

# **MISSISSIPPI AUCTIONEER COMMISSION**

## **FIRM 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 50 (2 points each) questions and the applicant will be allowed 2 hours to complete the examination in its entirety.

### **STUDY GUIDE**

A firm must employ a firm manager and his/her name must be recorded on the license issued by the Commission.

The firm manager shall have sufficient authority in the operation of the auction firm to ensure compliance with the law and rules and regulations of the Commission.

A firm will need to hire an auctioneer prior to obtaining a firm license.

An auction firm license shall immediately terminate if the firm ceases to operate as a corporation.

If the owner of the firm changes or there is a change in ownership, the firm is required to notify the Commission.

If the auction firm is a partnership, and the firm changes the number of partners in the partnership or changes the partners comprising the partnership, the firm license is immediately terminated until which time the firm files a new application for licensure.

The firm is required to immediately notify the Commission if there is a change to the firm manager in an application form as prescribed by the Commission.

If the name of the firm changes, a name change is required to be filed with the Commission as long as the owner remains the same.

If an auction firm changes its permanent business location, a new application is required and the old license is terminated.

If the applicant for a firm license maintains more than one (1) place of business within the state of Mississippi, the applicant shall apply for and obtain an additional firm license for each branch office.

A firm license shall automatically be suspended if no licensed auctioneer is engaged in the business of the firm.

A firm license may only be reinstated by the commission for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the firm.

No person or party can perform any act for which an auction firm license is required unless the person or party holds a currently valid license issued by the Commission.

Any person in Mississippi who for a fee is in the business of managing auctions to the extent such person is responsible for the advertising, consignments, promotion and/or distribution of funds must hold a valid firm license.

The holder of an auction firm must enter into a written contract with a licensed auctioneer to call bids prior to the start of any auction sale.

It is required that the firm license and the affiliated licensed auctioneer to post their license for public viewing.

A firm manager is a requirement for licensure by the Commission.

A firm manager must keep a file on all its current and past employees for the auction firm for the previous year and shall contain the employee's name, last known address and social security number.

The licensee shall make all of the firm's records pertaining to the auction firm available to a member or employee of the Commission for inspection upon demand.

The firm owner must assume responsibility for all checks, drafts and other negotiable instruments tendered by buyers in payment for goods sold through the auction firm.

As a condition to the granting and the retention of a license, the owner must have on file with the Commission a bond in the amount of \$10,000.

A firm license cannot be renewed if the bond has expired.

If any licensee fails, or is alleged to have failed, to meet the obligations of the statute and the rules and regulations, the Commission shall hold a hearing and determine whether there has been such a failure and call in the bond and distribute the proceeds to the proven claimants.

Every licensee, within 5 business days after the sale of goods and at closing of the sale, shall pay all monies and proceeds due the owner of the goods.

Each licensee shall keep and maintain in a safe place for a period of not less than 2 years complete and correct records and accounts pertaining to any licensed auction activity.

The auction firm must first enter into a written contract with the owner or consignor of goods which sets forth the terms and conditions prior to accepting the goods for sale.

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

The firm is responsible for making sure that all advertisements of auctions shall disclose: the auctioneer's name and the name of the auction firm involved and the auctioneer's or auction firm's auction license number.

The Commission has determined that all auctions are considered to be "with reserve" unless otherwise stated in any and all advertisements.

A fine of not more than \$5,000 for each offense may be levied again any person or party that practices, offers to practice, attempts to practice or holds oneself out to practice as an auctioneer, auction firm or any other licensee without being licensed by the Commission

An auction firm shall designate a firm manager.

A surety bond is required for each licensee or firm.

The Mississippi Auctioneer Commission has jurisdiction over online auctions.

A license is required for each firm location.

If a bond is cancelled by the bonding company, the firm license will be suspended.

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

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

All proceeds from auction sales must be deposited in the licensee's escrow account and make all disbursements from it.

The firm license and the license of its manager shall be conspicuously posted at the firm location.

A firm can have more than one auctioneer.

All licenses expire on the first day of March in odd numbered years.

A contract is an agreement that creates an obligation.

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

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

The surety bond must provide the State of Mississippi as the obligee.

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

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

Auction firm means any business establishment or other location owned by any entity where goods are sold advertised to be sold at auction or on any recurring basis.

Licensee means any person licensed under this chapter and, in the case of an auction firm, includes the person required to obtain a license for such auction firm.

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

False, deceptive, misleading and untruthful advertising is expressly prohibited.

All licensees shall notify the Commission in writing of any change of business address, mailing address, trade name, assumed name, combination of names under which business is conducted or ownership within 10 days of occurrence.

The Commission and its employees or representatives shall have the right to enter and make inspections of any place where the auction business is carried on.

Refusal of access to the books and records shall be cause for the revocation of a license.

The Commission may hold a hearing and investigate the actions of any auctioneer or auction firm.

An auction firm cannot allow another individual to auction under their license number.

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

When an auction firm is advertising and selling at an absolute auction, they are required to sell 100% of the items without reserve.