

Universal Citation: [MS Code § 73-4-19 \(2013\)](#)

(1) The commission may, upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any auctioneer or auction firm, or any person who holds himself out as an auctioneer or auction firm.

(2) Any person desiring to make a complaint against a licensee shall submit a complaint to the commission in verified form as prescribed by the commission. Upon receipt of a properly verified complaint, the commission shall send a copy of the complaint to the affected licensee by certified mail, and the licensee shall make answer to the complaint in writing within twenty (20) days after receipt of the complaint. The licensee shall mail a copy of his response to the commission and the complainant. Upon receipt of the licensee's response or lapse of twenty (20) days, the commission shall make investigation of the underlying allegations of the complaint, and upon a finding of probable cause that a violation of this chapter has occurred, the commission shall order a hearing for the licensee to appear and show cause why he should not be disciplined for a violation of this chapter.

(3) (a) All hearings held pursuant to this chapter shall be held at the offices of the commission. The commission, for good cause shown, may order that a hearing be held in another location convenient to all parties.

(b) The commission shall give the complainant and the affected licensee twenty (20) days' notice of any hearing upon a complaint. Such notice shall be by United States certified mail.

(c) Any party appearing before the commission may be accompanied by counsel.

(d) The commission or its executive director shall have the right to subpoena witnesses and documents as they deem necessary for the proper conduct of the hearing. The commission shall not entertain a motion for a continuance for failure of a witness to appear unless such witness shall have been duly subpoenaed.

(e) (i) Before commencing a hearing, the chairman of the commission shall determine if all parties are present and ready to proceed. If the complainant fails to attend a hearing without good cause shown, the complaint shall be dismissed summarily and all fees and expenses of convening the hearing shall be assessed to, and paid by, the complainant. If any affected licensee fails to appear for a hearing without good cause shown, such licensee shall be presumed to have waived his right to appear and be heard.

(ii) Upon the chairman's determination that all parties are ready to proceed, the chairman shall call the hearing to order and the complainant and the licensee may give opening statements. At the request of any party, the chairman shall order the sequestration of nonparty witnesses. The complainant shall then present his complaint through sworn testimony and the production of physical evidence. The licensee, any counsel and any member of the commission may ask questions of witnesses.

(iii) The licensee shall then present his case in rebuttal with equal right of cross-examination of the parties. At the completion of the evidence, all parties may give closing statements.

(iv) At the conclusion of testimony and argument, the commission may go into closed session for deliberation.

(v) At the conclusion of deliberations, the commission may announce the commission's decision in an open session, and shall notify the parties of its decision by mail within ten (10) days after the commission reaches its decision.

(4) Service of notice to the party shall be considered to have been given if the notice was personally served on the licensee, applicant or complainant or if the notice was sent by certified United States mail to the licensee, applicant or complainant to that party's last known address of record with the board.

(5) No person whose license has been revoked hereunder may apply for a new license for a period of at least five (5) years. A person whose license has been denied, suspended or revoked may not apply in that person's name or in any other manner within the period during which the order of denial, suspension or revocation is in effect, and no firm, partnership or corporation in which any person whose license has been denied, suspended or revoked has a substantial interest or exercises management responsibility or control may be licensed during the period. The procedure for the reissuance of a license that is for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(6) Any civil or monetary penalty, fine or other costs imposed by the commission under this chapter shall become due and payable within the time allowed by the commission for payment thereof. Failure of the licensee or party to pay all penalties or fines so assessed as ordered by the commission shall, unless an appeal is taken and perfected within the time and in the manner provided in this chapter, result in an automatic revocation of such licensee's license. In addition, if any amounts assessed against a party by final order of the commission become otherwise uncollectible or payment is in default, and if all the right to appeal has passed, the order of the commission containing the amount of money assessed by the commission may be filed with the appropriate clerk of the court in the county in which the licensee or party is located. The order shall constitute a judgment and the filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

(7) The commission may also assess and levy upon any licensee or applicant for licensure the costs incurred or expended by the commission in the investigation and prosecution of any licensure or disciplinary action, including, but not limited to, the cost of process service, court reports, expert witness, investigators and attorney fees.

(8) The commission may, upon its own motion, summarily suspend a license when the interest, health, safety or welfare of the public is at risk, such as in the event of a potential loss of

consigned items or potential loss of funds. If the commission suspends summarily a license under the provisions of this subsection, a hearing must begin within twenty (20) days after such suspension begins, unless continued at the request of the licensee.

(9) Any person aggrieved by an action of the commission may file an appeal of such action in the Circuit Court of Hinds County. Any appeal must be accompanied by an attested copy of the record of the hearing before the commission. An appeal must, however, be filed with the Chancery Court of Hinds County within thirty (30) days immediately following the date of the commission's decision, unless the court, for good cause shown, extends the time. Appeals may be taken to the Mississippi Supreme Court as provided by law from any final judgment of the chancery court. If the board appeals from any judgment of the chancery court, no bond shall be required of it in order to perfect its appeal. Any actions taken by the commission in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

(10) If any licensee is indicted in this or any other state for forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or other offense, and a certified copy of the indictment is filed with the commission or other proper evidence is given to it, the commission may, in its discretion, suspend the license issued to the licensee pending trial of the charges.

(11) If the revocation or suspension of a license issued to any member of a partnership, or to any officer of an association, corporation or organization to whom an auction license has been issued, the license issued to the partnership, association, corporation or organization shall be revoked by the commission unless, within a time fixed by the commission, the connection of the member of the partnership is severed and his interest in the partnership and his share in its activities brought to an end, or the officer of the association, corporation or organization is discharged and has no further participation in its activities.

(12) Nothing in this section shall be deemed as an exclusive remedy or prevent or proscribe any person's right to petition a court of law or equity for redress of a grievance against a licensee or any other entity.