ethically you should accept the auction and seek the aid of an expert in the auctioning and authentication of the art.

An executor of an estate is always a man. An executrix of an estate is always a woman.

Is it considered the responsibility of the auctioneer prior to the auction of firearms to know what weapons are illegal to possess and what weapons require a special license.

The title of real property may be acquired as a gift, by a devise in a will, or by adverse possession.

A section of land consist of 640 acres.

A title search is the best way to find out if a title is clear in real estate.

When identifying an auction as "absolute" your obligation to the buyer is to accept the bid regardless of the price.

In the event a certificate of resale exemption is presented at an auction, the cashier should exempt the sales tax.

The definition of an auctioneer in Mississippi statute includes any person who sells property for another for a commission, receives a fee for selling at a public auction, or offers to sell property at auction with or without receiving compensation.

A full account of all sales and property entrusted to an auctioneer must be made for every sale.

Grounds for revocation or suspension of an auctioneer license includes incompetence, efforts to deceive the public, and/or obtaining a license by deceit.

A complaint against an auctioneer must be submitted to the Commission in verified form and will be investigated if the licensee files a timely response to the claim. It may also result in a hearing by the Commission if the licensee does not respond to the claim within 20 days.

Of the five (5) Commission members, three (3) constitute a quorum in order to transact business of the Commission.

The definition of "property" as used in Mississippi auction law includes tangible property, intangible property, and real and personal property.

The \$10,000 required bond must provide the State of Mississippi as the obligee.

It is the responsibility of an auctioneer to disclose all of the following.

- a. that abandoned gasoline tanks exist on the property;
- b. that the hydraulics on the back hoe do not work;
- c. that termites have infested a structure;
- d. that a murder was committed on the property;
- e. for whom and why the sale is being held;
- f. method of payments and other terms and conditions;
- g. state that announcements stated by the auctioneer take precedence over other printed matter; and
- h. auctioneer's name and license number.

The best guide to a Code of Ethics within the auction industry is provided by the National Auctioneers Association.

In case an item has been misrepresented by the auctioneer when being sold and the buyer immediately calls it to his attention, the auctioneer should resell the item.

If an auction is advertised "as is" and an auctioneer is aware when selling a backhoe that the hydraulics are bad; the auctioneer should require the seller to repair the hydraulics before selling the backhoe.

A claim, lien, charge or liability attached to and binding upon real property is known as an encumbrance.

To deliver title to farm machinery, the auctioneer would use a bill of sale.

The sell by competitive bid, or public outcry of any property is an auction.

An auctioneer made an agreement with the owner of an auction firm that he would do the bid calling at his auction house on Saturday nights for a fee of \$40.00 per night, plus a 3% commission of the total proceeds of the sales. Over a period of four Saturday night sales the gross receipts were \$9,542.00.

_____ What was the average proceeds from the sale?

_____ What was the amount earned by the auctioneer?

_____ What was the amount received by the owner?

An auction company entered into an agreement to broker the sale of Farmer Wright's farm which contains 215.7 acres. 3.7 of the farm is zoned commercial. Farmer Wright also agrees to sell all of his personal property by auction. The contract requires Farmer Wright to pay a 7% commission on the real property and a 12% commission on the personal property. Farmer Wright also agrees to provide \$3,500 in advertising expenses which will be deducted from the personal property. The auction company is to charge a 5% buyer's premium on the personal property. On the day of the auction, 212 acres sells for \$1,275.00 per acre and 3.7 acres sells for \$1.85 per square foot (1 acre = 43,560 sq ft). The personal property sells for \$67,854.50. At the end of the auction, it was determined that the auction expenses totaled \$7,380.09. (Round to nearest \$.00).

What was the net amount that Farmer Wright's received for the real estate?

- a. \$775,250.00
- b. \$223,416.94
- c. \$528,675.43

What was the total amount of the commission on the real estate?

- a. \$24,567.89
- b. \$39,792.77
- c. \$14,687.90

What was the total amount of commission on the buyer's premium?

- a. \$3,392.72
- b. \$5,345.67
- c. \$7,890.12

What was the total amount of commission on the personal property?

- a. \$9,765.43
- b. \$7,777.34
- c. \$8,142.54

What was the amount that the 3.7 acres sold for?

- a. \$328,413.16
- b. \$189,976.43
- c. \$298,168.20

What was the net amount Farmer Wright received for the personal property?

- a. \$56,211.96
- b. \$78,214.34
- c. \$86,212.16

What was the net amount of auction expenses?

- a. \$1,224.67
- b. \$2,453.16
- c. \$3,880.09

Ownership by two or more individuals of a single piece of property creates ownership as tenants in common.